

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
2233 SCOMM 88: HOUSE TELECOMMUNICATIONS TASK FORCE, 1993 784

Alaska Fund revenue requirement⁵⁵ by the number of presubscribed access lines in the United States.⁵⁶ Beginning on January 1, 1994, NECA would bill and collect the charge, and disburse on a monthly basis the revenue associated therewith, less reasonable administrative expenses, to Alascom and UII.

55. We further tentatively recommend that Alascom, UII, and the interexchange carriers that will be billed by NECA, be required to provide to NECA the data necessary to compute the charge. In the case of Alascom and UII, these data would include account balances in the total circuit equipment category and would also include all associated other expenses, the revenue requirement total, the amount of revenue requirement to be recovered from the Fund, and well developed support materials that document the revenue requirement calculations.⁵⁷ Required information concerning the Alaska Fund would be filed with the NECA on June 30 and December 30 of each year, except for the first such submission, which would be filed on December 1, 1993.

56. The temporary Alaska Fund would be computed based upon the existing circuit equipment allocator for the first three years after the Commission adopts a final order establishing transition mechanisms. During the next seven years, Alascom's frozen circuit equipment allocator would start to phase-down to 75%.⁵⁸ The reduction in the circuit equipment factor would correspondingly reduce the Alaska Fund until the Fund is zero. The amount of monies phased-out of the Alaska Fund would be recovered through the state jurisdiction. We would expect that the anticipated intrastate cost shift would be minimized by Alascom through improved efficiencies, cost cutting, increased demand, and accelerated cost recovery.

E. Accelerated Cost Recovery

57. As more fully explained below, we have concluded that an accelerated cost recovery mechanism is necessary to help reduce the cost shifts to the intrastate jurisdiction that might result under the proposed

55 The projected Alaska Fund revenue requirement would include a projection of NECA's expenses of administering the Fund.

56 Our intention in this regard is that Alaska Fund support obligations be apportioned among interexchange carriers in the same proportions that are used for Universal Service Fund obligations.

57 For the purpose of computing this revenue requirement, we recommend that Alascom be required to utilize the lesser of the authorized interstate rate of return applicable to exchange carriers (currently 11.25%) or the intrastate rate of return authorized for switched traffic in Alaska unless Alascom, by clear and convincing evidence, is able to justify a different rate of return for its interstate operations.

58 Beginning January 1, 1997, the current allocator would be reduced at the annual rate of one-seventh (1/7) of the difference between the current allocator and seventy-five (75) percent.

new market structure. Consequently, we have included this transition mechanism as an integral part of our tentative recommendation.

1.a. State Members' Plan

58. The State Members' Plan stated that Alascom built its network while competition did not exist and at a time when regulators' primary policy objective was to create an interexchange network capable of providing dependable and high quality service to remote locations in Alaska under adverse conditions. After competition was introduced to the Alaska market, the JSA continued to insulate Alascom from competitive pressures by providing for a cost-plus reimbursement mechanism. To the extent that competitors' operations were developed without the influence of the cost-plus reimbursement from the JSA, without a historical requirement to build the first network under regulatory oversight, and without a requirement to serve statewide, those competitors may offer more attractive rates to AT&T and other interexchange carriers, thereby enticing interexchange carriers to bypass Alascom.

59. To address these concerns, the State Members' Plan proposed that Alascom would be required to accelerate depreciation of its interstate and intrastate plant to reduce, but not eliminate, its rate base and associated expenses. The State Members reasoned that this would significantly reduce the threat of stranded plant and extreme cost shifts to the intrastate jurisdiction. Funding for the additional accelerated depreciation was to come from AT&T through three annual payments of at least \$50 million each during the transition period. These payments, and the associated accelerated depreciation expense, would be an exclusive obligation of AT&T. AT&T funding of Alascom's accelerated cost recovery was designed to help minimize cost shifts to the intrastate jurisdiction. The accelerated depreciation would also reduce AT&T's Alaska costs for services it purchases from Alascom in the future and would place Alascom in a more effective competitive posture.⁵⁹

1.b. Positions of Parties

60. In its comments on the Master Agreement, the State of Alaska also suggested that an asset write-down would be an important element for meeting the policy objectives of jurisdictional revenue requirement neutrality and universal service.⁶⁰ The State of Alaska reasoned that the write-down would be justified by the increase in competition and the demise of the JSA, both of which would make Alascom's interexchange assets less productive and less valuable.

61. In its market structure proposal, GCI had proposed that

⁵⁹ State Members' Plan, November 5, 1992 at 20-21.

⁶⁰ These comments were offered in response to the MA. Alaska Comments, April 20, 1992 at 30-31.

Alascom should accelerate depreciation of its interstate assets.⁶¹ GCI stated that the use of accelerated depreciation would dramatically reduce Alascom's costs while compensating Alascom for its investment made in reliance upon the JSA.⁶²

62. Alascom and AT&T each found the proposed accelerated cost recovery for Alascom to be objectionable. Alascom first argued that it is arbitrary and capricious to justify this action on the basis that there are disincentives for economic efficiency.⁶³ According to Alascom, investments must first be found to have been imprudent as a prerequisite to compelling a write-down.⁶⁴ Second, it argued that the State Members' Plan would make Alascom incapable of providing universal service that meets present standards and quality.⁶⁵ Alascom also stated that the constitutional claims of confiscation that it raised with respect to GCI's proposed write-down applied with equal force to the State Members' Plan.⁶⁶ Finally, it challenged the legal basis for applying accelerated depreciation to both its intrastate and interstate plant.⁶⁷

63. AT&T claimed that the requirement that it alone fund the accelerated cost recovery raised a serious issue of unconstitutional taking, given its belief that under the JSA it had already paid for much of the plant that would be written down.⁶⁸ Further, AT&T posited that it is inequitable to place this financial responsibility on AT&T, given that Alascom alone made investment decisions without any input from AT&T. AT&T also contended that the proposal would fall short of accomplishing the intended goals of accelerated cost recovery. Last, AT&T questioned the legal basis for compelling the use of accelerated cost recovery to Alascom's interstate and intrastate plant.⁶⁹

64. GCI disputed the claims made by Alascom and AT&T. First, GCI argued that Alascom's calculations of the financial impact of the \$150 million accelerated cost recovery were flawed because they inaccurately and improperly assumed the elimination of the frozen allocator for separating

61 GCI Proposal, October 2, 1992 at ii.

62 *Id.* at 2.

63 Alascom Comments, December 18, 1992 at 41-42.

64 *Id.* at 42; Alascom Reply Comments, January 15, 1993 at 14 n. 14.

65 *Id.* at 5-6.

66 Alascom Reply Comments, January 15, 1993 at 14 n. 14.

67 Alascom Comments, December 18, 1992 at 42, Attachment B at 22-23.

68 AT&T Comments, December 18, 1992 at 6.

69 AT&T Reply Comments, January 15, 1993 at 2.

circuit equipment. GCI also noted that the accelerated cost recovery was designed to reduce, and not totally eliminate, Alascom's costs. Consequently, GCI stated that there could be some intrastate cost impact arising from the new market structure that was not mitigated by the accelerated cost recovery. GCI stated that the payments to fund accelerated cost recovery should not be viewed as related to the JSA, since termination of the JSA could be ordered via regulatory action without any concomitant compensation. If anything, in GCI's view, the payments should be considered as a reward to Alascom for any conceivable reliance interest it may have in the JSA. As to the requirement that AT&T fund the accelerated cost recovery, GCI stated that such an action would be fair in light of the enormous economic and operational benefits conferred on AT&T as a result of the JSA termination.⁷⁰

2. Discussion

65. Our tentative recommendation would allow AT&T to achieve its ultimate objective of serving Alaska through its own facilities or in any other manner it chooses. However, we recognize that if AT&T were to immediately cease using Alascom's facilities, it could result in a significant increase in the intrastate revenue requirement. Cost shifts to the intrastate jurisdiction in excess of the amount resulting from the reduced interstate circuit equipment allocator would raise significant questions with respect to achievement of our revenue requirement neutrality goal. Therefore, we have concluded that an accelerated cost recovery mechanism should be used to ameliorate any cost shift as well as reduce Alascom's costs so that Alascom may better adapt to the proposed new market structure.

66. The arguments raised by AT&T and Alascom in opposition to the proposal for accelerated cost recovery funded by AT&T appear to have little merit. Alascom's argument that there must first be a finding of imprudence before accelerated cost recovery could be ordered is not accurate. Accelerated cost recovery could be implemented, for example, by prescribing higher depreciation rates and shortened service lives. The authority to accelerate cost recovery through depreciation rates, service lives, and charges for providing common carrier communication services has been given to the Commission and the Alaska Public Utilities Commission. The exercise of that authority presumes that the associated investment was prudent; there is no legal basis for approving recovery of depreciation expense for imprudent investment.

67. Not only is accelerated cost recovery through depreciation within the authority of the Commission and the Alaska Public Utilities Commission but also may well be justifiable under the circumstances. A decision to terminate the JSA is likely to significantly affect Alascom's network and operations plant, and thus could warrant a re-examination of the prescribed depreciation rates in light of such a development.

⁷⁰ GCI Reply Comments, January 15, 1993 at 9.

68. In our view, Alascom's concerns about the financial impairment that it would experience with accelerated cost recovery appear to be misplaced. Any financial impairment that Alascom perceives relates not to the use of accelerated cost recovery but, instead, to the elimination of the guaranteed revenue source, (i.e., AT&T) to which it has likely grown accustomed under the JSA.⁷¹ However, the changed circumstances in the Alaska market no longer make it feasible to perpetuate the JSA.

69. Alascom's constitutional claims of confiscation raised with respect to GCI's proposed accelerated cost recovery plan also are inapplicable to the State Members' proposal. Whereas GCI's proposal contemplated the funding of the accelerated cost recovery from payments made to Alascom from AT&T under the MA, the State Members' plan clearly stated that AT&T's accelerated cost recovery payments would be separate from, and in addition to, any other payments that AT&T must make.⁷² In that regard, no argument can be sustained, therefore, that Alascom would be required to apply one payment to two purposes. Moreover, Alascom's argument rests on the improper assumption that it has a property interest in a continuation of the JSA. While the MA was structured to provide contractual compensation in conjunction with the termination of the JSA, we are not persuaded that Alascom can rightfully demand that this compensation be part of regulatory action terminating the JSA.

70. Alascom has been on notice since the inception of this proceeding that the arrangement requiring AT&T purchase of Alascom's services, along with other benefits under the terms of the JSA, was not likely to be permanent.⁷³ Alascom has also been on notice that AT&T has been an unwilling party to the JSA.⁷⁴ In fact, AT&T previously filed pleading requesting termination of the JSA, and argued that the JSA was violative of Section 201 of the Communications Act.⁷⁵ Clearly, the JSA continues only through regulatory assent. Any claim by Alascom of a right to the continuation of the JSA, as implied in its constitutional challenge, is not borne out by the record.⁷⁶

71. AT&T's and Alascom's challenge to applying accelerated cost recovery for plant that provides both interstate and intrastate services cannot lie under the Communications Act and Title 42 of the Alaska Statutes.

