

# Wisconsin State Telecommunications Association, Inc.

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## Filed Via PSC Electronic Regulatory Filing System

Gary Evenson  
Administrator, Telecommunications Division  
Public Service Commission  
610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

Re: WSTA Comments on Draft Order Regarding the Basic Single-party  
Residential Flat Rate, Docket Number 05-GF-147

Dear Mr. Evenson:

Pursuant to the March 14, 2005 Request for Comments in this docket, enclosed for filing are the Comments of the Wisconsin State Telecommunications Association.

If you have any questions, please feel free to contact me at (608)833-8866 ext. 23 or by email at [brybarik@wsta.info](mailto:brybarik@wsta.info).

Thank you for your attention to this matter.

Sincerely,

*/s/ Brian J. Rybarik*

Brian Rybarik  
Legal Counsel and Manager  
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Enclosure

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## COMMENTS

### **I. COMMISSION STAFF'S DECISION TO EXCLUDE SBC'S BASIC SERVICE PRICES THAT ARE INCLUDED IN PACKAGED SERVICES IS INCONSISTENT WITH PRIOR YEARS AND DOES NOT FULFILL THE STATUTORY DIRECTIVE**

This docket is before the Commission to determine the state-wide average rate for basic telephone service pursuant to Wis. Stat. § 196.215(7). The “basic single-party residential flat rate shall be the weighted average basic single-party residential monthly rate for all telecommunications utilities in this state.” Wis. Stat. § 196.215(7)(b)1. The Commission must issue an order adjusting the basic rate no later than March 31. Wis. Stat. § 196.215(7)(b)2.

The rate calculated under this statute is clearly intended to represent the average price that Wisconsin customers are actually paying for basic telephone service throughout Wisconsin. However, the Request for Comments states that the “primary reason” for the large decrease in the state-wide average rate is the “migration of SBC customers from the basic service rates included in this calculation, to package rates, which are not included in this calculation.” Request for Comments at 1. As such, the R-1 rate is set to decrease \$.58, not because of rate reductions, but because of customer migrations to services that are, for the first time, excluded from the calculation.

The policy decision to exclude SBC's package rates from the calculation of the Total R-1 Rate is alarming, especially given the effect on the overall state-wide average rate. Excluding data related to packaged services is not only inconsistent with last year's rate calculation (which accounted for SBC's basic rates, even when that rate was part of a packaged service), it also inconsistent with the statute, which requires the state-wide average rate to be based on the “basic single-party residential monthly rate for all

telecommunications utilities in the state” including “average local usage charges, touch-tone charges and extended area service charges... .” Wis. Stat. § 196.215(7)(b)1 (emphasis added).<sup>1</sup> Excluding all data relating to packaged services completely fails to account for the fact that, when a customer takes packaged services, they are still receiving some form of basic telephone service as part of the package, including average local usage and touch-tone service.

The effect of excluding this data is magnified this year, where the increase in customers buying packaged service has a tremendous (albeit, artificial) impact on the overall state-wide average rate.<sup>2</sup> The exclusion of this data means that the R-1 rate is calculated with a subset of data that will only become smaller as more customers chose packaged services.<sup>3</sup> This is hardly the recipe to determine the “weighted average single-party residential monthly rate for all telecommunications utilities in this state.” Wis. Stat. § 196.215(7)(b)1.

To more accurately calculate the state-wide average, modifications must be made to the Commission’s calculation. While there is not sufficient time to address the totality of this situation, short-term solutions are available that would provide a calculation that is more indicative of the state-wide average price for basic service. These short-term

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<sup>1</sup> Notably, while the Commission staff’s treatment of ILEC data under this statute has changed, the statute has not.

<sup>2</sup> A large number of SBC customers have apparently already migrated to packaged services, as have customers taking service from CLECs that reported their information on a confidential basis which shows a decrease of 53,218 in the number of access lines reported confidentially. This decrease represents a 43% decrease in the number of confidential CLEC access lines from the number used last year. This decrease may be due to a migration away from CLEC services, however, this explanation seems highly unlikely. A more logical explanation is that this data reflects either: (1) the exclusion of any data where CLEC customers subscribe to packaged services; or (2) CLECs failed to report information this year as compared to last year.

