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December 16, 1983

Mr. Jack D. Smith
Chief, Common Carriers Bureau
Federal Communications Commission
Washington, D.C. 20554

Re: RM 4436

Dear Mr. Smith:

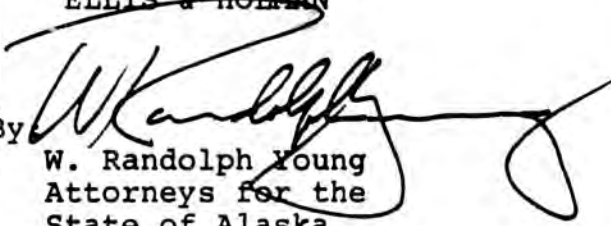
This is to request an extension of time on behalf of the State of Alaska and the Alaska Public Utilities Commission to respond to the "Petition for Expedited Consideration and Related Interim Relief" filed in the referenced proceeding by General Communications Incorporated on Dec. 7, 1983.

A one week extension of time to and including Dec. 27, 1983 is requested in order to coordinate the positions of the State and the Public Utilities Commission.

Respectfully submitted,

PRESTON, THORGRIMSON
ELLIS & HOLMAN

By


W. Randolph Young
Attorneys for the
State of Alaska

cc: Richard H. Strodel, Esq.
Alan Y. Naftalin, Esq.
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WRY/kmw

12-28-83

12/28/83

FILE
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DEC 28 1983

Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Integration of Rates and)
Services for the Provision)
of Communications by)
Authorized Common Carriers)
between the Contiguous States)
and Alaska, Hawaii, Puerto Rico)
and the Virgin Islands)

RM 4436

MOTION FOR ACCEPTANCE
OF LATE FILED COMMENTS

The State of Alaska and the Alaska Public Utilities Commission (collectively the "State"), by their attorneys, hereby move the Commission to accept their late filed comments on the "Petition for Expedited Consideration and Related Interim Relief" filed by General Communication Incorporated (GCI) on December 7, 1983 in the above captioned matter.

Following a request for extension of time by the State, the Commission established December 27, 1983 as the date for filing responses to the GCI petition. Because of the importance of the issues raised in that petition to the citizens of Alaska, and the difficult questions posed thereby, the State's response had to be coordinated with a number of officials within the State government and the APUC. Due to this need for extensive coordination and consultations, the four hour time differential between Alaska and Washington, D.C., and the intervening holidays, it was not possible to file the State's response by the December 27 deadline.

This one day delay in filing the State's comments should not significantly prejudice any party. Arrangements are being made for hand delivery a copy of the State's comments to those desiring it.

Acceptance will serve the public interest since the substance of the comments will provide a more complete record for the Commission when it addresses the GCI petition.

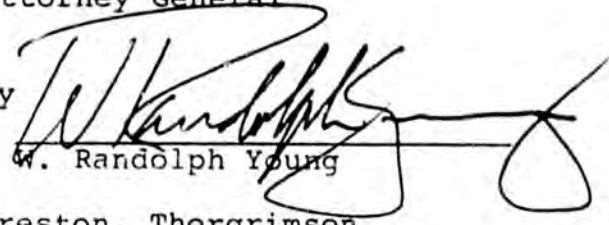
Accordingly, it is respectfully requested that the Commission accept the State's comments as attached hereto.

Respectfully submitted,

ALASKA PUBLIC UTILITIES
COMMISSION
Carolyn S. Guess
Chairman

STATE OF ALASKA
Norman C. Gorsuch
Attorney General

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December 28, 1983

Attachment

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL
FILE
RECEIVED
DEC 28 1983

FCC
Office of the Secretary

In the Matter of)
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Integration of Rates and)
Services for the Provision)
of Communications by)
Authorized Common Carriers)
between the Contiguous States)
and Alaska, Hawaii, Puerto Rico)
and the Virgin Islands)

RM 4436

COMMENTS OF
THE STATE OF ALASKA AND
ALASKA PUBLIC UTILITIES COMMISSION

The State of Alaska and the Alaska Public Utilities Commission (collectively the "State"), by their attorneys, hereby move the Commission to accept their late filed comments on the "Petition for Expedited Consideration and Related Interim Relief" filed by General Communication Incorporated (GCI) on December 7, 1983 in the above captioned matter.

Summary of the State's Position

A. Rate integration is essential to the welfare of the residents of Alaska and the other off-shore points.

B. The Commission should not subordinate the interests of rate payers to the interests of individual carriers.

C. Changes in the existing rate integration policy raise difficult issues which the Commission must consider carefully in context with a full record in a rulemaking proceeding.

D. The State takes no position at this time on the ultimate question of whether there should be multi-carrier support under rate integration. GCI or any other new common carrier, if eligible for support under a final mechanism, must await definition of criteria for eligibility for such support.

E. GCI's problems are caused primarily by the Commission's Access Charge Decision and are little different from those of other OCCs.

F. The State opposes GCI's request for interim relief because of the prejudicial effect it would have on resolution of the ultimate issues and the lack of justification for interim relief.

Background

1. On December 22, 1983, the Commission announced its intention to issue a Notice of Inquiry on off-shore rate integration. The State and the Alaska Public Utilities Commission filed their petition for rulemaking on April 11, 1983, urging the Commission to initiate a proceeding to prescribe a formal mechanism to support rate integration to the off-shore areas. That petition pointed out that the continued viability of the present informal rate integration scheme is questionable in light of a restructured telecommunications industry and the Commission's access charge plans. The petition was supported by the State of Hawaii, Alascom, Inc. and GCI. GCI also urged the

Commission to adopt a rate integration scheme that would provide support for carriers providing competitive services to the off-shore points. Alascom took issue with this aspect of GCI's comments, arguing that rate integration support should be restricted to MTS-WATS services.

2. In the instant petition GCI claims to be at a severe competitive disadvantage vis a vis the services offered jointly by Alascom and American Telephone and Telegraph Co. (AT&T). Consequently, GCI requests the Commission to expedite its consideration of the State's rulemaking petition and, in conjunction with that proceeding, direct the Common Carrier Bureau to convene public meetings of interested parties to develop a record and recommendation for an interim structure that will preserve competition pending the development of a long term solution. As an interim solution, GCI suggests that the Commission require AT&T to interconnect with GCI under the same terms as it interconnects with Alascom.

Historical Perspective

3. GCI's application for Section 214 authorization to provide private line and data services to Alaska was granted on May 20, 1981. That authorization was granted subject to the Commission's final determination in Phase II of CC Docket No. 78-72 and to further rate integration proceedings.^{1/} Subsequently, in its Second Report and Order in CC Docket No. 78-72,

^{1/} See Memorandum Opinion, Order, Authorization and Certificate, File No. W-P-C-3345 et. al., released May 27, 1981, by the Acting Chief, Common Carrier Bureau.

Place 2, released November 30, 1982, the Commission established a policy of competition for all interstate services to and from Alaska. In reaching its decision the Commission discussed the potential impact of fully integrated MTS/WATS rates on competitors and expressed some doubt about the viability of facility based competition.^{2/} Following that decision, GCI instituted services competing with MTS/WATS between Anchorage and the lower 48 states over its own earth stations and leased satellite transponders.

4. On February 28, 1983, the Commission released its Third Report and Order in CC Docket No. 78-72. That Order compels the institution of access charges and the dismantling of separations and settlements between local telephone companies and interexchange carriers. The Order forces all interexchange carriers to pay for local exchange facilities on a tariffed basis. The practical effect of the new access charge scheme will be to substantially raise the cost of exchange access to the OCCs as compared to the current ENFIA charges. Accordingly, the OCCs have vigorously challenged parts of the Access Charge Decision and the tariffs implementing that decision. The FCC has delayed

^{2/} For example, the Commission stated:

[Rate] integration will significantly reduce the price of MTS-WATS service to Alaska, thereby reducing the differential between Alascom's price and a competitor's price.... An entrant is likely to consider these potential pricing factors in determining whether to enter the market on separately constructed facilities.

Second Report and Order in CC Docket No. 78-72, Phase 2, 47 F.R. 54944, 54957 (Dec. 7, 1982).

the effective date of the access charge tariffs and the associated AT&T long distance tariffs until April 3, 1984 to allow it time to consider these issues.

Rate Integration Is of Paramount Importance to Alaska

5. The paramount issue in Alaskan rate integration is the welfare of Alaskan telecommunications users, not the welfare of individual carriers. An adequate mechanism to support rate integration is not just important to Alaska, it is absolutely critical. There are few other issues so vital to Alaska. Because of its size, sparse population, severe weather conditions and lack of adequate land transportation routes, communications is of more than ordinary importance in Alaska. Without an adequate system of telecommunications, the growth of its economy and the welfare of its citizens will be severely affected. The viability of its telecommunications network is, at bottom, dependant on its affordability. Without an adequate system of support, telecommunications toll rates to, from and within Alaska could be double or triple those for comparable distances in the lower 48 states. Such a pricing scheme will severely depress usage, thus constricting communications not only between Alaska and other states but within Alaska as well and force the service that remains to even higher prices due to the diseconomies of reduced usage of the overall network.

The State Accepts the Federal Policy Favoring Competition

6. The State accepts the federal policy favoring competition. The State has not opposed, and does not oppose,

competition in telecommunications services to and from Alaska. As the Commission found in its Second Report and Order, competition may provide some benefits to Alaskan telecommunications users. On the other hand, as discussed below, the question of a proper support mechanism for extremely high cost interexchange service in a rural, low density market raises difficult legal and practical issues, issues that the Commission has never previously addressed. These issues need careful and deliberate consideration.

Rate Integration Support to Competitive Carriers
Raises Difficult Issues

7. Rate integration support in a single carrier market involves a relatively straightforward procedure. It essentially requires determining the revenue shortfall of that carrier on the basis of the integrated rate schedule and developing the support mechanism for meeting such revenue requirements. Under the present scheme, which was established as a result of a joint board proceeding, Alascom's support is derived through a contractual arrangement with AT&T whereby AT&T settles with Alascom on a basis that ensures Alascom's ability to sustain the integrated rates.^{3/}

8. The FCC has never determined when a carrier should qualify for rate integration support. GCI asserts it should qualify on an interim basis. It makes no public interest showing

^{3/} The current arrangement resulted from a negotiated settlement between AT&T and the off-shore carriers in the joint board proceeding in Docket No. 21263, which was approved by the Commission. 87 FCC 2d 20(1981). The Commission also modified the Separations Manual to reflect the agreement. 87 FCC 2d 18 (1981).

of why -- except its own financial weakness. Apparently, GCI believes that rate integration should be used to sustain competition in high cost service areas. The State believes this is not, and never has been, a purpose of rate integration. Rate integration is intended to keep rates in high cost off-shore areas on a par with rates nationally. It has not been designed to ensure that competition will be viable on all routes. Nor is its central purpose to sustain competition. The ultimate purpose of rate integration is to maintain a system of affordable rates, consistent with the national scheme, for rate payers in high cost off-shore areas. Before the Commission tinkers with this scheme, even on an interim basis, it must be assured that it is not undermining this central purpose of rate integration or adversely affecting rate payers.

9. Before GCI or any other OCCs are found eligible for participation in the mechanism which supports rate integration, the Commission must address and resolve a set of difficult issues. These issues not only involve the incompatibility of the Alascom-AT&T partnership arrangement with multi-carrier application (see note 12 below), but other significant policy questions. For example, in a high cost service area, when should multiple carriers be allowed to qualify for support? How can support levels for particular carriers be determined if multiple carriers are qualified but do not have comparable route structures? Should support be available for unregulated services? When does support to multiple carriers encourage uneconomic facility duplication, significantly increasing the total pool of funds

needed to support rate integration? How can the support mechanism be designed to guarantee universal service availability?

10. These and other serious policy questions must be resolved if the Commission determines to implement a multi-carrier rate integration support scheme. There are no quick and easy answers. Nor are there helpful precedents from other industries.

11. Thus, the Commission faces a serious choice. If it now provides interim relief to GCI, it must do so before addressing the serious policy question of whether multiple carriers should be entitled to receive support and, if so, on what basis and under what terms. Also, it must do so without fully considering the national policy implications and the precedent that interim relief may provide for other high cost routes served by multiple carriers. To make such a choice at this time with virtually no record would seriously prejudice, as discussed below, the objectivity of the Commission in reaching a final determination on the merits.

The Prejudicial Effect of an Interim Solution Must be Avoided

12. The Commission must avoid the danger in the instant situation of taking precipitous action to protect a particular carrier through interim steps which might prove inconsistent with the purposes the Congress and the Commission intend to be served by rate integration. Once an interim solution is imposed, it could effectively take on a life of its own and limit the Commission's freedom in establishing an ultimate mechanism. Any

interim solution it establishes effectively becomes a base line or point of departure from which any changes necessary to achieve the ultimate scheme must be justified.^{4/} If, for example, the Commission were to ultimately determine, after thorough investigation and consideration, that only carriers meeting certain service criteria should be eligible for rate integration support, that determination would be effectively precluded if support had already been ordered on an interim basis for a carrier which does not meet those service requirements. The prejudicial effect of "temporary" or "interim" decisions, even where conditioned upon the final outcome, is widely recognized. It is the prime reason why the Communications Act proscribes the construction of radio facilities before the Commission authorizes that their ultimate operation will serve the public interest. See 47 U.S.C. § 319.

Consideration of OCC Participation Should Follow
Determination of a Rate Integration Framework

13. The Commission should not rush to protect one particular carrier over another at the expense of rate payers. The Commission must first determine, consistent with applicable Congressional directives, the ultimate principles, goals and

^{4/} See, for example, the controversy over the AT&T "premium" in the Commission's access charge decision. Instead of the ultimate fairness of the level established, the issue for the OCCs has become the amount of increase over the level of the interim ENFIA charges.

framework for rate integration.^{5/} Only then can the Commission measure the impact of any particular multi-carrier support scheme on the overall interest of the using public.

14. Once the Commission has resolved the policy questions raised by rate integration in a competitive environment, it can then measure alternate mechanisms and levels of support needed to achieve the ultimate goals of rate integration, and address the questions that must be resolved. The State is thus urging a reasoned decision-making process whereby the interests of the rate paying public are not subordinated to the interests of any individual carrier.

^{5/} See, e.g., S.1660 Section 7, and Report No. 98-270 thereon. In particular, the report of the Senate Committee on Commerce, Science and Transportation states, at page 25, that:

The policy of rate integration has been specifically endorsed by this Committee as long ago as 1975. The Committee believes that rate integration represents sound public policy that benefits the entire Nation, and must be maintained. The Committee notes it is consistent with the overall policy objective of this legislation--to maintain universal telephone service at reasonable rates throughout the Nation.

However, the Committee wishes to ensure that the ongoing restructuring of the domestic telecommunications industry, including the development of access charges to replace the existing system of separations and settlements under which telephone carriers interconnect with each other, does not undermine this rate integration policy.

The Committee intends that the FCC develop access charges and otherwise revise the existing relationships between carriers in a manner that does not undermine the policy of rate integration for the noncontiguous States.

(15. The Commission should not view GCI's petition and the off-shore rate integration proceeding as a "two track" process. As discussed below, GCI's April 3 "deadline" is caused primarily by access charge tariffs, not rate integration. Alaska and other off-shore points need assurance now that the Commission will protect long distance rates with an adequate long term rate integration mechanism. As Commissioner Dawson indicated during Commission's consideration of the Notice of Inquiry on rate integration on December 22, this is a complicated matter and there must be an opportunity to carefully consider the issues and how they ultimately affect the ratepayers.^{6/} This must be done rationally on a first things first basis.

GCI'S Problems Are Not Primarily Related to Rate
Integration and Should Not Be Resolved Through Rate Integration

16. GCI, like all other OCCs, is facing a major increase in its access charges. The final stage of rate integration to Alaska and Hawaii will be implemented on the same date AT&T's new interstate tariff becomes effective, presumably on April 3, 1984. As noted above, this final step is required by the FCC's rate integration determination and will reduce the difference between the AT&T-Alascom fully integrated rates and GCI's current rates.

