

STATE OF FLORIDA

COMMISSIONERS:  
E. LEON JACOBS, JR., CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI



DIVISION OF POLICY ANALYSIS &  
INTERGOVERNMENTAL LIAISON  
CHARLES H. HILL  
DIRECTOR  
(850) 413-6800

# Public Service Commission

August 21, 2001

## VIA ELECTRONIC FILING

Magalie R. Salas, Secretary  
Federal Communications Commission  
Portals II, TW-A325  
445 Twelfth Street, SW  
Washington, D.C. 20554

Re: Comments of the Florida Public Service Commission in Response to the Further Notice of Proposed Rulemaking in CC Docket No. 01-92

Dear Ms. Salas:

Forwarded herewith are Comments of the Florida Public Service Commission in response to the Further Notice of Proposed Rulemaking regarding development of a unified intercarrier compensation regime.

Sincerely,

/ s /

Cynthia B. Miller, Esquire  
Bureau of Intergovernmental Liaison

CBM:tf

Enclosures

cc: International Transcription Service  
Brad Ramsay, National Association of Regulatory Utility Commissioners

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of )  
 )  
 ) CC Docket No. 01-92  
Developing a Unified Intercarrier )  

---

**COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION  
IN RESPONSE TO FURTHER NOTICE OF PROPOSED RULEMAKING**

The Florida Public Service Commission (FPSC) hereby respectfully submits its comments on the Further Notice of Proposed Rulemaking (NPRM) in CC Docket No. 01-92.<sup>1</sup> The FPSC expresses its concern regarding the level of detail put forward in this NPRM relating to the proposal, and questions why further information regarding potential effects on end-users was not, at a minimum, gathered through a Notice of Inquiry (NOI) before the issuance of this NPRM. This Commission does not believe that publishing the issues in a notice and seeking public comment is the most effective means to address the significant issues raised in this notice. Instead, we support a more collaborative effort to engage the Federal Communications Commission (FCC) through the appropriate Joint Boards. Specifically, the FPSC strongly encourages the FCC to formally refer the issues of cost allocations to the Federal-State Joint Board on Separations and associated universal service issues to the Universal Service Joint Board.

**Background**

On April 27, 2001, the FCC released a NPRM relating to the development of a unified intercarrier compensation regime that has the potential to affect virtually all customers in all states,

---

<sup>1</sup>CC Docket No. 01-92, Notice of Proposed Rulemaking, FCC 01-132.

as well as state and federal policies on universal service, access charges, and jurisdictional separations. In this NPRM, the FCC begins a “fundamental re-examination of all currently regulated forms of intercarrier compensation.” Specifically, the FCC seeks comments on whether and how to replace the existing variety of intercarrier compensation methods with a unified approach based on a bill-and-keep methodology or other alternatives.

At present, rules relating to intercarrier compensation can be separated into access charge and reciprocal compensation rules. In general, access charge rules govern the payments that interexchange carriers (IXCs) and commercial mobile radio services (CMRS) carriers make to Local Exchange Carriers (LECs) to originate and terminate long-distance calls. The access charge rules can be further divided into interstate access charge rules that are set by the FCC, and intrastate access charge rules that are set by state commissions. Both the interstate and intrastate access charge rules establish charges that IXCs must pay to LECs when the LEC originates or terminates a call for an IXC, or transports a call to, or from, the IXC’s point of presence (“POP”). Reciprocal compensation rules govern the compensation between telecommunication carriers for the transport and termination of local traffic.<sup>2</sup>

### **Market Issues**

Based on the NPRM, it appears that the FCC believes that overall, the market will be improved if there is a simpler, unified system for carrier-to-carrier cost recovery. By essentially transferring some or all of the costs of interconnection from carriers to customers, the FCC believes

---

<sup>2</sup> Both sets of rules are subject to various exceptions (*e.g.*, long-distance calls handled by ISPs using IP telephony are generally exempt from access charges under the enhanced service provider (ESP) exemption).

this approach may cure some of the competitive market failures it has observed.<sup>3</sup> There are questions we believe the FCC should answer to evaluate whether a bill-and-keep regime will perform as desired. For example, will a bill-and-keep approach:

- Provide fair compensation to each carrier in the market, especially if there are imbalances in the type or volume of traffic between the carriers;
- Maintain a reasonable link between the “cost-causer” and the “cost-payer”;
- Provide the proper economic signals to carriers in the market and their customers;
- Lead to cross-subsidies between low and high volume customers or other customer classes; and
- Create perverse incentives regarding infrastructure development, network configuration, or points of interconnection?