<sup>3</sup> The exclusion of packaged service means that one of the larger providers of telecommunications service in the state, TDS Metrocom, provides no data to the equation because they only offer packaged service. *See*, Request for Comments at 4.

solutions (listed in Section III below) could be could be implemented prior to March 31, allowing the Commission to meet the statutory deadline.

**II. PROBLEMS WITH THE CURRENT CALCULATION THAT MUST BE ADDRESSED PRIOR TO MARCH 31, 2005**

**A. The Current Rate Is Based On Unknown Calculations And Does Not Reflect The Data Provided To The Commission Staff By WSTA Member Companies.**

**1. Issues Related to Rate Amounts**

Based on input from several members, WSTA has identified several concerns with the rates used in the calculation of the state-wide average. Specifically, some WSTA members have indicated that the R-1 pricing data they provided to the Commission is not properly reflected in the data accompanying the Request for Comments. For example, the line-item associated with Farmer's Independent Telephone Company's incorrectly reports an R-1 rate of \$7.76. Farmer's Independent Telephone Company's current tariffed rate is actually \$8.45. Similarly, the rates listed for Amery Telephone Company (\$7.37) and Somerset (\$6.15) are also incorrect and should be the effective rates of \$9.00 and \$8.00 respectively.<sup>4</sup> Further, in the 2003 calculations, Commission staff provided additional detail allowing companies to verify whether the individual rate elements (e.g., the TEACH assessment amount) were accurate. Since this year's data is more summarized, the Commission should verify that the rate elements are all accurate.

The errors identified above are relatively minor when compared to the potential errors associated with the R-1 rates listed for price regulated companies such as SBC and

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<sup>4</sup> WSTA has not compared all of the effective rates for its members to the rates used in the calculation, but suggests that the Commission verify the rates used for each company before the final state-wide average rate is adopted.

Verizon. With respect to these calculations, it is difficult to provide meaningful commentary on the Draft Supplemental Order because the Request for Comments and accompanying materials provide very little information about the methods staff used to calculate the average R-1 rates. This lack of detail is concerning because it is the first year that staff decided to exclude all price data with respect to SBC's packaged services. Since SBC accounts for approximately 51 % of the total access lines considered in this calculation, the calculation of their basic rate has a significant effect on the state-wide average, and must be examined in more detail.

Determining the basic R-1 rate for companies with usage-based local rates is somewhat more difficult than determining that number for companies with flat or non-usage-based rates. With respect to SBC, the tariffed rate for basic service accounts for only a portion of their basic service rate. The other component of the calculation is the average revenue from per-call charges. Accounting for these charges together, one can calculate the rate that the average customer pays for basic service.

The Request for Comments states that the exclusion of packaged service is the primary reason why the rate used for SBC is nearly \$1.00 less than last year's (\$10.88 versus \$11.78), even though there has been no reductions to the basic service rate in SBC's tariff. Simply removing packaged services from the rate calculation undervalues the price that SBC's customers are actually paying for service, which, in turn, undervalues the average state-wide rate.

SBC's packaged services, known as Local Saver Packs, allow customers to pay a flat monthly rate, rather than a per-call rate, for basic local exchange service. Local Saver Packs come in three sizes: Local Saver Pack 200, Local Saver Pack 400 and Local

Saver Pack Unlimited, which are named to reflect the amount of local calling the customer can purchase for the flat rate. Customers migrating to the Local Saver Packs are more likely to have higher local call volumes and, prior to the advent of packaged services, would have accounted for higher per-call revenue, which would increase the average R-1 rate. Conversely, customers continuing to purchase non-packaged services generally make fewer local calls and account for less revenue. Excluding the higher revenue customers from the equation drives the R-1 rate significantly lower, even though customers are paying more for basic local service.