^{6/} The State intends to provide an analysis of the issues presented by rate integration in a competitive, access charge world in its response to the NOI. The State also intends to ask the FCC to convene and rely on a State-Federal Joint Board to develop the mechanism for Commission review.

GCI has been on notice for years that this final rate reduction will occur. The new and major impact GCI will experience on April 3 will be its much higher cost of accessing the local exchanges. Like other OCCs, GCI's exchange access costs will increase by 100% or more,^{7/} and it will have to compete with lower AT&T nationwide long distance rates. Therefore, GCI's position is substantially like that of the other OCCs caught in the same access charge tariff squeeze; it will have to pay much higher exchange access costs and compete with lower MTS/WATS charges.^{8/}

17. These concerns about the competitive impact of the Commission's Access Charge Decision are not new. They have been forcefully presented by the other OCCs.^{9/} Presumably these concerns will be addressed by the Commission shortly when it reconsiders its Order on Reconsideration in CC Docket No. 78-72, Phase I, released Aug. 22, 1983. The Commission must consider GCI's predicament in its proper context -- in connection with the Access Charge Decision. GCI's primary trouble is not caused by rate integration, and rate integration should not be used as an interim fix for that trouble.

^{7/} See letter of October 4, 1983 to the FCC Chairman from the chief executive officers of the major OCCs complaining about the severe impact on the OCCs of the Commission's access charge plan.

^{8/} The only difference between GCI's position and that of other OCCs is the effect of final step of rate integration which GCI has always anticipated.

^{9/} See October 4, 1983 letter, cited in note 7 above.

Interim Relief Has Not Been Justified By GCI

18. Interim relief is typically available only to preserve the status quo pending a determination of the merits of a claim of unlawful irreparable injury. It is not generally used to create new relations between parties where they have not existed before, and there must generally be some showing on the merits of the underlying claim.^{10/} Finally, some consideration must be given to the probability of irreparable injury to any other affected parties or the public.^{11/} The general propositions can be restated in numerous ways, but the key elements are that something more than the certainty of economic injury must be established. There must be some substantial if not probable showing that a recognized right is about to be violated. The burden is of course always on the party seeking interim relief to establish its case.

^{10/} See, e.g., Communications Satellite Corporation, 83 FCC.2d 150, 151 (1980):

The primary purpose of granting interim relief, whether it be an injunction or stay pending appeal, is preventative or protective -- to maintain the status quo pending a final determination of the merits. . . .

See also Pan American World Airways v. CAB, 684 F.2d 31, 44 (D.C.Cir. 1982) (drawing a parallel between an agency award of interim authority and a court's award of a stay or other interim relief).

^{11/} See, e.g., Washington Metropolitan Area Transit Commission v. Holiday Tours, 559 F.2d 841, 844 (D.C. Cir. 1977) (where interim relief may cause substantial harm to another party, more deliberative consideration may be required).

19. Here, GCI has disclaimed any intention of arguing against the merits of rate integration. Therefore, its entitlement must be premised on a recognized right of OCCs to either share in network support on rate integration traffic routes, or not to have to pay AT&T's interconnect fees. No such rights have been recognized generally. While GCI apparently takes the position that such rights should exist, they have not been established either explicitly or implicitly. In short, GCI has not met the burden of proof necessary to support interim relief under these circumstances.

The State's Position on Rate Integration

20. Alaskans have a right to telephone service comparable in quality and price to the service provided the rest of the nation. Competition may play a role in achieving this goal in areas of Alaska where interexchange facilities and service do not experience natural monopoly cost characteristics.^{12/} The present rate integration mechanism must be adjusted in light of access charges and other changed circumstances to preserve the current level of support so as to guarantee a permanent, stable source of support as necessary to ensure affordable, integrated rates to those areas of the off-shore points that have high cost interexchange facilities. The present system should not be altered

^{12/} For example, the Commission has implicitly recognized that the Alaskan Bush communities cannot support duplicate, competitive earth station facilities. See Tentative Decision in CC Docket No. 80-584, released December 10, 1982; Final Decision adopted December 22, 1983.

until the parameters of the new system are developed on the basis of a complete record in a rulemaking context.^{13/}

Summary & Conclusions

21. The State strongly opposes any interim relief or other disruption of the existing rate integration mechanism before the Commission defines the overall goals, principles and new framework for maintaining rate integration. The new rate integration framework must be developed with regard for adequate due process procedures and with the goal of protecting the interests of rate payers and maintaining the level of carrier support needed for rate integration. Rate integration is meant to serve the interests of the rate paying public, not the individual interests of competing carriers.

22. In short, the State is concerned that the issue of interim relief not disrupt existing revenue flows nor prejudice the difficult and important process of defining the interests of rate payers and the overall framework of the new rate integration mechanisms necessary to achieve those public interest goals. If the Commission acts on the interim petition outside of this larger context, it could create new forces interfering with

^{13/} Even if the Commission were to proceed to consider interim relief to GCI contrary to the State's recommendations, under the Administrative Procedures Act, 5 U.S.C. §553, an opportunity must be afforded for interested parties to comment on any proposed scheme.

natural marketplace forces before the Commission makes a clear and concise determination of appropriate policies to govern the long term rate integration mechanism. Therefore, the State urges the Commission to address the rate integration issues raised by GCI only in context with the overall rate integration policies and mechanisms yet to be developed.

Respectfully submitted,

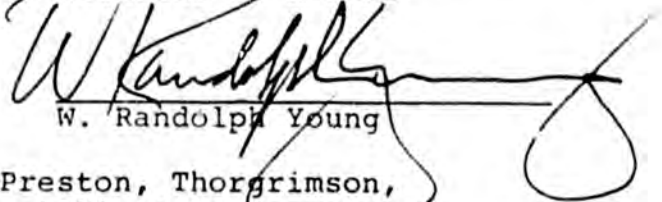
ALASKA PUBLIC UTILITIES
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Norman C. Gorsuch
Attorney General

By



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December 28, 1983

CERTIFICATE OF SERVICE

I, Garry Weber, certify that a copy of the foregoing,
Comments of the State of Alaska and Alaska Public Utilities
Commission and Motion for Acceptance of Late Filed Comments has
been sent this date by U.S. mail, postage prepaid to all parties
of record in Room 4436.

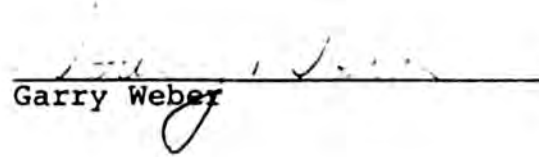
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Garry Weber

December 28, 1983

* Via Express Mail
** Hand delivery

3-1-84

3/1/84

7-4-5-3-2

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

In the Matter of

Integration of Rates and Services for the
Provision of Communications by Authorized
Common Carriers between the Contiguous
States and Alaska, Hawaii, Puerto Rico
and the Virgin Islands

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) RM 4436
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Integration of Rates and Services for
the Provision of Communications by
Authorized Common Carriers between
the Contiguous States and Alaska,
Hawaii, Puerto Rico and the Virgin
Islands

) CC Docket No. 83-1376
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RECEIVED
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FCC
Office of the Secretary

MOTION FOR EXTENSION OF TIME

The State of Alaska and the Alaska Public Utilities Commission
(collectively the "State"), by their attorneys, hereby file this
Motion for the Extension of Time, stating as follows:

The Notice of Inquiry in this proceeding, released January 5,
1984, established March 7, 1984 as the date for filing comments and
April 6, 1984 for filing reply comments. The issues raised by this
Notice are extremely complex and are very critical to the interests of
the State and its citizens. Consequently, the development of
relevant policy by the State has been a time consuming process. Due
to this and the number of persons involved in determining the State's
position and recommendations, additional time is required to develop
the State's comments more fully. More thoroughly developed comments
will better assist the Commission in addressing the issues posed by
this proceeding. An additional seven (7) days is sought for this
purpose.

Counsel for Alascom and for General Communication, Inc. have indicated they do not oppose such an extension of time.

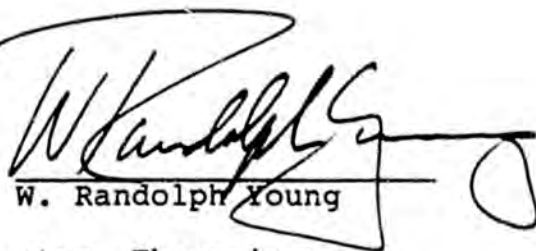
Accordingly, it is hereby requested that the time for filing comments in the above proceeding be extended to March 14 and reply comments extended to April 13.

Respectfully submitted,

ALASKA PUBLIC UTILITIES
COMMISSION
Carolyn S. Guess
Chairman

STATE OF ALASKA
Norman C. Gorsuch
Attorney General

By



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Attorneys for the
State of Alaska
and the Alaskan
Public Utilities
Commission.

March 1, 1984

CERTIFICATE OF SERVICE

I, Claudette Hurlock, certify that a copy of the foregoing,
Motion for Extension of Time has been sent this date by U.S. mail,
postage prepaid to the following parties:

Robert F. Aldrich, Esq.
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Claudette Hurlock
Claudette Hurlock

March 1, 1984

3-13-84

3/13/84

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

In the Matter of)
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Integration of Rates and Services for the) CC Docket No. 83-1376
Provision of Communications by Authorized) RM 4436
Common Carriers between the Contiguous)
States and Alaska, Hawaii, Puerto Rico)
and the Virgin Islands)

TO: Chief, Common Carrier Bureau

Motion for Further Extension of Time

OFFICE OF THE
SECRETARY
MAR 12 '84

The State of Alaska and the Alaska Public Utilities Commission (collectively the "State"), by their attorneys, hereby request a further extension of time to file comments in response to the Commission's Notice of Inquiry in this proceeding.

On March 1, 1984 the State sought, and later received, a one week extension of time for filing comments and reply comments for the purpose of permitting the State to coordinate its comments with all parties involved in developing the State's position. The time for filing comments is now March 14, 1984 and April 13, 1984 for reply comments.

At the time this one week extension was sought the State believed that it would be adequate to ensure fully developed comments. However, that has not turned out to be the case. While draft comments have been circulated to the APUC in Anchorage and the State staff in Juneau, it has taken longer than anticipated for the large number of people involved to review the draft comments and for their input to be assimilated into the final draft. This process is still going on as quickly as

possible, considering in particular the diverse locations of the APUC and State offices and the problems the APUC Commissioners have in scheduling meetings to consider the matters at hand.

The State regrets having to seek a further extension of time. However, it is believed that the public interest will be best served if the State can submit comments that are fully and thoroughly considered. As the Commission knows, this proceeding raises complex issues and is of paramount importance to Alaska.

Accordingly, the State respectfully requests that the time for filing the comments and reply comments be extended to March 21, 1984 and April 20, 1984, respectively.

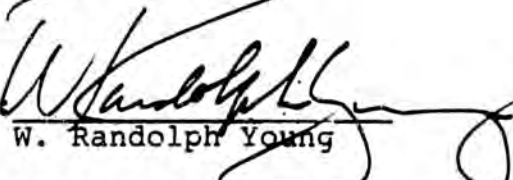
All parties believed to be interested in filing comments in this proceeding have been verbally advised of this request.

Respectfully submitted,

ALASKA PUBLIC UTILITIES
COMMISSION
Carolyn S. Guess
Chairman

STATE OF ALASKA
Norman C. Gorsuch
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March 13, 1984

CERTIFICATE OF SERVICE

I, Claudette Hurlock, certify that a copy of the foregoing,
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March 13, 1984

3-21-84

3/21/84

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MAR 21 1984
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SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Integration of Rates and Services for) RM 4436
the Provision of Communications by)
Authorized Common Carriers between the)
Contiguous States and Alaska, Hawaii,)
Puerto Rico and the Virgin Islands)

Integration of Rates and Services for) CC Docket No. 83-1376
the Provision of Communications by)
Authorized Common Carriers between the)
Contiguous States and Alaska, Hawaii,)
Puerto Rico and the Virgin Islands)

COMMENTS OF THE STATE OF ALASKA

Alaska Public Utilities Commission
Carolyn S. Guess
Chairman

State of Alaska
Norman C. Gorsuch
Attorney General

March 21, 1984

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EXECUTIVE SUMMARY OF THE STATE'S POSITION

The State's position in this proceeding is threefold:

(a) rate integration is absolutely vital to the interest of all Alaskans; (b) the mechanism underlying rate integration must be adequate to support it without adverse impact on the goal of universal service; and (c) the mechanism should be as consistent with competition as possible, considering the overall public interest.

A. The Importance of Rate Integration

Rate integration, as defined by the Commission, means that carriers serving Alaska and other noncontiguous domestic points must price MTS/WATS services in a uniform manner that does not discriminate against any state. This policy is essential to universal service in Alaska.

B. The Adequacy of the Support Mechanism

Rate integration in Alaska and the other noncontiguous areas cannot be maintained without adequate financial support for high cost interexchange facilities. The support mechanism should sustain integrated interstate MTS/WATS rates, encourage universal service, encourage economic efficiency, and should be relatively easy to administer.

C. Compatibility With Competition

The Commission has asked whether the existing internal cost pool model is compatible with competition. MTS-type services are provided in a national market where multiple carriers compete on

the basis of uniform rates. This competitive model is vigorous and is leading to greater competition throughout the United States. Rate integration is consistent with this pattern of competition. Competition in high cost areas of the national MTS market, like Alaska, is developing. It will continue to grow through carriers like MCI, Sprint and Western Union, which internally pool their costs. Thus, the internal carrier cost pooling model is consistent both with a competitive national market and competitive Alaska submarket.

In any event, competition for the sake of competition is not the Commission's policy. The Communications Act mandates universal service. Since rate integration is essential to sustain universal service in Alaska, to the extent competitive policies clash with rate integration policies, the latter must be favored.

D. The State's Recommendations

The State believes that the existing internal cost pool model for maintaining rate integration is much superior to an external multiple carrier pool model which is the only other alternative. The former is easy to administer, adequate to support integrated rates without adverse impact, and consistent with national competition.

Thus, the State recommends that the Commission affirm the continued use of the internal cost pool mechanism and the necessary support for rate integration.

63A:WRY1

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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COMMENTS OF THE STATE OF ALASKA

The State of Alaska and the Alaska Public Utilities Commission (collectively the "State"), by their attorneys, hereby file their comments in response to the Commission's Notice of Inquiry in the above captioned matter, released January 5, 1984 (FCC 83-606), stating as follows:

I. INTRODUCTION

A. The Commission's Notice.

The Commission's Notice of Inquiry (Notice) was issued in response to a petition for rulemaking filed by the State on April 11, 1983. That petition requested the initiation of a rulemaking proceeding to establish a permanent mechanism to support rate integration to the noncontiguous domestic points of Alaska, Hawaii, Puerto Rico and the Virgin Islands.

Rather than addressing the support mechanism as sought by the State in its petition, the Commission's Notice raised a

number of policy questions about rate integration. In particular, the Commission indicated concern about the potential long-run implications of maintaining the existing policies favoring both rate integration and competition, and it sought comments on a number of questions relative to that concern, including possible modification of existing policies. The Commission stated that the characteristics of the interexchange carriers serving the noncontiguous points might be relevant to the ultimate conclusions. It sought comment on characterizing carriers as:

(1) partners in a joint offering or (2) facility based carriers within their operating areas and resellers in the contiguous states.

B. The Alaska Problem in Historical Context.

The State of Alaska encompasses a vast land mass populated by widely scattered communities which, typically, are very small. Its 586,000 square miles contain a population of only 516,000 persons; it has only 2500 miles of paved roads. Land transportation is not available to most of its small communities. This, together with harsh winter conditions, means that adequate telecommunications are critical to the economic and social structure of the state. At times the only possible contact between these small communities and the rest of the state and nation is through the telecommunications system. Low population densities, long distances between communities, and extreme climatic conditions cause exceptionally high costs for telecommunications facilities, both exchange and interexchange, in Alaska.

