77 F.C.C.2d 224, 1980 WL 121716 (F.C.C.)

****1** Access Charges

Common Carrier, Specialized Services

Inquiry by FCC, see also Investigation or Notice of Inquiry

Wide Area Telephone Service (WATS)

Second further inquiry issued in matter of MTS and WATS market structure with respect to compensation of operators of local exchanges for using local telephone exchange facilities to originate or terminate interstate or foreign telecommunications. CC 78–72.

FCC 80–198

In the Matter of
MTS and WATS Market Structure

CC Docket No. 78–72

SECOND SUPPLEMENTAL NOTICE OF INQUIRY AND PROPOSED RULEMAKING

(Adopted: April 9, 1980; Released: April 16, 1980)

***224** BY THE COMMISSION: CHAIRMAN FERRIS ISSUING A SEPARATE STATEMENT; COMMISSIONER FOGARTY CONCURRING AND ISSUING A STATEMENT IN WHICH COMMISSIONER JONES JOINS

I. Introduction

1. This proceeding was instituted in February 1978 in order to determine whether services such as MTS and WATS should be provided on a sole source or a competitive basis. *Notice of Inquiry and Proposed Rulemaking ('Initial Notice')*, 67 F.C.C. 2d 757 (1978). The *Initial Notice* advised interested persons that we also expect to consider related regulatory policy questions in this proceeding and that our consideration of related questions would include an examination of existing arrangements to compensate telephone companies for the use of local exchange facilities to originate or terminate interstate telecommunications. We said that we might exercise our powers under Section 201(a) of the Communications Act, 47 U.S.C. § 201(a), to prescribe such compensation arrangements for 'all interstate services of all carriers.' *Id.* at 759.

2. The *Supplemental Notice of Inquiry and Proposed Rulemaking ('Supplemental Notice')*, 73 F.C.C. 2d 222 (1979) reaffirmed our decision to examine regulatory policy questions in this proceeding which are related to entry policy. Participants were expressly invited to address several related questions in industry model comments. These ***225** included allocation of investments and expenses among jurisdictions, contractual arrangements among carriers for the distribution of interstate revenues, and charges to carriers for the use of facilities of other carriers. Participants were also invited to file separate comments at an earlier date describing questions relating to those subjects that should or should not be referred to a Joint Board pursuant to Section 410(c) of the Communications Act, 47 U.S.C. § 410(c).

3. We concluded in the *Supplemental Notice* that questions relating to compensation for the use of local exchange facilities should be resolved as soon as possible. We reached that conclusion for two reasons.

4. During the period which elapsed between the *Initial Notice* and the *Supplemental Notice* some carriers entered into an agreement to establish compensation arrangements for the use of local exchange facilities to provide interstate services that the functionally equivalent to MTS or WATS. See *Exchange Network Facilities (ENFIA)*, 71 F.C.C. 2d 440 (1979). That agreement was designed to provide a temporary 'rough justice' solution until other compensation arrangements are prescribed by this Commission or by new legislation. A tariff that has been filed pursuant to that agreement will expire in the spring of 1982 in the absence of further Commission action to prescribe compensation arrangements.

****2** 5. We also concluded that it might be impossible to assess the potential effects of competition in the MTS-WATS market for the purpose of formulating an entry policy until the compensation which each interexchange carrier would pay for the use of local exchange facilities under competitive conditions had been fixed. Such exchange plant investment and expense represents a significant portion of the total cost of providing such services.

6. We have now received the comments with respect to Joint Board issues and the industry model comments. The industry model comments of all participants except Alascom, Inc. either advocate an open entry policy for the MTS-WATS market or take a neutral position with respect to entry policy. Alascom, Inc. contends that unique conditions in Alaska warrant a closed entry policy for an Alaska submarket. Alascom apparently takes a neutral position with respect to entry in other submarkets.

7. Inasmuch as the model comments have not produced adversary positions with respect to entry policy generally, it will be necessary to reevaluate the nature and scope of this proceeding. We have not completed that evaluation. We expect to issue a Notice or Order before September 1980 relating to questions which do not relate to the allocation of costs among jurisdictions or to compensation arrangements for the origination or termination of interstate or foreign telecommunications.

8. The *Supplemental Notice* in this proceeding had created a limited form of discovery. That procedure was designed primarily to ***226** assist participants in developing a case to support a particular entry policy for the MTS-WATS market and does not appear to be generally appropriate under the present circumstances. The invitation to submit requests for information to the Chief of the Common Carrier Bureau will accordingly be rescinded.

9. The invitation to submit replies to the industry model comments will also be rescinded. We will establish new schedules for the filing of comments upon questions which warrant further comment.

10. This Notice will describe a tentative plan for prescribing arrangements to compensate local exchange carriers for the origination or termination of interstate or foreign telecommunications and will establish a schedule for the filing of comments on that plan. We have decided to address this problem separately because it appears to be particularly urgent.

11. A separate Notice will be issued shortly to institute a new proceeding to revise the FCC-NARUC *Separations Manual* which we have prescribed (Part 67 of the Commission's Rules) for the purpose of allocating investment, expenses and revenues among jurisdictions. A separate docket will be established for that purpose. However, we will consider all of the comments that have been filed in this proceeding in formulating that *Notice*.

II. Nature of the Problem

12. The *Supplemental Notice* did not explain why we cannot assume that compensation for the origination or termination of the MTS and WATS services of the telephone companies is fixed. Neither the *Initial Notice* nor the *Supplemental Notice* explained why we must examine compensation arrangements for services that are not functionally equivalent to MTS or WATS in order to fix the compensation for MTS, WATS, and functionally equivalent services. The industry model comments indicate that most carriers do understand the reasons for our decision to prescribe compensation arrangements for all interstate and foreign services of all carriers and do concur with that decision. However, a description of the nature of the problem may be beneficial to some persons who may wish to participate in this proceeding.

****3** *A. Evolution of Existing Compensation Arrangements*

13. During the early years of the telephone industry, the telephone companies that provided local exchange service did not receive any compensation from other carriers for the origination or termination of long distance calls. Local exchange rates were computed to cover the costs of using local exchange facilities for both local and long distance calls and long distance rates were computed to cover the costs of the interexchange transmission. The Supreme Court held in *Smith v. Illinois Bell Telephone Co.*, 282 U.S. 133 (1930), that the costs of originating or terminating interstate long distance calls must be excluded from the local exchange rates. The Court concluded that the ***227** interstate service costs must be segregated because the state commission has jurisdiction to regulate rates for intrastate services and does not have jurisdiction to regulate rates for interstate services.

14. Although the *Smith v. Illinois Bell* decision related to the allocation of costs for rate regulation purposes rather than the allocation of revenues among interconnecting carriers, that decision necessarily required a change in arrangements to allocate revenues among carriers. If the carrier that originated or terminated an interstate call could not recover its origination or termination costs through local exchange service charges, a portion of the interstate long distance charges would have to be allocated to that carrier in order to make the carrier whole.

