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November 2, 1998

BY HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

ORIGINAL

Re: Determination of the Cost of Local Telecommunications Service, pursuant to Section 364.025, Florida Statutes; Docket No. 980696-TP

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Vista-United's Posthearing Statement.

Also enclosed is a diskette containing the above Posthearing Statement originally typed in Word 97 format which has been saved in Rich Text format for use with Word Perfect.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Sincerely,

J. Jeffry Wahlen

JJW/bjd
Enclosures
cc: All Parties of Record (w/encls.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Determination of the Cost of Local Telecommunications Service, pursuant to Section 364.025, Florida Statutes	)	DOCKET NO. 980696-TP FILED: 11/02/98

VISTA'S POSTHEARING STATEMENT

Vista-United Telecommunications ("Vista" or the "Company"), pursuant to Order No. PSC-98-0813-PCO-TP, submits the following Posthearing Statement:

I.

Introduction

Pursuant to Chapter 98-277, Laws of Florida, which became law on May 28, 1998, the Legislature directed the Commission to conduct various studies to be submitted to the Legislature by February 15, 1999. One study requires the Commission to determine the cost of providing basic local telecommunications services for the incumbent local exchange companies ("LECs") operating in Florida. This proceeding was established for that purpose.

Vista is an incumbent local exchange company with fewer than 100,000 access lines and qualifies as a "small LEC" within the meaning of Section 364.052, Florida Statutes (1997). It has been providing local exchange telecommunications services in its FPSC-certificated territory since it was created in 1971. [Tr.439-440] Vista's territory is in the Orlando area and includes a significant portion of the Orlando/I-4 resort and entertainment corridor. [Tr.440] As of June 30, 1997, Vista served approximately 14,000 access lines, most of which were business access lines. [Id.] Vista is no longer regulated by the FPSC on a rate of return basis. [Id.] However, Vista continues to

maintain its accounting records in accordance with Part 32 of the Federal Communications Commission's rules, and submits an annual cost study to the National Exchange Carriers Association ("NECA"). [Id.]

Vista prepared an embedded cost study as provided in Section 364.025(4)(c), Florida Statutes (1998), and submitted the direct testimony of William D. Huttenhower and Daniel C. Weaver, both of whom addressed issues 1, 5a and 6. The prepared direct testimony of witnesses Huttenhower and Weaver was stipulated into the record without cross-examination at Tr. 438 and 444, respectively. Witness Weaver's composite exhibit (DCW-1) included the Company's embedded cost study, was identified as Exhibit 9 and was admitted into the record without objection. [Tr. 443] The Staff of the Commission prepared exhibits consisting of Vista's discovery responses and deposition transcripts, which were identified as Exhibits 41, 25 and 26, and in the absence of objections were admitted into the record at Tr. 492, 485 and 485, respectively.

II.

Basic Position

For Vista, the cost of basic local telecommunications service appropriate for a permanent state universal service fund should be computed using the embedded cost model proposed by the small LECs. That cost was $ 66.54 per access line based on revised 1997 data.

III.

Issues and Positions

The Company's positions on the issues for publication in the Staff Recommendation are set forth below and marked with an asterisk (*). Where the Company has taken a position, the Company's analysis in support of its position is set forth as "discussion" under each issue.

Issue 1: What is the definition of the basic local telecommunications service referred to in Section 364.025(4)(b), Florida Statutes?

Position: * The definition of basic local telecommunications service in Section 364.025(4)(b), Florida Statutes, is as set forth in Section 364.02(2), Florida Statutes.

Discussion: Section 364.025(4)(b), Florida Statutes, was added to Chapter 364, Florida Statutes, by Chapter 98-277, Laws of Florida. Section 364.02, Florida Statutes, defines certain terms used in Chapter 364, Florida Statutes, including the term "basic local telecommunications service." See, Fla. Stat. § 364.02(2).

Since the term "basic local telecommunications service" in Section 364.025(4)(b) is defined in Section 364.02(2), the Commission has no discretion to expand or modify the definition specifically provided by the Legislature for use in Chapter 364. See Ervin v. Capital Weekly Post, Inc., 97 So.2d 464, 469 (Fla. 1957)("A statutory definition of a word is controlling and will be followed by the Courts."); Vocelle v. Knight Bros. Paper Co., 118 So. 2d 664 (Fla. 1st DCA 1960) ("When a statute contains a definition of a word or phrase that meaning must be ascribed to the word or phrase whenever repeated in the same statute unless a contrary intent *clearly* appears.")(emphasis in original). There is no indication in Section 364.025 that a definition other than the one in Section 364.02(2) should apply. Consequently, the Commission should resist all efforts to use a definition other than the one prescribed in Section 364.02(2), Florida Statutes.