Prior to adoption, the effect of bill-and-keep on market issues should be fully investigated.

### *Universal Service*

In its NPRM, the FCC recognized that its proposals might increase the effective local monthly bill observed by customers.<sup>4</sup> The FCC also realized that its proposals will reduce the portion of the consumer’s total bill that is subject to geographic rate averaging under section 254(g), which would further increase many customers’ bills. The FCC requested comments on the significance of any such change in rates and its effect on subscriber penetration rates.

While the FPSC does not have specific estimates, it is conceivable that in high-cost states, local customers may not be able to afford the increase in monthly fees possible under the various bill-and-keep proposals. It may create pressures to increase the size of state and federal universal

---

<sup>3</sup> For example, the FCC believes that CLECs, in some cases, have been able to price access services above competitive market levels.

<sup>4</sup> NPRM at ¶123.

service funds to prevent customer drop-off from the network. Similarly, changing the method of carrier-to-carrier compensation implicates the universal service components of the CALL plan. For these reasons the FPSC strongly encourages the FCC to formally refer the issues associated with universal service to the Universal Service Joint Board.

### **Jurisdictional Separations**

The FCC also recognized that its proposed policy changes might affect jurisdictional separations.<sup>5</sup> The proposal, if adopted, would essentially change the dividing line between costs recovered through traditional interstate services and those recovered as part of the local bill. In many ways, bill-and-keep proposals are changing the concept of what is a “local” service. To the extent that the FCC effects a shift in costs to local ratepayers, the FPSC believes it would be appropriate, at a minimum, for the Separations Joint Board to be involved. Similarly, participation by the Separations Joint Board will allow the FCC to evaluate whether it is more reasonable to achieve the end it seeks through a change in jurisdictional cost assignment rather than through a change in access rate design policy. The issues raised in the NPRM are also closely related to jurisdictional allocation issues now before the Separations Joint Board as it continues its review of the next generation separations policy.

### **Cost Allocation**

The FCC suggested that a bill-and-keep system could provide a demarcation point between networks so that regulators need not allocate costs.<sup>6</sup> This suggests that the current sharing of costs between the state and federal jurisdiction will be eliminated, as costs will be assigned fully to either

---

<sup>5</sup> NPRM at ¶ 122.

<sup>6</sup> NPRM at ¶ 34.

one side or the other. Changing who pays for costs has the potential to affect end-user rates, incentives for infrastructure investment, customer penetration levels, universal service funding needs, and virtually every major cost-recovery policy affecting state and federal ratepayers. The FPSC has a significant interest in ensuring that federal cost allocation changes do not disrupt state networks, policies, or economic and social objectives.

### **Mirroring of Federal Policies**

If the FCC goes to an interstate bill-and-keep system, the FPSC believes that states could face significant pressures to make similar changes at the state level. For example, if federal access charges are reduced or eliminated, this could create significant bypass and arbitrage incentives relative to state access charge systems. In the NPRM, the FCC requested comments on whether certain state rates should conform to federal policy goals.<sup>7</sup> Therefore, there is a risk that the FCC may preempt state decisions regarding state access charges and other carrier-to-carrier arrangements. The FPSC would be opposed to any preemption.