SBC indicated to WSTA that it calculated its R-1 rate consistent with the way it was calculated in 2003, which accounted for basic rates that were included as part of a packaged service. This rate, which was provided to Commission staff, which excluded the TEACH assessment amount, was \$14.87. Yet, staff included an R-1 rate of \$10.88 in the final calculation, which is significantly lower than the number calculated by SBC and which has a dramatic impact on the state-wide average rate. The Request for Comments provides no explanation as to why additional calculations were made to arrive at this lower rate. At the very least, staff should be required to explain why these additional calculations were made, and why they are an appropriate way to determine the rate that SBC customers are paying for basic service.

Simply removing higher revenue customers from SBC's rate calculation produces an artificially low R-1 rate, which impacts the state-wide average rate. To more accurately calculate the state-wide average rate, WSTA recommends that the Commission apply the same approach to SBC's rate as it has in prior years, which changes SBC's R-1 rate to \$14.87. In addition, the Commission should include (as it has

for other companies) SBC's TEACH assessment of \$.67, which increases the total R-1 rate to \$15.54.

## 2. Issues Related To Access Line Counts

### i. ILEC Access Line Counts

If the primary reason for the decreased rate is a "migration of SBC customers from basic service rates...to packaged rates," this migration is not reflected in the computation table accompanying the Request for Comments.<sup>5</sup> See Request for Comments at 1, 3. Inexplicably, the number of SBC access lines used in this equation, 1,025,074, is exactly the same number the Commission used to calculate last year's average rate. If there was a migration away from using basic service, one would expect a corresponding decrease in the number of access lines used in the calculation. WSTA recognizes that this could be the result of a data input error. However, the impact of this error is severe, contributing significantly to the \$.58 decrease in the state-wide average.

As noted in Section I above, excluding packaged services from the state-wide average calculation does not appear consistent with Wis. Stat. § 196.215(7)(b)1. However, if the Commission believes that this policy change is justified, the number of access lines reported should reflect this new policy, and be decreased accordingly. With respect to SBC, they have informed WSTA that the number of access lines associated with customers not taking packages was actually 541,025 in 2004.

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<sup>5</sup> The migration to packaged service is not reflected in Verizon's access line count, which appears to include both non-package and package customers. Data accompanying Verizon's Notification Letter (filed in Commission Docket No. 2180-TI-139 (Dec. 30, 2004)), shows that nearly 30,000 customers migrated to Verizon's packaged services by the end of 2003. This migration to packaged services should have the same effect on Verizon's R-1 rate as it did on SBC's, however the data shows that Verizon's rate actually increased this year. This suggests that staff treated Verizon's and SBC's figures differently.

ii. Confidential CLEC Access Line Counts

The Confidential Data report of 73,141 residential access lines represents a 43% decrease from the previous year, a decrease that is likely based on the fact that packaged services are excluded from this report. At the same time, however, the average R-1 rate on the Confidential Data line increased from \$17.82 to \$18.11, suggesting that, in reality, customers are actually paying more for basic telephone service in Wisconsin. However, because so many fewer access lines were reported, the result is a lower weighted average for this Confidential Data, which in turn, contributes to a lower state-wide average.

At a basic level, this treatment of Confidential Data is inconsistent with the decision to include all of SBC's and Verizon's access lines, regardless of whether those customers were purchasing packaged services or not. To remedy this inconsistency, the Commission could impute the average rate for basic service to all of the residential access lines offered by CLECs. This option would bring a level of parity between CLECs and ILECs that package service. Pursuant to the Commission's directives, rate regulated ILECs are specifically required to account for the tariffed rate for basic local service, even when that service is sold as part of a package. *See e.g., Order Amending Certificate*, Commission Docket No. 7179-TI-101 at 5 (March 10, 2005). Since the Commission has required ILECs to continue to account for the basic rate across all access lines, including those providing packaged services, it would appear fair, for purposes of this calculation, to impute a basic rate across all CLEC access lines as well.

### **III. SUGGESTED SHORT-TERM SOLUTIONS THAT WOULD MORE ACCURATELY CALCULATE THE STATE-WIDE AVERAGE RATE BASED ON 2004 INFORMATION**

Understanding that the Commission must issue an Order in this docket no later than March 31, WSTA offers the following options that could be implemented prior to the statutory deadline and that would more accurately calculate the state-wide average. Based on the year 2004 data provided to the Commission, employing these options (which are not intended to be mutually exclusive) would more provide a more accurate picture of the state-wide average rate for basic telephone service in Wisconsin.

