

INTERNATIONAL COMMUNICATIONS ASSOCIATION

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TELECOMMUNICATIONS PUBLIC POLICY COMMITTEE MEETING
AND DINNER

EMBASSY SUITE
1250 22ND STREET, N.W.

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THE FORCES OF TECHNOLOGY HAVE REQUIRED A REEVALUATION AND REDEFINITION OF THE STRUCTURE OF TELECOMMUNICATIONS SERVICE MARKETS.

THE FEDERAL TREND TOWARDS DEREGULATION OF THE TELECOMMUNICATIONS INDUSTRY HAS PLACED SUBSTANTIAL POLITICAL PRESSURE ON THE STATE COMMISSIONS WHERE PRIMARY CONCERN HAS BEEN THE CONTINUATION OF AFFORDABLE RATES FOR RESIDENTIAL AND SMALL BUSINESS CUSTOMERS. MANY OBSERVERS HAD SPECULATED THAT TECHNOLOGICAL, ECONOMIC AND POLICY DEVELOPMENTS WOULD COMPEL MORE STATE OFFICIALS TO PERMIT SOME FORM OF TELECOMMUNICATIONS FLEXIBILITY.

STATE INITIATIVES

IT WOULD APPEAR THAT THOSE OBSERVATIONS WERE CORRECT. SINCE 1983, ALMOST HALF OF THE STATES HAVE ENACTED MAJOR LEGISLATION PROVIDING FOR REDUCED REGULATION OR DEREGULATION OF COMPETITIVE TELEPHONE SERVICES. AS OF SEPTEMBER 1, 1987, TWENTY-TWO STATES HAVE ENACTED TWENTY-FIVE DEREGULATION STATUTES. WITH THE NOTABLE EXCEPTION OF NEBRASKA, THESE STATUTES HAVE LEFT THE ACTUAL

DECISION ON WHETHER AND HOW MUCH TO DEREGULATE IN THE HANDS OF THE STATE REGULATORY COMMISSION. 1/

IN JUNE OF 1987 THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION GRANTED THE PETITION OF AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST OF (ATTCOM-PACIFIC) FOR CLASSIFICATION AS A COMPETITIVE CARRIER AND WAIVED VARIOUS STATUTES AND RULES CONCERNING BUDGETS, EXCESSIVE EARNINGS, AND SERVICE OFFERINGS. A 1986 LAW REQUIRES THE PUC TO CLASSIFY A TELECOMMUNICATIONS PROVIDER AS COMPETITIVE IF IT FINDS, AFTER NOTICE AND HEARINGS, THAT THE COMPANY'S SERVICES ARE SUBJECT TO "EFFECTIVE COMPETITION" WHICH MEANS THAT CUSTOMERS HAVE REASONABLY AVAILABLE SERVICE ALTERNATIVES AND THAT THE COMPANY DOES NOT HAVE A SIGNIFICANT CAPTIVE CUSTOMER BASE.

HOWEVER, THE PUC FOUND THAT ATTCOM-PACIFIC RETAINED VESTIGES OF MARKET POWER IN CERTAIN LOCATIONS AND MADE ITS COMPETITIVE CLASSIFICATION CONDITIONAL. THESE CONDITIONS ARE THAT ATTCOM-PACIFIC SHALL 1) CONTINUE CHARGING GEOGRAPHICALLY UNIFORM RATES, 2) CONTINUE PROVIDING SERVICE IN ALL AREAS OF THE STATE, 3) BE RESTRICTED IN ITS ABILITY TO CHANGE PRICES CHARGED TO CUSTOMERS USING ONE HOUR OF LONG-DISTANCE SERVICE PER MONTH RELATIVE TO THE PRICES CHARGED TO CUSTOMERS USING TEN HOURS OF LONG-DISTANCE SERVICE PER MONTH, AND 4) BE RESTRICTED FROM PLACING PROHIBITIONS OR SURCHARGES FOR RESALE OR SHARED USE OF

ANY INTEREXCHANGE SERVICE OR FACILITY. THE CONDITIONS ARE TO REMAIN IN EFFECT UNTIL AT LEAST MARCH 1, 1990.