### **Conclusion**

Adopting a federal bill-and-keep system to replace access and reciprocal compensation arrangements has the potential to affect intrastate rates, universal service, cost allocation issues, infrastructure development, network structures, and various state policies. Given the wide scope of consequences of adopting a bill-and-keep system, the FPSC would oppose moving to such an approach unless issues are first referred to a Joint Board or comparable state/federal negotiation

---

<sup>7</sup> While much of the NPRM addresses methods the FCC may adopt regarding interstate rates, ¶ 99 seeks comment on “whether, in order to achieve the benefits of a uniform intercarrier compensation regime, state public utility commissions would need to move intrastate access charges to forward-looking-economic costs.” At ¶ 87, the FCC also seeks comment on the extent to which Section 332 preempts state regulation of intrastate LEC-CMRS interconnection and gives such authority to the FCC.

Florida Public Service Commission  
Docket No. 01-92  
Page 6

process. Issues related to universal service and jurisdictional separations should also be referred to the Universal Service and Separations Joint Boards as appropriate.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire  
Bureau of Intergovernmental Liaison

DATED: August 21, 2001

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of these FPSC comments is being mailed this date to the parties on the attached service list.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire  
Bureau of Intergovernmental Liaison

FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
(850) 413-6082

DATED: August 21, 2001



## SERVICE LIST

The Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

The Honorable Kathleen Q. Abernathy  
Commissioner  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

The Honorable Kevin J. Martin  
Commissioner  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

The Honorable Nanette G. Thompson, Chair  
Regulatory Commission of Alaska  
1016 West Sixth Avenue, Suite 400  
Anchorage, AK 99501-1693

The Honorable Jim von Grep  
Arkansas Public Service Commission  
P. O. Box 400  
Little Rock, AR 72203-0400

Peter Arth, Jr., Edward W. O'Neil,  
Mary Mack Adu  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

David A. Beckett  
Colorado Public Utilities Commission  
1580 Logan Street  
Office Level 2  
Denver, CO 80203

Earl Poucher, Legislative Analyst  
Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400

The Honorable Gloria Tristani  
Commissioner  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

The Honorable Michael J. Copps  
Commissioner  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

Mary E. Newmeyer  
Federal/Congressional Affairs  
Alabama Public Service Commission  
P. O. Box 991  
Montgomery, AL 36101

Lori Kenyon  
Common Carrier Specialist  
Regulatory Commission of Alaska  
1016 West Sixth Avenue, Suite 400  
Anchorage, AK 99501-1693

Virginia J. Taylor, Richard A. Elbrecht  
California Department of Consumer Affairs  
400 R Street, Suite 3090  
Sacramento, CA 95814-6200

Deborah S. Waldbaum  
Colorado Office of Consumer Counsel  
1580 Logan Street, Suite 610  
Denver, Colorado 80203

Lawrence D. Crocker, III  
District of Columbia Public Service Commission  
717 14th Street, NW  
Washington, DC 20005

B.B. Knowles, Director  
Utilities Division  
Georgia Public Service Commission  
244 Washington Street, SW  
Atlanta, GA 30334-5701

The Honorable Robert B. Baker, Commissioner  
Georgia Public Service Commission  
244 Washington Street, S.W.  
Atlanta, Georgia 30334-5701

Donald L. Howell, II  
General Counsel  
Idaho Public Utilities Commission  
P. O. Box 83720  
Boise, ID 83720-0074

Indiana Utility Regulatory Commission  
Suite E-306  
302 W. Washington Street  
Indianapolis, IN 46204

Barry Payne  
Indiana Office of the Consumer Counsel  
100 North Senate Avenue  
Room N501  
Indianapolis, Indiana 46204-2208

James Maret  
Office of Consumer Advocate  
Lucas State Office Building  
4th Floor  
Des Moines, Iowa 50319

General Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, Kansas 66604-4027

Gayle T. Kellner  
Louisiana Public Service Commission  
P. O. Box 91154  
Baton Rouge, LA 70821-9154

Ann Dean  
Maryland Public Service Commission  
16th Floor, 6 Saint Paul Street  
Baltimore, Maryland 21202-6806

Mike Travieso  
Office of People's Counsel  
6th St. Paul Street, Suite 2102  
Baltimore, Maryland 21202

Eileen Benner  
Idaho Public Utilities Commission  
P. O. Box 83720  
Boise, ID 83720-0074

Sarah A. Naumer  
Federal/Congressional Affairs  
Illinois Commerce Commission  
160 N. LaSalle, Suite C-800  
Chicago, Illinois 60601