15. A new system for the allocation of interstate revenues evolved in the mid-1940s which was designed to solve that problem. All of the telephone companies in the then 48 states and the District of Columbia agreed to allocate the total revenues for most interstate calls between points in that territory in accordance with a formula which enables each participating carrier to recover its operating costs that are allocable to such interstate calls plus a portion of the remaining revenues which provides the carrier's return element and which is based upon its share of the total investment of all carriers providing interstate service. This arrangement is sometimes called a ‘partnership’ because each participant receives the same return on its interstate investment.

16. The partnership revenues are not literally deposited in an interstate revenue pool. Monies are transferred monthly to reflect the difference between ‘partnership’ charges collected by a particular company and the company's allocable share of the revenue pool. As we noted in the *Supplemental Notice* (73 F.C.C. 2d at 233) the transfer process among Bell entities is called ‘divisions of revenues' and the transfer process between Bell entities and independent telephone companies is called ‘settlements.’ However, the divisions/settlements process was designed to operate as a single system which produces the same results for Bell and non-Bell ‘partners.’

17. Carriers interconnecting with telephone companies in the 48 contiguous states to provide service to Alaska, Hawaii, Puerto Rico, the Virgin Islands and other overseas domestic points were treated in a different manner and did not participate in the divisions/settlements process. Carriers serving Puerto Rico and the Virgin Islands will participate as partners in July 1980. A pending proceeding with respect to Alaska and Hawaii separations (Docker 21263) will result in integration of carriers serving those states into the ‘partnership’.

****4** 18. The ‘partners' that originate or terminate interstate calls do not receive separate compensation for the origination or termination functions through the divisions/settlements process. Many of those carriers also provide some of the interexchange facilities. The revenue allocation is based upon the carriers' total exchange and interexchange ***228** expenses and investments allocable to the interstate partnership services.

19. The pooling arrangement is not limited to interstate MTS. Most interstate services offered by the partners, including WATS, are included in the arrangement. However, some interstate services, including ENFIA service, are not included in the pool arrangement. If a service is not included in the pool, the company which provides the service keeps all of the revenues and absorbs all of the associated costs. [1]

20. Compensation for the origination and termination of two private line services, FX and CCSA, is treated in a unique way. Foreign exchange (‘FX’) service normally enables a subscriber to place calls to telephones in the ‘foreign’ exchange without paying MTS charges and enables persons in the ‘foreign’ exchange area to place calls to the FX subscriber in a distant city by calling a local number without paying MTS charges or using operator assistance to make a collect call. The FX subscriber

receives two separate bills and usually pays charges to two different carriers. The bill for the 'private line' covers service from the FX subscriber's telephone to the termination in a local switching office in the 'foreign' exchange. The FX subscriber is billed for the use of local exchange facilities in the 'foreign' exchange or 'open end' by the carrier that provides that service. The FX subscriber has traditionally been billed for the open end origination or termination service at the same rate which local subscribers pay for business local exchange service in the area served by the local exchange. [2]

21. CCSA ('Common Controlled Switching Arrangements') provides a subscriber with a leased private telecommunications network, including dedicated lines and switches, which the subscriber can use to communicate between points on its system. CCSA subscribers can also obtain ONALS (off network access lines) which can be used in much the same manner as FX service in a distant city. Such a CCSA subscriber also receives separate bills for the 'private line' and the origination and termination service at the 'open end.' The latter is billed at the business local exchange rate.

22. Revenues from the private line portion of FX and CCSA services that are provided by the 'partnership' are included in the pool and associated expenses and investments are included in the divisions/settlements computations. Revenues from the open end service are retained by the company that provides the service and that ***229** company absorbs any associated costs. Although the open end service for interstate FX or CCSA is an interstate service, the carriers have always reported the revenues and any associated expenses and investments as intrastate revenues, expenses and investments for purposes of jurisdictional separations.

****5** 23. Carriers that do not participate in the 'partnership' arrangement also offer FX and CCSA services. Local exchange carriers provide and bill open end service in connection with non-partnership offerings in essentially the same manner that the service is provided and billed in connection with 'partnership' FX or CCSA. Carriers that provide the open end service also provide non-partners with a link between the telephone company's local switching office and the nonpartner's switching facility. That link serves essentially the same function as the trunk connection between the local switching office and the 'partnership' toll switch. Those facilities are offered as unpooled interstate services pursuant to tariffs filed with this Commission.

24. As previously noted, some local exchange carriers are presently being compensated for the origination and termination of nonpartnership services that are functionally equivalent to MTS or WATS pursuant to the *ENFIA* agreement. Rate element 1 covers the links between a Class 5 office and the interexchange carrier's switching facility. That element is billed at the same rate as links used for FX or CCSA service. Rate elements 2 and 3 cover the use of local exchange facilities that are used in common with local exchange services. Those rates are computed in accordance with the agreed formula.

25. Although organizations representing independent telephone companies participated in the ENFIA negotiations, those organizations did not purport to have authority to commit their members. The ENFIA agreement essentially establishes compensation arrangements for origination or termination service provided by AT&T or GTE subsidiaries. Services that are functionally equivalent to MTS or WATS are not presently offered in many exchanges that are not served by AT&T or GTE subsidiaries.

26. United Telecom recently filed tariffs for the origination and termination of services that are functionally equivalent to MTS or WATS that deviate from the ENFIA agreement formula. [3]

27. Thus, three different mechanisms have evolved for compensating the operator of a local telephone exchange for originating or terminating interstate and foreign telecommunications. Sometimes the local exchange carrier is compensated through the settlements/divisions process. Sometimes the local exchange carrier collects ***230** a carrier's carrier charge from an interexchange carrier. Sometimes the local exchange carrier collects a separate charge from the end user for the origination and termination service.

B. The Discrimination Problem

28. The compensation which local exchange operators receive through those mechanisms varies in a manner that does not appear to reflect actual differences in the costs of originating or terminating various services. These disparities may produce discrimination among competing interexchange carriers. Such disparities may also indirectly result in differences in end user rates which violate Section 202(a) of the Communications Act, 47 U.S.C. § 202(a), by subjecting users of like services to an 'unjust or unreasonable discrimination' or an 'undue or unreasonable prejudice.'

****6** 29. This problem was highlighted in proceedings which led to the *ENFIA* agreement. That agreement was preceded by the filing of an AT&T tariff which would have established charges for the origination or termination of MTS-WATS equivalent services that were substantially higher than the charges which were subsequently negotiated. AT&T claimed that the proposed charges for Rate Elements 2 and 3 replicate the compensation which its subsidiaries receive through the settlements/divisions process for the origination or termination of MTS and WATS services with appropriate adjustments for differences in the service provided. Carriers that would have been required to pay the charges not only challenged AT&T's claim that the charges would establish parity between MTS-WATS compensation and functional equivalent compensation, but also asserted that the tariff would create an unlawful discrimination or preference because the charges were substantially higher than the open end FX-CCSA charges. These carriers alleged that the open end FX-CCSA service is identical with the services they use to originate or terminate services that are functionally equivalent to MTS or WATS. The proposed ENFIA tariff was withdrawn before we were obliged to address that contention.

