

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

REGULATORY REFORM REVIEW COMMISSION

Thursday, December 11, 1997

Harvest Room, State Capitol

Bismarck, North Dakota

Representative Mick Grosz, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representative Mick Grosz; Senators John M. Andrist, Joel C. Heitkamp; Public Service Commissioner Bruce Hagen

Member absent: Representative Eliot Glassheim

Others present: See Appendix A

It was moved by Commissioner Hagen, seconded by Senator Heitkamp, and carried that the minutes of the previous meeting be approved as mailed.

At the request of Chairman Grosz, Mr. Bruce Schoonover, Sr., Executive Vice President, John Staurulakis, Inc., distributed a written presentation on cost recovery. A copy of his presentation is attached as Appendix B. He also distributed three handouts, *North Dakota: Phone Facts & Service Area Guide*, *New Phone Tax*, and *McCain Concerned About Rate Hikes Linked to Universal Service*. A copy of each is on file in the Legislative Council office.

In response to a question from Senator Andrist, Mr. Schoonover said access fees should not be removed. He said access fees are collected for the service provided by local exchange providers to the interexchange carrier in connecting toll calls.

In response to a question from Senator Andrist, Mr. Schoonover said there is little or no opportunity for profit for interexchange carriers when rural companies charge nine cents per minute for access, e.g., toll calls between two rural carriers would cost the interexchange carrier at least 18 cents per minute. He said rates are set on averages and not on individual calls. He said an interexchange carrier may lose money on a particular call.

In response to a question from Representative Grosz, Mr. Schoonover said if the Legislative Assembly does not make any changes in the next session which affect rural access charges, rural companies will be able to continue to recover their costs. He said inaction by the Legislative

Assembly may create a problem for U S West, especially if the state is burdened with a 75 percent portion of universal service funding. He said there are three ways for interexchange carriers to bypass high access charges. He said an interexchange carrier could provide a facility bypass, a loop bypass, or could lease the loop.

In response to a question from Senator Andrist, Mr. Schoonover said the Telecommunications Act of 1997 requires reasonable comparable services and rates on a nationwide level. He said the 75/25 percent allocation of universal fund costs does not square with this principle. He said he thinks Federal Communications Commissioner Reed Hunt wanted to use intrastate revenues to fund the universal service fund. He said the states rejected this idea. He said the Federal Communications Commission's May 7 order that created the 75/25 percent split was a means to reach the original goal. He said previous lobbying efforts by rural America have influenced previous Federal Communications Commission orders.

In response to a question from Senator Andrist, Mr. Schoonover said access charges are essential to rural companies so that these companies can recover costs. He said access rates are used at the federal level to support universal service. He said if access rates decrease, rural companies will need a supplemental income source. He said the states can implement programs to provide this supplemental source.

Commissioner Hagen said he met with the new Federal Communications Commission and he sees an opportunity for changing the present 75/25 percent split.

In response to a question from Representative Grosz, Mr. Schoonover said the first year in which the 75/25 percent split could affect this state is 1999.

Representative Grosz said he does not think there are any subsidies in access. He said it costs more to begin and terminate a toll call in North Dakota.

In response to a question from Senator Andrist, Mr. Schoonover said a portion of access charges will be used to pay for connecting schools, libraries, and hospitals with telecommunications technology, so state universal service funds will not be needed for these purposes. He said interexchange carriers can add the extra cost on as a surcharge.

Commissioner Hagen said the universal service funding for schools and libraries is a phone tax.

Representative Grosz said the Telecommunications Act of 1996 funds education through a telecommunications bill.

In response to a question from Representative Grosz, Mr. Schoonover said states can set intra-state access rates. If rural companies lost the top five percent of customers, he said, they would lose 22 to 28 percent of revenues. If they lost the top 20 percent of customers, he said, they would lose 80 percent of revenues. He said a natural monopoly may be the most efficient way to serve areas in which both companies would fail if there were competition. He said a natural monopoly needs regulation.

Commissioner Hagen agreed with Mr. Schoonover that monopolies need regulation.

In response to a question from Senator Andrist, Mr. Schoonover said if wireless can bypass rural companies, then there is a big problem for rural companies because of the loss of access revenues.

Representative Grosz said "cherry picking" exasperates the problem of reduced access revenues.