AS A RESULT OF ITS CLASSIFICATION AS A COMPETITIVE CARRIER, ATTCOM-PACIFIC IS PERMITTED TO FILE PRICE LISTS IN LIEU OF TARIFFS. IN DECLARING THE COMPANY COMPETITIVE, THE PUC FOUND THAT ATTCOM-PACIFIC HAD EXPERIENCED A SIGNIFICANT DECLINE IN MARKET SHARE, EASE OF MARKET ENTRY WAS SHOWN, CONSUMERS HAD SERVICE ALTERNATIVES, AND ATTCOM-PACIFIC DID NOT HAVE A SIGNIFICANT CAPTIVE CUSTOMER BASE. THE PUC CONSIDERED AND REJECTED VARIOUS PROPOSALS FOR THE REGULATION OF ATTCOM-PACIFIC SUCH AS THE IMPOSITION OF A RATE OF RETURN CAP, AND PRICE BOUNDARIES EITHER BECAUSE THEY WERE CONTRARY TO THE FLEXIBILITY STATUTE OR THEY WERE NOT WORKABLE IN A COMPETITIVE MARKET.

THE MARYLAND PSC HAS ALSO RELAXED ITS REGULATORY CONTROL OVER AT&T COMMUNICATIONS OF MARYLAND, INC. (ATTCOM-MARYLAND). IN 1984, THE PSC EXAMINED WHETHER MARKET FORCES WERE SUFFICIENT TO COUNTER A DOMINANT MARKET SHARE HELD BY ATTCOM-MARYLAND. THE COMMISSION CONCLUDED THAT MARKET FORCES WERE NOT SUFFICIENT, BUT THAT IT WAS NOT NECESSARY TO RETAIN TRADITIONAL RATE BASE, RATE OF RETURN REGULATION OVER THE COMPANY. THIS CONCLUSION WAS REACHED AFTER THE COMMISSION RECEIVED EVIDENCE CONCERNING ATTCOM-MARYLAND'S MARKET SHARE, EASE OF ENTRY, CAPITAL EXPANSION

CAPACITY OF OCCS, AVAILABLE ALTERNATIVES AND THE AVAILABILITY OF EQUAL ACCESS.

THE PSC AUTHORIZED THE COMPANY TO FILE FOR EXPEDITED RATE CHANGES, SO LONG AS THE CHANGES WERE WITHIN A BAND RANGING FROM A MINIMUM OF 5% BELOW A PSC SET REVENUE REQUIREMENT TO A MAXIMUM OF 5% ABOVE THE REVENUE REQUIREMENT. HOWEVER, THE COMMISSION ALSO ORDERED THAT THE COMPANY'S FINANCIAL OPERATIONS BE MONITORED.

IN 1986, THE MARYLAND PSC DETERMINED THAT THE COMPANY SHOULD BE GIVEN GREATER PRICING DISCRETION. THUS, ATTCOM-MARYLAND WOULD NO LONGER BE REQUIRED TO FILE FOR EXPEDITED RATE CHANGES WITHIN THE PSC'S PARAMETERS. HOWEVER, THE COMMISSION WOULD CONTINUE TO REQUIRE FINANCIAL MONITORING, WOULD NOT ACCEPT GEOGRAPHICALLY DEAVERAGED RATES AND WOULD REQUIRE THAT ANY PROPOSED RATE DESIGN CHANGES OR NEW SERVICES BE DOCUMENTED AS TO THEIR REASONABLENESS PRIOR TO ACCEPTANCE.

MOST RECENTLY, THE MARYLAND COMMISSION IS CONSIDERING A REQUEST BY ITS BOC, C&P TELEPHONE, THAT BASIC SERVICE RATES BE FROZEN AND MARKET BASED PRICING BE APPLIED TO SERVICES WHICH ARE OPTIONAL OR WHICH FACE SIGNIFICANT COMPETITION. C&P ESTIMATED THAT SUCH MARKET-PRICED SERVICES WOULD REPRESENT 40% OF ITS REVENUES.