30. During the subsequent negotiations organizations representing some independent telephone companies insisted that the open end FX-CCSA compensation arrangements should be changed to enable independents to receive the same compensation for open end FX-CCSA service which they receive through settlements for originating or terminating MTS and WATS telecommunications. Although the parties to the ENFIA agreement did not adopt any new arrangements for open end FX-CCSA, they did agree that this Commission should address that problem in an expeditious manner. The *Supplemental Notice* in this proceeding was designed in part to respond to that request.

31. The history of the ENFIA negotiations demonstrates that it would be impossible to prescribe any charges for the origination and termination of services that are functionally equivalent to MTS or ***231** WATS without determining the appropriate relationship among origination and termination services for MTS-WATS, functional equivalents of MTS-WATS, and FX-CCSA open ends. That history also indicates that there is no basis for assuming that the present relationship is appropriate.

32. Moreover, the discrimination problem is not confined to differences in compensation which is received through different compensation mechanisms. The 'partnership' carriers have agreed to use the *Separations Manual* which this Commission prescribed to allocate investments, expenses and revenues among jurisdictions for rate regulation purposes in order to determine the investments and operating costs of each partner that are allocable to pooled interstate services. The *Separations Manual* sets forth a combination of formulae to allocate exchange plant costs between interstate and intrastate jurisdictions. Different formulae are used to allocate message and private line service. These formulae were not designed for the purpose of allocating costs among the various interstate services. The formulae were designed to produce aggregate equity between interstate and intrastate users.

****7** 33. This Commission concluded in *AT&T Co.*, 74 F.C.C. 2d 1, 36–40, that we should require AT&T to use the message/private line results produced by the *Separations Manual* formula on an interim basis for the purpose of allocating exchange plant costs among interstate services. We took that action not because we believed that interim solution would produce optimal results. Rather, we adopted that interim solution because we concluded that it will produce a closer alignment of costs and rates than any other exchange plant allocation method that can be implemented without changes in current accounting practice.

34. The interim solution will not eliminate any discrimination between message services as a whole and pooled private line services as a whole which results from the use of *Separations Manual* formulae for the allocation of exchange plant costs. Elimination of such discrimination requires the development of new allocation procedures in which formulae are

applied uniformly for all services to those plant elements which are used basically the same way by all services and applied selectively to specific services for those plant elements which are used differently for different services.

35. The industry model comments indicate that virtually all the participants who have discussed this subject share our perception of the problem. There appears to be a broad consensus that a new formula must be developed for allocating interstate exchange plant costs among all interstate services provided by all carriers which produces an allocation more closely aligned with the costs of originating or terminating such services. There also appears to be a broad consensus that this Commission can and must prescribe the necessary arrangements.

C. Procedures for Solving the Problem

36. The broad consensus does not extend to the steps which should be taken to produce origination-termination compensation arrangements that do not discriminate among competing interexchange carriers and do not discriminate among end users of different interstate or foreign services. A variety of different solutions has been proposed in the comments have been filed in this proceeding.

37. Many participants contend that the divisions/settlements process should be eliminated and carriers' carrier charges should be used as the sole mechanism for compensating exchange carriers for the origination or termination of interexchange services. That approach parallels various legislative proposals that are currently being considered by Congress. Such charges are commonly known as ‘access charges' because an interexchange carrier would compensate an exchange carrier for obtaining access to the local exchange facilities to originate or terminate an interexchange telecommunication.

38. The present statute does not empower us to establish access service compensation arrangements for all interexchange services. Any arrangement we prescribe necessarily must be confined to interstate and foreign communications. That prescribed arrangement could be used as a model for intrastate interexchange access service compensation arrangements if the states chose to follow it.

****8** 39. Prescribed access charges could not serve as a complete substitute for the divisions/settlements process. If access charges are used to compensate carriers for the use of local exchange facilities, some arrangement would still be necessary to allocate revenues when two or more interconnected carriers provide portions of the interexchange facilities. We will assume for purposes of this Notice that the divisions/settlements process and AT&T's ‘other common carrier’ (OCC) tariffs will be used for that purpose. [4] This phase of this proceeding will be limited to compensation arrangements for the use of exchange plant facilities.

40. Although the Congressional hearings indicate that proposals to use access charges as the sole mechanism for compensating exchange carriers for the origination and termination of interexchange services have not provoked much opposition, the industry model comments indicate that some carriers are not enthusiastic about that idea. Several carriers have suggested that the divisions/settlements compensation mechanism be retained for some services and that the access charge mechanism be used for other services. Some carriers would use the divisions/settlements compensation mechanism for all partnership services that are presently included in the pooling arrangement. Other carriers including AT&T would remove some services from that ***233** arrangement and use an access charge mechanism for depooled services.

41. We have tentatively decided to use a combination of mechanisms which differs from any of the suggested plans. Part III will describe that tentative plan. Basically, the plan prescribes access charges for four categories of interstate service (MTS/WATS, FX/CCSA access, private line and OCC-ENFIA) that will determine the amounts interexchange carriers will pay for the use of exchange plant to originate and terminate interstate traffic. The total amounts to be paid to exchange carriers for the use of their plant by interstate and foreign services will be determined by existing divisions/settlements procedures and should remain essentially unchanged.

42. Thus, under our tentative plan the access charges described below will be used to determine the compensation interexchange carriers will pay for access service. However, the amounts received by carriers for the use of exchange plant

for interstate service will not depend upon the access charge, but will continue to be allocated from a pool based upon the carrier's pro rata share of all investment and expense in plant devoted to interstate service. Thus, we will require that the access charge revenues be pooled in much the same manner that 'partnership' interstate revenues are pooled under the present contractual arrangement. The pooled revenues would be reallocated among the exchange carriers in order to enable each exchange carrier to receive its interstate exchange plant costs and a share of the residue that reflects its pro rata share of the interstate exchange plant investment.

****9** 43. As noted above, the end result should not be substantially different from the results that are produced by the current settlements/divisions process. However, implementation of this plan would require some modification of that process. The pooled access charge revenues (i.e. the 'exchange pool') would be distinct from the interexchange pool. The pooled access charges would include some services such as ENFIA that are not pooled now. The pool would include exchange carriers in Alaska, Hawaii and overseas territories or possessions that might not be described as full partners in the existing contractual arrangement.

44. The tentative plan we have described does not disturb the interexchange portion of the partnership arrangement. We do not believe that it is necessary to do so in order to resolve access service compensation problems. If the interexchange arrangements create problems, those problems can be addressed in the later phase of this proceeding dealing with other issues.

45. We recognize that the tentative plan would alter the existing divisions/settlements mechanism in a more substantial way than some participants believe to be necessary and in a much less substantial way than other participants believe to be necessary. Southern Pacific has ***234** consistently maintained that the same mechanism should be used to determine the compensation that each interexchange carrier pays because the use of multiple mechanisms for the same purpose is likely to result in discrimination among interexchange carriers. We have concluded that Southern Pacific's observation is probably correct and that intended or unintended discrimination can best be minimized by using the same mechanism to determine the amount that each competing interexchange carrier pays.