At the request of Chairman Grosz, Ms. Barbara Wilcox, Director, Markets Regulatory, U S West Communications, distributed copies of a presentation on switched access. A copy of her presentation is attached as Appendix C. Ms. Wilcox recommended that the state needs a universal service fund, a regulatory system that allows rate rebalancing, and removal of implicit subsidies.

In response to a question from Senator Andrist, Mr. Wilcox said a hypothetical rural to rural telephone call from Senator Heitkamp to Senator Andrist from separate local access and transport areas (LATAs) could involve U S West. She said U S West would not be the long-distance carrier. She said the call could involve U S West if the long-distance company has a point of presence that requires U S West lines. She said the access charge can be split among many companies.

In response to a question from Senator Andrist, Ms. Wilcox said when access charges are high, long-distance companies must have a

financially viable alternative to paying the charges or they may stop serving an area.

In response to a question from Commissioner Hagen, Ms. Wilcox said U S West needs to raise residential service rates and the deaverage pricing. She said this cannot be accomplished with the continuation of price caps.

At the request of Chairman Grosz, Mr. Robert Brigham, Director, Service Cost, U S West Communications, distributed copies of a presentation on telecommunications subsidies. A copy of his presentation is attached as Appendix D.

In response to a question from Senator Andrist, Mr. Brigham said although total element long run incremental cost (TELRIC) is used for the example in his presentation, he does not recommend that prices be set by this method.

In response to a question from Representative Grosz, Mr. Brigham said the cost of providing access for an intraLATA toll call under TELRIC is quite small.

At the request of Chairman Grosz, Mr. Patrick Fahn, Public Utilities Division, Public Service Commission, distributed copies of an overview of the current access charge environment. A copy of his testimony is attached as Appendix E.

At the request of Chairman Grosz, Mr. Gary Witt, AT&T, distributed copies of a presentation on universal service and access charge reform. A copy of his presentation is attached as Appendix F.

In response to a question from Representative Grosz, Mr. Witt said any price for a service provided, including access, should relate to the cost of providing that service. He said AT&T has been unable to determine the level for selling access charges.

In response to a question from Representative Grosz, Mr. Witt said he does not know if U S West is charging a below cost rate for local service because there has not been a recent cost study. He said it seems that there has been a dramatic reduction in the cost of providing telecommunications services in the last five years. He said there have not been any recent reductions in rates in U S West's territory. He said U S West may be close to recovering cost. He said business lines may be producing excess profits to subsidize residential rates.

Representative Grosz said residential rates appear low. He said this becomes more apparent when one assumes business rates are high and access rates are high.

In response to a question from Representative Grosz, Mr. Witt said if local companies reduce access charges and the reduction is not funded by

a charge on AT&T customers, competition will result in the reduction going to AT&T customers.

In response to a question from Senator Andrist, Mr. Witt said access should be based on cost. He said if there is a higher cost of providing access in a high-cost area, access rates should be higher there than elsewhere. He said the cost of access should be paid by the interexchange carrier. He said high-cost local service areas should be covered by a properly funded universal service fund. He said these high-cost areas should be subsidized by an express universal service fund payment instead of an implicit subsidy on access charges.

In response to a question from Senator Andrist, Mr. Witt said under current Federal Communications Commission orders, each state will need to have a universal service fund.

Senator Andrist said if universal service replaced access, then rates can be equalized in this state; however, customers in this state will pay more than in the rest of the country.

In response to a question from Commissioner Hagen, Mr. Witt said he personally has a problem with states providing 75 percent of the universal service fund costs. He said in the 14 states that U S West covers, there have been a variety of ideas for a state universal service fund. He said

some states have given great authority to public utility commissions to create a fund that is directly compatible with the federal fund.

In response to a question from Senator Heitkamp, Mr. Witt said AT&T has supported deregulation of the phone industry on a federal level since 1984. He said AT&T's role in establishing the 75/25 percent split was minor. He said a reduction in access prices must happen simultaneously with a dollar-for-dollar payment from the universal service fund. He said his entire testimony is only applicable to U S West, not the rural companies. He said existing cost recovery measures are secure for rural companies until the year 2001.

It was moved by Senator Andrist, seconded by Senator Heitkamp, and carried that the meeting be adjourned. Chairman Grosz adjourned the meeting at 3:00 p.m.

Timothy J. Dawson
Commission Counsel

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