State of Michigan
John Engler, Governor

Department of Consumer & Industry Services
Kathleen M. Wilbur, Director

Public Service Commission

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Commissioners

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December 2, 1999

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VIA FEDERAL EXPRESS & ELECTRONIC FILING

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW-TW-A325
Washington, DC 20554

Re: Proposal Submitted by the Coalition for Affordable and Long Distance Services (CALLS) in dockets; CC Docket No. 96-262, Access Charge Reform; CC Docket No. 94-1, Price Cap Performance Review for Local Exchange Carriers; CC Docket No. 99-249, Low-Volume Long Distance Users; CC Docket No. 96-45, Federal-State Joint Board on Universal Service

Dear Ms. Salas:

Enclosed please find the original and five (5) copies of the Reply Comments of the Michigan Public Service Commission with regard to the proposal submitted by the Coalition for Affordable Local and Long Distance Services (CALLS), in the above-noted dockets.

Sincerely,

Thomas R. Lonergan
Director, Communications Division

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List ABCDE

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	:	
	:	
Access Charge Reform	:	CC Docket No. 96-262
	:	
Price Cap Performance Review for Local Exchange Carriers	:	CC Docket No. 94-1
	:	
Low Volume Long Distance Users	:	CC Docket No. 99-249
	:	
Federal State Joint Board on Universal Service	:	CC Docket No. 96-45

REPLY COMMENTS OF THE MICHIGAN PUBLIC SERVICE COMMISSION REGARDING THE PROPOSAL OF THE COALITION FOR AFFORDABLE LOCAL AND LONG DISTANCE SERVICES (CALLS)

I. INTRODUCTION

The Michigan Public Service Commission appreciates the work that went into the CALLS proposal and acknowledges the desirability of access charge reform. This position was reflected in the National Association of Regulatory Utility Commission's resolution, which the MPSC assisted in preparing. But the MPSC also agrees with the Ohio Public Utilities Commission, NARUC, and AARP that the FCC should reject the CALLS proposal as submitted. It should instead construe it merely as a recommendation by a small group of interested parties that excludes input from regulatory bodies, consumer representatives, and many other stakeholders. While some elements of the proposal have merit, significant flaws mandate rejection of the proposal. These flaws include:

- the proposal contains no guarantee of a customer benefit to offset the higher subscriber line charges
- the subscriber line charge in Michigan would be excessive since the charge could escalate for both inter- and intra-state service to $14.00 per month,
- the Universal Service Fund component is incomplete at best since many significant elements of the proposal are missing,
- the proposal transfers revenues from the competitive toll market to the non-competitive local market,
- the proposal would transfer the burden of resolving the dispute between the LECs and IXCs with regard to internet service provider rates to the end user, and
- voluntary participation by the carriers would only guarantee a net increase in customer bills.

The above flaws will be discussed in more detail below.

II. SPECIFIC FLAWS IN CALLS PROPOSAL

A. <u>No Guarantee of Customer Benefit to Offset Higher Subscriber Line Charges.</u>

The proposal provides lower access charges to long distance carriers while not requiring corresponding consumer rate reductions or other direct benefits for consumers. ILECs will gain the ability to insulate themselves from competition through higher end-user charges, restructured access charges, and a $650 million guarantee of revenue for "universal service" – all this on top of recent record profits. Ameritech Michigan, now part of SBC Communication's has averaged a 40% return on equity since enactment of the

Federal Telecommunication Act. The consumer's only assurance is higher rates.

B. Excessive Recovery of the Cost of the Loop

The Michigan Telecommunication Act, with obvious reliance on the FCC's commitment to cost-based rates, allows the mirroring of interstate access fees and charges for intrastate purposes. Thus the adoption of the CALLS proposal could result in not a $7.00 SLC but a $14 SLC on the bills of residential Michigan customers by 2003. The ability of low-income customers in Michigan to maintain any basic phone service could be severely tested by the proposal.

Obviously a $14 SLC in Michigan would be excessive and wrong. Not only would there be no commensurate benefit on the intrastate side (IXC's don't offer the favorable rate plans intrastate), but the SLC's would clearly exceed 100% of the cost of the loop for Ameritech. This is a prima facie violation of Sec. 254(k) of the Federal Telecommunications Act, which requires a reasonable apportionment of joint and common costs in facilities used to provide universal service.

C. Universal Service Unsubstantiated

The CALLS proposal calls for an increase in the current federal universal service fund by an amount equal to $650 million to provide "participating" companies with explicit support to replace implicit support thought to exist in current access charges. This additional $650 million in support would be recovered directly by LECs from end-user customers through either a flat-rate charge or a charge based on the customer's usage.

