

SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL

Re: Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166

By this action, the Commission takes another important step forward in its efforts to reform our access charge and universal service regulatory regimes to make them more consistent with the mandate for competition codified in the 1996 Telecommunications Act. I write separately to clarify a few points and to underscore my support for this action, which flows from the ample record developed in response to the Multi-Association Group (MAG) proposal for reforming rural access charges, as well as from notices and orders previously adopted by the Commission.

As I have stated on other occasions, I believe firmly that the goal of our access and universal service reforms should be to bring the benefits of competition and greater choice to consumers, while ensuring that all Americans continue to have access to affordable and reasonably comparable telephone service. The social and economic imperative of reaching this goal is nowhere more pronounced than with respect to those who live in the rural and high-cost areas served by many rate of return LECs.

Throughout the extensive proceedings that led to this decision, the Commission has consistently maintained an open and transparent process, and this *Order* reflects careful consideration of all comments and suggestions received. As early as 1997, the Commission initiated a comprehensive review of interstate access charges and universal service. The Commission's earliest actions in this regard reformed access charges for price-cap incumbent LECs, *i.e.*, the largest incumbents.

The Commission has always recognized, however, that "one size does not fit all" when addressing the needs of rural and small companies. Therefore, the Commission decided to handle rural access reform separately from access reform for the larger carriers. This separate treatment has allowed the Commission to focus on both the specific needs of rural and small carriers and commenters' suggestions on how best to address those needs.

Even within the rural LEC component of our access reform effort, the Commission's process has been extensive. For example:

- In 1998, the Commission issued a Notice of Proposed Rulemaking which generated an extensive record regarding proposals for rural access reform. Thus, the Commission began its deliberations regarding rural access reform more than three years ago, and more than two years before the MAG proposal was even submitted to us.

- In early 2001, the Commission issued another Notice to expand the record further by seeking comment on whether the MAG proposal for access reform should be adopted in whole, in part, or not at all. The comment period for this Notice closed seven months ago.
- Over the past seven months, the Commission has carefully evaluated the extensive responses to its 1998 Notice, as well as comments on the MAG proposal from several dozen diverse parties. These parties have included incumbent rate of return LECs, state commissions, interexchange carriers, competitive LECs, consumer groups and their representatives.
- Additionally, the Commission has met repeatedly with parties including MAG and made note of industry concerns with regard to access reform precedents and policy.

Throughout the months and years the Commission has devoted to rural access charge reform, numerous parties representing a variety of interests have urged us to press forward expeditiously. Many of these parties were concerned, as I am, that we not subject communities served by rural LECs to the same regulatory barriers to competition that we struggled to remove in the context of price cap access reform.

Now that all interested parties have had a substantial opportunity to comment on the MAG proposal as well as on prior proposals, the time has come for the Commission to proceed with access charge and universal service reform for rate of return carriers. I applaud the MAG industry group for its efforts to bring a plan to the Commission for its consideration. The Commission's duty, however, is to exercise independent judgment that advances the *public* interest, rather than the interests of one side or the other. In doing so, we have declined to adopt the MAG plan in its entirety, taking account of other important interests and concerns.

Thus, the approach we adopt here incorporates major features of the MAG proposal, while addressing valid concerns raised by the extensive input from interested commenters. It represents a cautious approach that would rationalize the rate structure and convert identifiable implicit subsidies in access charges to explicit universal service support, without endangering overall revenues for rate of return carriers. Consequently, this approach should enable incumbent carriers and competitors to compete on an equal footing in rural areas and increase incentives for long distance carriers to compete for customers in rural areas.

Further, I believe the approach we take here will promote regulatory stability for small local telephone companies, and encourage investment in rural America, by creating a new, portable universal service support mechanism. This mechanism is intended to ensure that changes in the access rate structure do not affect small carriers' overall recovery of their interstate access costs.

Resolving issues this complex requires tough choices, which cannot continually be put off and which are rarely greeted with unanimous popular acclaim. Yet the Commission's role is not to play to its various audiences but to make these tough choices, guided by principle, the record and our best judgment. It is my conviction that we have, in performing this role, assiduously considered and balanced the input of a variety of interested parties that leads me to support this *Order* and the enormous hard work that my colleagues and our staff have invested in its fruition.