

# McLean & Brown

## ISSUE UPDATE

September 3, 2001

### Additional Comments in the FCC

### Inter-Carrier Compensation Proceeding

On August 27, 2001 we released an *Issue Update* providing a summary of comments filed with the FCC in CC Docket 01-92, the Inter-carrier compensation proceeding. While every effort was made to include all filed comments, we have since discovered several additional sets of comments that were inadvertently not included in the initial publication. McLean & Brown regrets any inconvenience, and provides the following summary of these comments.

If you forwarded a copy of the August 27, 2001 *Issue Update* on to others, would you be so kind as to forward this issue on as well? Also, if you have received your copy of this *Issue Update* from a friend or colleague and would like to be placed on our distribution list for future publications please send an e-mail, including your name, organization and e-mail address to: [issueupdate@mcleanbrown.com](mailto:issueupdate@mcleanbrown.com).

#### FLORIDA PSC

- An NPRM is not the most effective means to address the significant issues of inter-carrier compensation.
- FPSC supports a more collaborative effort to engage the 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.

#### ILLINOIS COMMERCE COMMISSION

- The ICC supports the Commission's goal to move to a unified inter-carrier compensation regime.
- To accomplish this goal the Commission should:
- Adopt any new regime on a comprehensive basis, including wireless traffic.
- Issue a more detailed proposal to allow parties to more extensively evaluate the proposal's impact
- Continue to regulate transport rates and maintain existing transiting rules under any new regime
- Evaluate changes to the existing CPNP regime if it is maintained as the unified regime.
- Maintain TELRIC as the appropriate pricing methodology for local transport and termination.

#### NARUC

- The effect of any unified B&K regime on market issues must be fully investigated by both federal and state regulators.
- Prior to further consideration, the FCC should refer the proposals and cost allocation issues to the Separations Joint Board for purposes of determining the effect on interstate and intrastate ratepayers, and refer the universal service issues to the Universal Service Joint Board.
- NARUC opposes a federal unified compensation regime based on B&K or other alternatives that would preempt state interconnection policies at this time and absent input from the states.

#### NASUCA

- The FCC has effectively proposed recovering traffic-sensitive costs through a fixed customer line charge:
- The surcharge is anathema to NASUCA.
- Congress did not open markets in 1996 so that the FCC could impose a regulatory outcome not observed in any other network industry (e.g., electricity, airlines, banking, credit cards).
- A unified intercarrier compensation regime would:
- Contradict the 1996 Act, as Congress intended carriers to negotiate reciprocal compensation, with states arbitrating disagreements.
- Violate *Smith v. Illinois* since it results in customers paying for costs associated with long distance calls.
- Violate fairness because low-volume users will subsidize high-volume users.
- Interfere with the development of the Internet by imposing a rate structure that discourages investment.

- Amount to confiscation since it requires carriers to provide interconnection without compensation.
- NASUCA recommends the following measures in lieu of the proposals in the NPRM:
- Do not adopt a specific mechanism due to the variety of services and dynamic nature of telecommunications.
- A wholesale capacity charge should be used in place of a flat end-user charge to recover termination costs.
- Changes must not undermine the authority of state commissions to mediate and arbitrate reciprocal compensation.

#### **TEXAS PUC**

- The PUCT is particularly concerned as to potential impacts on intrastate access rates and universal service.
- A number of questions raised in the NPRM appear to modify certain long-standing jurisdictional relationships that must not be undertaken without referring such matters to the Separations Joint Board.
- The Commission, in coordination with the states, should, as an initial step, determine if an efficiency standard is consistent with existing requirements in state and federal law regarding reasonableness in pricing and compensation.
- The PUCT is not persuaded that the goal of economic efficiency can be said to fully satisfy the public interest.
- PUCT suggests that the Commission consider convening a working group with representatives of state and federal regulators, consumer advocates, and carriers to further define the scope of the proceeding represented by this NPRM.

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