Anne Becker  
Office of Utility Consumer Counsel  
100 North Senate Avenue, Rm. N501  
Indianapolis, Indiana 46204-2208

William H. Smith, Jr., Chief  
Federal and Legislative Programs Coordinator  
Iowa Utilities Board  
Lucas State Office Building  
Des Moines, IA 50319

Amy E. Dougherty  
Kentucky Public Service Commission  
Post Office Box 615  
Frankfort, Kentucky 40602

Lawrence C. St. Branc  
Louisiana Public Service Commission  
P. O. Box 91154  
Baton Rouge, LA 70821-9154

Joel B. Shifman, Esq.  
Maine Public Utilities Commission  
242 State Street  
State House, Station 18  
Augusta, Maine 04333-0018

Susan Stevens Miller  
Assistant General Counsel  
Maryland Public Service Commission  
16th Floor, 6 Paul Street  
Baltimore, MD 21202-6806

John G. Strand, Chairman  
Michigan Public Service Commission  
6545 Mercantile Way  
Lansing, Michigan 48911

Richard J. Johnson, Brian T. Grogan  
Minnesota Independent Coalition  
Moss & Barnett, 4800 Northwest Center  
90 South Seventh Street  
Minneapolis, MN 55402-4129

Barbara Meisenheimer, Martha S. Hogerty  
Missouri Office of Public Counsel  
Truman Bldg, 301 West High St, Ste 250  
Jefferson City, MO 65101

The Honorable Bob Rowe  
Montana Public Service Commission  
1701 Prospect Avenue  
P.O. Box 202601  
Helena, MT 59620-2601

Deonne Bruning  
Nebraska Public Service Commission  
300 The Atrium  
1200 N Street  
Lincoln, Nebraska 68508

Carl Johnson, Telecom Policy Analyst  
New York Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350

Illona A. Jeffcoat-Sacco, Director  
Public Utilities Division  
State of North Dakota  
600 E. Boulevard  
Bismarck, North Dakota 58505-0480

General Counsel  
Oklahoma Corporation Commission  
P. O. Box 5200-2000  
Oklahoma City, OK 73152-2000

Barbara Combs  
Oregon Public Utility Commission  
550 Capitol Street, NE, Suite 215  
Salem, Oregon 97301-2551

Maureen A. Scott  
Assistant Counsel  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Eric Swanson  
Office of Attorney General  
445 Minnesota Street  
Suite 1200 WCL Tower  
St. Paul, Minnesota 55101-2130

Eric B. Witte  
Assistant General Counsel  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, Missouri 65102

Karen Finstad Hammel, Staff Attorney  
Montana Public Service Commission  
1701 Prospect Avenue  
P. O. Box 202601  
Helena, MT 59601-2601

Charles Bolle, Policy Adviser  
Nevada Public Utilities Commission  
1150 E. Williams Street  
Carson City, NV 89701-3109

Terry Monroe  
New York Public Service Commission  
Three Empire Plaza  
Albany, NY 12223

Robert S. Tongren, Andrea M. Kelsey,  
David C. Bergman, Richard W. Pace,  
Karen J. Hardie  
Ohio Consumers Counsel  
77 South High Street, 15th Floor  
Columbus, Ohio 43266-0550

Honorable Joan H. Smith  
Oregon Public Utility Commission  
550 Capitol Street, NE, Suite 215  
Salem, OR 97301-2551

Philip F. McClelland  
Pennsylvania Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923

David F. Johnson, Scott Sawyer  
Rhode Island Public Utilities Commission  
100 Orange Street  
Providence, R.I. 02903

R. Glenn Rhyne, Manager  
Research Department  
South Carolina Public Service Commission  
P. O. Drawer 11649  
Columbia, S.C. 29203

William J. Janklow, Governor  
State of South Dakota  
Executive Office - State Capitol  
500 East Capitol  
Pierre, South Dakota 57501-5070

Honorable Pam Nelson, Commissioner  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