46. The access charge plan proposed here would require a pool to be administered by an existing carrier bureaucracy rather than a governmental agency. Some of the participants in this proceeding have contended that this is an undesirable situation which would nullify our attempts at evenhandedness. We do not believe, however, that the creation of new institutional arrangements is feasible at this time. In this phase of this proceeding we are attempting to move forward to obtain an intercarrier pricing structure which would be less likely to result in discrimination among carriers or end users than that which is presently in place. Our tentative plan is designed to interfere with existing institutional arrangements to the minimum extent necessary to achieve those goals.

47. At the present time, AT&T occupies a central role in the administration of the divisions/settlements process. It has developed and administers a complicated set of Division of Revenue (DR) procedures which are used to allocate interstate revenues, investment and expenses among its own operating companies (in addition to its Long Lines Division) and through them to the various independent telephone companies. Given the scope and complexity of the settlements/divisions process, its administration requires the expenditure of substantial resources both in terms of money and trained personnel. The bureaucracy which the carriers have created to administer settlements and the DR process is probably larger than this Commission's Common Carrier Bureau. The accounting staff of that Bureau would have to be multiplied severalfold if it were to perform the same functions. Plainly, this Commission could not presently undertake to perform the divisions/settlements functions now performed by AT&T and the independent telephone companies and, insofar as we are aware, there is no other governmental entity or other 'neutral' party with the resources or the charter to perform such a function. We have accordingly decided to use existing institutions to implement prescribed access service compensation arrangements. That decision does not foreclose the creation of new institutional arrangements in other phases of this proceeding. The initial prescribed access service compensation arrangements can be modified at a later date to fit any new institutional arrangements.

****10** 48. The tentative plan does, of course, prescribe a pooling arrangement for access service compensation. We do not believe that the pooling of access service revenues is likely to produce any anticompetitive ***235** effects. Local exchange facilities are presently provided exclusively on a monopoly basis and carriers providing such service do not compete with each other in the provision of that service. [5] We recognize that this situation may change with time as improving technology (e.g. direct satellite, cellular radio) makes exchange service competition more economically feasible. However, these changes will not occur in the shortrun. The expiring ENFIA tariff, the FX-CCSA 'open end' access problem, the *Lincoln Telephone* case, the United Telecom tariff filing, and other recent developments all make it apparent that we must proceed immediately to develop nondiscriminatory exchange access charges for all interstate services including service provided by the OCCs.

49. We further recognize that efficiency incentives might be created by prescribing access charges for classes of exchanges and by prohibiting the pooling of such access charge revenues among carriers. In other words, each carrier would receive the receipts from the access charges paid for use of its exchange plant. An arrangement of this kind, however, would almost certainly require a classification scheme for exchange plant based on cost. We do not believe that it would be possible to implement such a plan quickly. Considerable time and effort would be required to develop classifications that would identify exchanges that should have comparable costs under equally efficient management. Even if such categories could be established quickly, the development of data that would be required to prescribe multiple access charge schedules would delay the implementation of the initial access charges. As already noted, we believe it imperative that we move forward immediately to end discrimination amongst interstate services. Accordingly, in the interest of dispatch, we are tentatively proposing uniform nationwide access charges and an exchange revenue pool. Nevertheless, we might substitute a different approach which does not incorporate nationwide charges or a nationwide revenue pool in prescribing access charges at a future time.

50. Many participants have suggested that changes in the *Separations Manual* should or must either precede the prescription of new access service arrangements or be implemented simultaneously with a change in access service compensation arrangements. Some have suggested that the prescription of access service compensation arrangements be deferred until the *Separations Manual* has been revised to incorporate a new formula for allocating exchange plant costs among interstate services. Others have suggested that a Joint Board be convened to develop recommended *Separations Manual* changes and access service compensation arrangements at the same time.

****11** 51. We have already concluded that *Separations Manual* provisions ***236** relating to exchange plant allocations should be reexamined in the light of our decision in the *Second Computer Inquiry*. The comments in this proceeding have suggested a number of questions with respect to the jurisdictional separation of exchange plant costs which would warrant examination in the absence of our actions in the *Second Computer Inquiry*. We have accordingly decided to institute a proceeding to revise the exchange plant allocation provisions of the *Separations Manual* and expect to issue a Notice of Proposed Rulemaking instituting that proceeding in the near future.

52. However, we have decided that we can and should proceed to prescribe new access service compensation arrangements for interstate and foreign telecommunications independently of that proceeding. It is not unlikely that the *Separations Manual* proceeding will proceed at a slower pace than the proceeding to prescribe access charges. If this happens it would not be necessary to defer implementation of the access charge prescription. Aggregate interstate exchange plant costs can be derived from the present separations procedures and those aggregate costs can be allocated among interstate and foreign services in a manner which differs from the procedures that were used to determine aggregate interstate exchange plant costs.

53. The argument that exchange access service compensation arrangements cannot be changed without *Separations Manual* changes confuses aggregate cost allocations between interstate and intrastate services with cost allocations among interstate services. Total interstate access charge revenue requirements for all interstate or foreign telecommunications services must be based upon the aggregate exchange plant costs allocated to interstate or foreign services through the jurisdictional separations process. Any other procedure would either permit carriers to recover the same costs in two different jurisdictions or preclude them from recovering some costs in any jurisdiction. However, there is no misallocation between the state and interstate jurisdictions if aggregate interstate exchange plant costs are allocated among interstate services in a manner that differs from

the message and private line allocations that were used to arrive at an aggregate allocation between interstate and intrastate services.

54. Inasmuch as we have decided to prescribe access charges in accordance with a formula that can be used to allocate any aggregate interstate exchange plant costs which may be determined under any *Separations Manual* formula, there is no reason to refer access charge questions to a Joint Board. The origination and termination of interstate or foreign communications is interstate or foreign service. This Commission has exclusive jurisdiction to regulate charges for such services.

55. Finally, we recognize that the effort to prescribe access charges in this proceeding is closely related to our undertaking in Docket 79–245 to prescribe a manual and cost allocation procedures for AT&T (see *AT&T* 73 FCC 2d 679 (1979)). The final allocation of costs ***237** to AT&T's various interstate and foreign services will be determined in Docket 79–245. For example, in that docket we will consider how AT&T's private line access charge costs should be assigned to the various private line services. Access charges for both message and private line services might conceivably also have to be adjusted somewhat to meet certain methodological requirements of Docket 18128. Nevertheless, the access charges computed in this proceeding will provide a basis for allocating AT&T's exchange costs and establish a firm point of departure in establishing a cost allocation manual.

****12** *III. The Access Charge Plan*

56. We have concluded that access service categories must reflect functional differences in the use of exchange plant facilities in order to develop access charges that do not subject carriers or end users to unreasonable discrimination. End user services that are not functionally equivalent may use exchange plant in the same manner and end user services that are close substitutes from the users' perspective may use exchange plant differently. Any functional access service categories will necessarily have to be changed from time to time to reflect changes in the use of exchange plant facilities. The access charge scheme should not force access services into a particular mold, it should reflect the mold that happens to exist at a particular time.