⁷¹ Under the JSA, AT&T is required to compensate Alascom for its interstate expenses, including accelerated depreciation expenses.

⁷² State Members' Plan, Nov. 5, 1992 at 20 & n. 18.

⁷³ AT&T Comments, December 18, 1992 at 6.

⁷⁴ AT&T Supplemental Comments, March 12, 1990 at 5-6.

⁷⁵ See AT&T Petition for a Lawful Interim Division of Charges, November 6, 1987.

⁷⁶ *Id.* at pp. 5-8.

For example, the FCC can prescribe depreciation charges for Alascom under the Communications Act,⁷⁷ and take cognizance of those charges in determining whether Alascom's interstate rates are unjust, unreasonable, or unreasonably discriminatory.⁷⁸ Similarly, the Alaska Public Utilities Commission is authorized to make a congruent determination for intrastate purposes.⁷⁹

72. Moreover, Alascom and AT&T may conclude independently that it is in the best interest of the shareholders of both companies if Alascom were voluntarily to propose to reduce the value of its regulated telecommunications common carrier assets⁸⁰ in exchange for a lump sum payment, or series of payments. Such a proposal, if approved, would not only reduce Alascom's costs of providing service to intrastate ratepayers in Alaska but would also reduce the cost of providing interstate MTS to and from the State of Alaska and simultaneously make Alascom a more competitive source of supply to AT&T and other intrastate and interstate interexchange carriers.

73. In light of the considerations raised in this section, it is evident that some direct method to reduce Alascom's costs of operation through accelerated cost recovery must be an integral part of any transition to a new market structure. Accordingly, we direct AT&T and Alascom to provide either joint or separate implementation plan(s) discussing methodologies that might be employed to resolve this issue in a way that satisfies the concerns set forth above.⁸¹ Without an acceptable solution to the accelerated cost recovery issue, it is unlikely that the Joint Board's five goals can be achieved. In that eventuality, this Joint Board is unlikely to recommend termination of the JSA with the other terms and conditions that have been previously described in this order.

F. AT&T Purchase Obligation:

74. As previously stated, the potential for unforeseen jurisdictional revenue requirement shifts could be realized if AT&T immediately stopped using Alascom upon termination of the JSA. To further

⁷⁷ 47 U.S.C. § 220.

⁷⁸ 47 U.S.C. §§ 201-202.

⁷⁹ Alaska Stat. § 42.05.471 (1992).

⁸⁰ We recommend that any accelerated cost recovery would apply to regulated plant used to provide service to the public; plant dedicated to providing service to specific customers and non-regulated plant would be excluded. Alaska Spur facilities would not be subject to accelerated cost recovery.

⁸¹ AT&T and Alascom are requested to develop the necessary accounting procedures to implement this proposal. The implementation proposals should also include any special conditions, timing considerations, and waivers necessary to fully implement all aspects of the Joint Board's tentative recommendation.

reduce this potential, we recommend that AT&T be required to purchase Alascom Common Carrier Services for all of AT&T's Alaska Interstate MTS traffic during the first three years of transition to a new market structure.⁸² In the four subsequent years, after other transition mechanisms have been implemented, we recommend that this obligation be lessened and ultimately eliminated, by reducing the traffic that AT&T will be required to place on Alascom's facilities. This reduction would occur in equal increments or on a schedule proposed by the parties and accepted by the Commission. At the conclusion of the seventh year of transition, AT&T would no longer be obligated to use any Alascom facilities and may choose to self-provision or to use the services of another carrier or carriers to satisfy all its requirements for providing Alaska service. We have tentatively concluded that this condition is necessary to stave off the potential jurisdictional revenue requirement shift that could occur should AT&T immediately stop using Alascom's facilities.⁸³

VII. Miscellaneous

⁸² We have tentatively concluded that, pending termination of the JSA, AT&T should be obligated to carry all of its Alaska interstate MTS traffic on Alascom facilities as it does today. Thereafter, the amount of AT&T's traffic that must be placed on Alascom's system would decrease from 100% to 0% in four equal annual increments from the volume of MTS traffic that AT&T carried during the third year. However, we invite comment on whether AT&T's obligation to use Alascom should be limited during any (or all) of these years, such as to a given percentage of AT&T's current traffic on the Alascom network and, if so, what base period should be used for this purpose.

⁸³ ATA and GCI comments to the State Members' Plan supported a must purchase requirement placed on AT&T. See ATA Comments, December 17, 1992 at 7-8; GCI Comments, December 18, 1992 at 20-22. ATA noted that this condition would guard against stranding significant Alascom investment and shifting jurisdictional cost shifts by as much as \$25.7 million per year if AT&T bypassed Alascom facilities for terminating and originating interstate minutes for Anchorage, Juneau and Fairbanks. The State of Alaska recommended that after a five-year transition during which all of AT&T's interstate traffic would be carried on Alascom's network, AT&T would continue to be required to place 10% of its traffic on Alascom's network. See State of Alaska Comments, November 13, 1992, at iv. MCI and AT&T objected on the basis that Alascom should not be insulated against the potential for AT&T bypass and the concomitant stranded investment that would occur. See MCI Comments, December 18, 1992 at 2, 5; AT&T Comments, December 18, 1992 at 4-9, 12-3. Our principal reason for imposing this obligation on AT&T relates to universal service and jurisdictional revenue requirement neutrality and not protection of Alascom against the effects of competition. In fact, we have proposed that this obligation be imposed for only a limited time to allow competition to evolve in the Alaska market as expeditiously as possible without its evolution impeding achievement of our goals of universal service and jurisdictional revenue requirement neutrality.

A. Tariffs, Leases, and Contracts

75. Alascom must file interstate tariffs for its Alascom Common Carrier Services and its MTS with the Commission. We propose to recommend that any contracts or leases for use of Alascom or AT&T interstate services also must be filed for review by the Commission.

B. Alaska Spur

76. We further propose that Alascom shall make public and have on file with the Commission all contracts and agreements for interstate service on the Alaska Spur, including any technical standards that may be incident thereto. All contracts, agreements, and standards shall be subject to review by the Commission and to other requirements deemed applicable by the Commission.⁸⁴

C. Monitoring

77. We tentatively recommend that the Commission obtain information to monitor progress in achieving the market structure described in this order. We tentatively conclude that most of the information needed to monitor progress in the Alaska market can be obtained from existing sources. For example, the Alaska Public Utilities Commission has information about intrastate rates in Alaska, and the CC Docket 80-286 Joint Board publishes a Comprehensive Monitoring Report on Telephone Service, including information on subscribership and penetration levels. In addition, as part of our proposed market structure proposal, NECA would be required to file tariffs for the Alaska Fund that would be useful in monitoring the charges to carriers from the Alaska Fund. To the extent that there are existing reporting requirements that provide the types of information needed to monitor the proposed market structure, it is possible that no new reporting requirements would be required. We request comments on this aspect of our proposal.

78. Parties providing comments on a monitoring program for the Alaska market structure should respond regarding: costs and benefits of establishing a monitoring reporting requirement, parties that should be required to report, information that should be included in the reporting requirement, frequency of reporting, and relative importance of specific information for monitoring the Alaska market. Parties should also comment on the availability of the recommended reporting items from existing reports.

VIII. AT&T Petition to Terminate the Joint Service Arrangement

79. On March 31, 1993, AT&T filed a Petition proposing a "Consumer Benefit Plan" to replace the JSA. The AT&T Consumer Benefit Plan proposes that the JSA be terminated immediately upon all regulatory approvals. At that

⁸⁴ See Alascom Inc. Section 214 Application, Memorandum Opinion and Order, WRC - 6520, May 13, 1991.

time, AT&T would: 1) directly provide interstate MTS to and from Alaska at nationwide integrated rates; 2) eliminate bands 10 and 11 from its interstate tariff, thereby offering lower rates to Alaska interstate callers; 3) make available services and optional calling plans that Alascom does not currently offer; 4) construct a new fiber optic submarine cable between Alaska and the Lower 48 states and other facilities necessary to provide service; and 5) provide intrastate switched services in Alaska. AT&T states that its basic intrastate MTS rates would be equal to or lower than the lowest current Alascom or CCI standard MTS rates. AT&T would pledge not to raise its initial MTS rates for five years, except to pass through state-approved increases in intrastate access charges.

80. AT&T's Section 214 application for authority to provide service to and from Alaska indicates that initially AT&T would acquire capacity from carriers under tariff, supplemented as necessary by leasing or purchasing facilities.⁸⁵ Thereafter, AT&T states that it would construct the undersea cable system from the Pacific Northwest through Juneau to a point near Anchorage, and it may construct other facilities in Alaska substituting for, or adding to, the leased or purchased facilities. Until second stage facilities are in place to any given point, AT&T states that it would continue to obtain distribution and access services from Alascom and Alaska local exchange carriers under tariff. AT&T states that it would agree to subject itself to 214 requirements for withdrawal from providing southbound service from Alaska, even though it does not believe it should be subject to such requirements, and in addition to northbound service for which it is also subject to 214 requirements. AT&T's proposal assumes no change in separations. AT&T states that it would purchase Alascom services to originate and terminate calls to the bush, because of the prohibition against construction of duplicate earth stations in rural Alaska. AT&T states that it would begin to provide southbound service without preexisting customers, i.e., AT&T would not purchase Alascom's interstate customer list.

81. AT&T states that it would implement its Consumer Benefit Plan if three conditions were granted: 1) prompt termination of the JSA; 2) approval of AT&T's Section 214; 3) an order or assurance that Alascom will file nondiscriminatory interstate tariffs to permit AT&T and other IXCs to use Alascom's existing facilities to provide service from their Alaska POPs to the points served by Alascom including the Bush; and 4) that Alascom's rates for providing such service to the Bush were based on direct costs.

IX. Ex Parte Rules

82. This proceeding involves broad policy issues and shall be treated as non-restricted for purposes of the Commission's ex parte rules. See 47 C.F.R. §§ 1.1200(a), 1.1206. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as

⁸⁵ AT&T's Section 214 application to service Alaska will be the subject of a separate proceeding instituted by the Commission.

provided in Commission rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a).

X. Regulatory Flexibility Act

83. We certify that the Regulatory Flexibility Act of 1980 does not apply to this proceeding because the proposed rule amendments, if promulgated, would not have a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. Alascom and AT&T, two of the three major entities that would be directly subject to the proposed tentative decision, are large corporations or affiliates of large corporations. Interexchange carriers that might be otherwise affected by the tentative decision are also large corporations or their affiliates. UUI a provider of earth station facilities for the Alaska bush, is not considered a small entity because it is a monopoly provider of local exchange service. The Secretary shall send a copy of this Tentative Recommendation and Order Inviting Comment, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with § 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. § 601 et seq (1981).

XI. Implementation Plan and Comment Dates

84. This tentative recommendation and order requesting comments is intended to present, and seek comments on, the Joint Board's tentative recommendation on how to resolve the outstanding issues in this proceeding and provide a new interstate market structure for Alaska that is consistent with the objectives previously identified by this Joint Board. Accordingly, we require that AT&T and Alascom submit either a joint or separate detailed plan(s) describing how they would implement the proposed market structure specified in this tentative recommendation on or before June 7, 1993.