Historically, communications in Alaska began at the turn of the century when Congress authorized the establishment of a telecommunications system to connect military outposts. A long distance system was developed by the Army Signal Corps which eventually evolved into the Alaska Communications System (ACS) operated by the U.S. Air Force. Local telephone exchanges developed slowly in the larger population centers. These exchanges were interconnected to ACS, but civilian traffic was carried only when spare circuits were available, and call completion rates to the smaller communities as low as 10-15% were common. No telecommunications services reached the isolated rural villages ("Bush communities"). Unreliable HF radio was their sole connection to the outside world.

In 1971 ACS was sold by the government to RCA Alaska Communications, Inc. (the predecessor of Alascom, Inc., the present long lines carrier in Alaska) which promised to upgrade the long distance system within the state, introduce Direct Distance Dialing, and provide telephone service for the first time to many Bush communities. During the 1970's telephone service was extended, with substantial State participation, to 120 Bush communities for the first time through the small earth station program.^{1/}

While local and long distance Alaskan service has gradually improved, Alaskans have always paid extremely high rates. Prior

^{1/} These communities were not provided exchange service but were served through a single telephone connected to a satellite earth station.

to rate integration, interstate toll rates to and from Alaska were some 215% above the national average for the same distances. Even now, intrastate toll rates are 61% higher than the average in other states^{2/} and 59% higher than interstate rates.^{3/}

One of the most important events in the development of Alaskan telecommunications occurred in 1972 when, with the advent of domestic satellites, the FCC established a rate integration policy. Under this policy long distance rates to all domestic points were to be integrated with national rate patterns so that calls to and from Alaska would cost no more than other domestic calls of the same distance.

However, the equality promised by the rate integration policy has not yet been fully realized. In 1976 the FCC ordered that the rate discrepancies for Alaska service be eliminated in three equal steps: Step I on March 29, 1976, Step II on July 1, 1977, and Step III on January 1, 1979.^{4/} Steps I and II were implemented on schedule, but due to a dispute among the carriers as to the underlying settlement mechanism, the final step did not occur as planned. As part of a negotiated settlement of the issues pending in a joint board proceeding, the Commission agreed to a further delay, with Step III removing only 11% of the

^{2/} Based on a comparison of Alaska rates with rates for a 3 minute, 400 mile daytime call in the representative states of Alabama, Montana, Texas, New York, New Mexico, Wisconsin, California and Washington for 1980.

^{3/} Based upon the average differential between AT&T's fully integrated rates and Alascom's intrastate rates at mileage bands 125-292, 293-430 and 926-1910 for a 3 minute, daytime call.

^{4/} Integration of Rates and Services, 61 FCC 2d 380, 387-8 (1976).

remaining discrepancy and full integration not occurring until January 1, 1985.^{5/} Once the final step of rate integration is implemented, Alaska interstate rates (for the highest mileage band) will be \$.78 for the first minute of a daytime call compared to \$2.33 prior to the first step in 1976.^{6/}

However, even before rate integration is fully implemented, the underlying support is threatened for Alaska. The 1980 negotiated settlement between AT&T and Alascom called for supplemental payments to Alascom over and above the amount required under the Separations Manual. The supplement is coming to an end on January 1, 1985. The supplemental payment has been vital to the extension and upgrade of the long distance network in Alaska. Alaska's interstate network has experienced dramatic improvements over the last decade. But it does not yet match the quality of the network in the rest of the nation. It is still developing, and significant construction and equipment upgrades are required to fully extend reliable and efficient toll service to all communities.^{7/} Unlike the interstate network in other states,

5/ Integration of Rates and Services, 87 FCC 2d 25 (1981). The January 1, 1985 date has been voluntarily advanced by AT&T and is now scheduled to take effect with AT&T's Communications new tariff on April 3, 1984. See AT&T Communications Tariff FCC No. 1.

6/ See chart attached hereto.

7/ For example, the majority of interstate calls originating from rural Alaska must be double-hopped. The need for double hopping reduces the quality of transmission and also makes inefficient use of satellite capacity. Every call requires two, instead of a single satellite voice circuit. Double hopping can be eliminated with the introduction of DAMA (Demand Assignment Multiple Access) technology. The plan to convert the Alaskan network to DAMA has been held up because of the dispute over small earth station ownership, but since that question has been recently resolved, the costly conversion to DAMA can be undertaken.

Alaska has had to rely extensively on satellite interconnections and still does not have adequate redundancy and capacity to ensure the same quality, reliability and P.01 grade of service available to the rest of the nation.^{8/}

II. THE IMPORTANCE OF RATE INTEGRATION TO ALASKA

The concept of universal telephone service is a cornerstone of the Communications Act of 1934 and U.S. telecommunications policy. The importance of universal service to the nation was at the heart of S.1660 and H.R. 4102, both entitled the "Universal Telephone Service Preservation Act of 1983." The Committee report on H.R. 4102 commenced by stating:

The 50-year national effort to bring affordable and universally available telephone service to the public has served the nation as well. Universal telephone service has contributed to the nation's economic, social and political integration and development. Each telephone subscriber receives a greater benefit and more valuable service when anyone else in the country can be called. Universal telephone service is threatened by significant rate increases that will impact especially hard upon the poor, elderly, handicapped and those living in high-cost rural and urban areas. ^{9/}

^{8/} The most recent data indicates that 53 communities experience circuit blockages exceeding the P.01 objective (i.e. one blocked call per 100 attempts). Over and above these blockages, which were measured when circuits were working, circuits to 140 communities served by small earth stations experienced a 11.6% outage rate. This high percentage of outage is caused by things such as the lack of emergency power and stand-by equipment. These problems are exacerbated by the general lack of route diversity which is available to serve most communities in the lower 48.

^{9/} H.R. Rep. No. 479, 98th Cong., 1st Sess. 13 (1983).

The Committee report on S.1660 interrelated the concept of universal service with rate integration as follows:

The policy of rate integration has been specifically endorsed by this Committee as long ago as 1975. The Committee believes that rate integration represents sound public policy that benefits the entire Nation, and must be maintained. The Committee notes it is consistent with the overall policy objective of this legislation--to maintain universal telephone service at reasonable rates throughout the Nation.

* * *

It is the intent of the Committee that any change in the prescription of separations and settlements methodologies for the noncontiguous States necessary to implement rate integration not result in the shifting of a greater percentage of the costs of providing long distance facilities from the Federal to the State jurisdictions that [sic] is now the case. 10/

Alaska has two major problems which affect universal service. It has extremely high costs both in local telephone exchange plant and in interexchange (or toll) facilities. The Commission recognized its obligation to preserve universal service in its access charge decision. It implemented the so-called Universal Service Fund (USF) as a mechanism designed to provide additional support, over and above normal use allocation standards, for high cost telephone exchanges. Decision and Order in CC Docket No. 80-286, released February 15, 1984 (FCC 83-564). In response to congressional concern about the additional impact of access charges in high cost exchange areas, the Commission has agreed to

10/ S. Rep. No. 270, 98th Cong., 1st Sess. 25, 26 (1983).

consider further increases in the federal support for such exchanges.^{11/} This additional support is vitally important to Alaska.

However, even though the USF will support high cost local exchanges, it deals with only one part of Alaska's universal service problem, high local exchange costs. The USF does nothing to help maintain the interexchange facilities required to interconnect those local facilities.

In Alaska, interexchange facility costs are extraordinarily high and calling patterns in many areas, particularly the Bush communities, are predominantly interexchange.^{12/} The combination of these two factors underlies the importance of the interstate contribution to toll costs.

A significant shift of interstate interexchange costs to intrastate would be catastrophic to maintaining the interexchange network in Alaska. Any shift has an 800 to 1 multiplier effect.^{13/} Every dollar per year in charges shifted from the interstate long distance subscriber would increase the charges to the Alaskan subscriber by \$800. The possibility of any shift in interstate costs is unthinkable in a state where consumers

^{11/} See Memorandum Opinion and Order in CC Docket No. 78-72, Phase I, released Feb. 15, 1984 (FCC 84-36).

^{12/} Bush communities are typically small (50 to 200 in population) and very compact. Even where local exchange service is available, toll calling is much more important to the average Bush subscriber since regional communications generally constitutes the main use of telephone service.

^{13/} In 1982 there were about 230,000 main stations in Alaska compared with 181,551,300 nationally. Phone Facts '82, United States Independent Telephone Association (1982).

already pay some of the highest local exchange charges and intrastate toll rates in the nation.

The average Bush subscriber paid about \$98 per month in 1982, compared to about \$33 nationwide.^{14/} Bush subscribers will likely reduce toll usage or forego service altogether if faced with substantial increased charges. This reduced usage, in turn, will raise both toll and exchange costs for the remaining subscribers. The adverse impact on universal service is inevitable.

The importance of an adequate rate integration policy to Alaska is best summarized by Alaska's Senator Ted Stevens who recently wrote the FCC, stating in part:

As you know, rate integration and maintenance of other support for Alaska telephone service have been my top priorities for many years. The AT&T divestiture has created uncertainty about the continued effectiveness of the current rate support mechanism. I urge the Commission to preserve the support mechanism as the move towards full rate integration for Alaska is made. It is of paramount importance that the divestiture be accomplished without endangering Alaska rate integration or diminishing telephone service within Alaska. I am particularly concerned that the rate support mechanism be maintained so that intrastate toll rates do not increase.

I support pro-competition policies, but I urge the Commission not to pursue such policies at the expense of rate integration, the rate support mechanism, or universal intrastate telephone service. It is my hope that Alaskans will be able to enjoy the full

^{14/} Based on the annual billed revenue per line for telephone companies serving predominantly Bush communities.

benefits of competition in a manner that does not compromise the support mechanism or rate integration. 15/

III. THE NATURE OF RATE INTEGRATION

Before analyzing the various rate integration questions raised by the Commission, it is important to understand the historical development of the rate integration policy and the concepts embodied in it. The rate integration policy was promulgated initially in 1972 in connection with the Commission's adoption of an "open skies" domestic satellite policy. Domestic Communications Satellite Facilities 35 FCC 2d 844, 856-859 (1972). In that proceeding the Commission addressed its concerns over service to the noncontiguous points as follows:

Heretofore considerations of distance, cost and traffic volumes have all combined to indicate that foreign rather than domestic rate and service patterns should be applicable. The relatively high level of charges resulting from these physical factors and cost considerations has inhibited the free flow of communications between the contiguous states and these points to the disadvantage of all of our citizens. It is our considered view that the public interest requires that the distinctions, particularly with respect to level of charges and rate patterns, should be eliminated. 16/

The Commission implemented its rate integration policy in connection with satellite and Section 214 applications to serve the offshore points. In subsequently addressing the rate

15/ Letter of Senator Ted Stevens to Chairman Fowler, dated January 10, 1984.

16/ 35 FCC 2d at 856.

integration proposals of the various carriers, the Commission summarized its earlier decision as follows:

We stated that any domestic satellite authorization to carriers serving these [noncontiguous] points would be conditioned upon a requirement that such carriers submit a specific and acceptable proposal for integration of rates and services which must be approved by the Commission prior to the effectiveness of the authorization. In the case of message toll telephone services (MTS), we said that any such proposal was to give maximum effect to the elimination of overall distance as a major cost factor and include integration of Alaska, Hawaii and Puerto Rico/Virgin Islands into the uniform mileage rate pattern applicable to the mainland. . . . We also affirmed the applicability of our rate integration policy to all private line and specialized services within the same time period. 17/

The rate integration policy established the responsibility of any carrier serving the noncontiguous points to integrate its rate structure as a condition for receiving facility authority necessary to serve these areas. The Commission stated that its policy "should be interpreted as implicitly recognizing that a rate structure which averages rates in 48 states and de-averages rates in 2 states may subject the residents of those two states to an unreasonable prejudice or disadvantage within the meaning

17/ Integration of Rates and Services, 61 FCC 2d 380, 383 (1976). Footnotes omitted. Note that the last sentence states that rate integration was to be applicable to private line services as well as MTS. Such applicability was affirmed on reconsideration. Integration of Rates and Services, 65 FCC 2d 324, 329 (1977). However, the Commission has never implemented the policy as to Alaska.

of Section 202(a) [of the Communications Act]".^{18/} With respect to MTS, the Commission implicitly recognized that for the non-contiguous points all partnership costs would have to be pooled in order to support integrated rates.^{19/}

In MTS-WATS Market Structure, 81 FCC 2d at 192, the Commission again stated its view that "a rate structure which uses different ratemaking methods to determine the rates which different users pay for comparable services is inconsistent with the national policy expressed in Section 202(a)." In reviewing national rate averaging in context with the increasingly competitive MTS market the Commission concluded that any "de-averaging will not be caused by the mere presence of competition" and that it "will not be forced upon us by the presence of competition in interstate interexchange services."^{20/} The Commission's warning against selective de-averaging was again reiterated in its Memorandum Opinion and Order in MTS-WATS Market Structure, released August 22, 1983, 48 Fed. Reg. 42984, at ¶ 143.

In the present proceeding the Commission's Notice suggests that rate integration through the internal pooling of partnership costs and revenues between two carriers may need to be changed.^{21/} However, the noncontiguous areas should not be

^{18/} MTS/WATS Market Structure, 81 FCC 2d 177, 192 (1980).

^{19/} Integration of Rates and Services, 61 FCC 2d 380 (1976).

^{20/} 81 FCC 2d at 192, 193.

^{21/} See, e.g., Notice at ¶ 19.

treated differently than other domestic points simply because they are served jointly by two carriers.

Pooling by two carriers offering service on a joint basis is conceptually no different than internal cost pooling by a single carrier.^{22/} Indeed, no one has argued that the internal cost pooling mechanism as used between AT&T and other carriers providing joint-through service in the contiguous states is anticompetitive and should be abandoned.

In sum, the FCC has repeatedly characterized its rate integration policy as requiring carriers to establish a consistent ratemaking scheme which discriminates against no state. This effectively requires carriers, whether providing service singly or jointly, to pool costs and develop rate schedules which are nondiscriminatory among the various states served.

IV. ANALYZING RATE INTEGRATION AND COMPETITION

The Commission's Notice questions whether the current rate integration policies and competition are compatible.^{23/} Rate integration itself is not at issue. The policy of rate integration and the underlying concept of nondiscriminatory pricing has

^{22/} Conceptually, a call between Blackfoot, Idaho and Snowflake, Arizona differs little from a call from Bellingham, Washington and Ketchikan, Alaska. Both "city" pairs are about 600 miles apart and involve the use of high cost, low volume facilities. The only difference is that AT&T is the single interexchange carrier serving Snowflake and Blackfoot while AT&T serves Bellingham and Ketchikan in partnership with Alascom. The Commission's rate integration policy requires that all of these communities have the same affordable rates, whether or not the cost pooling involves one, two or more carriers.

^{23/} Notice at ¶ 15.

been developed and repeatedly sustained by the Commission. Rate integration is essential to universal service which is required by law. The State believes the real question is whether the current mechanism supporting rate integration is compatible with competition.

In adopting a policy of competitive entry in the Alaskan MTS-WATS submarket, the Commission rejected arguments that the rate integration support mechanism should be changed prior to competitive entry.^{24/} It did, however, note that "an alternative mechanism may be necessary if certain implementation options relating to access charges arising from Phase I of this proceeding or from the implementation of the AT&T/Department of Justice consent decree, are adopted"^{26/} The Commission did not otherwise discuss the impact of competition on rate integration other than to refer to earlier findings that competition was unlikely to cause rate deaveraging.^{25/}

As indicated in Section III above, the rate integration policy has been defined by the FCC as requiring all carriers with facilities serving the noncontiguous points to maintain rates for service to these points which are consistent with rate patterns

^{24/} MTS-WATS Market Structure (Phase II), 92 FCC 2d 787, 844 (1982).

^{25/} Id. at 844-5.

^{26/} Id. at 836.

in the contiguous states.^{27/} The Commission has recognized this policy requires carriers offering joint-through service to charge rates based on the costs of all interstate facilities of both carriers, with settlements between the carriers involving each carrier's interstate allocated costs and other costs as necessary to support integrated rates.^{28/}

The Commission's competitive policies were developed on a parallel course. It first adopted a general policy in favor of competition in 1970.^{29/} That policy was formally extended to MTS-WATS for all states except Alaska in 1980,^{30/} and to Alaska in 1982.^{31/} In each of these decisions the Commission discussed the pros and cons of "competition" and concluded that a competitive market would best serve the public interest. However, the Commission has never defined the market it sought to subject to the discipline of competition.