RATES TO BE "PROTECTED" INCLUDE BOTH DIAL TONE AND USAGE PORTIONS OF RESIDENTIAL SERVICE. FOR BUSINESS, DIAL TONE RATES WOULD BE FROZEN AND USAGE RATE INCREASES WOULD NOT EXCEED 2 CENTS PER MESSAGE OVER FOUR YEARS. MARKET PRICED SERVICES WOULD INCLUDE CENTREX, PUBLIC PHONES, CUSTOM CALLING FEATURES, WATS, PRIVATE LINE, SPECIAL AND SWITCHED ACCESS, BILLING AND COLLECTION, 976, YELLOW PAGES AND INSIDE WIRE INSTALLATION AND MAINTENANCE.

THE COMMISSION HAS ESTABLISHED A TASK FORCE TO REVIEW THE PROPOSAL. ITS REPORT IS DUE BY DECEMBER 31, 1987.

THE MICHIGAN PUBLIC SERVICE COMMISSION ADOPTED A HYBRID FORM OF REGULATION UNDER WHICH ATTCOM-MICHIGAN HAS LESS REGULATORY FREEDOM THAN OTHER CERTIFICATED INTEREXCHANGE CARRIERS, BUT ENJOYS A SUBSTANTIAL AMOUNT OF RATE FLEXIBILITY. ATTCOM-MICHIGAN WAS AUTHORIZED TO EARN A RATE OF RETURN WITHIN A SPECIFIED RANGE, WAS PERMITTED TO ENGAGE IN LIMITED FLEXIBLE PRICING AND WAS ALLOWED TO CONDUCT MARKET TRIALS AND RATE EXPERIMENTS UNDER A STREAMLINED APPROVAL PROCESS.

IN JANUARY OF 1987 A TWO-PART DEREGULATION BILL BECAME LAW IN MICHIGAN. PART ONE ALLOWS FLEXIBILITY IN THE REGULATION OF CERTAIN SERVICES THAT FACE COMPETITION OR ARE CONSIDERED NEW, PROMOTIONAL OR EXPERIMENTAL. RATES WOULD TAKE EFFECT WITHIN 30

DAYS OF FILING WITHOUT A FORMAL PROCEEDING. PART TWO PERMITS THE TOTAL DEREGULATION OF COMPETITIVE SERVICES. THE MICHIGAN PUBLIC SERVICE COMMISSION WOULD DETERMINE WHETHER A SERVICE IS COMPETITIVE, BUT THE LAW ALSO PROVIDES THAT THE PSC WOULD LOSE ITS AUTHORITY TO REGULATE TELECOMMUNICATIONS ON JANUARY 1, 1992.

NORTHWESTERN BELL RECENTLY INITIATED THE INTRODUCTION OF A BILL IN SOUTH DAKOTA WHICH CALLS FOR THE IMMEDIATE DEREGULATION OF LOCAL SERVICES AND THE REMOVAL OF THE PUC'S OVERSIGHT OF LOCAL RATES. OF COURSE, THE PUC RESISTED AND THE LEGISLATION HAS BEEN REVISED SEVERAL TIMES. THE PUC IS NOT OPPOSED TO DEREGULATION PER SE, BUT BELIEVES THAT IT SHOULD BE DONE ON A GRADUAL BASIS AND SHOULD FOLLOW PROPER ADMINISTRATIVE PROCEDURES. THE PUC HAS RELUCTANTLY AGREED TO THE CLASSIFICATION OF SERVICES AS NON-COMPETITIVE, EMERGING COMPETITIVE AND FULLY COMPETITIVE FOR DEREGULATORY PURPOSES, BUT INSISTS THAT IT IS THE ONE TO CLASSIFY THE SERVICES. NORTHWESTERN BELL HAS TAKEN THE POSITION THAT IT IS IN THE BEST POSITION TO KNOW THE STATUS OF ITS SERVICES.