57. Our tentative plan is based on the premise that existing services will not be changed before the initial prescribed access charges become effective. We have tentatively concluded that the existing services fall into four basic categories. The first three appear to have some functional differences and the fourth category may be sufficiently distinct to warrant rate differentials. For example, differences in quality of service may warrant differences in charges. It may be appropriate to expand or contract those categories to reflect existing differences or similarities which are not reflected in these four categories. We encourage interested persons to address that question.

58. Our four tentative access service categories are as follows:

1. *MTS/WATS.*

If it can be shown that the ‘closed end’ of a WATS access line differs significantly from MTS access and that the cost of this difference can be approximated, we will consider separating MTS and WATS into separate categories and requiring separate charges. [6]

2. *FX and CCSA Access—so called ‘open end’ of an FX line or CCSA-ONAL.*

The closed end of an FX line or a private access arrangement for a CCSA system will receive the same charge as private line access.

***238** 3. *Private line.*

All dedicated access arrangements will be treated as part of a single category for purposes of this proceeding. As already noted, further disaggregation of private line access charges may conceivable be required in Docket 79–245.

4. *OCC-ENFIA*

The access charges in this category would apply only to ENFIA-type services provided by the OCCs (i.e., services offered by non-partners that are functionally equivalent to MTS or WATS). OCC FX service access and OCC private line service access will be subject to the same charges as telephone company services in these categories except insofar as some adjustment may be needed to reflect differences in the way these facilities are provided to telephone companies, on the one hand, and the OCCs, on the other hand. [7]

59. Before proceeding to describe the computations necessary to formulate access charges, we believe it will be helpful to review the broad outlines of the plan and some of the assumptions upon which it is based.

****13** A. The access charge plan proposed here leaves largely intact the existing settlements/divisions pooling arrangements. Exchange carriers will continue to receive reimbursement for the use of their plant by interstate services through the separations pool as implemented by the Bell DR process and existing settlement arrangements. Interstate carriers who access local exchanges to originate or complete interstate calls will continue to pay monies into the settlements divisions pool. However, they will pay based upon the access charge described below. The total access charges will be computed to yield approximately the same revenues to the exchange carriers as they now receive.

B. The access charge plan proposed here does not affect the existing separations procedures contained in the *Separations Manual*. As noted above, a review of the current *Separations Manual* allocations will be undertaken at the Joint Board proceeding which we intend to convene in the near future.

C. The access charge plan proposed here continues to rely upon AT&T to perform its traditional role as a ‘clearing house’ for the settlements/divisions process. In fact, it will remain for AT&T to compute the actual access charges based upon the instructions provided below.

D. The access charge plan proposed here will require the collection of additional data so that costs can be allocated to ***239** the separate access service categories listed above. Where data requirements can be made less burdensome without substantially lessening the accuracy of the computations required to determine access charges, we expect that the participants will inform us in their comments as to precisely how this can be accomplished. As is the case with the *Separations Manual*, we will permit “short cuts' where practicable and where their application produces substantially the same separations results as would be obtained by the use of more detailed procedures.' (*Separations Manual*, Section 11.15). We also recognize that even with the additional data we are requesting, we cannot expect perfection. There must always be some compromise between the need for detailed information and the cost or availability of additional data. Our goal in implementing the proposed access plan is to achieve an acceptable balance in this respect and to obtain, as best we can, a parity which eliminates possible discrimination between OCC and AT&T services, and amongst the different AT&T services, in obtaining interstate access.

E. The access charge plan proposed here assumes that exchange plant settlements would be accomplished monthly and would be coordinated with interexchange pool settlements. Our tentative plan does not contemplate that this Commission would prescribe detailed rules for accomplishing that coordination. We would assume in the absence of contrary evidence that the participating carriers can adequately adapt the existing machinery through voluntary agreements.

F. The access charge plan proposed here assumes that local exchange service utilized at the ‘open end’ by FX and CCSA subscribers is interstate service subject to our jurisdiction. See, *New York Telephone Co.*, FCC 80–95, released March 12, 1980. Although the Commission had not previously asserted jurisdiction over local exchange service when such service is provided in connection with interstate FX and CCSA service, we have tentatively decided (for reasons described below) to do so in this proceeding and to require an interstate access charge for FX and CCSA service. [8]

****14** 60. For purposes of developing an access charge we would define 'exchange plant' as plant used to furnish both local and toll service. This definition appears to be identical with that found in the DR Glossary which describes exchange plant as:

> ***240** Plant used primarily to furnish local (exchange) services and consisting of manual and dial local switching equipment, trunk plant, subscriber lines, station equipment, land and buildings. Of course, exchange plant is also used in connection with furnishing toll services.

The *Separations Manual* defines 'exchange circuit plant' to be

A combination of (a) exchange outside plant, (b) exchange circuit equipment, including associated land and buildings and (c) station equipment.

This definition differs somewhat from the definition proposed here (and presumably from the definition in the DR Glossary as well) because Category 1.2 of Exchange Outside Plant—Exchange Trunk Outside Plant Excluding Wideband—is described in Section 23.212 of the *Separations Manual* to include 'toll connecting trunks.' Since these trunks presumably do not carry exchange traffic, they should, consistent with our definition of exchange plant, be excluded (along with any associated indirect investment or expense) from the computation of exchange access charges. If the precise segregation of toll connecting trunks is not feasible, care should be taken to ensure that no portion of the access charge applied to the OCCs or to other users—whether for private line, FX-CCSA 'open end' or ENFIA type services—results in billing them for facilities which they are paying for in other tariffs or which they do not receive at all.

61. In presenting the tentative access charge plan we have noted areas which we believe to be of particular difficulty and specifically request the comments of interested persons. The participants are, of course, free to comment on any aspect of the plan and to suggest improvements or alternatives which they deem appropriate.

62. The access charge is to be computed as follows:

Step 1—*Distribution of Direct Investment in Exchange Plant Assigned Interstate*

> A. Investment in Subscriber Line Outside Plant (Category 1.3), station equipment, non-traffic sensitive central office switching equipment (Category 6) and subscriber line exchange circuit equipment (Category 8.1) should be distributed to the access service categories (MTS/WATS, FX/CCSA 'open end,' private line and OCC-ENFIA) on the basis of holding time minutes of use. [9]

We recognize that all the access service categories do not use the plant elements described above in exactly the same way and that, in particular, private line and message services may use non-traffic sensitive central office switching equipment or circuit plant differently or to a different extent. We are unable to determine, however, how costs are affected by the differences in the way in which such plant is used. For example, we do not know to what extent private line service uses less non-traffic sensitive switching or circuit equipment in ***241** different types of switches (electronic, crossbar, step-by-step, panel) or switching arrangement than message and what cost savings vis-a-vis message service are achieved thereby. Moreover, the savings, if any, for private line switching might be offset by the cost of 'hard wiring' these lines into place or otherwise providing special arrangements or treatment for private lines. Indeed, it is conceivable that station, loop and central office costs for certain private lines, or even for the private line category as a whole, might be lower than for message service.