^{27/} While this policy was obviously developed with dominant carriers in mind, the Commission stated that it applies to "all carriers," which term includes other common carriers (OCCs) as well as dominant carriers. As a practical matter, however, the question of whether the policy should apply equally to OCCs is not significant at the present time since OCCs currently price their services to be competitive with those of the dominant carrier. This marketplace discipline has effectively forced the unregulated OCCs to offer integrated rates.

^{28/} See, e.g., *Integration of Rates and Services*, 87 FCC 2d 25 (1981).

^{29/} *Specialized Common Carrier Services*, 24 FCC 2d 318 (1970).

^{30/} *MTS-WATS Market Structure*, 81 FCC 2d 177 (1980).

^{31/} *MTS-WATS Market Structure (Phase II)*, 92 FCC 2d 787 (1982).

The relationship between rate integration and competition raises two questions. First, what are the geographic boundaries of the market for MTS services?^{32/} In other words, is there a single national market or are there distinct and separate geographical markets or submarkets? Second, what is the effect of rate integration (i.e. rates based on pooled costs) in this market?

A. The MTS Market Is National

The State believes that all available evidence indicates the MTS market is national in scope and that policies favoring competition have to be shaped to allow competition on a national scale. There are several reasons.^{33/}

First, the telecommunications services market subject to the Commission's jurisdiction in this proceeding is interstate by definition. Thus, at minimum, the market must be multi-state or regional. Second, MTS service itself is offered on a national basis over a nationally integrated network to enable a person in any one community to make a call to any other community in the country.

Third, empirical evidence demonstrates that the MTS market for long distance competition is national. AT&T operates a

^{32/} The term "MTS" is used herein in the generic sense to describe switched long distance services offered to the public by many carriers.

^{33/} The geographic boundaries of a market have been most often addressed in context with antitrust cases. See, e.g., U.S. v. Grinnell Corp., 384 U.S. 563 (1966). In that case the court found the market to be a national one, taking into account the defendant sold in all parts of the country, planned nationally and published national price schedules.

ubiquitous national system. All of the successful facility based OCCs are growing toward offering nationwide service in direct competition with AT&T. When these competitive carriers initially commenced operations in the early 70's, they offered limited services over limited geographical areas. However, to be effective competitors the OCCs found they had to expand both their service offerings and the geographic areas served.^{34/}

For example, MCI Communications, Inc., the largest of the facility based OCCs, commenced service in about 1970, providing private line service between Chicago and St. Louis. It then gradually expanded its routes to New York and to other major cities and offered additional services, e.g. FX and switched private services. Sometime prior to 1977 it expanded its service to include MTS services.^{35/} In recent years MCI has further expanded its network by constructing new facilities or leasing facilities from other carriers. Today MCI offers MTS service in 340 cities in 40 states (including Hawaii) and the termination of calls in all domestic areas except Alaska. As MCI has expanded the areas it serves, it has become an increasingly viable competitor to AT&T.

Other facility based OCCs have taken a similar competitive route. In addition to MCI, GTE Sprint, United States Transmission Systems, Western Union Telegraph Co. and Satellite Business Systems

^{34/} In 1980 the Commission recognized that OCCs have found that there is more demand for relatively universal service than services of limited geographic scope. MTS-WATS Market Structure, 81 FCC 2d at 193.

^{35/} See MCI v. FCC (Execunet I), 561 F.2d 365 (D.C. Cir. 1977).

offer service on a national basis. It should be noted that Western Union and GTE Sprint now terminate their MTS calls in all 50 states, including Alaska. Only eight states do not receive OCC origination service by at least one of these carriers.^{36/} Facility based carriers which started out as intrastate or regional providers of service in the contiguous states have not survived.^{37/}

Fourth, cross elasticity of demand among competitors is a significant indicator of a market's boundaries.^{38/} All competing carriers price MTS on a nationally uniform basis. Each is very sensitive to price changes by the others, particularly to those of AT&T which is the dominant carrier and the price leader. Each competing carrier must price its services to be competitive with AT&T in the national market.

Although Alaska is undoubtedly the highest cost portion of the national MTS market, Alaska is not a separate market. As

^{36/} Alaska, Maine, Montana, North Dakota, New Hampshire, Oregon, South Dakota and Utah.

^{37/} For example, Western Telecommunications, Inc. (WTCI) developed a number of regional microwave routes for specialized services (e.g. between Phoenix, Los Angeles and San Diego). WTCI later sold or leased these regional facilities to MCI for use in its transcontinental routes. CPI Microwave had a microwave route providing competitive services within Texas that was later sold to Western Union. Interdata, which constructed facilities between New York and Washington, D.C., and Nebraska Consolidated Communications Co., which constructed a system in Nebraska and adjacent states, were later merged into the MCI network.

^{38/} Cross elasticity of demand refers to the change in demand between two products in a market when their relative prices change. Cross elasticity will be high where two products are highly substitutable and readily available in the same area. A high degree of price sensitivity between products is indicative of a high cross elasticity of demand and the area of effective competition.

noted above, two OCCs now terminate MTS-like service in Alaska, and General Communication, Inc. (GCI), the only OCC to originate in Alaska, distributes its traffic nationwide.^{39/} As the Commission has recognized, these carriers have discovered that there are major competitive advantages in serving more and more communities, despite the cost of doing so. OCCs as a group are constantly building new facilities and expanding their services so as to be able to compete with AT&T in more communities in an expanding national market. These trends reinforce the view that MTS competition is national in scope and that the market is a national one.

B. The Impact of Rate Integration in the National Market.

The Commission's rate integration policy has a nationwide effect since it requires that rates be developed on a uniform basis without discrimination against any part of the nation. This concept involves cost pooling, to the extent that a carrier pools its costs, on a national basis to arrive at a uniform and consistent rate structure which treats all states consistently.

In states where the overall costs are lower than the national average, integrated rates will be higher than costs. Conversely, where costs are higher than the national statewide average, integrated rates will be lower than costs.

In theory, such a situation should lead to multiple new entrants in the low cost areas and none in higher cost areas. However, as a practical matter, this has not happened. The

^{39/} GCI originates traffic only in Anchorage, Alaska's largest city.

demand for service within a restricted geographic area is very limited. To achieve significant growth and market penetration, competitive carriers have had to expand into higher cost areas.

Once a competitive carrier has a reasonably large base of facilities in lower cost areas, it becomes increasingly easy for it to compete in higher cost states using integrated rates itself -- again toe to toe with the existing rate integrated carrier in the high cost area. Thus, the new competitive carriers have gradually expanded service into the lower volume, higher cost routes.^{40/}

This model of national competition with all carriers competing on the basis of uniform rate structures has proven vigorous. However, it does not mean that entry opportunities for a new entrant are equal in all parts of the market. Integrated rates in high cost areas will not constitute a formidable entry barrier to an existing carrier with a relatively broad cost base. But a carrier which chooses to compete only in high cost areas will not have the advantage of pooling costs with lower cost areas.

In short, the Commission's policy of promoting competition appropriately focuses on the national MTS market. Rate integration has not inhibited vigorous national competition nor eliminated the discipline of competition in high cost submarkets.

^{40/} For example, MCI serves Easton, Md. (population 7,500), Butler, Pa. (17,000), Uniontown, Pa. (14,000), and Fredericksburg, Va. (15,000), none of which are part of a larger metropolitan area.

C. Rate Integration And Alaska

The appropriate mechanism to sustain integration depends on which mechanism best promotes the public interest. The Commission must consider its policy favoring competition based on its obligation to the overall public interest. Under the Communications Act, the Commission is obliged to recognize that competition in itself is not the end but a means to the end of serving the overall public interest.^{41/} The potential rewards of competition must be weighed in context with other important public interest policies and considerations.

As indicated above, rate integration in the Alaskan context is paramount. While there is no reason to believe that rate integration accomplished through internal cost pooling is inconsistent with the policy favoring national competition, the Commission must preserve the specific benefits of rate integration if there is a conflict. While an external multiple carrier cost pool mechanism may benefit a few small carriers, it has many serious disadvantages, as discussed below. On balance, the existing internal cost pooling mechanism is far superior and furthers the public interest. It sustains the current national competitive model, and it does not unduly impede competition in Alaska.

^{41/} FCC v. RCA Communications, Inc., 346 U.S. 86 (1953).
Hawaiian Telephone Co. v. FCC, 498 F.2d 771 (D.C. Cir. 1974).

V. THE ALTERNATIVE

The State believes there is no alternative mechanism to internal cost pooling which would better serve the public interest.

The only alternative possibility is an external multiple carrier cost pool model. This mechanism would require the generation of a pool of money to support the high cost facilities of one or more qualified carriers. All carriers would pay into a common pool (e.g., on a surcharge basis) in an amount necessary to sustain integrated rates of qualified carriers. Such a pool would be similar to the Universal Service Fund for high cost local exchanges under the Commission's access charge decision.^{42/} Unlike the internal cost pooling model, this model must be formal with specific costing and eligibility requirements and administered through a third party, such as a carriers' association or a regulatory body. There are a number of possible permutations which would define eligibility and the manner in which the subsidy is calculated.^{43/}

The State has carefully evaluated a number of external pool models. One conclusion of this exercise is that all raise more

^{42/} MTS-WATS Market Structure (Access Charge Order), 93 FCC 2d 241 (1983).

^{43/} For instance, a fixed per minute subsidy could be based on a carrier's per minute cost above the national average. Certain qualifications would have to be applied, such as required service to a minimum number of high cost routes. The subsidy could be varied according to various classifications of route characteristics, or the subsidy weighted depending on the minutes of use to various classes of communities. There are, of course, many more possibilities or combinations that could be utilized.

problems than they resolve. The best of the mechanisms requires complex rules and regulatory involvement as well as accounting procedures much more detailed and precise than those now employed by regulated carriers.

The primary advantage of the external pool model is that it potentially aids many qualified carriers and imposes the costs of subsidization on all long distance users, not just those of carriers integrating their rates. However, the disadvantages are many. Among them:

- Complex and difficult cost accounting required for most variations.
- Significant regulatory intervention required, including complex rules to define eligibility and payments.
- Major cost in administering and accounting for program.
- Amount of the subsidy be subject to continual controversy.
- Most mechanisms likely to encourage uneconomic duplication of facilities.
- Most mechanisms subject to loopholes and decreased incentives to improve cost efficiencies.
- Regulatory and accounting controls required run counter to goal of reducing regulatory burdens, particularly on OCCs.
- Most mechanisms likely to change relative competitive positions between competing carriers.

In summary, the external pool model, whatever the variation, has many disadvantages with few offsetting advantages. While it would be consistent with the connecting carrier-resale carrier

model, it would be difficult and cumbersome to apply to any national carrier or partnership of carriers providing service on a national basis. Moreover, the burden it imposes on OCCs competing on a national basis would probably outweigh the benefits received by them.

In comparing the internal cost pooling model with the external cost pooling model it is obvious that the former has many advantages. The principal ones are:

- Ease of administration.
- Minimal regulatory involvement.
- Consistent with current and past practice.
- Does not encourage inefficiencies or uneconomic duplication of facilities.
- Consistent with national competition.
- Consistent with all existing carrier models.
- Equal treatment to all carriers.

Finally, adoption of the external pool model, even if all the administrative problems noted above could be adequately resolved, would not be in the public interest. While the external model may be preferable to some carriers, it would not be in the interest of ratepayers, either in Alaska or nationally. It is unnecessary to guarantee the development of competition in Alaska, and it would unnecessarily increase the cost of rate integration to the noncontiguous areas. While the State believes it is absolutely vital that the rate integration mechanism be adequate to sustain uniform, nondiscriminatory long distance telephone

rates, it is important that this goal be accomplished as economically as possible.

VI. QUESTIONS POSED BY COMMISSION

The Commission's Notice, as indicated in the Introduction, poses a number of questions. Those questions are summarized and answered as follows:

1. Are existing rate integration policies consistent with competition?

Answer. Yes. As indicated in the above analysis, the internal cost pooling mechanism presently underlying rate integration is fully compatible with competition in the national competitive market.

2. Are any modifications of existing rate integration policies necessary or desirable?

Answer. No. The policy of rate integration has had great beneficial impact on Alaska and its citizens. The policy itself is a shining example of enlightened government regulation in implementing a new communications technology. The internal cost pooling model underlying rate integration also is appropriate. The Commission should continue to assure adequate settlements flow to sustain the interstate network in Alaska on a basis which supports and extends universal service.

3. Is there any need to change the existing relationships between carriers serving the noncontiguous areas?

Answer. No. As noted by the Commission, the dominant carriers serving the noncontiguous areas operate on a joint venture/partnership basis. Such a carrier model is fully

compatible with the internal cost pooling model and national competition. Conversion of these relationships to a facility-based/ resale model could radically alter telephone service and is not warranted. Such a radical change raises serious policy questions going far beyond rate integration and involves the introduction of economic inefficiencies. In particular, it may well lead to non-uniform rate integration whereby calls to and from noncontiguous areas are subject to different rates depending on whether they are originated in contiguous or noncontiguous areas. Alaska and the other noncontiguous areas should not be used as living experiments for major policy changes that are not applicable to the rest of the nation. Before the Commission seriously considers such a radical departure from existing policy, it should set forth in a broader context than the instant proceeding precisely what it believes such a policy would achieve, how it would structure these relationships and the scope of their applicability. Only then will interested parties be able to intelligently comment on the concept.

4. Would a universal service fund approach for providing service to high cost noncontiguous points be workable?

Answer. No. Such an approach would involve the external cost pool model analyzed above. This external pool model has serious disadvantages with few offsetting advantages. The State believes it should not be considered as a practical alternative.

VII. CONCLUSION

The Commission has two basic options for supporting full rate integration. It can continue the existing internal carrier cost pooling model or it can implement an external multiple carrier cost pooling model. In comparing these options, it is clear that internal cost pooling is much simpler, more flexible and more consistent with the existing scheme of national competition than the external pool. Therefore, the State strongly recommends that the Commission not change its basic rate integration policy or support mechanism.

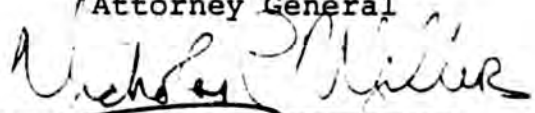
Accordingly, the State respectfully urges the Commission to move this proceeding as expeditiously as possible to affirm the continued use of this mechanism and the necessary support for rate integration.