Issue 2: For purposes of determining the cost of basic local telecommunications service appropriate for establishing a permanent universal service mechanism, what is the appropriate proxy model to determine the total forward-looking cost of providing basic local telecommunications service pursuant to Section 364.025(4)(b), Florida Statutes?

Position: • Consistent with the Company's positions on Issues 5a and 6, the Company has no position on this issue.

Issue 3: For purposes of determining the cost of basic local telecommunications service appropriate for establishing a permanent universal service mechanism, should the total forward-looking cost of basic local telecommunications service pursuant to Section 364.025(4)(b), Florida Statutes, be determined by a cost proxy model on a basis smaller than a wire center? If so, on what basis should it be determined?

Position Consistent with the Company's positions on Issues 5a and 6, the Company has no position on this issue.

Issue 4: For purposes of determining the cost of basic local telecommunications service appropriate for establishing a permanent universal service mechanism, for each of the following categories what input values to the cost proxy model identified in Issue 2 are appropriate for each Florida LEC?

(a) Depreciation rates

(b) Cost of money

(c) Tax rates

(d) Supporting structures

(e) Structure sharing factors

(f) Fill factors

(g) Manholes

(h) Fiber cable costs

(i) Copper cable costs

(j) Drops

(k) Network interface devices

(l) Outside plant mix

(m)Digital loop carrier costs

(n) Terminal costs

(o) Switching costs and associated variables

(p) Traffic data

(q) Signaling system costs

(r) Transport system costs and associated variables

(s) Expenses

(t) Other inputs

Position: • Consistent with the Company's positions on Issues 5a and 6, this issue does not apply to the Company; therefore, the Company has no position.

Issue 5 (a): For purposes of determining the cost of basic local telecommunications service appropriate for establishing a permanent universal service mechanism, for which Florida local exchange companies must the cost of basic local telecommunications service be determined using the cost proxy model identified in Issue 2?

Position: • LECs with more than 100,000 access lines.

Discussion: Section 1 of Chapter 98-277, Laws of Florida, amended Section 364.025, Florida Statutes, to include new subsection 364.025(4)(b), (c) and (d). Subsections (b) and (c) of Section 364.025(4), state:

> (b) To assist the Legislature in establishing a permanent universal service mechanism, the commission, by February 15, 1999, shall determine and report to the President of the Senate and the Speaker of the House of Representatives the total forward-looking cost, based upon the most recent commercially available technology and equipment and generally accepted design and placement principles, of providing basic local telecommunications service on a basis no greater than a wire center basis using a cost proxy model to be selected by the commission after notice and opportunity for hearing.
>
> (c) In determining the cost of providing basic local telecommunications service for small local exchange telecommunications companies, which serve less than 100,000 access

> lines, the commission shall not be required to use the cost proxy model selected pursuant to paragraph (b) until a mechanism is implemented by the Federal Government for small companies, but no sooner than January 1, 2001. The commission shall calculate a small local exchange telecommunications company's cost of providing basic local telecommunications services based on one of the following options:
>
> 1. A different proxy model; or
>
> 2. A fully distributed allocation of embedded costs, identifying high-cost areas within the local exchange area the company serves and including all embedded investments and expenses incurred by the company in the provision of universal service. Such calculations may be made using fully distributed costs consistent with 47 C.F.R. ss. 32, 36, and 64. The geographic basis for the calculations shall be no smaller than a census block group.

Under the plain language of this statute, the Commission is only required to use a proxy model for local exchange companies with over 100,000 access lines, i.e., the large LECs. The reasons the Commission should not use a proxy model and should use an embedded cost model for the small LECs are explained under Issue 6(a), below.

Issue 5(b): For each of the LECs identified in (a), what cost results from using the input values identified in Issue 5 in the cost proxy model identified in Issue 2?

Position: * Consistent with the Company's positions on Issues 5a and 6, this issue does not apply to the Company; therefore, the Company has no position.

Issue 6(a): For purposes of determining the cost of basic local telecommunications service appropriate for establishing a permanent universal service mechanism, should the cost of basic local telecommunications service for each of the LECs that served fewer than 100,000 access lines be computed using the cost proxy model identified in Issue 2 with the input values identified in Issue 4?

Position: * No. Small LECs like the Company should be allowed to use an embedded cost methodology.