85. Interested parties may file individual or consolidated comments, and/or reply comments with respect to: (1) the Joint Board tentative recommendation; (2) the implementation plan filed by AT&T and Alascom in response to this tentative decision; and (3) the AT&T Consumer Benefit Plan. Comments shall be filed on or before June 28, 1993 and replies thereto on or before July 12, 1993. An original and five copies should be filed with the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Additional copies should be sent to the following: six copies to Peggy Reitzel, Common Carrier Bureau, Federal Communications Commission, 1919 M. Street, N.W., Washington, D.C. 20554; and one copy to ITS, Inc. the Commission's contractor for public records duplication, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857-3800. The AT&T petition and filings in response to this Tentative Recommendation and Order Inviting Comment, will be available for inspection and photoduplication in Room 239, 1919 M. Street, N.W., Washington, D.C. 20554 (which is open from 9:00 AM to 4:30 PM, Monday through Friday). Copies may also be obtained from ITS, Inc.

86. Petitions to reject, comments, informal comments, and replies on AT&T's Section 214 Application to serve the State of Alaska may be filed in the proceeding established to address AT&T's Section 214 application, and not here.

87. Parties should also send copies of filings to the following Alaska Joint Board Members and their staffs: Hon. Bruce Hagen, North Dakota Public Service Commission, State Capitol Building, Bismarck, North Dakota 58505; Hon. Susan M. Knowles, Alaska Public Utilities Commission, 1016 West 6th Avenue, Suite 400, Anchorage, Alaska 99501; Hon. Dean J. "Joe" Miller, Idaho Public Utilities Commission, 472 West Washington, Boise, Idaho 83702; Hon. David Rolka, Pennsylvania Public Utilities Commission, P.O. Box 3265, Harrisburg, Pennsylvania 17105; Lorraine Kenyon, Alaska Public Utilities Commission, 1016 West 6th Avenue, Suite 400, Anchorage, Alaska 99501; Eileen Benner, Idaho Public Utilities Commission, 472 West Washington, Boise, Idaho, 83702; Debra Kriete, Pennsylvania Public Utilities Commission, P.O. Box 3265, Harrisburg, Pennsylvania 17105; Ronald G. Choura, c/o Michigan Public Service Commission, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan, 48910; Rowland Curry, Texas Public Service Commission, 7800 Shoal Creek Blvd. Suite 400N, Austin, Texas 78757.

XII. Ordering Clauses

88. ACCORDINGLY, pursuant to Sections, 1, 4, 5, 201-205, 214, 218, 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 155, 201-205, 218, 403, and 410 IT IS ORDERED that this Tentative Recommendation And Order Inviting Comment IS HEREBY ADOPTED to give notice of the tentative recommended decision described herein, and that interested parties may file comments and reply comments on this proposal;

89. IT IS FURTHER ORDERED, pursuant to Sections 1, 4, 5, 201, 202, 205, 218, 403, and 410, 47 U.S.C. §§ 151, 154, 155, 201, 202, 205, 218, 403, and 410, that AT&T and Alascom SHALL FILE, not later than June 7, 1993, either a joint or separate detailed implementation plan consistent with the tentative recommendation of the Joint Board discussed herein;

90. IT IS FURTHER ORDERED that interested parties may file individual or consolidated comments, and/or reply comments with respect to: (1) the Joint Board tentative recommendation; (2) the AT&T and Alascom implementation plan(s) filed in response to this tentative recommendation; and (2) AT&T's Petition to Terminate the Joint Services Agreement. Comments shall be filed on or before June 28, 1993, and replies thereto on or before July 12, 1993.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

STATE
OF
ALASKA

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)

CC Docket No. 83-1376
RM 4436

To the Federal-State Joint Board

REPLY COMMENTS OF
THE STATE OF ALASKA

THE STATE OF ALASKA

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July 12, 1993

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

In the Matter of

Integration of Rates and
Services for the Provision of
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REPLY COMMENTS OF
THE STATE OF ALASKA

To: The Federal-State Joint Board

This proceeding has lasted over nine years. Tens of thousands of pages of comments and data have been presented and critically evaluated; meetings, presentations by parties, and inspection trips have occurred; expert consultants have been retained and their reports analyzed.

Disagreements may remain, but all agree that the issues in this docket are difficult. There is no perfect solution. If there were, it would have been found by now, given the hard work and critical analysis done by so many different people in industry and government. These issues are not likely to get any easier to resolve in the near future.

Regulatory uncertainty and delay are interfering with the orderly operation of the marketplace and delaying possible improvements in telecommunications services to Alaska. This docket should be resolved as soon as possible.

ALASKA-000 1-10-93 11:10 AM 1 2000-0001 11/10/93 11:10 AM

The Joint Board has requested comments on the two proposals presently before it: the Tentative Recommendation and the AT&T Consumer Benefit Plan. Both proposals have merit, but neither proposal should be recommended to the Federal Communications Commission without certain changes.

The Joint Board's Tentative Recommendation

The Joint Board's Tentative Recommendation has many attractive features. It provides for an orderly transition from the joint services arrangement to a new era of competition and efficiency. It seeks to recognize the investments Alascom has made in reliance of the joint services arrangement and provides for accelerated cost recovery of those investments in the remaining term of the joint services arrangement.

The Joint Board's proposal, however, creates jurisdictional cost shifts, placing significant upward pressures on intrastate rates. The State has long opposed such a development on behalf of its citizens. Also, the Joint Board's proposal does not seem likely to stimulate quickly the delivery of new and improved telecommunications services to Alaska.

In its June 28, 1993 comments, the State suggested that the Tentative Recommendation would be improved by two adjustments: (1) not changing the "frozen allocator" which applies to interexchange circuit equipment and applying accelerated cost recovery solely to Alascom's interstate MTS/WATS assets (thus reducing Alascom's interstate costs and removing the necessity for the Alaska Fund) and (2) removing the requirement that Alascom

geographically average rates for its carrier services.¹ The State continues to believe those adjustments would be in the public interest.

Based on its review of the other comments filed and discussions with Alaska carriers and others, the State believes that the Tentative Recommendation would be further improved if the transition period during which AT&T must place its traffic on Alascom's network were shortened. AT&T will not have the incentive to invest in new technology and deliver the new services it has offered in its proposal until it is free to handle its Alaska traffic in the manner it finds most efficient. Although a transition period regarding termination of the joint services arrangement is necessary, shortening that transition would appear useful.

The State suggests that the four year transition period following termination of the joint services arrangement (during which AT&T can decrease its placement of traffic on Alascom's network) be reduced to two years. AT&T would then be free to satisfy its requirements in Alaska through the most cost effective network arrangements possible in five years rather than seven years. Thus, Alascom would continue to carry all of AT&T's traffic for three years and a great deal of AT&T's traffic for an additional two years. Given the accelerated cost recovery, Alascom should have a cost structure that would allow it to

¹ AT&T's suggestion in this regard that a separate study area be established for Alascom's services to the Alaska Bush appears to have merit.

compete effectively to handle AT&T's traffic at that time.

AT&T's Consumer Benefit Plan

AT&T's Consumer Benefit Plan has several attractive features as well. It promises significant new investment in Alaskan telecommunications. It would not appear to create jurisdictional cost shifts to the same extent as the Joint Board's proposal. It promises reduced and capped intrastate rates. AT&T has also committed itself, on the record, to assume Alascom's rural service obligations, if necessary. AT&T's plan is far less complex than the Joint Board's proposal and involves less regulatory intervention.

The Consumer Benefit Plan, however, also has significant deficiencies. First, the AT&T plan does not provide for an orderly transition to a new market structure and it does not adequately recognize the investments Alascom has made in reliance of the joint services arrangement or provide for cost recovery of those investments.

Second, it is incomplete. AT&T has not submitted a complete and comprehensive Section 214 application to the FCC and it has not submitted any application to the Alaska Public Utilities Commission for approval of the intrastate aspects of its plan. The information AT&T has filed with the Joint Board is lacking in detail.

To cure these deficiencies, the State suggests that the Joint Board not recommend approval of AT&T's plan unless the following changes to that plan are made or conditions satisfied:

First, AT&T would have to agree to purchase transport services for its traffic from Alascom for three years. During that time, Alascom would be permitted to accelerate the cost recovery of its interstate MTS/WATS assets in an amount to be determined by the Joint Board.²

Second, AT&T would have to submit a complete Section 214 application to the FCC to supplement the application now on file no later than September 15, 1993.

Third, AT&T would have to submit a complete application to the Alaska Public Utilities Commission no later than September 15, 1993.

Fourth, approval of those applications would need to be obtained before the joint services arrangement would actually be terminated. (In this regard, it is expected that the Joint Board would recommend approval of those applications if they satisfy applicable statutory and regulatory requirements.)

Conclusion

The world in which we live is not perfect and there is no perfect solution to the issues facing the Joint Board. The difficulty of the issues presented, however, does not justify delay in resolving them. Although the State of Alaska sees merit in both proposals, it believes that the Joint Board's Tentative Recommendation and AT&T's Consumer Benefit Plan would be

² In this regard, the State notes that the State Members of the Joint Board have previously suggested accelerated cost recovery of \$150 million over a three year period and that Alascom has suggested that \$220 million over that period would be more appropriate. See Response to Request for Implementation Plan of Alascom, Inc. (June 7, 1993).

significantly improved by the changes and conditions suggested in these comments.

Respectfully submitted,

THE STATE OF ALASKA

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June 28, 1993

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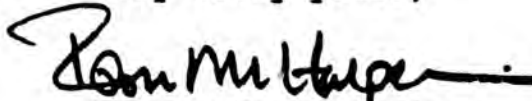
Re: Integration of Rates and Services
CC Docket No. 83-1376, RM 4436

Dear Ms. Searcy:

Transmitted herewith on behalf of the State of Alaska are an original and five copies of "Comments of the State of Alaska" in the above-referenced proceeding.

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

Very truly yours,


Robert M. Halperin

Enclosures

bcc: Stephen C. Slotnick
John W. Katz
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Linda K. Smith

In the Matter of

CC Docket No. 83-1376
RM 4436

**COMMENTS OF
THE STATE OF ALASKA**

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June 28, 1993

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SUMMARY

The time to resolve the issues presented in this nine-year old docket is long overdue. There are now two proposals in the record: the Joint Board's Tentative Recommendation and AT&T's Consumer Benefit Plan. Both proposals would result in termination of the joint services arrangement between AT&T and Alascom. The challenge now, as in the past, is to do so without imperiling achievement and maintenance of primary public interest goals of universal service and rate integration or creating upward pressures on intrastate rates (which, as the Joint Board has previously noted, are not unduly low) through jurisdictional cost shifts. Only then could it be said that Alaskans would benefit from the transition of the Alaska interstate telecommunications market to a new era of increased competition and efficiency.

The State offers two adjustments to the Joint Board's proposal that it believes could further the public interest by minimizing jurisdictional cost shifts and by maximizing Alascom's ability to compete effectively in the future. The State also notes many of the questions it has concerning the practical impacts of the Joint Board's plan and AT&T's proposal.