Respectfully submitted,

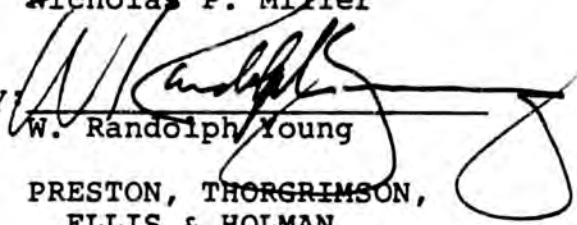
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Chairman

State of Alaska
Norman C. Gorsuch
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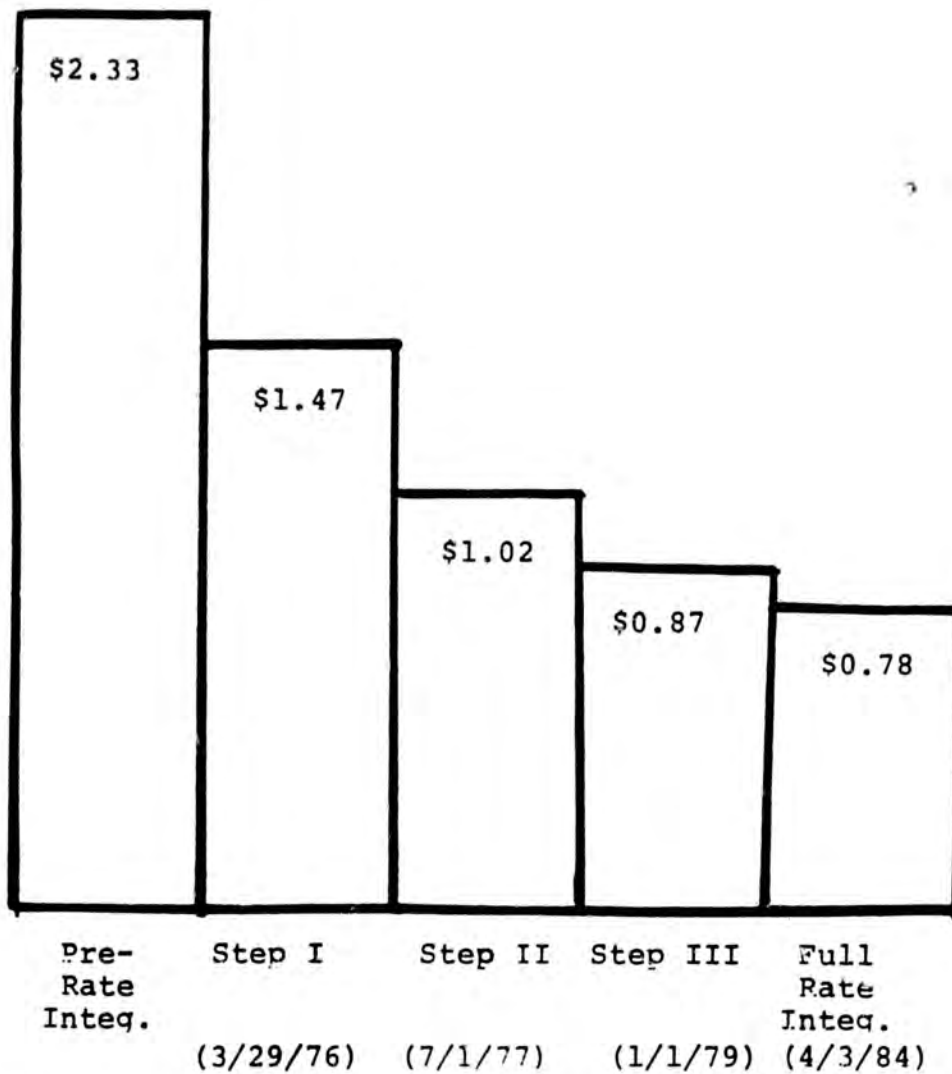
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March 21, 1984

63:WRY1

EFFECT OF RATE INTEGRATION
ON INTERSTATE RATES TO ALASKA



(Above rates are for the first minute of a direct dial, business day call in the highest mileage band 4251-5750 miles.)

CERTIFICATE OF SERVICE

I, Claudette Hurlock, certify that a copy of the foregoing, Comments of the State of Alaska in RM 4436, CC Docket No. 83-1376 has been sent this date by U.S. mail, postage prepaid to the following parties:

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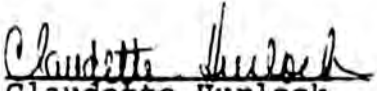
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Claudette Hurlock

March 21, 1984

4-10-84

4/10/84

OFFICE
SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Integration of Rates and Services for) RM 4436
the Provision of Communications by)
Authorized Common Carriers between the)
Contiguous States and Alaska, Hawaii)
Puerto Rico and the Virgin Islands)

Integration of Rates and Services for) CC Docket No. 83-1376
the Provision of Communications by)
Authorized Common Carriers between the)
Contiguous States and Alaska, Hawaii,)
Puerto Rico and the Virgin Islands)

Motion For Extension of Time

The State of Alaska (the "State"), by its attorneys, hereby files a motion for extension of time for filing reply comments in this proceeding, stating as follows:

The reply comments to the Commission's Notice of Inquiry released January 5, 1984, are now due on April 20, 1984. The State requests a two week extension until May 4, 1984.

The reason for this extension is to provide adequate time for the State to analyze the various proposals contained in the comments for new rate integration support mechanisms, some of which would involve major, complex changes in the current scheme. As the Commission is aware, the State has been filing comments in this proceeding in common with the Alaska Public Utilities Commission (APUC). Due to the complexity of the matters at issue, their critical importance to all Alaskans, and the number of State and APUC personnel involved in reaching a consensus position, developing reply comments is a time consuming process.

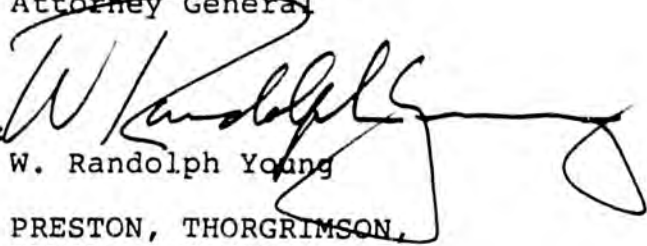
Thus, the requested extension will serve the public interest in that it will allow the State, and perhaps others, to develop more thoughtful and comprehensive reply comments in this crucial proceeding. A two week extension of time should not prejudice any party.^{1/}

Accordingly, it is respectfully requested that the time for filing reply comments be extended to May 4, 1984.

Respectfully Submitted,

State of Alaska
Norman C. Gorsuch
Attorney General

By:


W. Randolph Young

PRESTON, THORGRIMSON,
ELLIS & HOLMAN
1735 New York Avenue, N.W.
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(202) 628-1700

April 10, 1984

1/Commission action on the petition for interim relief filed by General Communication Inc., on December 7, 1983 is presumably related to the effective date of AT&T's new MTS-WATS tariff, not to the completion of the comment cycle in response to the Notice of Inquiry. See letter of Chief, Common Carrier Bureau to counsel for GCI dated January 26, 1984.

CERTIFICATE OF SERVICE

I, Claudette Hurlock, certify that a copy of the foregoing, Motion for Extension of Time of the State of Alaska in RM 4436, CC Docket No. 83-1376, has been sent this date by U.S. mail, postage prepaid to the following parties:

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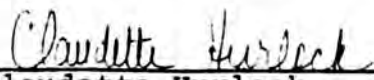
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April 10, 1984



Claudette Hurlock

5-10-84

5/10/84

OFFICE OF THE
SECRETARY
JUN 12 1984
FEDERAL COMMUNICATIONS COMMISSION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
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Integration of Rates and Services for) RM 4436
the Provision of Communications by)
Authorized Common Carriers between the)
Contiguous States and Alaska, Hawaii,)
Puerto Rico and the Virgin Islands)

Integration of Rates and Services for) CC Docket No. 83-1376
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MOTION TO ACCEPT
LATE FILED REPLY COMMENTS

The State of Alaska and the Alaska Public Utilities Commission (Collectively the "State"), by their attorneys, hereby file this motion to accept their late filed reply comments in this proceeding, stating as follows:

Reply comments in response to the Commission's Notice of Inquiry, released January 5, 1984, were due on May 9, 1984, having been recently extended to that date from May 4, 1984 at the request of General Communication, Inc. However, key personnel of the State mistakenly believed the filing date had been extended to May 11. Due to travel and other commitments of these personnel counsel was unable to obtain final clearance for the State's reply comments until too late in the day on May 9 to make the filing deadline.

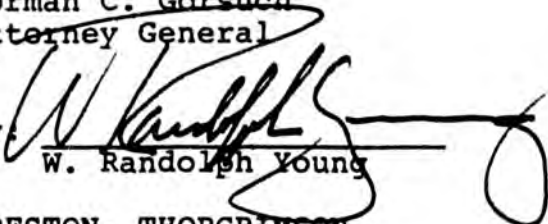
Since this is the reply round, no party will be prejudiced by this one day delay in filing the State's reply comments. Therefore, it is respectfully requested that the Commission accept these late filed reply comments as attached hereto.

Respectfully submitted,

Alaska Public Utilities Commission
Carolyn S. Guess
Chairman

State of Alaska
Norman C. Gorsuch
Attorney General

By:


W. Randolph Young

PRESTON, THORGRIMSON,
ELLIS & HOLMAN
1735 New York Avenue, N.W.
Washington, D.C. 20006

May 10, 1984

Attachment

5-10-84

5/10/84

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Integration of Rates and Services for) RM 4436
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Integration of Rates and Services for) CC Docket No. 83-1376
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Puerto Rico and the Virgin Islands)

REPLY COMMENTS
OF THE STATE OF ALASKA

The State of Alaska and the Alaska Public Utilities Commission (collectively the "State"), by their attorneys, hereby file their reply comments in response to the Commission's Notice of Inquiry in the above captioned matter, released January 5, 1984 (FCC 83-606) ("Notice"), stating as follows:

I. KEY ISSUES RAISED

In response to the Commission's Notice comments were filed by the State and 11 other interested parties. The comments generally addressed the nature of rate integration, the relative importance of the existing policies and whether the existing support mechanism is consistent with competition. American Telephone and Telegraph Co. (AT&T) and General Communication, Inc. (GCI) proposed substantially new mechanisms. The key issues generally raised are set forth below.

A. Undisputed Points.

The comments of the parties, even including those opposed to paying a subsidy or seeking to share in a subsidy, reflect a consensus on a number of key points, including the following:

1. It is undisputed that rate integration is an essential policy. No party seriously challenged the importance of the policy of rate integration to the offshore points, or the necessity of residents of the offshore points paying rates comparable to those in the contiguous 48 states. The State and Hawaii emphasized the essential role of rate integration in their telecommunications development. With the exception of GCI, all parties which addressed the relative importance of the FCC's rate integration and pro-competition policies stated that rate integration is the more important and should take precedence over competition in the event of a conflict.

2. Offshore rate integration is possible only if there is an adequate supplemental support mechanism. No party challenged the need for some sort of support mechanism, whether internal or external in nature, to maintain nationally integrated rates to the noncontiguous areas. It is not disputed that Ozark settlements alone are inadequate support for Alaska.

3. Alaska has the most serious interexchange cost problems. AT&T's data indicate that Alaska has the highest interexchange costs. Its pleading demonstrates the compelling nature of the dilemma facing the State. While the Alaskan Bush has the most severe cost problems, the rest of the state has much higher than national average costs. AT&T cited FCC data

indicating that the Alaskan toll revenue requirement per main station is nearly four times the average for the pre-divestiture Bell System. According to AT&T's comments some Bush areas have toll revenue requirements one hundred times the national average.^{1/}

B. Disputed Issues.

The issues in significant dispute are as follows:

1. Is the current partnership-internal cost pooling support mechanism anticompetitive? Of the commenting parties, the State, AT&T, Alascom, Hawaii, All America Cable & Radio and Puerto Rico Telephone Co. all took the position that the current mechanism is not anticompetitive. Only GCI and NYNEX argued to the contrary.

NYNEX asserted that rate integration is a form of averaged rates which cause increased local exchange bypass in low cost areas. However, NYNEX misconstrues the Commission's rate integration policy. That policy means that an interexchange carrier cannot discriminate against the noncontiguous areas in establishing a nationwide rate structure. Nationwide rate averaging is not at issue in this proceeding. The present partnership internal cost pooling mechanism has no appreciable bypass effect on local exchange companies.

^{1/} See AT&T comments at page 39.

GCI argues that any below cost pricing creates entry barriers and is therefore anticompetitive.^{2/} Even if below cost pricing is properly characterized as an entry barrier, it is not necessarily anticompetitive. Any scheme of internal cost pooling which involves below cost pricing on some routes must result in above cost pricing on others. This naturally creates varying opportunities for new entrants, with greater opportunities being on routes where rates are above cost.

Neither GCI nor any other commenting party has offered evidence that the existing rate integration support mechanism adversely affects competition in the nationwide MTS market. Instead, GCI has argued that Alaska is a separate and distinct market which is burdened by the current rate integration policy. However, Alaska is not a separate MTS market but part of the national market. Any question about a separate Alaskan MTS market was conclusively settled by the Fourth Report and Order in CC Docket No. 79-252, released Nov. 2, 1983, wherein the Commission stated (at para. 30):

. . . we conclude that there is a single national relevant geographic market (including Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, and other U.S. offshore points) for interstate, domestic, interexchange telecommunications services with no relevant submarkets. [Emphasis added.]

2. Should the present method of sustaining offshore rate integration be changed? Of the commenting parties, only GCI

^{2/} See, e.g., GCI's comments at page 8.

and AT&T propose new support schemes for rate integration.^{3/} GCI argues that its proposal is necessary to assure a competitive market. AT&T claims it can continue to sustain rate integration to all offshore points under the present mechanism, with the sole exception of the Alaskan rural areas. The burden of supporting these areas, it argues, should be shared by all interexchange carriers. Hence, it proposes a special mechanism for accessing and supporting service to the less populous areas of Alaska.

Neither the GCI nor the AT&T proposal is satisfactory. Both are analyzed in some detail in the appendix hereto. In general, GCI's proposal would increase the total subsidy required during the transition period. The bid mechanism for the non-competitive routes would lead to a costly, inefficient and piecemeal telecommunications system. And the competitive routes, after the transition period, would still require internal cost pooling like the present system. In short, while the GCI proposal may assure the economic viability of GCI, it offers little to the general public.

The AT&T proposal also raises more problems than it solves. For the non-populous areas of Alaska it proposes a scheme that would: (1) constrict the efficient development of an integrated network; (2) effectively eliminate the possibility of competition

^{3/} Also, Anchorage Telephone Utilities (ATU) suggests an external pool type mechanism with funds generated through a surcharge on interexchange carriers and distributed to Alaskan interexchange carriers on the basis of facility investment. However, ATU did not develop its proposal in any detail nor attempt to analyze its impact.

for both interstate and intrastate services; and (3) force interexchange services into a scheme designed solely for exchange access.

If there is a better method of sustaining of offshore rate integration than the existing internal cost pooling mechanism, it has not been demonstrated by the comments filed. The State, as indicated in its comments, thoroughly analyzed a number of alternative support mechanisms and finally concluded that the existing mechanism is better than any known alternative.

3. Is the present support mechanism unfair? AT&T estimates a \$110 million revenue shortfall for Alaska service in 1984 and ~~contends that this represents two-thirds of a percentage point of its post-divestiture projected 1984 interstate rate of return.~~^{4/} Consequently, AT&T ~~argues that this support burden is too great for it to bear alone, particularly in view of the highly competitive nature of its business and the cost advantage enjoyed by the OCCs in exchange access.~~^{5/} This desire for broader based support led it to advance its alternative support mechanism.

AT&T agrees that the present system of internal partnership cost pooling and intercarrier settlements is consistent with competition,^{6/} but it contends that the system is unduly

^{4/} AT&T Comments at para. 7.

^{5/} The State takes issue with this argument. See section IV D below.

^{6/} See, e.g., AT&T Comments, Appendix A, page 1.

burdensome to AT&T. However, it has offered no proof of this assertion other than citing an anticipated \$110 million revenue shortfall. That figure has meaning only in context with AT&T's interstate MTS revenues, which for 1984 are estimated at \$21.3 billion.^{7/} Thus, assuming the \$110 million figure is correct, it is not large relative to AT&T's overall interstate revenues (representing only about one-half of one percent of total revenues). AT&T will continue to subsidize its high cost areas in the contiguous states. AT&T should not be allowed to discriminate among the domestic areas it serves directly and those it serves indirectly through its partnership with another inter-exchange carrier.

More importantly, Alaskan support costs represent a legitimate portion of AT&T's total national costs. AT&T has shown no reason why it cannot recoup these and other operating costs, including a reasonable rate of return, through its national rate structure. It refers to the 55 percent cost advantage in exchange access enjoyed by the OCCs and the "competitive inequities" of having to support Alaska rate integration alone.^{8/} However, AT&T neglects to mention its continuing ability to dominate MTS pricing (subject only to FCC regulation), the current

^{7/} See AT&T's Emergency Petition For Reconsideration in CC Docket Nos. 78-72 and 83-1145, filed February 22, 1984, Attachment A.

^{8/} AT&T Comments at para. 7.

exchange access disadvantage of its OCC competitors, and the increased exchange access costs the OCCs will soon face.