Discussion: For the following legal and factual reasons, the Commission should not determine the cost of basic local telecommunications service for the small LECs using either of the proxy models presented in this proceeding.

Legal Reasons

As noted under Issue 5(a), Section 364.025(4), Florida Statutes, contains specific language addressing the determination of the cost of basic local telecommunications service for small LECs. That language is:

> (c) In determining the cost of providing basic local telecommunications service for small local exchange telecommunications companies, which serve less than 100,000 access lines, the commission shall not be required to use the cost proxy model selected pursuant to paragraph (b) until a mechanism is implemented by the Federal Government for small companies, but no sooner than January 1, 2001. The commission shall calculate a small local exchange telecommunications company's cost of providing basic local telecommunications services based on one of the following options:
>
> 1. A different proxy model; or
>
> 2. A fully distributed allocation of embedded costs, identifying high-cost areas within the local exchange area the company serves and including all embedded investments and expenses incurred by the company in the provision of universal service. Such calculations may be made using fully distributed costs consistent with 47 C.F.R. ss. 32, 36, and 64. The geographic basis for the calculations shall be no smaller than a census block group.

Fla. Stat. § 364.025(4)(c).

The words in this subsection clearly express the intent of the Florida legislature that small LECs be allowed to use an embedded cost methodology in this proceeding. As explained by Mr. Curry, each of the small LECs, including the Company, have prepared and submitted an embedded, fully distributed cost study using the principles in FCC section 47 C.F.R., Sections 32, 36, 64 and 65. [Tr.2980] Section 364.025(4)(c)2, Florida Statutes, clearly contemplates the use of this type of model in this proceeding. Because the statute allows the use of embedded cost studies for

small LECs and the small LECs have submitted embedded cost studies, the Commission should use them to determine the cost of basic local telecommunications service.

Doing so is consistent with the approach currently being used by the FCC. As noted by Mr. Curry in his testimony, and as shown in the FCC's Universal Service Order, the FCC has ruled that the available proxy models are not appropriate for use by small rural local exchange carriers at this time. [Tr.2980] See Report and Order, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45) (May 8, 1997), 12 F.C.C.R 8776 ¶ 291. See also id. at ¶ 294 ("We adopt the Joint Board's recommendation to allow rural carriers to continue to receive support **based on embedded costs for at least three years.**")(emphasis added). Section 364.025(4)(c), Florida Statutes, was adopted after the FCC's Universal Service Order was issued and recognizes what the FCC had already determined about the available proxy models, i.e., they should not be applied to small LECs at this time.

Importantly, there is not a single party in this case that filed testimony or took the position that either of the two proxy models should be applied to the small LECs at this time. In the Prehearing Order, AT&T and MCI clearly state their position that the small LECs should not be required to use the proxy models at this time. See Order No. 98-1303-PHO-TP at 34 and 35. In his testimony, AT&T's witness, Richard Guepe, highlighted the FCC's determination that small LECs not be required to use the available proxy models and agreed that it might not be appropriate for the small LECs to use the proxy models. [Tr. 689, lns 18-24]. The FCCA, FCTA, e.spire, Time Warner, Worldcom, OPC and the AG did not file testimony or take a position in the Prehearing Order on this issue. In the absence of any record evidence promoting the use of the proxy models by the small

LECs, the Commission is legally foreclosed from applying the proxy models to the small LECs at this time.

Factual Reasons

Even if the Commission is not obligated to use the embedded cost approach advocated by the small LECs, the record in this proceeding supports the FCC's conclusion that the available proxy models do not work well in the rural areas served by the small LECs in Florida. This point was made in the record so many times, it would be impossible to list them all.

For example, during Mr. Curry's deposition, he generally explained that the available proxy models have real problems recreating the network in a way that locates the actual locations of the customers in rural areas. [Ex. 97, Tr. Page 8] Mr. Wood, who was promoting the Hatfield model, provided great detail about the customer location problem in rural areas. He explained that Hatfield attempts in preprocessing to locate customers using geocoding and that only 70% of the residences in Florida can be geocoded. [Tr. 547] He also explained that Hatfield does not locate customers in rural areas who do not have a street address, because they cannot geocode in rural areas where rural route and post office boxes are used in lieu of a street address. [Tr. 549] On cross-examination, he conceded that the geocoding success rate in rural areas like Boca Grande, Lee (served by ALLTEL), and Panacea was zero. [Tr. 828 – 831] Dr. Duffy-Deno, who testified for BellSouth, analyzed the Hatfield model and found that the "rate of successful geocoding is extremely low in the rural, low density areas of Florida" [Tr. 927], and presented an exhibit showing the extremely low success rates in rural areas like Dixie and Levy Counties, which are in ALLTEL's territory. [Tr. 929, Ex 47] Dr. Staihr testified that Hatfield does not build to actual customer location. [Tr. 1487]

The record is also clear that the proxy models generally result in cost estimates that are higher than the results computed by the small LECs using their embedded cost methodology. See Ex. 97, Tr. 13, and LF Depo. Ex. 1; and Tr. 3000-3002. Consequently, the embedded cost methodology used by the small LECs can be considered conservative relative to the proxy models.