The State has previously raised the questions it sets forth here with the relevant carriers and is hopeful that they will provide answers to them for the administrative record. Those answers will assist the State, the Joint Board and the Commission in determining what market structure solution will maximize the public interest.

In the Matter of

CC Docket No. 83-1376
RM 4436

There are two proposed solutions in the record: the Joint Board's Tentative Recommendation, and the proposal filed by the American Telephone and Telegraph Company ("AT&T") with the Federal

Communications Commission ("FCC" or "Commission") on March 31, 1993, which it calls the "Consumer Benefit Plan."

Both proposals would result in the termination of the joint services arrangement between AT&T and Alascom. The State does not object to termination of the joint services arrangement as long as the primary public interest objectives the Joint Board has previously identified -- promotion of universal service, rate integration, and the avoidance of jurisdictional cost shifts -- are advanced. Advancement of these objectives is particularly crucial for residents of rural Alaska, for whom telephone service is a vital resource. The challenge now, as in the past, is to implement a new market structure without imperiling those primary public interest objectives or otherwise creating upward pressures on intrastate rates (which, as the Joint Board has previously noted, are not unduly low). Only then could it be said that Alaskans would benefit from a new era of increased competition and efficiency.

The State has met recently with the various interexchange and local exchange carriers who have been most active in this proceeding. The State has sought input from these carriers regarding the two proposals currently before the Joint Board, has asked questions regarding how the solutions they favor would work in practice, and has probed why they believe other solutions are less desirable.

In light of these discussions, the State will raise certain questions and concerns that it has with these proposals. The State has already raised these and other questions with the

relevant carriers and is hopeful that they will provide responses in their comments. The State looks forward to receiving and analyzing those responses, and expects to be in a position to provide conclusions concerning the two proposals in its reply comments.

The Joint Board's Tentative Recommendation

The Tentative Recommendation provides a detailed resolution of the issues at hand. For example, the proposal includes a ten year transition which is offered to mitigate unanticipated service disruptions or cost or rate impacts. Termination of the joint services arrangement is intended to bring new competition and heightened efficiency to the marketplace. The new market structure created in the Tentative Recommendation would continue to require rate integrated interstate rates. Dominant carrier regulation would apply to Alascom's and AT&T's offerings of interstate MTS/WATS and Alascom's offerings of interstate private line service, and AT&T is required to provide interstate MTS/WATS on the same terms and conditions as elsewhere in the United States. These aspects of the Tentative Recommendation are intended to satisfy concerns about interstate service availability throughout Alaska. Alascom's rate base would be reduced through accelerated cost recovery, thus minimizing Alascom's ongoing capital recovery costs and allowing Alascom to be a more cost competitive carrier than it would otherwise be. In short, the detail in the Joint Board plan allows the State and others to analyze the plan and provide comments in a meaningful manner.

The State has questions concerning the Joint Board plan: (1) Is there a policy or economic need for applying the proposed accelerated cost recovery to Alascom's assets company-wide (rather than to just the interstate MTS/WATS rate base)? (2) How much of a jurisdictional cost shift is created by the Joint Board plan, particularly the change of the frozen allocator for interexchange circuit equipment found in Section 36.126(e)(3) of the Commission's rules? (3) Is the provision for geographic averaging of Alascom's rates for carrier services appropriate? (4) Is it necessary to prevent improper cost allocations to routes on which Alascom has a facilities monopoly? The concerns underlying these questions lead the State to suggest two adjustments to the Joint Board's plan.

1. **Retain the Frozen Allocator, Eliminate the Alaska Fund, and Apply Accelerated Cost Recovery Only to Alascom's Interstate MTS/WATS Assets.**

There are economic and legal implications of the proposals to increase intrastate cost allocations by changing the frozen interexchange circuit equipment allocator from approximately 86% to 75%. Alascom's implementation plan filing of June 7, 1993, presents a picture of significant increases in intrastate costs created by the change in the frozen allocator, notwithstanding the application of accelerated cost recovery to its company-wide rate base.¹ Looking at the size of the contemplated "Alaska Fund" in

¹ See Response to Request for Implementation Plan of Alascom, Inc., Exhibits E, F, G (June 7, 1993).

the years 1994 through 1996² and other forecasted increases in intrastate cost allocations, it appears that intrastate ratepayers would need to absorb over a \$10 million increase in intrastate costs. Given that there are approximately 270,000 access lines in Alaska,³ this cost shift could result in an increase of \$40 a year or more in intrastate rates.

The primary reason for changing the frozen allocator is to reduce Alascom's interstate costs. This reduction is designed to allow Alascom to compete more effectively in the interstate MTS/WATS market.⁴ That same purpose can be achieved, however, by applying the contemplated accelerated cost recovery only to Alascom's interstate MTS/WATS rate base rather than diluting its impact on Alascom's interstate rates by applying it to Alascom's company-wide rate base.

Moreover, this alternative approach would avoid potential litigation over whether the FCC (even when implementing a Joint Board Recommendation) has the authority to order accelerated cost recovery of the intrastate portion of a carrier's jointly used assets. See Louisiana Public Service Commission v. United States, 476 U.S. 355 (1976). At the least, it appears that the FCC should

² In these years, the Joint Board plan envisions that Alascom would allocate 75% of its interexchange circuit equipment costs to the interstate jurisdiction but would still continue to allocate 14% of those costs to the intrastate jurisdiction. The remaining 11% of costs would be allocated to the "Alaska Fund," a fund to be administered by the National Exchange Carrier Association and paid for by all interexchange carriers.

³ Tentative Recommendation and Order Inviting Comments at 7 (Federal-State Joint Board, May 17, 1993).

⁴ Id. at 15.



not order accelerated cost recovery of the intrastate portion of Alascom's rate base without approval of the Alaska Public Utilities Commission ("APUC").

This alternative would also avoid the necessity for the "Alaska Fund." No state-specific fund has been established to assure rate integration and universal service for other states. The creation of a state-specific fund might provide a focal point for attack by those who do not accept those fundamental policies. Such a fund should be established to further those policies in Alaska only if no other alternative exists. Here, those policies could be furthered simply by maintaining existing cost allocation rules. This solution is also more consistent with the mechanisms for achieving universal service and rate integration in the rest of the United States.

**2. Eliminate Geographic Cost Averaging
for Alascom's Interstate Carrier
Services**

The second adjustment the State suggests relates to the Joint Board's proposal that Alascom's interstate carrier services be subject to a rate averaging requirement. The Joint Board envisions Alascom providing switching and transport to other interstate carriers. Alascom would be the only carrier providing service to the most rural parts of Alaska and, therefore, all other interstate interexchange carriers would need to purchase transport and perhaps switching services from Alascom to serve those locations. Alascom would also provide transport and switching services to and from other locations in Alaska. The Joint Board, largely reflecting the concerns of General

Communication, Incorporated ("GCI"), has recommended that Alascom's transport and switching services be priced to carriers on a geographically averaged basis.

The State shares the concern that, in the absence of a geographic averaging requirement, Alascom would have the incentive to allocate more costs than are appropriate to the most rural service routes, where it has a facilities monopoly, and allocate fewer costs than are appropriate to the other service routes, where it faces competition. The problem with the geographic averaging requirement, however, is that the costs of serving the different areas of the State are not equal. Geographic averaging will force Alascom to charge other carriers more for transport and switching on higher volume routes than is required by the costs of providing those services on those routes. This pricing arrangement will likely decrease the total amount of traffic placed on Alascom's network, which would reduce its relative efficiency and place upward pressures on Alascom's rates.

AT&T, a potential carrier customer and competitor of Alascom, appears to agree with this position. In its Consumer Benefit Plan, AT&T requests only that "the rates for Alascom's services . . . be based upon the direct costs of providing them."⁵ In particular, AT&T seeks assurances that "Alascom's rates for service to the Alaska bush will be based solely upon the costs of the satellite and earth station network used to provide this

⁵ AT&T's Petition to Terminate the Joint Service Arrangement at 15 (March 21, 1993).

monopoly service";⁶ and that "the rates Alascom charges all carriers, including itself, should be the same."⁷ Concerns that Alascom's rates are too high can be addressed in the traditional and well accepted tariff review process.

The State's position that the rates Alascom charges other carriers, should not be subject to a geographic averaging requirement in no way weakens or contradicts its belief that the Communications Act and fundamental national communications policy require continuation of rate integration and geographic averaging of rates charged by carriers to end users of telecommunications services.⁸

AT&T's Consumer Benefit Plan

AT&T's Consumer Benefit Plan also appears to be in the public interest, at least from a theoretical basis; however, a great deal is not known about the Consumer Benefit Plan and how it would work in practice.

⁶ Id. at 15-16.

⁷ Id. at 16.

⁸ See Policy and Rules Concerning Rates for Dominant Carriers, 4 FCC Rcd 2873, 3133 (1989) (the Commission will suspend and investigate any tariff that deaverages rates for MTS, WATS, or 800 service); MTS and WATS Market Structure, 81 FCC 2d 177, 192 (1980); Integration of Rates and Services, Supplemental Order Inviting Comments, CC Docket 83-1376, 4 FCC Rcd 395, 398 ("[C]ontinued integration of interstate MTS and WATS rates is necessary to ensure that all Alaska residents are able to participate fully in the social, economic, and political life of our nation. . . [A] rate structure which averages interstate toll rates for states other than Alaska, while imposing deaveraged rates for service to and from Alaska could raise questions concerning an unjust and unreasonable discrimination pursuant to Section 202 of the [Communications] Act."). See also Comments of the State of Hawaii at 6 & n. 10 (April 20, 1992).

The Consumer Benefit Plan offers the promise of both new investment and new competition in Alaska telecommunications markets with a minimum of regulatory oversight. AT&T would provide interstate MTS/WATS at rate integrated and geographically averaged rate levels and would apparently accept dominant carrier regulation of its offerings of those services to the same extent as in the rest of the nation.⁹ AT&T promises a new state-of-the-art fiber optic cable that offers the potential of new broadband services for Alaskans. AT&T also promises to enter the intrastate market, to price its intrastate services at the lower of Alascom's or GCI's current prices, and not to increase its intrastate rates except to pass through APUC-approved increases in local exchange carrier ("LEC") imposed intrastate access charges. AT&T's participation in both Alaska interstate and Alaska intrastate markets appears to eliminate, from AT&T's perspective, any need to change the frozen allocator applicable to interexchange circuit equipment. Because AT&T has been the only party challenging the existing frozen allocator, there would then be no reason to change the allocator, which was approved by a sister Joint Board and the FCC in 1986.

Significant unanswered questions concerning AT&T's plan, however, remain. The record does not contain sufficient information to determine whether AT&T's plan would result in a market structure that would make universal service achievable,

⁹ See AT&T Petition to Terminate Joint Service Arrangement at 11-12.

rate integration sustainable, and jurisdictional cost shifts avoidable in both the short and long terms.