AT&T enjoys great competitive advantage over all its competitors. It serves everywhere in the United States. No other carrier offers this scope of services to its customers. It is fair to ask AT&T to pay the costs of facilities which give it a competitive advantage. It is fair to insist that AT&T pay the cost of the Alaska MTS network just as it is fair that AT&T pays the cost of the national network in other high cost areas. All parts of this national network are used to provide AT&T's service. And AT&T receives a significant competitive benefit from its ability to offer universal telephone service from and to any place in the nation. When and if the OCCs want and need the competitive advantage of more universally available origination and termination, they must, like AT&T, bear the costs of extending their networks into the higher cost markets.

In sum, the present system is neither unfair to AT&T nor its competitors.

II. THE PROBLEM DEFINED FOR THIS INQUIRY

While the comments submitted thus far in this proceeding have failed to develop what the State believes to be an adequate solution, they have been helpful in narrowing the issues. All parties have recognized the importance of rate integration and the need for a fair and effective support mechanism. For Alaska, a reasonable permanent support system cannot be achieved unless the FCC and the interexchange carriers understand the nexus

between rate integration, universal service, and the rudimentary nature of the telecommunications network in Alaska.

A. Universal Service In Alaska Requires Rate Integration.

Rural Alaskan telephone subscribers rely on the toll network substantially more than subscribers in other states.^{9/} In many areas, particularly the Bush, the primary reason to have a phone is to make long distance calls. Local exchange service in a compact Bush village of 200 residents is not as important as the ability to make long distance calls for medical assistance, supplies, social interchange, etc. Thus, for many Alaskans, universal service availability is uniquely related to the level of toll charges as well as local exchange charges. If federal and state toll rates are not kept at a reasonable level, calling volumes will be reduced. Since the toll network primarily involves fixed costs, reduced usage cannot help but raise unit costs which will ultimately be reflected in higher charges for both interstate and intrastate services. This, in turn, will have a further depressing effect on demand and subscribership.

Alaska experiences this phenomenon more than most states since many, if not most, Bush subscribers live on a subsistence income and are very sensitive to price increases. A relatively small shift in demand for long distance service can have a major

^{9/} According to an SRI International study of 22 Bush villages, the average subscriber was billed almost \$700 annually for toll charges in 1979. This compares with an average toll bill of \$212 for rural subscribers in the lower 48 in 1978 according to a Rural Electrification Administration study.

unit cost impact because of the sparse population involved. Thus, without reasonable and affordable toll rates, the struggle to attain universal service cannot be achieved. Rate integration is the key to affordable toll rates.

B. Rate Integration Requires Adequate Support.

Rate integration cannot be sustained without adequate interstate settlements. Adequate settlements for Alaska involve two principal factors. First, if new rate integration support results in a reduction in interstate settlements, an increase in intrastate rates may be required to compensate for the reduced interstate contribution. Alaskan intrastate toll rates are already about 65% higher than interstate rates,^{10/} the greatest disparity in the nation. A significant increase in intrastate rates is certain to depress demand for toll services. The resultant decline in toll revenues will raise unit costs for both interstate and intrastate services.^{11/}

Second, the Alaska toll network, as pointed out in the State's earlier comments, has not achieved the level of reliability and sophistication available in other states. The

^{10/} Testimony of Alascom in Docket No. 21253.

^{11/} Commonly used toll plant has an essentially fixed revenue requirement. If the volume of toll calls, whether interstate or intrastate declines, the result will be decreased revenues which will fail to meet the total revenue requirement upon which the rates are predicated. If intrastate calling declines in proportion to interstate calling, the result will be an increased interstate revenue requirement without increased revenues.

network needs considerable improvement.^{12/} Revenues generated from toll services, both interstate and intrastate, cannot support even this rudimentary toll network, much less contribute to the sorely needed improvements. Therefore, without adequate federal support, this toll network, a vital part of the national network, cannot be upgraded to meet national standards.

C. The Challenge.

In view of these considerations, the challenge then is to achieve a long term rate integration support mechanism which will: (a) adequately support integrated interstate rates and network toll facilities for the non-contiguous areas without adversely affecting universal service or intrastate rates; (b) be consistent with competition and fair to all parties; and (c) minimize support costs and encourage network efficiency.

III. THE STATE'S CONCERN

A. The Risk: The Present Mechanism Being Dismantled.

The present support system is in danger of being dismantled element by element. The key elements that supports universal service in Alaska:

1. Integrated and averaged interstate MTS/WATS rates;
2. Ozark interexchange facility settlements to support the toll network; and
3. Contractual payments in addition to normal settlements.

^{12/} See notes 7 and 8 and associated text in the State's Comments.

However, these elements are being challenged one-by-one in a number of ways. For example, AT&T has indicated that it will not voluntarily agree to extend the contractual payments to Alascom beyond December 31, 1984.^{13/} Also, AT&T refuses to state that it will maintain rate integration beyond the time it ceases to offer nationally averaged MTS/WATS rates.^{14/} Most observers agree that AT&T will attempt to deaverage MTS rates in the not-too-distant future.

B. The Correct Approach.

In order to resolve the issues, the Commission must take a comprehensive, result-oriented approach. It must avoid the situation where individual elements of the existing support mechanism are modified in other contexts without consideration of the overall impact on rate integration and universal service. The following approach is recommended:

1. Define the level of support needed for rate integration and universal service in each non-contiguous area.
2. Analyze the various elements of the current or any proposed support mechanism to determine if they, in toto, generate revenue which is less than, equal to, or in excess of the defined level of support.

^{13/} See, e.g., AT&T's Comments at para. 32.

^{14/} Id. at para. 11.

3. Determine whether modifications are needed to meet the defined need and to ensure a fair system consistent with competition.
4. Any further proceeding needed to make any required modifications must be broad enough in scope to consider and address all elements of support. A piecemeal approach must be avoided.
5. Pending final resolution, the Commission must order the continuance of the existing support mechanism for rate integration, including contractual payments between AT&T and Alascom, to maintain the status quo in service availability and to avoid harmful public consequences.

IV. STATE'S POSITION

A. Rate Integration Is Essential.

Rate integration is essential to affordable, universal service in Alaska. The State fully supports the multifaceted aspects of rate integration as analyzed by the State of Hawaii. In particular, the State supports the proposition that the rate integration policy applies to other services in addition to MTS/WATS. The primary tenet of rate integration is non-discrimination. Thus, all regulated carriers should be required to serve the noncontiguous areas pursuant to the same general terms, conditions and schedule of charges they apply for each of their services in the contiguous states.

B. Service To the Offshore Areas Is No Different From Service To Any Other High Cost Rural Area.

Service to Alaska and the other offshore points is conceptually no different from service to other high cost, rural areas

within the contiguous states. AT&T has traditionally served all domestic points, both high and low cost routes, on an average cost basis. This necessarily means that the cost of serving many rural areas exceeds the revenues they generate. The only difference between the contiguous and noncontiguous areas is that AT&T typically serves the noncontiguous areas through interconnection with another interexchange carrier rather than directly through its own facilities.^{15/} This shared service responsibility does not, however, justify discriminatory treatment or different results.

C. Ozark Settlements Are Inadequate To Support Rate Integration In Alaska.

While Alaska is conceptually no different from the rest of rural America, its service problems and costs are more severe.

^{15/} AT&T was initially authorized to provide satellite services to Alaska, as well as to other offshore points and the contiguous states. Domestic Communications-Satellite Facilities, 35 FCC 2d 844, 851 (1972). On reconsideration, the Commission amended its decision to provide that RCA Alascom would be the provider of MTS traffic between Alaska and the contiguous states, pursuant to RCA Alascom's authority as the successor to the government-owned Alaska Communications System. Domestic Communications-Satellite Facilities, 38 FCC 2d 665, 692-3 (1972). The Commission specifically discussed the effects of transferring responsibility from AT&T to RCA Alascom:

Although as a result of integrating Alaska into interstate AT&T uniform rate schedule, the costs related to such facilities may, to some extent, be subsidized by the interstate nationwide MTT pool of revenues, the total cost of nationwide MTT will not be significantly different whether AT&T or RCA Alascom is responsible for those costs.

38 FCC 2d at 695.

AT&T sets out in its comments the severity of the Alaska problem. AT&T concedes that the "existing mechanisms alone are ineffective to provide for continued rate integration to Alaska."^{16/} This is why AT&T has provided Alascom contractual payments over and above Ozark settlements.

The primary reasons for this extraordinary need are, as explained above, two-fold. First, without supplemental support, interstate rate integration can be achieved only at the expense of higher intrastate rates, with likely adverse impact on both interstate and intrastate services. Second, the toll network in Alaska requires significant further investment to improve its efficiency and reliability so as to bring it up to national standards.

D. The FCC Should Continue The Existing Support Levels Until A Permanent Mechanism Is Prescribed.

If the Commission is unable to adopt a permanent support mechanism for rate integration and conclude this proceeding before December 31, 1984, it is critical for the Commission to order that AT&T continue rate integration support at the levels of recent years until a permanent mechanism is in place. Otherwise, the Alaskan public will suffer serious adverse consequences, including greatly reduced service and significantly higher intrastate rates. AT&T has willingly accepted the benefits flowing from its authorization to use domestic satellite facilities. Grant of that privilege carried the responsibility

^{16/} AT&T Comments at para. 5.

to integrate rates.^{17/} AT&T must continue its obligation to support rate integration, at least during this interim period.

V. THE STATE'S RECOMMENDATIONS

In view of the foregoing the State recommends the Commission take the following action:

A. Reaffirm that offshore rate integration is national policy and is mandated under Section 1 (universal service) and Section 202(a) (nondiscriminatory service) of the Communications Act.

B. Formally recognize that rate integration can be maintained only with an adequate level of support to the offshore areas.

C. Find that AT&T and all interexchange carriers serving the offshore areas in partnership with AT&T (e.g. Alascom) have a continuing obligation to serve these areas on the basis of integrated rates as carriers of last resort and that such integrated rates shall be supported through internal cost pooling and inter-carrier settlements.

D. Refer the following questions to a federal-state Joint Board proceeding:

1. What is the level of support necessary to sustain rate integration without adverse public consequences for each offshore area?

^{17/} See, e.g., Domestic Communications Satellite Facilities, 35 FCC 2d 844, 856 (1972).

2. What changes need be made to the current separations formulas to accomplish the desired level of support, including a possible federal high cost factor for interexchange facilities?

The State recommends referral of these questions to the existing Joint Board in CC Docket No. 80-286, which the Commission has now charged with evaluating a number of possible jurisdictional allocation changes, including interexchange costs.^{18/} That Joint Board is currently investigating possible changes to the Separations Manual. It should be given a broad mandate to evaluate the total impact of all Manual changes on the amount of support received by each offshore area.

E. Based upon the recommendations of the Docket 80-286 Joint Board, the Commission will be in a position to finalize its rate integration rules and policies in this proceeding.

F. Order AT&T, on an interim basis, to extend the current settlement arrangements with its partner carriers as necessary to continue rate integration without causing intrastate rate increases, pending a final determination in this proceeding. In

^{18/} See, e.g., Further Notice of Proposed Rulemaking in CC Docket Nos. 78-72 and 80-286, released April 11, 1984.

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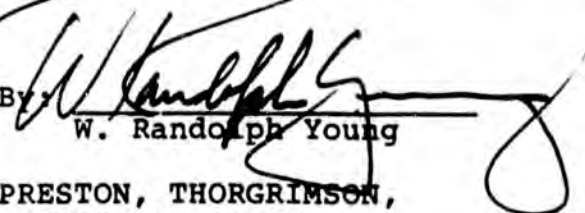
particular, AT&T should be required to extend its contractual payments to Alascom beyond December 31, 1984 at the average level of years 1980 through 1984.

Alaska Public Utilities Commission
Carolyn S. Guess
Chairman

Respectfully submitted,

State of Alaska
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By: 
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May 10, 1984

Appendix attached

APPENDIX

Analysis of AT&T and GCI Rate Integration Proposals

A. The GCI Proposal.

GCI's proposal would involve, following a transition period, dividing the Alaska market into two categories, competitive and non-competitive. The non-competitive routes would be served by the carrier requiring the lowest subsidy based on a competitive bid process; no subsidies would be provided to the competitive routes. During the transition period subsidies would be provided to all carriers serving Alaska in the form of "free" lower 49 state distribution (presumably for both Alaska originating and terminating service).^{1/} According to GCI, the objective is a pro-competitive plan which will reduce or eliminate subsidies over time.^{2/}

The GCI proposal is no more pro-competitive than the existing system. Nor is it likely to substantially reduce or eliminate subsidies. Indeed, it could lead to higher costs and less efficient operations.

^{1/} On March 29, 1984, GCI filed a letter enclosing an alternative plan which it did not endorse but indicated it would address in its reply comments. The primary difference between the alternate and GCI's proposed plan is that under the alternate AT&T would be reimbursed at WATS rates for all traffic it distributes in the other 49 states during the transition period, with payment being made from a fund generated from a usage sensitive charge on all interexchange carriers.

^{2/} GCI Comments at page 6.

Initially, it should be emphasized that GCI's proposal following the transition period will not eliminate subsidies even for those routes that prove competitive. Integrated rates cannot be maintained in Alaska and the other offshore areas without some form of subsidy, whether it flows through carriers internally pooling their individual nationwide costs or through an external mechanism whereby all interexchange carriers contribute to a fund to support high offshore costs. Competition tends to drive rates toward costs and encourages increased efficiency, but it cannot overcome the major cost differences of serving Alaska as compared to the lower 48. Thus, even for the Alaskan areas that can sustain multiple facility based carriers, the GCI plan envisions, following the transition period, a system remarkably similar to the existing subsidy system whereby carriers compete on the basis of integrated rates supported through internal pooling of their total national interexchange costs.

There are serious inefficiencies in GCI's proposed mechanism. First, the transition subsidy mechanism whereby all carriers serving Alaska are provided "free" interconnection to the other states is likely to be very costly whether the burden is borne by AT&T's subscribers alone or through an external pool. It defies logic to assume the total amount of the subsidy will be reduced by providing it to multiple carriers.

Second, the subsidy bidding scheme proposed for routes which cannot sustain multiple carrier facilities is likely to be very costly, complex and inefficient. Unlike air routes where such techniques have been used, a telecommunications system does not

involve the use of mobile, fungible equipment. Rather, it involves the use of an integrated network of fixed facilities with varying life expectancies. In order to bid on providing subsidized service on one or more routes, a carrier must assume that all facilities are depreciated over the term of the contract (5 to 7 years under the GCI proposal) and that it will not be assured the long run efficiencies of an integrated network. The result would likely be a costly, inefficient, piecemeal system where the operators have no long term certainty and little incentive to improve their operations during the term of the contract.

In short, the GCI proposal is not well conceived and it has little to offer the public. In the end it should be recognized for what it is: a complicated, costly scheme for bailing out GCI, a company which commenced service in Alaska knowing full well that it would have to compete against AT&T's fully integrated rates.

B. AT&T's Proposal.

AT&T proposes that the cost of facilities above the Class 4 switches in the major Alaska communities continue to be recovered through the existing partnership cost pooling arrangement between Alascom and AT&T, with the carriers continuing to concur in joint tariff arrangements. The cost of facilities between the Class 4 switches and the local exchanges in the rest of Alaska would be reclassified as local exchange costs and these costs recovered outside the partnership pool through access charges. It suggests that an "Alaska Bush Fund" be generated through a surcharge on

all interexchange carriers to subsidize the Bush traffic sensitive costs so as not to unduly burden the National Exchange Carriers Association (NECA) access tariff pool. The AT&T partnership would therefore be relieved of its direct responsibility for the interstate cost of facilities below the Alaska Class 4 switches. AT&T admits that its proposal is not based on complete information, and suggests that certain data be solicited by the Commission, followed by a further round of comments to "shape and refine" its proposal. With such a proposal, AT&T indicates it can "probably" continue to serve Alaska on an integrated rate basis.^{3/}

All parties, including AT&T, should remember that Section 202 of the Communications Act and the Commission's rate integration policy compel AT&T to integrate its rates in a nationally consistent manner.^{4/} The issue in this proceeding is whether the support mechanism to sustain integrated rates to the offshore areas should be modified. Thus, the State assumes that AT&T intends its proposal to result in fully integrated rates to all parts of Alaska.