Conclusion

The embedded cost models presented by the small LECs are based on actual data and result in conservative cost estimates. The record in this proceeding supports the FCC's conclusion that the available proxy models should not be applied to small, rural LECs at this time. Section 364.025(4)(c), Florida Statutes, reflects the wisdom of the FCC in this area and supports the conclusion that small LECs should be allowed to use an embedded cost methodology. For these reasons, the Commission should determine the cost of basic local service for the small LECs using the embedded cost methodology proposed by the small LECs in the testimony of Dennis Curry.

Issue 6(b): If yes, for each of the LECs that serve fewer than 100,000 access lines, what cost results from using the input values identified in Issue 4 in the cost proxy model identified in Issue 2?

Position: • Not applicable. See issue 6(a), above.

Issue 6(c): If not, for each of the Florida LECs that serve fewer than 100,000 access liens, what approach should be employed to determine the cost of basic local telecommunications service and what is the resulting cost?

Position: • Small LECs like the Company should be allowed to use the embedded cost methodology described in the testimony of Dennis Curry. Under this approach, the Company's revised cost per access line is $ 65.65.

Discussion: As discussed under Issue 6(a), above, the small LECs should be allowed to use the embedded cost methodology explained by Mr. Curry in his direct testimony. That methodology and the inputs used in the model for the Company are explained here. The Company notes that the record

does not contain any testimony from any party challenging the small LEC embedded cost model. Likewise, there is no testimony in the record proposing any adjustments to any of the inputs used in the model by the small LECs. This is in stark contrast to the state of the record as it relates to the two proxy models and the inputs used therein.

Methodology

General. As explained by Mr. Curry, the embedded cost model used by the small companies assigned all embedded non-traffic sensitive plant investments and their associated costs along with the local portion of the embedded traffic sensitive plant investments and their associated costs to the cost of basic local telecommunications service. [Tr. 2979] All non-plant related expenses currently allocated to local service through the separations process were also assigned to the cost of basic local telecommunications service. [Id.] This is consistent with the approach used in the two proxy models presented in this proceeding. [Tr. 2997-2998]

Period and Return. All of the small LECs used 1997 costs and an 11.25% return on investment for their embedded studies. [Tr.2980] While the FCC has opened a docket to review the return for rural LECs [Tr. 3010], it has taken no action to either lower or raise that return level at this time. None of the parties proposed an adjustment to the return as used by the small LECs.

NTS and Loop Plant. For purposes of this docket, non-traffic sensitive plant was assigned 100% to the state jurisdiction "local service bucket" in the cost study. [Tr. 2981] These costs included all loop related plant, line port equipment, and COE transmission equipment utilized for providing local dial tone to customers. [Id.] All non-traffic sensitive local switching equipment was identified and allocated in the same manner as loop investment. [Id.] Loop investment was assigned to the state jurisdiction using a Gross Allocator Factor of 100%, resulting in all loop related plant

being allocated to the local service bucket. [Tr. 2981-2982] This was done in order to capture all loop costs for the purpose of this universal service study utilizing Part 36 costing methodologies. [Tr. 2982] None of the parties challenged this approach in their testimony.

Local Switching. Each company analyzed their continuing property records to determine the non-traffic sensitive investment in line related equipment, common equipment and power equipment. [Tr. 2982] The non-traffic sensitive local switching investment was then subtracted from the total local switching investment to determine the local switching traffic sensitive investment. [Id.] Power and common investment was spread to traffic sensitive and non-traffic sensitive switching based on the relative investment in each. [Id.] A "local dial office factor" was then developed by multiplying the percent of non-traffic sensitive local switching investment times 100% and adding the product of the percent traffic sensitive investment times the "local" unweighted dial equipment minutes "DEM" Factor. [Id.] The dial office factor was then substituted for the DEM Factor in the universal service cost study. [Id.] None of the parties challenged this approach in their testimony.