More specifically, because Alascom is the only carrier with an obligation to bring interexchange services to any Alaskan community of 25 or more requesting service,¹⁰ any impact of AT&T's plan on Alascom's ability to satisfy that obligation must be measured. The State has asked AT&T what AT&T envisions the impact of its plan to be on Alascom's interstate and intrastate revenue requirements and Alascom's ability to satisfy those revenue requirements. (Are there, for example, hidden jurisdictional cost shifts?) The State has also asked AT&T if it would be willing to accept Alascom's service obligations, if necessary.

The State has specific concerns about service, under the AT&T plan, to those rural areas of Alaska where Alascom is now the exclusive facilities-based interexchange carrier. AT&T does not currently have a satellite that serves the northern reaches of Alaska. How would AT&T propose to serve those areas, if Alascom's existing satellite service were not available?

With respect to AT&T's proposed intrastate rate cap, does the caveat concerning flowing through APUC approved LEC access charge increases apply as well to any increases in Alascom's intrastate carrier services? It does not appear that the caveat would apply (nor should it) because Alascom is not an LEC, but AT&T's plan needs to be clarified in this respect.

¹⁰ See Tentative Recommendation and Order Inviting Comments at 10.

The State also wishes to understand what AT&T envisions its own intrastate revenue requirements to be after the expiration of its intrastate rate cap. In that regard, the State notes that significant new investment is planned in assets that would be used for both interstate and intrastate purposes. The capital and operating costs of that investment as they relate to intrastate services are subject to recovery through intrastate service rates. The State needs more information concerning what AT&T envisions those costs and rates to be.

The State is also interested in learning how AT&T would propose to interconnect with Alaskan LECs. Are there improved methods of interconnection that could maximize efficiency of telecommunications networks?

These are a few of the many questions that have already been raised by the State (and perhaps others) with AT&T. The State believes that responses to these questions should be part of the record in this proceeding. It hopes that AT&T will provide those responses in a manner that will permit the additional information to be considered both by the State in submitting reply comments and by the Joint Board and the Commission in their further deliberations. The answers to these questions may lead the State to recommend certain adjustments to the AT&T plan, just as it had suggested certain adjustments to the Joint Board proposal.

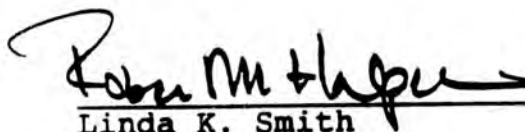
Conclusion

The State commends the Joint Board for its efforts in crafting a comprehensive response to the complex market structure issues that have, for years, defied resolution. The State has

assessed the Joint Board plan, and believes that two specific adjustments would improve that plan. The State believes that additional detail about the AT&T plan is necessary before a complete assessment of it can be made.

Respectfully submitted,

THE STATE OF ALASKA



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June 28, 1993

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Reply Comments of The State of Alaska" was served by first-class, U.S. mail, postage prepaid, this 28th day of June, 1993 upon the parties listed on the attached Service List.

A handwritten signature in cursive script, appearing to read "Robbin R. McKeever", is written over a horizontal line.

Robbin R. McKeever

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Associate General Counsel

JUN 28, 1993

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: 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

Dear Mr. Caton:

Enclosed herewith for filing with the Commission are the original
and five copies of the National Exchange Carrier Association,
Inc.'s Comments in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the
duplicate copy of this letter furnished herewith for such
purposes and remitting same to bearer.

Very truly yours,

Joanne S. Bochis
Joanne S. Bochis

JSB/bas
Enclosures

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)

CC Docket No. 83-1376

COMMENTS

The National Exchange Carrier Association, Inc. (NECA)¹ submits its comments in response to the Federal-State Joint Board's (Joint Board) May 17, 1993 Tentative Recommendation in the above-captioned proceeding.² The Joint Board seeks comments on its recommendation for the creation of a new market structure for the provision of interstate telecommunications service between Alaska and the contiguous states and between Alaska and Hawaii.

As part of the evolution to the new Alaska market structure, the Joint Board recommends establishing a temporary Alaska Fund (Fund) that would be administered by NECA.³ NECA agrees that such an assignment would be consistent with its existing functions, and expresses here its willingness to administer a special support

¹ NECA is a not-for-profit, membership association, serving over 1300 local exchange carrier study areas. NECA members include all local exchange carriers in the United States, Puerto Rico and the U. S. Virgin Islands.

² 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, Tentative Recommendation and Order Inviting Comments, (FCC 93J-1) released May 17, 1993 (Tentative Recommendation).

³ Id. at 19.

program for Alaska if one is finally adopted by the Commission.

The Tentative Recommendation proposes that NECA should establish a separate, wholly-owned corporation to administer the Fund.⁴ According to the Tentative Recommendation, no one with NECA should be involved in administering the Fund if they have associations or interests in the parties that will receive payments from the fund.⁵ If ordered, NECA would set up a separate subsidiary to administer the Alaska Fund. A separate subsidiary, however, does not appear to be necessary to satisfy the Joint Board's goals.

NECA believes that existing controls, many of which are already reviewed and approved by the Commission, will provide the same protection that would be afforded by a separate subsidiary. For example, NECA has a detailed cost accounting manual (CAM) on file with the Commission. NECA would also agree to take steps that would assure that no employee, agent, or director of NECA who is directly or indirectly affiliated with, or otherwise has any financial interest in, Alascom or its affiliates (including Pacific Telecommunications, Inc.) or UUI or its affiliates would be involved, in any way, with the administration of the Fund.

NECA believes it would be more efficient and less costly to administer the Fund if a separate subsidiary were not required. The estimated size of the proposed Alaska Fund is less than 1 percent of the current funds and pools that NECA administers. Economies of

⁴ Id. at n. 54.

⁵ Id.

scale from NECA's current operations would be more readily accessible absent stringent separation requirements. Also, while numerous areas of NECA's functional expertise might be utilized from time-to-time, Alaska Fund administration would not appear to require a dedicated staff.

There are two other items concerning the provision of data to NECA that warrant consideration. First, the Tentative Recommendation states that the interexchange carriers (IXCs) that would be billed by NECA would be required to provide data to NECA. If, as proposed, Fund support obligations are apportioned among IXCs based on the presubscribed line counts used to determine Universal Service Fund and Lifeline Assistance (USF/LA) obligations, it is not clear what information the IXCs would be providing to NECA.⁶ The presubscribed line counts used for USF/LA are currently provided by the exchange carriers twice a year.⁷ The Commission should specify what data the IXCs must provide to NECA.

Secondly, the Joint Board stated that Alascom and UUI must provide data which would include total circuit equipment category account balances, associated other expenses, the revenue requirement total and the amount of revenue requirement to be recovered from the Fund.⁸ In addition the Joint Board recommends that UUI and Alascom provide documentation to support their

⁶ See Tentative Recommendation at ¶ 55 and n. 56.

⁷ See 47 C.F.R. §§ 69.116 and 69.117.

⁸ Tentative Recommendation at ¶ 55.

calculations.⁹ Consistent with NECA's practice which requires exchange carriers to certify their USF/LA and cost study data, NECA requests that the Commission require that Alascom and UUI certify that its data submissions, both initial and future ones, are audited and fully comply with applicable Commission rules.

NECA will assist the Joint Board in achieving the integration of rates and services between Alaska and the lower 48 States as ordered by the Commission. It stands ready to implement and administer an Alaska Fund, and suggests that the proposals described above would accomplish the Fund's purposes most efficiently.

Respectfully submitted,

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June 28, 1993

⁹ Id.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Comments were served this 28th day of June, 1993, by mailing copies thereof by United States Mail, first class postage prepaid, to the persons listed.

By /s/Susan Stocker
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PRIVILEGED AND CONFIDENTIAL

STIPULATION AND AGREEMENT

The State of Alaska (State), American Telephone & Telegraph Company (AT&T), and Pacific Telecom, Inc. (PTI), for itself and its subsidiaries, Alascom, Inc. (Alascom), and the ACCS Carrier described herein (and collectively, the Parties), hereby stipulate and agree to the following matters in connection with the proceedings now before the Federal Communications Commission (FCC) in FCC CC Docket No. 83-1376:

- (1) The Federal-State Joint Board in the above-referenced docket has released a Tentative Recommendation dated May 17, 1993, proposing a resolution of the issues in that proceeding in accordance with the principles set forth therein. The State, AT&T, and PTI have each reviewed and analyzed the proposals contained in the Tentative Recommendation, and each has independently concluded that those proposals form an acceptable basis upon which to resolve the issues currently under consideration and to terminate this proceeding. Accordingly, the State, AT&T, and PTI hereby enter into this Stipulation and Agreement (Stipulation) and agree to be bound by the terms hereof, as set forth herein.
- (2) The Joint Service Agreement, dated April 23, 1980, and under which AT&T and Alascom are currently providing interstate MTS/WATS service for Alaska, shall terminate on January 1, 1994, and shall, from and after that date, be of no further force and effect.
- (3) A fixed allocator of 75% in connection with the jurisdictional separation of certain interexchange circuit equipment (Category 4.23) shall be utilized from and after January 1, 1994 by the ACCS Carrier with respect to all such circuit equipment transferred from Alascom to the ACCS Carrier, as provided for hereinafter, the application and use of such allocator to conform to the proposal contained in the Tentative Recommendation.
- (4) PTI shall:
 - (a) cause Alascom to sell and to transfer to AT&T two-thirds of the remaining capacity (being equal to six (6) DS-3 units of capacity) in the Alaska Spur undersea fiber optic cable;
 - (b) establish a separate corporate subsidiary, denominated for purposes here the "ACCS Carrier," and transfer all other operating

PRIVILEGED AND CONFIDENTIAL

facilities and assets from Alascom to the ACCS Carrier:

- (c) shall cause Alascom to sell and to transfer to AT&T Alascom's complete existing interstate MTS/WATS customer list;
 - (d) shall cause Alascom to retain, separately from the ACCS Carrier, its intrastate MTS/WATS and its intrastate and interstate private line customer lists; and
 - (e) shall cause Alascom to implement a five-year rate stabilization plan with respect to its intrastate MTS/WATS rates, acceptable to and accepted by the Alaska Public Utilities Commission (APUC).
- (5) The ACCS Carrier shall provide non-discriminatory interstate access services, comprehending switched access, special access and transport, on an unbundled basis under tariffs publicly filed with and approved, from time-to-time, by the FCC. Further, the ACCS Carrier shall file with the APUC appropriate "carrier's carrier" or "wholesale tariffs" to provide service on a non-discriminatory basis to other intrastate interexchange carriers, but not to "retail" or "end-user" customers.
- (6) AT&T shall maintain interconnection with the ACCS Carrier for a minimum period of ten (10) years, sufficient to avoid any change in jurisdictional allocations contrary to the revenue requirement neutrality principles set forth in the Tentative Recommendation.
- (7) AT&T shall assume and shall perform the obligations of carrier-of-last-resort for interstate MTS/WATS service for the entire State of Alaska, including the responsibility for future necessary facilities.
- (8) Alascom shall apply for and obtain appropriate 214 authority to exit from the interstate MTS/WATS market.
- (9) The ACCS Carrier shall provide, on a statewide basis, the "last thousand mile" link for private line service throughout Alaska under appropriate federally filed "special access" or equivalent tariffs. For the provision of such private line service, the ACCS Carrier shall undertake to interconnect, from time to time, with any interstate interexchange carrier (IXC) at any established point of presence (POP) of that IXC in Alaska.
- (10) The ACCS Carrier shall file with the appropriate regulatory agency any and all agreements, contracts, or

PROCESSED AND CONFIDENTIAL

tariffs relating to the provision of access or carrier's carrier services, for public inspection of same.