**OPTION #1:** Verify the R-1 rates and other rate elements used in the calculation to ensure that they reflect the effective rates and assessments as of 12/31/04. This includes revising the R-1 rate listed for: (1) Farmer's Independent Telephone Company to \$8.45 from \$7.76; (2) Amery Telephone Company from \$7.37 to \$9.00; and (3) Somerset Telephone Company from \$6.15 to \$8.00.

**OPTION #2:** Apply an R-1 rate to SBC that is consistent with the prior year's calculation. WSTA understands that this number would total \$15.54 (including the TEACH assessment) rather than the \$10.88 figure currently used, which simply excludes all price data from customers taking packaged services.

**OPTION # 3:** Apply the Confidential Data rate to all residential access lines offered by CLECs. If the goal is to make an accurate comparison between CLECs and ILECs, the Commission should impute the R-1 rate applied to Confidential Data on to all residential access lines reported by CLECs. Even when customers purchase packaged services, they are still receiving "basic service," the cost of which should be reflected in the average R-1 rate. Further, this option would create parity between CLECs and ILECs, which are required to account for basic service in this manner when they offer packaged service.

**OPTION #4:** If the Commission believes that it is justified in instituting a new policy of excluding any data from packaged service offered by SBC, the line count associated with SBC should be lowered to reflect the number of access lines taking basic service without any packaged service. This would require reducing the SBC access line number to 541,025. WSTA does not believe that this is the best option because it will encourage the use of less data (an approximately 25% decrease in the number of access lines), rather than more, to calculate the state-wide average rate. This outcome appears to be contrary to the requirements of the statute.

**IV. LONG-TERM SOLUTIONS ARE NEEDED TO ENSURE THAT FUTURE CALCULATIONS OF THE STATE-WIDE AVERAGE RATE ARE ACCURATE**

The advent of packaged services has brought the Commission to a crossroads with respect to calculating the state-wide basic single party residential flat rate. In order to fulfill the statutory directives of Wis. Stat. § 196.215(7), WSTA believes that the Commission should account for the basic service rates over the greatest number of access lines, including those taking packaged services. Aside from fulfilling the statutory requirements, this method would be the best and most accurate way to calculate the average rate that customers are actually paying for basic service.

Accounting for basic rates, even when that rate is part of a packaged service is not a novel idea. The Commission has already imposed such a system with respect to small companies that package services with affiliated CLECs or resellers. These companies are specifically required to account for the tariffed rate for basic local service, even when that service is sold as part of a package. *See e.g., Order Amending Certificate*, Commission Docket No. 7179-TI-101 at 5 (March 10, 2005). To provide the most accurate calculation of the state-wide average rate, and to ensure that companies are not compared as apples are to oranges, some consideration must be made for the cost of basic service when customers buy basic service as part of a package. The current Draft Supplemental Order fails to do this and will set the Commission down a course where the state-wide R-1 rate will be calculated using less and less data as more customers migrate to packaged services.

Determining the most effective method for calculating this rate with respect to price regulated entities should be part of an open process, where interested parties have

the opportunity to propose, evaluate and comment on the most accurate method for calculating the state-wide R-1 rate in light of the trend towards packaged service. The current framework does not allow the Commission to deal with this issue before March 31, and therefore, WSTA respectfully asks the Commission to pursue a new docket that would address this issue for the future.

### **CONCLUSION**

For the reasons state above, WSTA respectfully requests that the Commission consider adopting one or more of the suggested solutions listed in Section III above and revise the calculation of the 2004 state-wide average R-1 rate to more accurately reflect the true cost of basic service in Wisconsin. Further, WSTA requests that the Commission take action and open a docket to provide a forum for the development of a more accurate and more consistent methodology to determine the state-wide average R-1 rate in the future.

Respectfully submitted,

*/s/ Brian J. Rybarik*

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