Other Non-Part 36 Adjustments. The small LEC methodology also included three other general modifications to a pure Part 36 approach. First, for those companies that could not separate local private line costs from switched service costs, the small LEC approach moved local private line loop counts, local private line termination counts, local private line circuit mile counts, local private line exchange trunk circuit equipment investment and local private line exchange trunk cable and wire investment to the interstate jurisdiction for the study. [Tr. 2983] Moving these costs to interstate provided a way for the small LEC to identify their embedded universal service costs, which would exclude private line costs from the embedded costs as requested by the Commission Staff. [Id.]

Second, the small LEC methodology adjusted the Part 36 study to exclude costs for local private line billing and collection functions from the embedded universal service costs. [Id.] This was done by reassigning local private line allocation factors to the interstate jurisdiction. [Id.] Factor changes included: contacts, billing, and user allocations. [Id.] These local private line factors were assigned to the interstate jurisdiction in Part 36 to ensure that local private line billing and collection costs were excluded from the embedded costs of universal service as requested by this Commission. [Tr. 2983-2984].

Third, all expenses, investments and reserves associated with pay telephones were removed from the study. [Tr. 2984]

None of the parties challenged these adjustments in their testimony.

Inputs

For purposes of this proceeding, Vista retained JSI to prepare an embedded cost study using the methodology described above. [Tr. 446]. Mr. Weaver testified about the calculations he performed using the inputs he received from Vista, and Mr. Huttenhower testified about those inputs. The information and data provided by Vista to JSI for use in the study was 1997 historical accounting information contained in the "regulated" accounting books and records of the Company. [Tr. 441] The underlying accounting information provided to JSI was prepared in a manner consistent with the Federal Communication Commission (FCC) requirements outlined in the Code of Federal Regulations (CFR), Parts 32 and 64. [Tr. 442] Thus, Vista's inputs excluded the effect of activities that have been traditionally considered non-regulated by the FCC and the FPSC. [Id.]

For investment related inputs, such as outside plant and central office, Vista provided JSI with average-of-average balances for 1997. [Tr. 441] For expenses and taxes, Vista gave JSI "regulated"

expenses incurred during the 12 months in 1997. [Id.] The information given to JSI for use preparing the cost study was the same information used in Vista's Part 36 cost study submitted to NECA for 1997. [Id.] This information included all paystation-related costs, because these costs were included in the 1997 study submitted to NECA. [Tr. 441] However, as of April 15, 1997, paystation costs were classified as non-regulated or de-regulated, so JSI excluded paystation-related costs and investments from the embedded cost study performed by JSI. [Id.]

In his direct testimony, Mr. Huttenhower indicated that the depreciation rates used to compute the depreciation expense and reserve balances in the cost study were the depreciation rates last approved by the FPSC and used when Vista last filed a surveillance report with the FPSC. [Tr. 442] However, during the discovery process, Vista discovered that it had created certain new investment accounts. [Ex.25, Tr. 8] In some cases Vista applied FPSC approved depreciation rates and in some cases it developed new rates; however, in both cases the rates used were reasonable. [Id.] Mr. Huttenhower's Late-filed Deposition Exhibit No. 1 [part of Ex. 25] lists the accounts and rates used by Vista. The investment associated with new accounts that has been depreciated with a rate other than an FPSC approved rate is only $448,261.13 [Id.], so even if the Commission disagrees with the rates used by Vista, the difference in the amount of depreciation expense would not be material.

Result

Based on the methodology and inputs explained above, Vista's cost of providing basic local telecommunications services as originally filed was $11,735,943 annually, or $65.65 per access line per month. [Tr. 449] However, during his deposition, it came to the attention of Mr. Weaver that the cost study as originally prepared had inadvertently omitted working capital. [Ex. 26] Mr. Weaver submitted a Late-Filed Deposition Exhibit to correct the omission. [Id., LF Deposition

Exhibit No. 2] Based on the revised study, which is included in the record as part of Exhibit No. 26, the total embedded cost of universal service was calculated to be $11,893,630 and the average cost per line per month is $66.54. [[Ex. 26, LF Deposition Ex. 2, lines 31 and 33] None of the parties filed testimony proposing any changes to the small LEC methodology or any of the inputs used by the Company. Accordingly, the FPSC should find that $66.54 per line is the cost of basic local telecommunications service for the Company.

Respectfully submitted this 2nd day of November, 1998.

J. JEFFRY WAHLEN
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ATTORNEYS FOR VISTA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail or hand delivery (*) this 2nd day of November, 1998, to the following:

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