****15** 63. Private lines can also be used to access local exchanges for the purpose of originating or completing long distance calls. Although private lines are generally described as dedicated, unswitched, point-to-point facilities, they frequently (perhaps even typically) originate or terminate at a private branch exchange (PBX) facility controlled by the subscriber. With a PBX, the private line subscriber has the capability to 'patch' an interstate call to off-network destinations in the local exchange. At the local exchange such a call is indistinguishable from a local call, even though the call originated in another state. [10] The off-network connection through the subscriber's PBX utilizes the telephone operating company's local exchange

facilities in a manner similar to switched services, but somewhat more extensively. Thus, an interstate call going off-net from a local PBX would have to traverse two subscriber loops, would use station equipment at both ends of the off-net portion of a call, and would be switched from the line side to the trunk side of one local switch and then back from the trunk side to the line side probably at another local switch. While we believe that such off-net use of exchange plant by private lines is extensive, we are not aware of any statistics or measurements which would enable us to quantify such use or to assess the costs which should be attributed to private line service because of off-net local access. It appears reasonable to assume that such additional costs are sufficient to offset any cost savings in bypassing the local switch.

64. These differences between the various service categories, however, would appear to be far less significant than the basic similarities in their use of the facilities and equipment to be allocated in Step 1A. In all cases, access is accomplished through the use of local central office facilities, subscriber loops and station equipment. Given these similarities, and given the fact that we cannot quantify any cost differences between the different access service categories, we believe that allocating the investment in Step 1A on the basis of holding time minutes is the most reasonable solution available to us in accomplishing ***242** our goal of achieving approximate parity among the various interstate services. [11] Before adopting a final access charge plan, this Commission will, of course, consider any evidence presented by the participants in their comments that would demonstrate that the different access service categories use the plant allocated in Step 1A differently; that the costs associated with such differences can be quantified; and, that these costs differences should be taken into account in our access charge allocations. [12]

B. Investment in traffic sensitive local dial switching equipment (Category 6) should be distributed entirely to the message access service categories (MTS/WATS, FX-CCSA 'open end' and OCC-ENFIA) on the basis of relative dial equipment. minutes (DEMs), as defined in *Separations* Manual § 24.83, except that if any such investment is presently assigned directly to private line service in accordance with DR instructions such investment should continue to be assigned directly to private line. [13]

****16** C. Investment in that portion of exchange trunk outside plant used jointly for exchange and toll message service (i.e., the jointly used plant in Category 1.22) and related exchange trunk circuit equipment (Category 8.12) should be distributed to the message access service categories on the basis of relative minutes of use. As noted above, plant used exclusively for toll service is not within exchange plant, as we have defined that term, and such plant in Category 1.22 and Category 8.12 should be assigned to the interexchange portion of interstate service.

D. Investment in exchange trunk outside plant used for interstate private line service (Category 1.24) and any related circuit equipment should be assigned directly to private line service. However, consistent with Step 1C, outside plant facilities running between local central offices and toll offices should be excluded and considered as interexchange plant.

E. All other direct plant investment (including central office Categories 1, 2 and 4) should be distributed among the access service categories based on the same factors which are used in the *Separation Manual* to allocate the particular plant category or subcategory between state and interstate jurisdictions. If the *Separations Manual* factors cannot be used for this purpose, investment should be distributed based on *Separations Manual* principles (as implemented and interpreted by AT&T in its DR instructions and as used by AT&T to prepare its 1978 Central ***243** Submission filed with this Commission) or, alternatively, on the basis of relative minutes of use. Here again, in making these computations, care should be taken to exclude direct investment unrelated to OCC exchange access. We will require that AT&T include in its comments the allocation factors which it intends to use in distributing investment in Step 1E.

Step 2 *Distribution of Remaining Investment and Expenses for Exchange Plant Assigned Interstate*

65. The investment and exchange plant not distributed in Step 1 (e.g., land and buildings, furniture and office equipment, vehicles and other work equipment, organization, franchises, patent rights, plant under construction, materials and supplies, cash working capital) and the expenses related to the provision of exchange access should be distributed to the exchange

service categories based upon the methodology employed by AT&T in developing its restated FDC 7 results for its 1978 Central Submission (submitted February 8, 1980) and on the factors contained in Volume 28 of the 1978 Central Submission.

66. It is our tentative view that the measurements required to distribute direct investment in Step 1 and indirect investment and expense in Step 2 should appropriately be made on a study area basis consistent with the current practice. [14] The study area results would then be summed to obtain nationwide investment and expense totals.

67. In making the investment and expense allocations required in Step 2, we believe that such investment and expense that is not required to provide service for both the OCCs and AT&T should be excluded from the definition of exchange plant for the purpose of computing access charges. For example, we have tentatively concluded that revenue accounting expenses allocated to interstate services and other expenses and investments allocated to interstate services through the use of revenue accounting expense factors should not be included in exchange plant for the purpose of computing access service compensation. Inasmuch as local exchange carriers do bill end users of most partnership interexchange services and do not bill end users of interexchange services offered by non-partners, billing and collection costs must be isolated from the use of the local exchange facilities for purposes of establishing access service compensation arrangements. [15] Revenue accounting expenses are essentially end user billing and collection functions. Under the present *Separations Manual* accounting costs associated with access service are apparently allocated to the connecting company relations portion of commercial expenses. It will be necessary to change some accounting practices to reallocate some ***244** expenses related to the billing of carrier's carrier charges to non-partners from revenue accounting to connecting company relations.

****17** 68. Similarly, we have tentatively concluded that the sales and advertising portion of commercial expense and any expense related to license contracts should be excluded in computing access charges since these factors do not serve non-partnership carriers in the same way as they benefit the participants in the partnership. On the other hand, we believe that there may be additional expenses—specifically the expense of administering the access charge plan—which should be included within exchange plant.

69. We request interested persons to comment on any investment or expense adjustment that may be necessary to achieve quality of treatment between partnership and non-partnership carriers.

Step 3 *Computation of Preliminary Exchange Access Revenue Requirement by Service Category*

70. The exchange access revenue requirement for a service category is equal to the rate base investment distributed to the category times the prescribed rate of return plus the expenses assigned to the category. The investment and expenses are distributed as explained in Steps 1 and 2. We have tentatively concluded that the rate of return which should be used to compute revenue requirements is the interstate rate of return for AT&T (currently 9.5 percent). Although we recognize that the cost of capital for some exchange carriers may be higher than for AT&T, we see no practical alternative to using AT&T's rate of return at this time. AT&T dominates the telephone industry and, under any test, provides far more exchange service than all of the other carriers combined. If the Commission allows access charges to be computed at a rate of return higher than that prescribed for AT&T, access charges would be excessive for the bulk of exchange service being provided. If the Commission allows a different rate of return to be used for each exchange carrier, the computation of access charges would become far more difficult (and perhaps totally impossible) and would undermine our goal in this proceeding of establishing uniform nationwide access charges. A variable access charge, moreover, would appear to lead to deaveraged nationwide toll rates with a separate rate being charged for each exchange origination or destination.