- (11) All changes, actions, or approvals set forth in or necessitated by this Stipulation shall be pursued and to the extent practicable, accomplished in a manner permitting implementation of the new Alaska market structure created hereby on January 1, 1994, or as soon thereafter as possible.
- (12) The Parties stipulate and agree that the terms of this Stipulation are intended to promote a balance among the requirements of universal service, rate integration, revenue requirement, neutrality, competition, and efficiency identified by the Federal-State Joint Board in its Supplemental Order Inviting Comments, dated January 3, 1989, in the above-referenced docket. Further, the Parties stipulate and agree that the terms of this Stipulation are intended to reflect and to adopt, to the greatest degree practicable, the proposals contained in the Tentative Recommendation of the Federal-State Joint Board, dated May 17, 1993, in the above-referenced docket.
- (13) The Parties stipulate and agree that nothing in this Stipulation is intended to or shall be used to restrict access by any IXC to the interstate access facilities or services, or to the intrastate carrier's carrier facilities or services, of the ACCS Carrier, which access shall be made available by the ACCS Carrier to all IXCs on non-discriminatory terms and conditions.
- (14) The terms and conditions hereof shall become binding upon the Parties from and after the approval by the FCC of this Stipulation, in its present form.
- (15) The Parties agree to file with and to recommend to the Federal-State Joint Board and to the FCC the adoption of this Stipulation and the termination of the above-referenced docket on the basis of the provisions hereof.

In witness whereof, the Parties have executed this Stipulation on the __ day of July, 1993.

STATE OF ALASKA

By: _____

AMERICAN TELEPHONE & TELEGRAPH COMPANY

By: _____

PACIFIC TELECOM, INC.

By: _____

STATE

OF

HAWAII

7ND-141

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

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

COMMENTS OF THE STATE OF HAWAII

THE STATE OF HAWAII

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June 28, 1993

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Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
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Rico, and the Virgin Islands)
)

COMMENTS OF THE STATE OF HAWAII

The State of Hawaii, by its attorneys,¹ hereby
submits the following comments in response to the
Commission's Tentative Recommendation and Order Inviting
Comments ("Tentative Recommendation").²

I. SUMMARY AND INTRODUCTION

Consistent with its comments throughout this
proceeding, the State of Hawaii takes no position on most of
the specific proposed changes to the telecommunications

-
- 1/ These comments are submitted by the State of Hawaii,
acting through its Governor and the State's Department
of Commerce and Consumer Affairs.
- 2/ Tentative Recommendation and Order Inviting Comments,
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,
FCC 93J-1 (released May 17, 1993) [hereinafter
"Tentative Recommendation"].

market structure in Alaska. The State will address only certain statements made in the Joint Board's Tentative Recommendation, American Telephone and Telegraph Company's ("AT&T's") Consumer Benefit Plan,³ Alascom, Inc.'s Implementation Plan,⁴ and AT&T's Implementation Plan.⁵ Specifically, the State of Hawaii is concerned about the impact some of these statements may have on the Commission's rate integration rule and its geographic rate averaging policy.

Throughout this proceeding, the State of Hawaii consistently has demonstrated its long-standing commitment to rate integration for all telecommunications services between and among Hawaii, Alaska, and the contiguous states (sometimes referred to as the "lower 48 states" in this proceeding). The State has sought to clarify the appropriate scope of rate integration and has sought to clarify the distinction between the concepts of rate

3/ AT&T's Petition to Terminate the Joint Service Arrangement, CC Docket No. 83-1376 (filed Mar. 31, 1993) [hereinafter "AT&T's Consumer Benefit Plan"].

4/ Response to Request for Implementation Plan of Alascom, Inc., CC Docket No. 83-1376 (filed June 7, 1993) [hereinafter "Alascom's Implementation Plan"].

5/ AT&T's Response to Request for an Implementation Plan, CC Docket No. 83-1376 (filed June 7, 1993) [hereinafter "AT&T's Implementation Plan"].

integration and geographic rate averaging.⁶ The present comments reiterate this important distinction as well as explain that rate integration is not limited by service or carrier.

In addition, the State of Hawaii urges the Commission to prescribe a nationwide geographically averaged rate structure for at least MTS. Finally, the State wishes to express concern that a record of the July 1, 1993 hearing to be held in Alaska may not be available for review in time for the filing of reply comments on July 12, 1993.

II. DISCUSSION

A. There are Important Distinctions Between the Concepts of Rate Integration and Geographic Rate Averaging.

The State of Hawaii has previously described in detail the distinction between the concepts of rate integration and geographic rate averaging.⁷ Briefly, "rate integration" refers to the requirement that a carrier use the same rate structure for rates and services in the noncontiguous states as that carrier uses in the lower 48 states. This rule does not mandate the use of any specific

^{6/} See generally, Comments of the State of Hawaii, CC Docket No. 83-1376 (filed Apr. 20, 1992) (appended as Attachment A hereto); Reply Comments of the State of Hawaii, CC Docket No. 83-1376 (filed May 20, 1992).

^{7/} See Comments of the State of Hawaii, CC Docket No. 83-1376, at 5-7 (filed Apr. 20, 1992).

rate structure. By contrast, "geographic rate averaging" is one type of rate structure that carriers may choose to adopt as a method for determining how the costs of providing a particular service will translate into rates for customers. Under an "averaged" rate structure, rates for any given point-to-point link do not necessarily reflect the actual underlying costs of providing service on that specific route. A nationwide geographically averaged rate structure, therefore, allows for the provision of the same services, at the same rates, for the same distance regardless of the location of terminal points throughout the 50 states, Puerto Rico, and the District of Columbia.

Thus, a carrier may choose to adopt geographic rate averaging as the applicable rate structure. If it does so, however, the rule of rate integration requires the carrier to extend the same rate structure uniformly and nationwide to include the noncontiguous states. Historically, the application of the rate integration requirement has had the effect of imposing a geographically averaged rate structure for interstate services to Alaska and Hawaii, since that is the rate structure that carriers typically choose to apply in the lower 48 states.

B. The Commission's Rate Integration Policy
is Not Limited to Any Carrier or Class
of Service.

The State of Hawaii has previously shown that the application of the rule of rate integration is not limited to any class of service, transmission media, or technology.⁸ Similarly, the State of Hawaii has also previously shown that the rate integration rule applies to all relevant carriers.⁹ The State of Hawaii, however, is concerned that the Commission and various interested parties continue -- we believe inadvertently -- to make comments which suggest that rate integration only applies to certain services or carriers. At times, the discussion of rate integration focuses only on MTS.¹⁰ At other times, the discussion focuses on both MTS and WATS.¹¹ The discussion also often focuses on certain carriers, such as AT&T.¹²

^{8/} See id. at 8-10 (providing documentation showing that rate integration is not limited to any class of service, transmission media, or technology).

^{9/} See Comments of the State of Hawaii, CC Docket No. 83-1376, at 4 (filed Apr. 13, 1989); Comments of the State of Hawaii, CC Docket No. 83-1376, at 9-10 n. 18 (filed Apr. 20, 1992).

^{10/} See, e.g., Tentative Recommendation at ¶ 31.

^{11/} See, e.g., AT&T's Consumer Benefit Plan at 11; see also Comments of the State of Hawaii, CC Docket No. 83-1376, at 2-4 (filed Apr. 20, 1992) (explaining the factors that have led to the focus on MTS and WATS services in the context of rate integration in this proceeding).

^{12/} See, e.g., Tentative Recommendation at ¶ 31.

It is important that such comments do not lead to any misinterpretation of the rate integration rule that can have precedential significance. While it may be appropriate to focus on certain services and carriers in this proceeding, the State of Hawaii requests that the Joint Board and the Commission carefully avoid any suggestion that the rule is limited to certain services or carriers.

1. Certain Imprecise Statements
Have Been Made With Respect to
Rate Integration.

The Joint Board in its Tentative Recommendation has proposed to require rate integration for AT&T's MTS rates for Alaska-Mainland and Alaska-Hawaii services,¹³ as well as for AT&T's interstate private line services.¹⁴ The State of Hawaii agrees that rate integration certainly applies to these services and welcomes this conclusion. However, it wishes to clarify that the failure of the Joint Board to mention other services or other carriers does not indicate that rate integration is limited.¹⁵ As mentioned above,

^{13/} See id. at ¶ 4, 31.

^{14/} See id. at ¶ 37.

^{15/} For example, the rule of rate integration would cover the full range of new services and features that AT&T proposes to make available to its Alaska customers pursuant to its Consumer Benefit Plan. See AT&T's Consumer Benefit Plan at 7 n.3. (A complete listing of these services and features is appended as Attachment B.) The failure to include such services and other AT&T services as covered by the rate integration rule (Footnote 15 continued on next page)

rate integration is a requirement that extends to all services and all carriers.

The State of Hawaii also wishes to address certain imprecise statements that AT&T continues to make with respect to rate integration. In its Consumer Benefit Plan, for example, AT&T mentions rate integration only with regard to interstate MTS and WATS services.¹⁶ Again, Hawaii emphasizes that this statement is inappropriate if it attempts to confine the rate integration rule to those services.

Similarly, in its recently filed implementation plan, AT&T also notes that:

[T]he Consumer Benefit Plan will continue to meet the Joint Board's goal of providing Alaska consumers with the benefit of rate integration for their interstate MTS/WATS calls, including calls between Alaska and Hawaii.¹⁷

This is an appropriate and welcome commitment. The State of Hawaii agrees with AT&T that calls between Alaska and Hawaii are certainly included in the Commission's rate integration

(Footnote 15 continued from previous page)
would improperly penalize the economies of the noncontiguous states. Examples of other services covered by the rule of rate integration include AT&T MEGACOM 800 Service, AT&T Software Data Defined Network Service ("SDDN"), and AT&T 56 Kbps Switched Digital Services.

^{16/} See AT&T's Consumer Benefit Plan at 11.

^{17/} AT&T's Implementation Plan at 7.

requirement. But, again, AT&T's focus on interstate MTS/WATS services must not be construed as limiting the rate integration rule to those services.

AT&T also makes a misleading statement in noting that it will be "willing to integrate the rates" for calls between Alaska and Hawaii once it is permitted to provide Alaska-Hawaii service.¹⁸ The State of Hawaii reiterates that, with regard to rate integration, what AT&T is "willing" to do is irrelevant, because rate integration is a requirement.¹⁹

In addition, AT&T's Consumer Benefit Plan ambiguously states that:

The continuation of the Commission's rate integration policy will be assured when AT&T includes calls from Alaska in its existing interstate MTS and WATS tariffs. Rate integration for Alaska interstate services will continue to the same extent it applies generally for AT&T's domestic interstate services.²⁰

AT&T's comment may indicate a lingering confusion about the important distinction between rate integration and

^{18/} AT&T's Consumer Benefit Plan at 7 n.2.

