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FCC SEEKS COMMENT ON LONG DISTANCE INDUSTRY REGULATIONS

Action Aims to Address Rules Related to Local Phone Companies Offering Long Distance Service

Washington, D.C. – The Federal Communications Commission (FCC) today launched a proceeding focused on the regulatory framework for local phone companies offering long distance service. The Further Notice of Proposed Rulemaking (FNPRM) seeks comment on the regulatory classification of Bell Operating Companies (BOCs) and independent local exchange carriers (LECs), if and when these carriers provide in-region, interstate and international, interexchange services outside of a separate affiliate.

Once a BOC is authorized under section 271 of the Telecommunications Act of 1996 (1996 Act) to provide in-region, long distance service, it is subject to statutory separate affiliate requirements designed to address potential discrimination and cost misallocation. These section 272 separate affiliate requirements sunset in each state, as prescribed by the 1996 Act, three years after a BOC gains permission to provide long distance in an in-region state, unless extended by the FCC. The separate affiliate requirements sunset for Verizon in New York in December 2002. The next potential sunset date is for SBC in Texas in June 2003.

When a BOC or independent LEC provides in-region, long distance services on an integrated basis (i.e., without a separate affiliate), it is subject to dominant carrier regulation, which is a regulatory framework that the FCC adopted in the 1980s to distinguish AT&T's pre-divestiture market power from new entrants. Under dominant carrier regulation, carriers are required to file tariffs with supporting documentation for the service in question.

Since then, the long distance market has been marked by dynamic, competitive activity. For example, as of 2002, AT&T's household market share in the long distance market was slightly less than 37%, MCI's share was slightly less than 16%, Sprint's share was slightly less than 8%, the BOC long distance affiliates' share is over 15%, and 24% of the market belonged to other long distance carriers, according to the FCC's latest report on the long distance industry.

Generally, the Notice adopted today seeks comment on:

- Whether there is a continued need for dominant carrier regulation of BOCs' in-region long distance service after sunset of the section 272 separate affiliate requirements.
- With respect to independent LECs, whether or not they should be classified as non-dominant or dominant in the provision of in-region long distance service if the FCC modifies or eliminates the separate affiliate requirements currently imposed on independent LECs.
- Whether there are alternative regulatory approaches – besides dominant carrier regulation – to address any potential anticompetitive behavior.

To assess the appropriate regulatory requirements for BOCs and independent LECs when they provide in-region, long distance services, the proceeding will define the relevant markets and then analyze the market power of these carriers for these services. The Notice seeks comment on the extent to which carriers can leverage their market power from the local exchange and exchange access markets into the interexchange market. Additionally, the Notice seeks comment on how the following market trends should affect the FCC's analysis:

- BOC authority to offer long distance services in 41 states, plus the District of Columbia;
- an increase in bundled telecommunications services offerings;
- increased offerings of wide-area pricing plans by wireless carriers;
- limited, but increasing, substitution of wireless service for traditional wireline services, particularly for interstate calls; and,
- increased use of Internet-based applications (e.g., instant messaging, email).

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Docket Nos.: WC 02-112 and CC 00-175

Action by the Commission May 15, 2003, by Further Notice of Proposed Rulemaking (FCC 03-111). Chairman Powell, Commissioners Abernathy, Martin, with Commissioners Copps and Adelstein concurring. Joint statements issued by Commissioners Copps and Adelstein.

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