71. We will consider nonuniform access charges and the possibility of deaveraging in subsequent access service arrangements. Our tentative view is that the need for immediate action makes it impossible to take such a step at this time. However, interested persons are encouraged to express their positions on this point in their comments.

Step 4 *Adjustment of the Revenue Requirement for Each Access Service Category to Reflect the FX-CCSA Credit*

72. The revenue requirement obtained for each service category must be adjusted to reflect the fact that FX and CCSA subscribers pay ***245** an intrastate (B–1) charge for access pursuant to state tariffs. As already explained in our recent order in *New York Telephone Co., supra*, FX and CCSA 'open end' access must be considered as part of an end-to-end interstate service. Under ordinary circumstances, the charges for FX and CCSA 'open end' access would be tariffed interstate. However, for reasons addressed in *New York Telephone*, we have not asserted our jurisdiction over FX and CCSA exchange access where the rates for exchange service charged to FX and CCSA users are the same as those charged local customers. Thus, at the present time, rates for FX and CCSA access are tariffed intrastate and the exchange minutes of use for FX and CCSA access are not considered for separation purposes as interstate minutes. In the interests of dispatch, we are willing to allow this rather anomalous situation to continue until the FX/CCSA situation can be fully resolved through *Separations Manual* revisions.

****18** 73. To avoid double payment by FX and CCSA customers, however, the local exchange service charges paid by FX and CCSA users in the foreign exchange must be deducted from the interstate access charges computed in this proceeding. We will, therefore, require that the total local exchange charges paid be deducted from the preliminary FX/CCSA revenue requirement computed in Step 3 and that the amounts so deducted then be added to each access service category based on the relative holding time minutes. [16]

74. Alternatively, we might exercise our Section 201(a) power to order carriers to provide FX and CCSA services to end users at end-to-end joint rates which will replace the separate charges for the 'private line' and the open end portions. If *Separations Manual* revisions which include some investments and expenses attributable to open end FX-CCSA access service in the interstate rate base and expenses have not been adopted at the time access service compensation arrangements are prescribed, an interim accounting adjustment would be necessary to reallocate some investments and expenses from intrastate to interstate services. That adjustment will be designed to avoid altering the cost burdens that are imposed upon intrastate services other than open end FX/CCSA and might be accomplished by using the ratio between open end FX-CCSA billing and total intrastate billings in each ***246** state to determine the portion of exchange plant investments and expenses in each state that would be reallocated to interstate services.

75. Whatever course is adopted it remains our view that any interim adjustments should be designed to avoid increasing or decreasing revenue requirements for *bona fide* intrastate services. This is our view because prior decisions adopting a particular combination of allocation formulae for jurisdictional separations purposes were based upon judgment that the combination of formulae would produce aggregate equity between intrastate and interstate users. Section 410(c) was subsequently enacted in order to create a consultative mechanism which must be used in adopting changes that would alter the aggregate allocations in a manner that would favor either interstate or intrastate users. That purpose would be frustrated if we adopted an interpretation of the present *Separations Manual* which changes the results produced by accounting practices that were in effect at the time of the last *Separations Manual* revisions.

76. Participants in this proceeding who contend that it would be more equitable to apply weighting factors to open end FX-CCSA usage that would shift some burdens from intrastate users to interstate users have generally argued that such changes should be effectuated through Joint Board procedures. Such participants have implicitly acknowledged that it would not be proper to accomplish that result through interim changes in accounting practices.

77. We request interested persons to comment and present their views as to the most appropriate way to handle the FX-CCSA access problem pending a more definitive resolution.

****19** Step 5 The Computation of Access Charges for Each Access Service Category

78. Access charges for the message service categories should be computed by dividing revenue requirements for the service category by total holding time minutes of use for the category to obtain a charge per holding time minute. An access charge for the private line category should be computed by dividing private line revenue requirements by the total number of lines to obtain a monthly charge per private line.

79. We have tentatively concluded that the computations described herein should be undertaken monthly. The procedure we have in mind would parallel the existing divisions/settlements process. Thus, access charges for each service category would be estimated monthly and paid on a current basis. Final adjustments would then be made several months later when the necessary data could be gathered and processed to determine the precise access charge.

80. We would, however, consider as an alternative, procedures under which access charges would be computed for a definite (perhaps 6 months or a year) or indefinite future period. Under such an arrangement the per minute or per line access charge would remain in effect until replaced by a subsequent charge.

***247** 81. In either event access charges would be computed on the basis of nationwide average data for purposes of determining the charges paid by or allocated to interexchange carriers. The receipts from the access charge pool that each exchange carrier receives would be computed by reallocating the pool on the basis of each exchange carrier's exchange plant investments and expense assigned interstate.

IV. Comment Filings and Ordering Clauses

82. We are not ordering or requesting that carriers or others gather data to implement the plan described in Part III at this time. We expect to issue a further order which will adopt a final plan for access service compensation arrangements. We may make substantial revisions in the tentative plan described in this Notice in light of the comments received pursuant to this Notice and any other information that may be developed by our staff.

83. The comments which are filed in response to this *Second Supplemental Notice* should be directed to access service compensation questions. Comments which relate to the aggregate allocation of costs and investments between interstate and intrastate services should be reserved for the separate Joint Board proceeding which we will be instituting shortly. [17] Comments which relate to other issues encompassed within the *Supplemental Notice* should be reserved until we determine which, if any, of those issues warrant further comment in this proceeding. That determination will probably be expressed in a Third Supplemental Notice.

84. Accordingly, IT IS HEREBY ORDERED that the invitation to file requests for information with the Chief of the Common Carrier Bureau IS RESCINDED.

85. IT IS FURTHER ORDERED that the invitation to file replies to the industry model comments filed herein on March 3, 1980, IS RESCINDED.

****20** 86. IT IS FURTHER ORDERED that AT&T will include in its comments the allocation factors which it would use on Step 1E if we adopt our tentative plan.

87. IT IS FURTHER ORDERED that interested persons may file comments relating to arrangements to compensate exchange carriers for the use of local exchange facilities to originate or terminate interstate or foreign telecommunications on or before July 31, 1980, and may file reply comments relating to that subject on or before September 15, 1980. Pursuant to the procedures set forth in Section 1.51(c)(1) of the Commission's Rules (47 C.F.R. § 1.51(c)(1)), an original and nine (9) copies of all filings shall be furnished to the Commission. All comments received in response to this Notice will be made available for public inspection in the Docket Reference Room in the Commission's ***248** offices in Washington, D.C. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Order.

88. IT IS FURTHER ORDERED that the Secretary shall cause this Second Supplemental Notice to be published in the Federal Register, and that this proceeding remains subject to further order by the Commission.

FEDERAL COMMUNICATIONS COMMISSION*,

WILLIAM J. TRICARICO, *Secretary*.

* See attached Separate Statement of Chairman Ferris and Concurring Statement of Commissioner Fogarty in which Commissioner Jones joins.