^{19/} See also Initial Response of Alascom, Inc. to AT&T's Petition to Terminate the Joint Service Arrangement, CC Docket No. 83-1376, at 9 (filed Apr. 15, 1993) (pointing out that AT&T's offer to provide MTS/WATS rate integration is "illusory" since rate integration is an FCC policy to which AT&T is already bound).

^{20/} AT&T's Consumer Benefit Plan at 10 (emphasis added).

geographic rate averaging. The State of Hawaii emphasizes that, while geographic rate averaging may be voluntary in certain instances, the requirement to integrate rates is mandatory.²¹

C. Now is the Time for the Commission to Prescribe a Nationwide Geographically Averaged Rate Structure.

The State of Hawaii submits that it would be appropriate for the Commission to take this opportunity to prescribe nationwide geographic rate averaging for at least MTS.²² As the Commission has amply demonstrated, geographic rate averaging helps to ensure the economic and social integration of noncontiguous areas, which is an important element of national telecommunications policy.²³ In this proceeding, AT&T has committed to amend its existing MTS/WATS tariffs and begin providing interstate services directly to and from Alaska at nationwide averaged rates.²⁴

^{21/} AT&T's comment may be an attempt to remind the Commission of AT&T's position that it can abandon the geographic rate averaging structure if it so chooses. This issue will be addressed further below.

^{22/} The State of Hawaii has previously pointed out the Commission's strong commitment to geographic rate averaging (especially for MTS, WATS, and 800 services) for the purpose of achieving universal service. See Comments of the State of Hawaii, CC Docket No. 83-1376, at 6 n.10 (filed Apr. 20, 1992).

^{23/} See, e.g., Policy and Rules Concerning Rates for Dominant Carriers, 4 FCC Rcd 2873, 3133 (¶ 539) (1989).

^{24/} See AT&T's Consumer Benefit Plan at 3.

AT&T has repeated this commitment in its application pursuant to Section 214 of the Communications Act.²⁵ Accordingly, the State of Hawaii believes that now is the time for the Commission to prescribe the use of nationwide geographic rate averaging as the appropriate rate structure for these services.

D. The July 1, 1993 Joint Board Hearing May
Raise Scheduling Problems.

The State of Hawaii has received the Commission's Public Notice regarding the Alaska Joint Board hearing to be held July 1, 1993.²⁶ Although the State of Hawaii encourages open discussion and participation in this proceeding, it is concerned that the record of this hearing will not be available for review prior to the July 12, 1993 deadline for the filing of reply comments in the present proceeding.

^{25/} Application of American Telephone and Telegraph Company Under §214(a) of the Communications Act, W-P-C-6861, at 3 (filed Mar. 31, 1993).

^{26/} "Alaska Federal-State Joint Board to Convene a Hearing in Anchorage Alaska on Thursday, July 1, 1993," FCC Public Notice, DA 93-755, at 1-2 (June 23, 1993).

III. CONCLUSION

For the reasons stated above, the State of Hawaii requests that the Commission: (1) clarify the distinction between rate integration and geographic rate averaging; (2) clarify that rate integration applies to all services and all carriers; and (3) prescribe the use of a nationwide geographically averaged rate structure for at least MTS.

Respectfully submitted,

THE STATE OF HAWAII



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June 28, 1993

ATTACHMENT A

**TO
STATE OF HAWAII COMMENTS
CC Docket No. 83-1376**

(June 28, 1993)

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

In the Matter of)

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

CC Docket No. 83-1376
RM 4436

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Federal Communications Commission
Office of the Secretary

COMMENTS OF THE STATE OF HAWAII

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April 20, 1992

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

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

COMMENTS OF THE STATE OF HAWAII

The State of Hawaii ("State" or "Hawaii"), by its attorneys,¹ hereby submits the following comments in response to the Commission's Public Notice in the above-captioned proceeding.²

I. SUMMARY AND INTRODUCTION

Consistent with its comments throughout the Alaska proceedings, the State of Hawaii takes no position on the Alaska market structure as proposed in the petitions that are currently under consideration.

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1. These comments are submitted by the State of Hawaii, acting through its Governor and the State's Department of Commerce and Consumer Affairs.
 2. Joint Petition and Associated Filings by AT&T, Alascom, and TUA regarding Alaska Telecommunications Services and Petition to Establish Regulatory Policies Concerning the Alaska Telecommunications Market Structure Filed by General Communications, Inc., FCC Public Notice, DA 92-236 (released Mar. 4, 1992).

The State submits these comments for the limited purpose of addressing the important rule of rate integration, the scope of which is threatened by certain confusing statements made in the course of this proceeding. Both the Commission and certain parties, for example, have incorrectly suggested that the application of rate integration may be limited to MTS and WATS. Because of this confusion, the State believes it is important, at this juncture, for the Commission to clarify that rate integration is not limited to MTS and WATS.

In addition, the State urges the Commission to adopt the Joint Board's tentative decision to fully integrate rates and services on the Hawaii-Alaska route.

II. THE COMMISSION SHOULD CLARIFY THAT RATE INTEGRATION IS NOT LIMITED TO MTS AND WATS

A. The Focus on MTS and WATS in this Proceeding Has Contributed to Some Confusion Regarding Rate Integration.

Throughout the Alaska proceedings, both the Commission and interested parties have focused on MTS and WATS services in their discussion of rate integration.³ This emphasis on MTS and WATS is a result of a number of factors,

3. Indeed, the entire Alaska proceedings have concentrated on the integration of MTS and WATS. See, e.g., Integration of Rates and Services, 4 FCC Rcd 395, 398 n.38 (1989) (noting, for example, that the Alaska private line market structure is "not the primary focus of this proceeding").

which include the prominence of MTS and WATS, as well as the general lack of carrier enthusiasm to integrate rates for MTS and WATS into the geographically averaged rate structure prevailing on the Mainland.⁴ In addition, the integration of rates for MTS and WATS into the Mainland rate structure has involved a highly contentious dispute over payments and subsidies.⁵ All of these factors have led the Commission to devote considerable attention to the impact of integrating rates for MTS and WATS. Consequently, there are numerous examples of the Commission addressing only MTS and WATS in its discussion of rate integration.⁶

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4. Carriers have historically been reluctant to implement rate integration. The focus on integrating the basic communications services therefore dates back to the initial adoption of the rate integration rule. See, e.g., Letter from Walter R. Hinchman, Chief, Common Carrier Bureau, FCC, to certain common carriers, Ref. No. 9510 at 2 (May 27, 1976) (noting difficulties in getting carriers to fulfill rate integration requirements, and that, consequently, "negotiations centered on message toll telephone service (MTS)"); Integration of Rates and Services, 61 FCC 2d 380, 384-85 (1976) (discussing difficulties in getting carriers to propose implementation schedules for MTS). See generally infra text accompanying note 15 (discussing Senate Resolution No. 318, which was adopted primarily because of unacceptable carrier delay in submitting rate integration proposals to the Commission).
 5. See, e.g., Integration of Rates and Services, 4 FCC Rcd at 399-406 (11 35-90) (1989).
 6. See, e.g., Referral of Questions from GCI, Inc. v. Alascom, Inc., 2 FCC Rcd 6479, 6480-82 (11 7-14) (1987) (describing rate integration policy as applicable to MTS and WATS, without addressing other services).

Although the focus on MTS and WATS need in no way limit the application of rate integration, the State is concerned that this focus has, over time, contributed to some confusion regarding the scope of that rule. For example, the Commission has -- perhaps inadvertently -- suggested that rate integration may be limited to MTS and WATS.⁷ Similarly, parties in this proceeding have incorrectly interpreted that rate integration may not be applicable to all services.⁸ From the standpoint of the State of Hawaii -- and users who will communicate to and from points within Hawaii as well as to all states -- it is not sufficient to focus only on MTS and WATS. A host of other switched and private line services are important to the economic development and social integration of all the states of the United States, particularly the States of Hawaii and Alaska.

7. See Integration of Rates and Services, 4 FCC Rcd 395, 398 (¶ 25 n.38) (1989). See also Integration of Rates and Services, 96 FCC 2d 567, 570-71 (¶ 7) (1984).

8. See, e.g., Ex Parte Letter from Charles R. Naftalin, representing Alascom, to Donna R. Searcy, Secretary, FCC at attachment at 5, CC Docket No. 83-1376 (filed Jan. 30, 1992) (incorrectly stating that rate integration has not been applied to private line services). Although, it is true that the geographic averaging policy has not been applied to private lines, as discussed below, this is not the case with respect to rate integration.

B. The Confusion Regarding Rate Integration is Rooted in the Lack of a Separate Discussion of Geographic Averaging.

The State believes that the apparent confusion about the scope of rate integration is rooted in the lack of a separate discussion of the Commission's geographic rate averaging policy. In order to avoid further confusion in this regard, it may be helpful at this point to reiterate the primary distinctions between the rate integration rule and the geographic averaging policy.

"Geographic rate averaging" can be described as one type of rate structure that carriers may choose to adopt as a method for determining how the costs of providing a particular service will translate into rates for customers. Under an "averaged" rate structure, rates for any given point-to-point link do not necessarily reflect the actual underlying costs of providing service on that specific route. A nationwide geographically averaged rate structure, therefore, allows for the provision of the same services, at the same rates, for the same distance regardless of the location of terminal points throughout the 50 states, Puerto Rico, and the District of Columbia. Geographic averaging was the prevailing rate structure for MTS in the lower 48 states before the adoption of rate integration.⁹ Although

9. Carriers generally have chosen to adopt an averaged rate structure for publicly switched communications (Footnote 9 continued on next page)

the Commission has, on numerous occasions, recognized the importance of maintaining a geographically averaged rate structure for MTS and WATS.¹⁰ this recognition neither disposes of the State's concerns regarding rate integration, nor does it address the significance of this rule.

In contrast to the geographic averaging policy, the rate integration rule does not contemplate the application of, nor does it mandate, any particular rate structure.¹¹

(Footnote 9 continued from previous page)

services, such as MTS, WATS, and 800 services. Carriers have sometimes only partially averaged rate structures for private line services. The Commission generally has concurred with this distinction. See, e.g., Integration of Rates and Services, 65 FCC 2d 324, 328-29 (1977) (permitting deaveraged rate structure, but requiring rate integration, for private line services). See also MTS and WATS Market Structure Inquiry (Phase II), 92 FCC 2d 787, 836-37 (1982).