AT&T itself acknowledges the lack of data necessary to fully flesh out its proposal. Hence, the State cannot fully evaluate

^{3/} AT&T Comments, para. 71.

^{4/} See, e.g., Integration of Rates and Services, 61 FCC 2d 380, 383 (1976); MTS-WATS Market Structure, 81 FCC 2d 177, 1982 (1980).

AT&T's proposal nor thoroughly analyze its impact. However, the State does have serious misgivings about the plan.

In essence, the AT&T proposal would segment Alaskan telecommunications routes into two classes. One class, involving service to the major cities, would continue to be treated like the rest of the nation with interexchange carriers constructing their own facilities and directly accessing the local telephone exchanges. The remainder of the State would be effectively converted into a single giant exchange area with Alascom providing the long haul link between the class 4 and class 5 offices. Such an artificial route segmentation could have several adverse consequences.

First, this division could permanently constrict the development of the Alaskan network. Once configured in this way, it would be difficult to rearrange the network to accommodate changes and new technology. For example, if in the future the volume of traffic between a class 5 office in Alaska and one in the lower 48 developed to the point that direct trunks were warranted, the change would be difficult because of the network configuration dictated by that community's access classification.^{5/}

^{5/} Although it may be possible to upgrade a given community and change its status by adding a class 4 switch, such a result may not be warranted by overall traffic patterns. It would be difficult to understand how AT&T's plan could accommodate direct trunk groups without toll reclassification.

Second, such a scheme would effectively eliminate any prospect of facility based competition in Alaska outside of Anchorage, Fairbanks and Juneau. While those three cities are currently the most likely to support facility based competition in Alaska, that may not be true in the future. Once an expanded access plan is in effect it will be difficult to make changes even if circumstances warrant. Moreover, while AT&T's plan would technically apply only to interstate service, it would make it difficult, if not impossible, for the APUC to authorize competition on intrastate routes below those three class 4 offices even if it found such competition to be in the public interest.

Third, AT&T's proposal would involve the force fitting of interexchange services into the access charge scheme which is designed only to accommodate local exchange access. Important modifications would be required of the access charge rules, modifications which may have impact nationwide. Moreover, without more information and details, it is difficult to determine:

- (1) precisely how this new scheme would work;
- (2) to what extent jurisdictional separations and settlements would be affected; and
- (3) whether decreased settlements to Alaska would result.

In short, the AT&T proposal raises more questions and potential problems than it solves. While a final evaluation cannot be made until the proposal is more complete, the State is skeptical that AT&T's proposal represents a potentially practical solution.

CERTIFICATE OF SERVICE

I, Garry Weber, certify that a copy of the foregoing Motion and Reply Comments of the State of Alaska in RM 4436, CC Docket No. 83-1376 and the Appendix thereto has been sent this date by U.S. mail, postage prepaid to the following parties:

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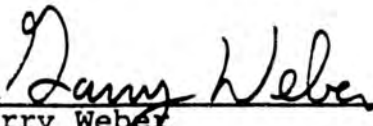
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May 10, 1984


Garry Weber

8-13-84

8/13/84

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August 13, 1984

Jack D. Smith, Esq.
Chief, Common Carrier Bureau
Federal Communications Commission
Suite 500
1919 M. Street, N.W.
Washington, DC 20554

Re: RM4436; CC Docket No. 83-1376

Dear Mr. Smith:

In a letter dated January 26, 1984, the Bureau solicited a supplemental filing from General Communication, Inc. (GCI) in the above referenced proceeding based on a revised interstate MTS-WATS tariff.

GCI was given ten days following the filing of the revised AT&T tariff in which to file the supplement and parties filing oppositions to GCI petition were given five days from the date of the GCI filing to file supplemental oppositions. Following several extensions of time, counsel for GCI did file the supplement on August 10, 1984.

The purpose of this letter is to request, on behalf of the State of Alaska, an extension of time in which to file comments on the GCI supplemental filing until August 31, 1984. The reasons for this extension of time are: (1) the relatively voluminous data submitted in connection with GCI's filing; and (2) the change of counsel for the State of Alaska. The State is currently transitioning its legal representation from Preston, Thorgrimson, Ellis & Holman to Crowell & Moring. In view of these circumstances and the already extensive delay in filing the supplement by GCI, the requested extension of time is believed to be fully justified.

OFF
Aug 13 1984

The undersigned spoke with counsel for GCI on August 8 before he left the country, and said counsel conceded that a reasonable extension of the five day period would not be opposed by GCI. However, no specific extension dates were discussed.

Sincerely yours,

PRESTON, THORGRIMSON
ELLIS & HOLMAN

By:


W. Randolph Young

cc: Allan Y. Naftalin, Esq.
Judith A. Maynes, Esq.
David J. Markey
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WRY/hjc

9-4-84

9/4/84

FILE COPY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Integration of Rates and Services	)	
for the Provision of Communications	)	RM 4436
by Authorized Common Carriers	)	
between the Contiguous States and	)	
Alaska, Hawaii, Puerto Rico, and	)	
the Virgin Islands	)	
	)	
Integration of Rates and Services	)	
for the Provision of Communications	)	CC Docket No. 83-1376
by Authorized Common Carriers	)	
between the Contiguous States and	)	
Alaska, Hawaii, Puerto Rico, and	)	
the Virgin Islands	)	

COMMENTS OF THE STATE OF ALASKA
ON THE SUPPLEMENT TO THE PETITION
FOR EXPEDITED CONSIDERATION AND
RELATED INTERIM RELIEF FILED BY
GENERAL COMMUNICATION INCORPORATED

The State of Alaska and the Alaska Public Utilities Commission (collectively referred to as Alaska or the State) hereby comment on the "Supplement to the Petition for Expedited Consideration and Related Interim Relief" (Supplement) filed by General Communication Incorporated (GCI) requesting interim relief pending the Commission's determination in this proceeding. GCI has said that without interim relief it will "be driven from the market,"^{1/} because "as of August 6, 1984 . . .

^{1/} Supplement, Sec. 1, at 3.

GCI's financial position has become critical"^{2/} GCI accordingly concludes that it should receive the Commission's assistance in remaining in business.

The Commission, however, is charged with the statutory responsibility of serving the public interest. Similarly, the State must serve the public interest. The public interest of the people of Alaska -- and of the people of the entire United States -- is to further and ensure the availability of affordable universal telephone service. Enhancement of that public interest objective, not private interests, is the goal of this proceeding, and the polestar which the Commission must follow in resolving the questions raised in these dockets. The benchmarks for decision here are the affordable universal telephone service policy and the application of it in the factual context presented by Alaska.

The Public Interest: Affordable,
Universal Telephone Service

Universal telephone service at affordable rates is a critical national goal which lies at the heart of the public interest.^{3/} Achieving such service is of paramount importance to the State of Alaska.

^{2/} GCI, "Opposition to Alascom Request for Extension of Time and AT&T Motion to Strike or in the Alternative for an Extension of Time," at 3-4.

^{3/} MTS & WATS Market Structure, FCC 83-356, at ¶ 8 (released August 22, 1983), affirmed in part, remanded in part, National Ass'n of Regulatory Utility Commissioners v. FCC, No. 83-1225 (D.C. Cir. June 12, 1984). Notice, CC Docket No. 78-72, Phase IV, FCC 83-254, released June 8, 1983; MTS & WATS Market Structure, 93 F.C.C.2d 241, 267 (1983), affirmed in part, remanded in part, National Ass'n of Regulatory Utility Commissioners v. FCC, No. 83-1225 (D.C. Cir. June 12, 1984).

The Alaska Context

Alaska's land area is one fifth the size of the continental United States, yet it has only 9,000 miles of roads, 2,800 of which are paved.^{4/} Only fifteen percent of Alaska's communities, not including Juneau, the capital of and third largest town in the State, may be reached by land transportation.^{5/} Many distances between rural communities exceed a thousand miles.^{6/}

Unlike rural areas in the rest of the Nation, Alaska's isolated communities are linked not by roads, but by telephones alone. To the inhabitants of such small Bush communities, telephone service is the only regular contact with the rest of the nation. Yet the residents of Bush communities, many of whom live on a subsistence basis,^{7/} pay the highest interexchange costs in the nation. Subscribers to telephone service in Bush communities face average toll charges of \$700 per year, compared with \$212 in the lower 48. The average Alaskan Bush telephone in 1978 required supporting revenue of \$2,600 per year for local and toll services, compared to the Bell system average of \$560.^{8/}

^{4/} Universal Telephone Service Preservation Act of 1983, Joint Hearings on S.1660 and H.R.3621 Before the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce, 98th Cong., 1st Sess. 136 (1983) (Statement of Lisa Rudd, Commissioner of Administration, State of Alaska) [Rudd Testimony].

^{5/} Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities of Alaska, 81 F.C.C.2d 304, 306 (1980).

^{6/} Establishment of Domestic Communications Satellite Facilities by Non-Governmental Entities, 38 F.C.C.2d 665, 690 (1972).

^{7/} Rudd Testimony at 137.

^{8/} Id.

Preserving existing telephone service and continuing to progress towards universal affordable telephone service are imperative for Alaskans. For this reason, the State and the Commission have steadfastly endorsed rate integration, supplemented by a support mechanism adequate to maintain affordable service. The rate integration policy and support mechanism integrate Alaskans into their Nation and thereby serve the public interest.

Rate integration is an accomplished fact in the rest of the Nation. Universal telephone service is a national commitment.^{9/} All Americans gain from the ability to call any part of the country. Even Americans who never call Alaska call someone who does. All Americans would lose if the ability to reach all other Americans were sacrificed by changes in the rate integration policy or support mechanism that would prevent Alaskans from reaching the rest of the Nation, others in the State, and vice versa. These goals and realities of telephone service in Alaska are the keystones in analyzing GCI's Supplement and request for interim relief.

The Relation Of Competition
To The Public Interest

Our economic system, and indeed our society, are founded on the fundamental theorem of individual freedom and the corollary axiom of free competition. As the Supreme Court observed in Northern Pacific, the antitrust laws which mandate free competition rest on the conviction that "the unrestrained interaction

^{9/} See note 3, supra.

of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress" Northern Pacific Ry. Co. v. United States, 346 U.S. 1, 4 (1957).^{10/} See also MTS-WATS Market Structure Inquiry, 92 F.C.C.2d 787, 841 (1982).

Regulation is, by definition, antithetical to competition. The Commission, during the past three years, has rightly sought to eliminate unnecessary regulation and restore the provision of telecommunications services to the relentless mercies of the "unseen hand" of competition wherever possible. It has done so out of a conviction that in many circumstances the marketplace will better allocate the productive resources of the telecommunications industry.

The core difficulty with GCI's position here is that it rests on the assumption that competition is the end the Commission seeks, not a means. Put another way, GCI reasons from the premise that competition is an ultimate, not penultimate, public interest objective. But this is not the case. "It is only in a blunt, indiscriminating sense that we speak of competition as an ultimate good." FCC v. RCA Communications, Inc., 346 U.S. 86, 92 (1953). The best practicable service is the public

^{10/} Importantly, the Court did not limit its observation in Northern Pacific to purely economic objectives, but extended them to social and political goals as well. The language quoted in the text continues, "while at the same time providing an environment conducive to the preservation of our democratic political and social institutions." Id.

interest and the Communications Act directs and the Commission pursues.^{11/} Competition is a means to that end and the State welcomes it.

The GCI Proposal To Enhance
Itself As A Competitor

GCI's mistaken premise leads it to the logical but wrong conclusion that the Commission should seek to protect and preserve competitors or rivals, rather than competition. But our economic system and laws protect competition, not competitors. Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc., 429 U.S. 477, 488 (1977); Brown Shoe Co. v. United States, 370 U.S. 294, 320 (1962). GCI's mistake is a common error, as Judge Bork has observed, brought about by "a natural mode of speech, because rivalry is the means by which a competitively structured industry creates and confers its benefits" ^{12/} An essential aspect of competition, however, is the elimination of competitors. Indeed, as Judge Bork noted, "[o]ur society is founded upon the elimination of rivalry" ^{13/}

GCI asks the Commission to preserve competition by assisting it. In so doing, it makes "the easy and analytically disastrous identification of competition with rivalry." ^{14/}

^{11/} "[T]here can be no doubt that competition is a relevant factor in weighing the public interest." FCC v. RCA Communications, Inc., 346 U.S. at 94. But the two are not the same. To serve the public interest, competition must serve "some beneficial purpose such as maintaining good service and improving it." Id. at 97.

^{12/} R. Bork, The Antitrust Paradox 58 (1978).

^{13/} Id.

^{14/} Id. at 59.

The federal government can facilitate competition, but it cannot create it. The government could ordain, for example, that Levelock, Alaska be served by 20 telephone companies, and provide or dictate the furnishing of the funds necessary to the task. By so doing, the government would have created rivals, but not competition.

The potential of competition in the provision of telecommunications services benefits the people of Alaska, just as it benefits all U.S. telecommunications users. It goads and disciplines existing providers of service. The entry of a new competitor into the Alaska market is one manifestation of competition. But competition is ruthless and new entrants may misgauge the entry opportunity or misjudge their ability to compete, and fail.

Were the federal government to ordain that, when a new entrant into Alaska discovers the going is too tough, it must be salvaged by federal fiat, there can be little doubt that the people of Alaska would bear the ultimate cost and be the ultimate losers. There are strong, compelling and fundamental public policy reasons why the citizens of Alaska must be fully integrated via the telephone into the society of their Nation, reasons which compel subsidy. There are no such reasons why unsuccessful rivals in providing telephone services in Alaska should be propped up with subsidies, and the rate- and tax-payers of the U.S. would not long stand for it.

With all of the facts at hand and fully available to it, GCI decided to enter and compete in Alaska. It was sophisticated about existing and potential regulatory exigencies. It had the financial backing of a large and wealthy parent. Knowing it confronted strong and experienced competition, GCI and its parent nonetheless believed GCI could succeed.

In fact, GCI did well in many respects, capturing an even larger market share than it had projected.^{15/} It appears to have made money. But its operations have been less profitable than it and its parent had hoped. For whatever reasons, its parent chose to transfer control of GCI to a subsidiary with far more limited financial resources, and now wishes to sell GCI. But the market for sale of GCI is not what its owners desire. There is no way of knowing whether no buyer for GCI can be found (although it seems unlikely), or whether no purchaser for GCI willing to pay a price for the company acceptable to its owners has come forward at this point in time. Whatever the case, if GCI can persuade the Commission to mandate a subsidy for it, the market value of the company will be enhanced.^{16/} Having foundered, GCI now asks to be bailed out.

^{15/} Supplement, Sec. 2, at 1.

^{16/} With all the numbers GCI provides in its Supplement, it is not possible to tell whether GCI's repeated claim of imminent failure is true: for example, after adjusting its rates in response to the 6.1% decrease in MTS/WATS rates and Alascom's block-of-time discount, GCI says it will suffer a \$24,000 loss in December, 1984. Supplement, Sec. 1, at 16. If it is awarded the interim relief it seeks, it will achieve a \$214,000 profit for the same

In its own words, GCI's proposition is this: that its "position in the marketplace and its viability as a competitor have been seriously threatened [and that] . . . [t]he Commission must act rapidly to implement interim relief for GCI . . . or GCI will be driven from the market."^{17/} Stated generally, the proposition GCI urges is this: if a company is willing to enter a telecommunications market, but is not as successful in competing in that market as it had hoped to be, the Commission should grant it a subsidy, by mandating free distribution, distribution at a self-selected set rate, or in some other form. If the Commission were to accede to any such plan of private relief, the crowds of subsidy seekers who would converge on the Commission would dwarf the cellular radio lottery lists. The Commission would be "thinking about

[Footnote Continued]

month. In the absence of the rate reduction and the block-of-time discount, it would have earned \$62,000. Supplement, Sec. 1, Figure 1-6. GCI, under its proposal, would receive three and one half times what it would have earned without the events it claims placed its future in jeopardy. Moreover, its claimed potential loss is after depreciation including depreciation items which involve no future replacements such as capitalized interest and marketing costs. Supplement, Sec. 2, Figure 2-10. It would seem that, even on its worst case analysis, GCI projects a substantial affirmative cash flow. Further, it is not clear whether or to what extent GCI's interest expenses are in fact payments to its parent. In any case, GCI provides no balance sheet or profit and loss statement which would permit analysis of GCI's private financial condition.