***249** SEPARATE STATEMENT OF CHARLES D. FERRIS, CHAIRMAN

April 9, 1980

RE: SECOND SUPPLEMENTAL NOTICE OF INQUIRY AND PROPOSED
RULEMAKING IN THE MATTER OF MTS AND WATS MARKETS STRUCTURE

Just two days ago we freed the most rapidly growing and dynamic communications markets from needless regulation in our *Final Decision* in the *Second Computer Inquiry* (Docket 20828). Today we take another giant step in the evolution toward competitive communications markets by starting a proceeding to create a fair system to pay local telephone exchange carriers for the origination and termination of interstate telephone calls.

Robust competition in enhanced telecommunications service will emerge from our decision Monday in the *Second Computer Inquiry*. Today we ensure that an important basic building block for those newly competitive markets will be fairly priced for all competitors.

Reimbursement of local telephone companies for their role in providing interstate services is a major unsettled issue resulting from the introduction of interstate competition in telecommunications services. Developing a solution to this problem will benefit ratepayers and competitors alike.

Future ratepayers will be better off because customers who today use services that do contribute to local exchange costs shoulder an unfair burden. Costs will be borne more equitably where all services contribute.

****21** Competitors will also be better off because for the first time it will be possible to insure that all carriers are treated equitably.

This is the essential first step in what will undoubtedly be a long and complicated process. We must also revise the present separations and settlements scheme—not a simple task. It is a process in which all interested parties—the FCC, state agencies, carriers and consumers alike—have a common interest in arriving at a fair and equitable access charge. I am confident that the formulation of such a charge will be expeditiously attended to by our staff and the representatives of these parties.

Indeed, I think much of the work necessary to arrive at a fair access charge has been done. Many parties, among them NTIA and representatives of telephone companies serving rural areas, have been examining these issues as part of formulating their positions on various legislative proposals. Our staff has also been working on this issue. Thus, I am confident that we are well on the way to achieving a consensus on a fair and equitable charge.

The problem of providing competitors with non-discriminatory physical access to local exchange facilities is also ahead of us. I hope we can move swiftly on all these fronts so that consumers can begin to reap the benefits that solutions to these problems will bring.

***250** I am committed to moving in do-able steps to a truly competitive market structure in telecommunications. To get there from here, the FCC has shown a commitment to identifying and resolving interrelated issues in contexts that recognize their relationship, but at the same time are not so broad as to be doomed.

I also believe that an open-minded attitude about the possibility of future alterations as circumstances in these transitional markets change is an honest and positive regulatory posture in as dynamic a market as telecommunications. An access charge is a critical element in accomplishing that transition to a more competitive market.

CONCURRING STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY IN WHICH COMMISSIONER ANNE P. JONES JOINS

IN RE: SECOND SUPPLEMENTAL NOTICE OF INQUIRY—MTS/WATS MARKET STRUCTURE

I believe that the tentative access charge plan set forth in this Second Supplemental Notice and Notice of Proposed Rule Making represents a very sensible and innovative approach. It develops a viable institutional arrangement for a competitive interstate telecommunications environment. It establishes an apparently nondiscriminatory rationale to be applied to the various interstate providers who use local exchange facilities. By establishing nationwide averaged access charges for each of the four classes of service, and by working within the framework of the existing separations and settlements institutional arrangement, it avoids many of the possible administrative problems about which I expressed concern in my concurring statement on the matter of Federal jurisdiction over the Exchange System Access Line Terminal Charge of the New York Telephone Company. [18]

****22** However, as I examine the mechanics of the tentative plan, I am not assured that it will prove to be an effective instrument to alleviate any upward pressures on residential rates which might occur as a result of our recently adopted policy of deregulating customer premises equipment. [19] In this respect, it has been estimated that the Bell system might experience a toll revenue shortfall of approximately $4.4 billion as a result of this action. I strongly urge that in analyzing the comment in this proceeding, the Commission address itself to this problem as it prepares the final version of an access charge plan.

FCC

Footnotes

1 Pooled services are sometimes described as services that are offered at uniform rates by all partners. However, a few services are partly pooled. Some independents do not concur in the Bell tariffs. The non-concurring companies keep the revenues and absorb the associated costs. The Bell entities and concurring independents allocate the pooled revenues among themselves.

2 Some deviations from the practice have occurred. See FCC 80–95, adopted February 28, 1980. An FX subscriber currently receives the same credit which a local subscriber would receive if the local subscriber elected not to use a carrier-provided telephone.

3 Similarly, Lincoln Telephone Co. attempted to charge MCI access compensation that exceeded the ENFIA formula rate. Lincoln was ordered to file a tariff for such service and to justify deviation from the ENFIA formula. *Lincoln Telephone and Telegraph Co.*, 72 F.C.C. 2d 724 (1979). A tariff purporting to comply with our order was filed on March 25, 1980.

4 AT&T uses the term 'other common carrier' to denote non-telephone company carriers such as specialized common carriers, domestic and international record carriers and domestic satellite carriers.

5 Such carriers are potential competitors in the provision of customer premises terminal equipment. However, our decision in the *Second Computer Inquiry* will result in the exclusion of customer premises terminal equipment from access services.

6 We will also consider separating origination and termination if factors such as the use of 10-digit or 7-digit switching warrant separate categories.

7 It may be possible to include FX-CCSA and OCC-ENFIA in a single category. However, differences may exist that would warrant different charges.

8 That tentative decision does not have any immediate effect upon the regulatory status of FX-CCSA open end rates, revenues, investments or expenses.

9 Customer premises equipment will be excluded if the access charge does not become effective prior to terminal equipment deregulation.

10 The patch-through capability can be manual, through an operator located on the subscriber's premises, or it can be accomplished automatically on some of the later model PBX machines.

11 As noted in Step 1B below, we are not requiring any portion of traffic sensitive switching plant to be allocated to private line service.

12 After the prescribed access charges become effective, we may conduct further rulemaking proceedings to introduce refinements.

13 Some services classified as private line are, in fact, switched (e.g., CCAS, SCAN) and some traffic sensitive switching equipment may be directly assigned to these private line services.

14 Study area results should include the relevant information for the independent telephone companies.

15 The initial arrangements would have to be revised if local exchange carriers subsequently provide billing and collection services to non-partners.

16 This computation might be expressed mathematically as follows:
Let TB1 = total B–1 charges paid intrastate;
HTMi = holding time minutes for access service category i, where i indexes the four categories; and
THTM = total holding time minutes (equal to the sum of the HTMi's).
Then for each access service category i, the amount to be added is
TB1 HTMi/THTM

17 However, participants may wish to comment upon interim accounting practices for open end FX-CCSA services in this phase of this proceeding.

18 *New York Telephone Company Exchange System Access Line Terminal Charge for FX and CCSA Service*, 76 FCC 2d, (Released March 13, 1980).

19 *Second Computer Inquiry*, *FCC 2d (Adopted April 8, 1980)*.

77 F.C.C.2d 224, 1980 WL 121716 (F.C.C.)

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