Texas Public Utility Commission  
Post Office Box 13326  
Austin, TX 78701-3326

Vicki Oswalt  
Office of Policy Development  
Public Utility Commission of Texas  
Post Office Box 13326  
Austin, TX 78701-3326

Peter Bluhm, Director of Policy Research  
Vermont Public Service Board  
Drawer 20  
112 State Street, 4th Floor  
Montpieller, VT 05620

Tom Wilson, Economist  
Washington Utilities & Transportation Commission  
1300 South Evergreen Park Drive SW  
Olympia, Washington 98504

Honorable Richard Hemstad  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive, SW  
Olympia, Washington 98504

Honorable Steve Ellenbecker, Chairman  
Honorable Steve Furtney, Deputy Chairman  
Kristin H. Lee, Commissioner  
Wyoming Public Service Commission  
2515 Warren Avenue, Suite 300  
Cheyenne, Wyoming 82002

South Dakota Public Utilities Commission  
500 E. Capital Street  
Pierre, SD 57501-5070

Honorable James A. Burg, Chairman  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

Christopher Klein  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

Suzi Ray McClellan  
Texas Office of Public Utility Counsel  
Post Office Box 13326  
Austin, TX 78701-3326

Laurie Pappas  
Office of Public Utility Counsel  
1701 N. Congress Avenue, 9-180  
Post Office Box 12397  
Austin, Texas 78711-2397

William Irby, Director  
Division of Communications  
Virginia State Corporation Commission  
1300 East Main Street - 9th Floor  
Richmond, VA 23218

Honorable Marilyn Showalter, Chairman  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive, SW  
Olympia, Washington 98504

Honorable William R. Gillis  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive, SW  
Olympia, Washington 98504

National Association of State Utility Consumer  
Advocates  
c/o Pennsylvania Office of Consumer Advocate  
Attn: Philip F. McClelland  
555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923

Michael A. McRae  
D.C. Office of the People's Counsel  
1133 15th Street, NW, Suite 500  
Washington, D.C. 20005

Mark Savage, Stefan Rosenzweig,  
Carmela Castellano  
Public Advocates, Inc.  
1535 Mission Street  
San Francisco, CA 94103

Thomas J. Dunleavy, Commissioner  
New York Public Service Commission  
Three Empire State Plaza  
Albany, New York 1223-1350

Elizabeth A. Noel  
Sandra Mattavous-Frye  
DC Office of the People's Counsel  
1133 Fifteenth Street, NW, Suite 500  
Washington, D.C. 20005-2710

Kevin J. Donnellan, Legislation and Public Policy  
Bradley C. Stillman, Telecommunications Policy  
American Association of Retired Persons  
601 E Street, NW  
Washington, D.C. 20049

Nancy C. Garrison  
Catherine O'Sullivan  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW, Room 3224  
Washington, DC 20530-001

David L. Deming  
Senecom Voice Processing Systems  
6 Blossomwood Court  
St. Louis, Missouri 63033-5202

National Telephone Cooperative Association  
4121 Wilson Boulevard, Tenth Floor  
Arlington, Virginia 22203-1801

Honorable Albert Vann  
National Black Caucus of State Legislators  
Telecommunications & Energy Committee  
New York State Assembly  
Legislative Office Building #422  
Albany, New York 12248

Maureen O. Helmer, Chairman  
New York Public Service Commission  
Three Empire State Plaza  
Albany, New York 1223-1350

Terry D. Blackwood  
Billy Jack Gregg  
West Virginia Consumer Advocate  
700 Union Building  
Charleston, West Virginia 25301

Lisa M. Zaina  
Ken Johnson  
OPASTCO  
21 Dupont Circle, NW, Suite 700  
Washington, D.C. 20036

John Rother, Esquire  
American Association of Retired Persons  
601 E Street, NW  
Washington, DC 20049

Ronald J. Binz, Debra R. Berlyn  
John Windhausen, Jr.  
Competition Policy Institute  
1156 15th Street, NW, Suite 310  
Washington, DC 20005

Regina McNeil, Richard A. Askoff  
National Exchange Carrier Association  
80 South Jefferson Road  
Whippany, NJ 07981