THE LEGISLATION IS AT A STALEMATE PENDING A STUDY BY A LEGISLATIVE COMMITTEE. HOWEVER, THE PUC HAS STATED THAT IF THE FINAL VERSION OF THE BILL IS PASSED OVER ITS OBJECTION, IT WILL SEEK A REFERENDUM.

THESE EXAMPLES ILLUSTRATE STATE COMMISSIONS WILLINGNESS TO ASSESS THE VIABILITY OF ALTERNATIVES TO RATE OF RETURN REGULATION. MOREOVER, THEY ARE PREPARED TO INVESTIGATE AND DEVELOP INNOVATIVE PRICING TECHNIQUES AND IMPLEMENT THEM WHERE AND WHEN THEY ARE APPROPRIATE. STATE REGULATORS ARE VERY MUCH AWARE THAT THE COMPANIES THEY REGULATE MUST BE ABLE TO ACT QUICKLY IN ORDER TO TAKE FULL ADVANTAGE OF THE NEW COMPETITIVE ENVIRONMENT.

FOR THIS REASON, SEVERAL STATES HAVE ESTABLISHED A RANGE OF ALLOWABLE RATES-OF-RETURN INSTEAD OF TARGETING A SPECIFIC RATE. IN CONNECTICUT, PRICES FOR SOUTHERN NEW ENGLAND TELEPHONE (SNET) ARE SET TO MEET A TARGET RATE-OF-RETURN OF 13%, EQUITY RETURNS OF 13% TO 13.5% ARE RETAINED BY SNET, BUT RETURNS BETWEEN 13.5% AND 14.3% ARE SPLIT BETWEEN SHAREHOLDERS AND RATEPAYERS. PROFITS IN EXCESS OF 14.3% ARE RETURNED IN FULL TO RATEPAYERS. SNET IS NOT PERMITTED TO FILE FOR A RATE INCREASE UNTIL AT LEAST 1989 UNLESS ITS RATE OF RETURN FALLS BELOW 11% FOR ONE YEAR.

WISCONSIN BELL'S TARGET RATE OF RETURN IS 13.5%, BUT IT CAN RETAIN ALL EARNINGS UP TO 14%. EARNINGS IN THE 14% TO 15.5% RANGES ARE SHARED BY RATEPAYERS AND SHAREHOLDERS. EARNINGS OVER 15.5% ARE RETURNED TO SHAREHOLDERS. WISCONSIN BELL HAS AGREED NOT TO FILE FOR A RATE INCREASE UNTIL 1989 AND THEN ONLY IF ITS RETURN ON EQUITY FALLS BELOW 12.5%.

IN THE STATE OF WASHINGTON, THE UTILITIES AND TRANSPORTATION COMMISSION HAS PROPOSED "INCENTIVE REGULATION" WHICH WOULD ESTABLISH A RANGE FOR RATE OF RETURN AND DEVELOP INDICES TO MONITOR SERVICE QUALITY.

RATES WOULD BE SET TO RECOVER A RETURN IN THE MIDDLE OF THE RANGE. THE COMPANY WOULD AGREE NOT TO SEEK A RATE INCREASE UNLESS ITS RETURN FELL BELOW THE LOWER END OF THE RANGE. ALSO BEING CONSIDERED IS A "BONUS" RATE OF RETURN UNDER WHICH TELCOS WOULD KEEP SOME EARNINGS OVER THE AUTHORIZED RETURN AND THE REST WOULD GO TO THE RATEPAYERS.

SERVICE QUALITY INDICES SUGGESTED BY THE WUTC INCLUDE ENGINEERING FACTORS SUCH AS BLOCKAGE RATIOS, PLANT USE FACTORS AND QUALITY OF CONNECTIONS AND CUSTOMER SERVICE FACTORS, SUCH AS THE NUMBER OF JUSTIFIED COMPLAINTS. FINANCIAL INDICES ALSO MIGHT BE DEVELOPED.