

**STATEMENT OF  
COMMISSIONER KEVIN J. MARTIN, APPROVING IN PART AND  
CONCURRING IN PART**

*Re: 2001 Annual Access Tariff Filings*, Memorandum Opinion and Order, CC Docket No. 01-206

I have concerns with this Order's discussion of ALLTEL's tariff filing and thus, with respect to that part of the Order (Part III), I concur only in the result. Part III of the Order addresses ALLTEL's effort, in setting its access rates, to account for the impact of Internet traffic. Although I agree with the Commission that the particular method used by ALLTEL was not reasonable, I reject the Order's suggestion that carriers may not, in allocating costs between the interstate and intrastate jurisdictions, attempt to account for the unique nature of Internet traffic. Despite requests from the States and the Federal-State Joint Board on Separations to provide a systematic method to address Internet traffic in the separations process, the FCC has failed to do so. In the absence of Commission action on this issue – which I continue to encourage – carriers should not be prohibited from addressing the problem.

At issue here is ALLTEL's recognition that Internet phone calls frequently move in only one direction: customers call ISPs, but ISPs do not call customers. Based on this premise, ALLTEL assumed that, for calls made from its exchanges to ISPs in other exchanges, there would be only half as many minutes of calls being made to ALLTEL's exchanges. For other calls made from its exchanges to other exchanges, ALLTEL assumed an equal number of minutes of calls would be made to its exchanges.

The Commission finds this methodology unreasonable, concluding that ALLTEL measured traffic imbalances selectively. According to the Commission, ALLTEL took into account only ISPs in other exchanges, failing to address the fact that ISPs served by its local exchanges will generate more terminating traffic than originating traffic. Additionally, however, the Commission finds fault with the fact that ALLTEL addressed only imbalances caused by Internet usage and did not consider other traffic imbalances, such as those caused by the use of wireless phones. The Commission strongly encourages ALLTEL to use a one-to-one presumption for all traffic.

While I agree that ALLTEL should have considered ISPs served by its local exchanges and thus concur with the Commission's resolution of this issue, I have concerns with the rest of the Commission's discussion. Specifically, I disagree with the Commission's suggestion that ALLTEL was required to account for all types of traffic imbalances or else use a one-to-one presumption for all traffic. There is no Commission rule stating such a requirement, and I am unaware of any reason why we should create one. A fair and balanced approach to consider solely the impact of Internet traffic should not render a tariff unreasonable – especially when States and the Separations Joint Board specifically called on the Commission to adjust the separations process to take this phenomenon into account and the Commission failed to do so.

As many States and the Separations Joint Board have recognized, the growing amount of Internet traffic has a significant impact on cost allocations. The Commission has nevertheless failed to act on their request to reform the separations process. As I have stated, I believe the Commission should move forward on this issue and alter the separations rules in some manner, as was proposed by the Joint Board. The Separations Joint Board even suggested a specific adjustment if the Commission could not determine the precise impact of Internet traffic. The Commission rejected this proposal, arguing that it had insufficient information to make such an estimate. It is thus particularly ironic that we find fault with a carrier that has attempted to gather some of this information and adopt a process to address an issue that we failed to address. In the meantime, while the Commission has failed to act, I cannot find fault with individual carriers taking reasonable steps to address the impact of Internet traffic.

Accordingly, I concur in the result of Part III and approve the remainder of the Order.