10. The Commission is strongly committed to geographic averaging, primarily for purposes of achieving universal service. In the price cap proceeding, for example, the Commission affirmed its long-standing support of the averaging policy for MTS, WATS, and 800 services, and it pledged to suspend and investigate any tariff that deaveraged rates for these services. See, e.g., Policy and Rules Concerning Rates for Dominant Carriers, 4 FCC Rcd 2873, 3133 (¶ 539) (1989). The State believes this commitment is appropriate and important.
 11. In adopting the rate integration rule, the Commission stated that the objective was to ensure that "service between Alaska, Hawaii, and Puerto Rico and all Mainland points shall be provided at rates and on terms comparable to those obtaining within the contiguous states." Establishment of Domestic Communications Satellite Facilities by Non-Governmental Entities, 35 FCC 2d 844 [hereinafter "DOMSAT II"], on recon., 38 FCC 2d 665, 695 (1972) [hereinafter "DOMSAT III"]. The Commission determined that, with the advent of satel-
- (Footnote 11 continued on next page)

Rate integration only requires that whatever rate structure a carrier chooses to adopt for the Mainland -- whether it be averaged or not averaged -- the same structure must be extended uniformly and nationwide to include Hawaii and the other noncontiguous points. The rule is fundamentally grounded in sections 201(b) and 202(a) of the Communications Act of 1934, which require just and reasonable rates, and generally prohibit undue discrimination or disadvantage based on locality, among other things.¹²

(Footnote 11 continued from previous page)

lite technology, it was "feasible to minimize, on a sound economic basis, the rate and service distinctions between" communications traffic between points located on the Mainland and traffic among the Mainland and these noncontiguous points. See, e.g., Integration of Rates and Services, 65 FCC 2d 324, 326 n.1 (1977) (citing DOMSAT II and DOMSAT III). The Commission also determined, however, that the application of rate integration is not dependent on the technology selected by the carrier. See, e.g., Integration of Rates and Services, 62 FCC 2d 693, 695 (¶ 6) (1976) ("rate integration does not, and cannot, depend on the actual use of domestic satellite facilities . . . [and applies whether service] is routed via cable or satellite, or a combination of both").

12. See 47 U.S.C. §§ 201(b), 202(a) (1988). With respect to Hawaii in particular, the Commission has found that "the goal of placing Hawaiian communications and charges on an equal footing with those of the contiguous 48 states was of fundamental importance," primarily because of an historical pattern of discrimination in the provision of communications services. Hawaiian Tel. Co. v. FCC, 589 F.2d 647, 656 (D.C. Cir. 1978) (citing DOMSAT II, 35 FCC 2d at 856-59; DOMSAT III, 38 FCC 2d at 695-96).

C. Rate Integration is Not Limited to MTS and WATS.

Since adopting rate integration in 1972, the Commission has reaffirmed the rule on numerous occasions.¹³ The rate integration rule also has been endorsed both by the U.S. Court of Appeals¹⁴ and by Congress. In 1975, for example, the U.S. Senate unanimously adopted a resolution directing the Commission to

take such action pursuant to law as is necessary in order to provide that the advent of domestic communications satellite service will be accompanied by the integration of all interstate services between the Mainland and Alaska, Hawaii, and Puerto Rico into an enlarged domestic rate pattern.¹⁵

Similarly, both chambers of Congress enacted legislation in 1980, again without a dissenting vote, to amend section 222 of the Communications Act to include Hawaii within the definition of "Continental United States."¹⁶ As Senator Daniel K. Inouye stated, this legislation was intended to "make

13. See, e.g., Commission orders cited infra at note 18.

14. See, e.g., Hawaiian Tel. Co. v. FCC, 589 F.2d at 658 (affirming Commission's authorization of facilities in Hawaii and noting "[t]here is no question that the Commission's position before this court would have been indefensible had it ignored rate integration").

15. S. Res. 318, 94th Cong., 1st Sess. 6 (1975) (emphasis added).

16. See Act of Dec. 24, 1980, Pub. L. 96-590, 94 Stat. 3414. See also S. Rep. No. 389, 95th Cong., 1st Sess. 1 (1977).

available to Hawaii the same modern telecommunications facilities, services, and ratemaking principles which are now or will be enjoyed throughout the Continental United States."¹⁷

The extensive documentation establishing and reaffirming rate integration makes it abundantly clear that its application is not limited to any class of service, transmission media, or technology.¹⁸ As noted above,

17. 126 Cong. Rec. at S16203 (daily ed. Dec. 11, 1980).

18. See, e.g., DOMSAT II, 35 FCC 2d at 858 (finding that rate integration is "necessary to achieve our objective of integrating [Alaska, Hawaii, Puerto Rico, and the Virgin Islands] into domestic rate patterns for all services"); DOMSAT III, 38 FCC 2d at 695 (affirming that "the advent of domestic satellite service will be accompanied by the integration of all interstate services . . . into an enlarged domestic rate pattern"); Id. at 696 (affirming the Commission's "goal that all interstate services to these three points shall be integrated into domestic rate patterns"); Integration of Rates and Services, 61 FCC 2d at 392 (ordering AT&T to implement full rate and service integration for MTS and WATS, as well as "for all other services it participates in providing to Hawaii, Alaska, and Puerto Rico/Virgin Islands"); Id. at 387 (indicating that approval of "services other than MTS" will be conditioned upon satisfactory rate and service integration proposals); Integration of Rates and Services, 62 FCC 2d 88, 91-92 (1976) (attaching rate integration as a condition to all authorizations for any facilities used by international record carriers ("IRCs") to serve Hawaii); Application of GTE Corp. and Southern Pacific Co. for Consent to Transfer Control of Southern Pacific Communications Co. and Southern Pacific Satellite Co., 94 FCC 2d 235, 262-63 (¶ 71) (1983) (requiring GTE, as a condition to acquiring Southern Pacific Satellite Company, to integrate into the rate structure prevailing on the Mainland all of "GTE Sprint's" current and future services to Hawaii). In specific contexts, the (Footnote 18 continued on next page)

however, certain statements made in the instant proceedings suggest that there is some confusion regarding the scope of the rate integration rule. With respect to the State of Hawaii and other noncontiguous points, this confusion could result in the application of discriminatory rate structures -- and, therefore, discriminatory rates -- for a wide variety of switched and private line services, which are increasingly important to the economic development and social integration of all states. The State of Hawaii, therefore, urges the Commission to clarify that rate integration is not limited to MTS and WATS. Any other decision would violate sections 201(b) and 202(a) of the Communications Act.

D. This Proceeding is an Appropriate Place for
the Commission to Address the Scope of Rate
Integration.

Commission action in this proceeding is necessary to avoid further confusion about the scope of rate integra-

(Footnote 18 continued from previous page)

policy has been applied to a variety of carriers, including for example: AT&T, GTE, and the IRCs (as noted above); GTE Hawaiian Telephone Company, Inc., see Integration of Rates and Services, 61 FCC 2d at 394; and the domestic satellite carriers, see, e.g., American Satellite Corp., 65 FCC 2d 267 (1977); American Satellite Corp., 65 FCC 2d 279 (1977); RCA American Communications, Inc., 65 FCC 2d 354 (1977), each of which was affirmed sub nom. Hawaiian Tel. Co. v. FCC, 589 F.2d 647 (D.C. Cir. 1978). As noted above, rate integration applies to whatever media carriers choose to use for the provision of services. See supra note 11.

tion. Although rate integration is not currently the focus of the recently filed petitions and is often conceded by interested parties, the rule is central to the Alaska proceedings, as well as to national policy expressed in the Communications Act. This proceeding is the Commission's only on-going docket that directly addresses the issue of rate integration. This proceeding has also been the source of statements that may contribute to inaccurate interpretations of the rate integration rule.¹⁹ It is, therefore, appropriate for the Commission to address these important issues at this time and in this proceeding.

III. THE COMMISSION SHOULD ADOPT THE TENTATIVE DECISION TO INTEGRATE RATES AND SERVICES ON THE HAWAII-ALASKA ROUTE

As an additional matter, the State of Hawaii urges the Commission to adopt the Joint Board's tentative decision that rates and services on the Hawaii-Alaska route should be fully integrated into domestic patterns.²⁰ This proposal is generally unopposed.²¹ As discussed above, there is no

19. See, e.g., supra notes 3-12 and accompanying text.

20. See, e.g., Integration of Rates and Services, 4 FCC Rcd at 407 (¶ 95) (1989).

21. In its Joint Petition, AT&T concedes that if it acquires Alascom's interstate MTS and WATS services, it would be subject to rate integration requirements on the Hawaii-Alaska route. See Joint Petition to Approve Master Agreement, Terminate Joint Service Arrangement, Continue NECA Participation, and for Limited Waiver of (Footnote 21 continued on next page)

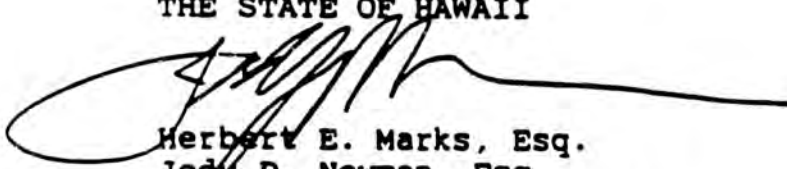
basis for limiting, in any way, the application of rate integration. Thus, whatever carrier arrangements are adopted, the Commission should affirm that rate integration applies to the Hawaii-Alaska route.

IV. CONCLUSION

For the reasons stated above, the State of Hawaii requests the Commission to clarify that rate integration generally is not limited to MTS and WATS, and to adopt the Joint Board's tentative decision to fully integrate rates and services on the Hawaii-Alaska route.

Respectfully submitted,

THE STATE OF HAWAII



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April 20, 1992

(Footnote 21 continued from previous page)
Separations Rules and Resolution and Termination of
Regulatory Proceedings, CC Docket No. 83-1376 at 25 n.*
(filed Jan. 29, 1992).

ATTACHMENT B

TO
STATE OF HAWAII COMMENTS
CC Docket No. 83-1376

(June 28, 1993)

ATTACHMENT B

Current AT&T Services/Features Not Offered by Alascom

AT&T Simple Savings Plan
AT&T Special Country Plan
AT&T Small Business Option (including Term Plan and Flex Plan)
AT&T MultiQuest® Service
AT&T NetPROTECT Service (Advanced and Premium)
AT&T Software Defined Network Service
AT&T Global Software Defined Network Service
AT&T Multilocation Calling Plan
AT&T FAXLine Service
AT&T Hospitality Network Service
AT&T Distributed Network Service
AT&T PRO® WATS Service
AT&T Plan D Service
AT&T Plan Q Service
AT&T Call Redirect Service
AT&T Optimum Service
AT&T EasyReach Service
AT&T MEGACOM® Plus Service
AT&T CustomNet Gold
AT&T Service Quality Guarantees
AT&T Advanced 800 Service
AT&T 800 Service - Canada
AT&T 800 Service - Overseas
AT&T 800 Service - Mexico
AT&T MEGACOM® 800 Service
AT&T MEGACOM® 800 Service - Canada
AT&T MEGACOM® 800 Service - Overseas
AT&T MEGACOM® 800 Service - Mexico
AT&T 800 Readyline® Service - Canada
AT&T 800 Service Plan K
AT&T 800 Service Plan E
AT&T 800 Service Plan P
AT&T 800 Gold Service

Current AT&T Services That Offer Additional Features Compared to Alascom Counterparts

AT&T Reach Out® America-Basic (discount period begins 7 PM)
AT&T Reach Out® World
AT&T 800 Service
-Dialled Number Identification Service
-800 Validation
-800 Guaranteed Validation
-Make Busy Arrangement
-Alternate Number Translation
-Alternate Destination Routing