^{17/} Supplement, Sec. 1, at 3.

competition, not in terms primarily as to its benefit to the public, but specifically with the objective of equalizing competition among competitors. This is not the objective or role assigned by law to the Federal Communications Commission." Hawaiian Telephone Co. v. FCC, 497 F.2d 771, 776 (D.C. Cir. 1974) (emphasis in original).^{18/}

Conclusion

It is the State of Alaska's respectful recommendation to the Commission that it proceed no further in this regard and turn its undivided attention to the fundamental public interest issues presented in the rate integration proceeding. The Commission now has before it a full record in this docket. The State has made its position clear.^{19/} Alaska respectfully

^{18/} On the other hand, competition in Alaska will not be foreclosed if interim relief is not granted. Other carriers with different configurations or financing may fare better. In fact, other carriers plan to compete and serve Alaska; MCI, for example, has filed to provide service that terminates in Alaska. Moreover, the procompetitive steps taken by the Commission in the competitive carrier proceeding (Docket No. 79-252) would be undercut. Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, 95 F.C.C.2d 554 (1983). The Commission determined to forbear from Title II regulation of specialized common carriers, such as GCI, and, in its Order on Reconsideration, 93 F.C.C.2d 54, 61 (1983), affirmed that its forbearance policies apply to Alaska. Carriers subject to forbearance need not, for example, provide detailed cost justifications for rates or file tariffs. To grant the relief GCI seeks would necessarily embroil the Commission in detailed cost investigations and regulation of rates in order to determine whether the requested level of relief was appropriate.

^{19/} The Appendix to these Comments briefly summarizes the State's position.

requests that the Commission deny the "interim relief" GCI
has requested.

Respectfully submitted,

STATE OF ALASKA
Norman C. Gorsuch
Attorney General

ALASKA PUBLIC UTILITIES COMMISSION
Carolyn S. Guess
Chair

By: Victor E. Ferrall, Jr.

By: Linda K. Smith

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Its Attorneys

September 4, 1984

APPENDIX

The State of Alaska urges the Commission to reaffirm that rate integration is the statutorily-mandated policy of this country, and that rate integration can be maintained only with an adequate level of support to the offshore areas. The Commission should find that AT&T and all interexchange carriers serving the offshore areas in partnership with AT&T, such as Alascom, are carriers of last resort and therefore have a continuing obligation to serve those areas on the basis of integrated rates. Integrated rates should be supported through internal cost pooling and continued inter-carrier settlements.

The Commission should also expeditiously refer the following questions to the Federal-State Joint Board, and based upon the Board's recommendations, finalize its rate integration policy in this proceeding:

1. What level of support is necessary to sustain rate integration without adverse public consequences for each offshore area?

2. What changes need to be made to the current separations formulas to accomplish the desired level of support, including a possible Federal high cost factor for interexchange facilities?

On an interim basis, AT&T should be directed by the Commission to continue the current settlement arrangements with its partner carriers in order to continue rate integration without causing intrastate rate increases. AT&T should be required to extend its contractual payments to Alascom beyond December 31, 1984, at the average level for the years 1980 through 1984. The Commission should commence immediately the steps necessary to achieve these results.

CERTIFICATE OF SERVICE

I, Linda M Lewis, hereby certify that on this 4th day of September, 1984, I sent true copies of the attached "Comments of the State of Alaska on the Supplement to the Petition for Expedited Consideration and Related Interim Relief filed by General Communication Incorporated," by first class mail, to the following:

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FILE

September 14, 1984

VICTOR E. FERRALL, JR.
(202) 452-5992

Mr. William J. Tricarico, Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D. C. 20554

Re: CC Docket No. 83-1376; RM 4436

Dear Mr. Tricarico:

In their Comments on the interim relief requested by General Communication Incorporated, the State of Alaska and the Alaska Public Utilities Commission noted (pp. 8-9, n.16) that GCI projected a substantial affirmative cash flow and had not furnished the data necessary to evaluate GCI's claim of imminent failure. GCI has now assessed its own financial condition. The State and the APUC believe GCI's characterizations of its financial situation, made for the first time in its Consolidated Reply, deserve particular attention, and respectfully direct the Commission to pages 3-4 of Appendix A to the GCI Consolidated Reply.

GCI says that even though a company may enjoy a positive cash flow, it can be adversely affected by "the effect that losses are perceived to have upon a public company's stock price." (Pp. 3-4, emphasis added.) It says that a company may be able to find better economic returns if it invests its funds in some other venture. "Ultimately," GCI says, "the decision to continue operating or to liquidate a particular venture rests upon an assessment of the prospective long-run returns from that venture in comparison with the alternative uses of the resources deployed in it." (P. 4.)

Thus, GCI reasons, there "are many valid economic considerations which could lead to the liquidation of GCI," even though its "projections imply a positive cash flow." (Id.) In particular

Mr. William J. Tricarico
September 14, 1984
Page Two

CROWELL & MORING

GCI's reported losses impact on the "reported" net income of its parent, WTCI, which in turn "presumably affects its [WTCI's] stock price." (Id., emphasis added.) Many of GCI's assets "could be readily redeployed in a manner which would generate a substantially higher return." (Id.)

The State and the APUC do not question the soundness of these business assessments by GCI. Perhaps the fact that a company regulated by the FCC confronts paper losses and has located better alternative investment opportunities could justify federal assistance, although it would appear at first blush to be a dangerous precedent. In any case, the question here is whether such facts justify, let alone require, special interim relief. The State and the APUC respectfully suggest they do not.

In the event there are any questions concerning this matter, please communicate with this office.

Very truly yours,



Victor E. Ferrall, Jr.
Counsel for State of Alaska
and Alaska Public Utilities
Commission

cc: All Commissioners
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Jerald N. Fritz, Esq.
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Jack D. Smith, Esq.
All Parties

12-26-84

12/20/84

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILE

OFFICE
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DEC 20 '84
CIVIL

In the Matter of)

Integration of Rates and Services)
for the Provision of Communications)
by Authorized Common Carriers)
between the Contiguous States and)
Alaska, Hawaii, Puerto Rico,)
and the Virgin Islands)

RM 4436

Integration of Rates and Services)
for the Provision of Communications)
by Authorized Common Carriers)
between the Contiguous States and)
Alaska, Hawaii, Puerto Rico,)
and the Virgin Islands)

CC Docket No.
83-1376

OPPOSITION OF THE STATE OF ALASKA
TO THE MOTION FOR A STAY OF THE
ORDER GRANTING A TRANSITIONAL SUPPLEMENT
TO ALASCOM INC., PENDING JUDICIAL REVIEW,
FILED BY AMERICAN TELEPHONE AND TELEGRAPH COMPANY

The State of Alaska and the Alaska Public Utilities Commission (collectively referred to as Alaska or the State) hereby oppose the "Motion for a Stay of the Order Granting a Transitional Supplement to Alascom Inc., Pending Judicial Review"^{1/} (AT&T Stay Motion) filed by American Telephone and Telegraph Company (AT&T).

^{1/} AT&T's Motion, although styled a motion for a stay pending judicial review, also requests a stay "pending consideration of AT&T's Petition for Expedited Reconsideration of the Alascom Order and, if necessary, judicial review." (AT&T Stay Motion at 1.) The State opposes any stay.

AT&T filed, on December 21, a 130 page package of motions, memoranda, a request, a petition and a letter. All of them address the Commission's December 11 GCI and Structural^{2/} Orders (FCC 84-512 and FCC 84-616). Inexplicably, AT&T has requested both a stay, pendente lite, of the Structural Order, with respect to which it sought judicial review on December 14, and Commission reconsideration of that Order. The State is at a loss to understand on what procedural theory AT&T believes it can simultaneously seek agency reconsideration and judicial review of the same order. Presumably, AT&T will dismiss its review petition or, if it does not, the Court will do so sua sponte.^{3/}

In any event, AT&T says that, if its request for a stay of the Structural Order is not acted on by January 3, 1985, "it will be necessary for AT&T to assume that the Commission's lack of action is, in effect, a denial of AT&T's pleadings." (Memorandum of Law in Support of AT&T Stay Motion, at 27.) In other words, AT&T has used eight of the thirteen business days between the date the Orders were released and the

^{2/} AT&T refers to the Structural Order as the "Alascom" Order. As the Commission is aware, the State opposed GCI's request for special relief. The State has not changed its views in that regard, fully set forth in pleadings filed by the State with the Commission. For this reason, the State has not filed an opposition to AT&T's request for a stay of the GCI Order.

^{3/} While AT&T's petition does not reflect service on the Court, the State assumes that the Court has been advised by AT&T of its action seeking agency reconsideration.

AT&T-imposed deadline for Commission action to prepare its 130 pages, and has left five business days, including Christmas Eve and New Year's Eve, for the parties to prepare their responses and the Commission to render its decision.

In this Opposition, the State will limit its comments to the public interest aspect of AT&T's request for a stay of the Structural Order, the element of the showing required for grant of a stay which receives the least attention from AT&T. The public interest resides in the devising of a permanent mechanism which will make possible the provision of affordable service to all Alaskans, particularly those who reside in extraordinarily high cost areas which characterize most of the State. The adoption of such a mechanism will benefit the public interest. As the State explained in its September 4 Comments (at 4),

All Americans gain from the ability to call any part of the country. Even Americans who never call Alaska call someone who does. All Americans would lose if the ability to reach all other Americans were sacrificed by changes in the rate integration policy or support mechanism that would prevent Alaskans from reaching the rest of the Nation, others in the State, and vice versa.

The task of reaching this fundamental goal of affordable universal service is complex. The Structural Order contains two interrelated elements, continuation of the supplemental

payment and deferral of the final step of rate integration pending final decision in this docket.^{4/} The Structural Order will permit the Commission to complete its task.

If AT&T is allowed, by its stay request, to sweep aside this important interim step, it is the people of Alaska and of the entire Nation who will be injured. They will ultimately bear the cost of termination of the supplement before a permanent rate support mechanism is in place and the burden of resulting rate and service disruptions. If the steps the Commission has required in its Structural Order are not permitted to go into effect pending final decision in this proceeding, the rate and service consequences would be irreversible. The harm would be compounded if the second element of the Structural Order, deferral of rate integration (not challenged by AT&T), remains in effect, but the support mechanism for it does not.

The substantial harm to the public of granting a stay far outweighs the, at best, speculative harm AT&T claims will flow to it from denial of the stay, i.e., that it would have "no assurance" that it would recover amounts paid to Alascom if it succeeds in its court appeal, and that, in view of

^{4/} AT&T says that it had no opportunity to comment on continuation of the supplemental payments on an interim basis because that "novel" proposal was first made in reply comments filed by the State in May, 1984. (AT&T Petition for Expedited Reconsideration of the Alascom Order, at 18.) With all respect, this is not even a plausible argument. The State is confident that AT&T possesses the requisite abilities to comment on proposals made in reply comments. In fact, AT&T filed three pleadings in this proceeding after Alaska filed its reply comments. None raised this matter, nor after Alaska filed Comments on September 4, 1984, did AT&T respond.

competition, there is "some question" that AT&T would be able to recover these amounts directly from rate payers. (Memorandum of Law in Support of AT&T Stay Motion, at iii, 20-23.)

Accordingly, the State opposes AT&T's "Motion for a Stay of the Order Granting a Transitional Supplement to Alascom Inc., Pending Judicial Review."

Respectfully submitted,

STATE OF ALASKA
Norman C. Gorsuch
Attorney General

ALASKA PUBLIC UTILITIES COMMISSION
Carolyn S. Guess
Chair

By: Victor E. Ferrall, Jr.
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Its Attorneys

December 26, 1984

CERTIFICATE OF SERVICE

I, Donna L. Petruska, hereby certify that on this 26th day of December, 1984, I sent true copies of the attached "Opposition of the State of Alaska to the Motion for a Stay of the Order Granting a Transitional Supplement to Alascom Inc., Pending Judicial Review, Filed by American Telephone and Telegraph Company," by first class mail, to the following:

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Lenna L. Petruska

*Delivered by hand.

~~12-28-84~~

12/28/84

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILE

In the Matter of

Integration of Rates and Services
for the Provision of Communications
by Authorized Common Carriers between
the Contiguous States and Alaska,
Hawaii, Puerto Rico and the Virgin
Islands

)
)
) CC Docket No. 83-1376
) RM 4436
) **RECEIVED**
)
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) **DEC 28 1984**
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FCC
Office of the Secretary

OPPOSITION OF THE STATE OF ALASKA AND THE ALASKA PUBLIC
UTILITIES COMMISSION TO THE REQUEST OF AMERICAN
TELEPHONE AND TELEGRAPH COMPANY FOR EXPEDITED
ACTION AND ESTABLISHMENT OF TIMETABLE FOR DECISION

The State of Alaska and the Alaska Public Utilities Commission (hereinafter collectively referred to as "the State" or "Alaska"), by their attorneys, hereby reply to the "Request of American Telephone and Telegraph Company (AT&T) for Expedited Action and Establishment of Timetable for Decision" ("Request"), filed December 21, 1984.

Even though the Commission announced its decision with respect to rate integration and supplemental payment support last October, AT&T waited until December 21 to file its "Request for Expedited Action and Establishment of a Timetable for Decision." AT&T now seeks to have the Commission (1) "require the use of interstate access charge tariffs to support high cost Alaskan facilities used in the provision of interstate services;" (2) take this action by February 1, 1985; and (3) do so without

receiving any "pleadings directed to this Request." AT&T characterizes "the issue" as "fully framed and focused" and says that pleadings are "unnecessary." (AT&T Request at 8-9.)

The State opposes both the substance and the procedure^{1/} embodied in AT&T's "Request." What AT&T's "Request" seeks, as a practical matter, is reversal sub silentio of the Commission's decision that the public interest requires extension of a supplemental payment and deferral of the final step of rate integration for Alaska "until a Joint Board . . . issues a recommendation and the Commission issues a final decision." (Structural Order at ¶ 4.) AT&T urges that, without permitting comment by interested parties, the support mechanism (access charges) championed by it be substituted for Joint Board consideration of the underlying issues and alternate support mechanisms, the heart of this proceeding. The State believes AT&T should not be permitted, in the guise of setting a "Timetable

^{1/} AT&T's assertion that no pleadings should be permitted in connection with the course of action it seeks, in addition to being contrary to the Commission's rules, is extraordinary in light of AT&T's complaint that it had no opportunity to comment on continuation of the supplemental payments on an interim basis because that "novel" proposal was first made in reply comments filed by the State in May, 1984. AT&T, "Petition for Expedited Reconsideration of the Alascom Order," at 18.

for Decision," to preempt careful Joint Board and Commission review. The public interest cannot be served without such review, nor by adoption of the AT&T proposal.

Accordingly, the State requests that the "Request of American Telephone and Telegraph Company for Expedited Action and Establishment of Timetable for Decision" be denied.

Respectfully submitted,

STATE OF ALASKA
Norman C. Gorsuch
Attorney General

ALASKA PUBLIC UTILITIES COMMISSION
Carolyn S. Guess
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By:



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Its Attorneys

December 28, 1984

CERTIFICATE OF SERVICE

I, Donna L. Petruska, hereby certify that on this 28th day of December, 1984, I sent true copies of the attached "Opposition of the State of Alaska and the Alaska Public Utilities Commission to the Request of American Telephone and Telegraph Company for Expedited Action and Establishment of Timetable for Decision," by first class mail, to the following:

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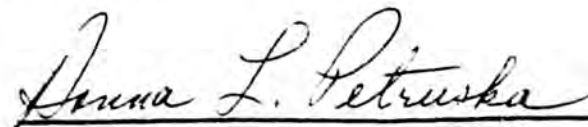
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