The Michigan Commission joins those parties who oppose the establishment of a $650 million interstate universal service fund for non-rural carriers. The main issue is whether the $650 million fund will truly supplant implicit subsidies or will be utilized to maintain current revenues and simply perpetuate high profit margins for LECs. We have several concerns with the proposal, including that: (1) there is no supporting financial documentation to support the negotiated $650 million fund, (2) there is no demonstrated need for the additional funding, (3) the impact on consumers' bills is not explained, (4) the funding associated with the Lifeline aspect of the proposal is not well explained, (5) the intention to bill end-users for the *existing and proposed USF funding* is not explained or legally justified, (6) it is not clear what services the fund is intended to support or at what levels, and (7) there is no reason given to support the FCC re-examining high cost USF funding on the heels of its universal service decision and reforms just released a few days ago.

The proposal as drafted may violate the provisions of Section 254(k) of the Federal Telecommunications Act. For these reasons, the USF proposal should be rejected. The FCC should not consider revisiting another universal service "reform" so quickly on the heels of it's October 21, 1999 reform decision.

D. The Proposal Shifts the Burden From the Competitive IXC Component to the Non-Competitive Local Component

The CALLS proposal would phase out over a five-year period the PICC and in most areas, the CCLC rendered to IXCs by LECs. These revenue reductions would be replaced by increasing to $7.00 (from its current cap of $3.50) the monthly residential SLC to end-users. The SLC increase would be phased in over a 3.5 year period. Multi-line business SLCs would be capped at $9.20. Minimum federal Lifeline support would be increased by an amount to mirror the new increased SLC.

The Michigan Commission opposes transferring of the recovery of interstate traffic-sensitive, switched-access revenues directly to end-user customers. Notwithstanding the purported pro-competitive aspects of the proposal, it appears that the desired result is a transfer of revenues from the competitive toll market to the non-competitive local market, which will assure that maximum charges and revenues will continue until such time as local markets become competitive. By that time, many customers may be priced out of the market.

E. <u>Voluntary Participation</u>

A further concern is that the proposal is billed as voluntary for those carriers who elect to participate. On the other hand, it would appear that only price-cap local exchange carriers would be eligible to participate, a possible violation of Section 254(g) of the Federal Telecommunication Act which requires parity in rates charged by IXCs from state to state and from rural to urban areas. It is unclear how this voluntary approach would function and still provide the benefits as advertised. Will IXCs only reduce long distance in the areas served by ILECs who participate? Will they reduce rates at all, or only in some proportion based on participation? In Michigan's experience, reducing access charges or PICCs does not result in a commensurate reduction in charges to end-user customers. The nature of this proposal appears to guarantee only a net increase in customer bills.

F. Impact of Access Reform in Internet Arbitrage

One of the CALLS proposal's stated benefits is that shifting the recovery of fixed costs to the SLC rather than the CCL charges lessens the rate arbitrage opportunity for internet service providers (ISPs). Currently, the local rates and charges paid by ISPs are lower than access charges paid by IXCs. By shifting some access costs to the end user, and reducing the access charges that IXCs pay to the LECs, the differential is reduced between local and non-local switching rates. While there is some merit to the CALLS proposal, the equity of solving the problem of the internet on the backs of the local customer must be questioned. Recent statistics indicate that only about 20% of U.S. households (primarily those in upper income brackets) have an internet connection. This proposal would have the 80% without internet connection subsidizing the more fortunate who are connected. The problem of the internet provider versus the LEC and IXC should be dealt with by the FCC, but the CALLS proposal is not the answer.

IV. CONCLUSION

The Michigan Public Service Commission urges the FCC not to adopt the CALLS proposal. While some of the elements of the CALLS proposal do have merit, the proposal should only be considered as one suggested reform from a select group of providers. The proposal can provide the basis for further discussions which may, with input from regulators, consumer and business interests and other providers, result in something approaching consensus.

Ultimately, the FCC must not be diverted from its objective, competitive telecommunications markets based on sound economics including rates for services that are based on costs or competition. Quick fixes that benefit select providers, perpetuate market distortions and violate the Federal Telecommunications Act are not the solution. The FCC must go beyond the CALLS proposal to craft policies that truly advance the competitive telecommunication marketplace.

Dated: December 2, 1999

Respectfully submitted,

John G. Strand, Chairman

David A. Svanda, Commissioner

Robert B. Nelson, Commissioner

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