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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

Federal Communications Commission
Office of the Secretary

In the Matter of)	
)	
Tariff Filing Requirements)	CC Docket No. 92-13
for Interstate Common)	
Carriers)	

REPLY

U S WEST Communications, Inc. ("U S WEST"),¹ through counsel and pursuant to the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking ("Notice" or "NPRM"),² hereby files its Reply to Comments on the lawfulness of the Commission's forbearance policy.

I. INTRODUCTION

A large number of parties filed comments in response to the Commission's NPRM including local exchange carriers ("LEC"), interexchange carriers ("IXC"), competitive access providers ("CAP"), radio common carriers and telecommunications users.³

¹U S WEST is a common carrier provider of exchange access and exchange telecommunications services.

²7 FCC Rcd. 804 (1992).

³GTE Service Corporation ("GTE"), National Telephone Cooperative Association ("NTCA"), NYNEX Telephone Companies ("NYNEX"), Pacific Telesis Group ("Pacific"), Southwestern Bell Corporation ("SBC"), ACC Long Distance Corp. ("ACC"), Alascom, Inc. ("Alascom"), American Telephone and Telegraph Company ("AT&T"), Commonwealth Long Distance Company ("Commonwealth"), Competitive Telecommunications Association ("CompTel"), Communications Transmission, Inc. ("CTI"), Fairchild Communications Services Company ("Fairchild"), General Communication, Inc. ("GCI"), Interexchange Resellers Association

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While the parties discussed a variety of issues, the debate centered on Section 203 of the Communications Act⁴ and whether it allowed the Commission to lawfully forbear from requiring common carriers to file tariffs. U S WEST and other parties contended that forbearance was not permitted by Section 203.⁵ Other parties filing comments held opposing views.⁶ Nothing would be accomplished by reiterating these opposing views on reply -- the issue has been fully briefed. The same could be said for different parties' views as to the Court's holding in Maislin⁷ and MCI v. F.C.C.⁸ and the relevance, if any, of the Telephone

³(...continued)

("IRA"), Automated Communications, Inc. et al. ("Joint Commenters"), KIN Network Access Division ("KNAD"), LCI International ("LCI"), MCI Telecommunications Corporation ("MCI"), OCOM Corporation ("OCOM"), RCI Long Distance, Inc. ("RCI"), Sprint Communications Company L.P. ("Sprint"), Telecommunications Marketing Association ("TMA"), Williams Telecommunications Group, Inc. ("WilTel"), Cellular Telecommunications Industry Association ("CTIA"), Mobile Marine Radio, Inc. ("MMR"), Telocator ("Telocator"), Association for Local Telecommunications Services ("ALTS"), Local Area Telecommunications, Inc. ("LOCATE"), Metropolitan Fiber Systems, Inc. ("MFS"), Ad Hoc Telecommunications Users Committee ("Ad Hoc"), First Financial Management Corporation ("FFMC"), International Business Machines Corporation ("IBM"), Telecommunications Association ("TCA") and U S WEST.

⁴47 U.S.C. § 203.

⁵See, e.g., U S WEST at 6-7; Alascom at 4; NYNEX at 3-4; AT&T at 3.

⁶See, e.g., MFS at 5; Sprint at 18; WilTel at 6; MCI at 7, 13.

⁷Maislin Industries, U.S. v. Primary Steel, Inc., 110 S. Ct. 2759 (1990) ("Maislin").

⁸MCI Telecommunications Corp. v. F.C.C., 765 F.2d 1186 (D.C. Cir. 1985) ("MCI v. FCC").

Operator Services Consumer Improvement Act of 1990 ("TOSCIA") to the current forbearance debate. One issue which does deserve further comment on reply is that of the scope of Section 203's tariff filing requirement, assuming that the Commission determines that its current forbearance policy is unlawful.

II. THE COMMISSION HAS CONSIDERABLE DISCRETION IN THE ESTABLISHMENT OF TARIFF FILING REQUIREMENTS

"The requirements of Section 203 are simple and not necessarily burdensome -- maintaining and adhering to a schedule of charges."⁹ Section 203 says little or nothing about cost support or the nature of tariff transmittals. These matters are left to the discretion of the Commission.¹⁰ The fact that the Commission has adopted burdensome and costly tariff filing rules for "dominant" carriers¹¹ does not imply that all common carriers or competitive services should be subject to this same degree of regulation.¹² As AT&T points out,¹³ the Commission explicitly recognized this in the Competitive Carrier Proceeding when it adopted "streamlined" regulation for "nondominant" carriers.¹⁴

⁹Alascom at 3.

¹⁰See 47 U.S.C. § 203(a) and § 203(b)(2).

¹¹See generally 47 C.F.R. Part 61.

¹²See AT&T at 7-9; NYNEX at 9-13.

¹³AT&T at 8-9.

¹⁴See Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, 85 F.C.C.2d 1, 20-35 ¶¶ 54-101 (1980) ("Competitive Carrier Proceeding").

The same logic which the Commission applied in adopting streamlined regulation for nondominant carriers applies equally to competitive services of dominant carriers.¹⁵ The Commission recently found this to be the case in its examination of the interstate interexchange market when it reduced regulatory restrictions on AT&T's provision of business services.¹⁶ At a minimum, the Commission should go one step further and extend streamlined regulation to encompass competitive services offered by LECs. U S WEST urges the Commission to take this step to reduce the regulatory burdens associated with the provision of competitive services by all common carriers,¹⁷ not just nondominant common carriers.¹⁸

¹⁵See AT&T at 8-10; NYNEX at 9-13.

¹⁶See Competition in the Interstate Interexchange Marketplace, 6 FCC Rcd. 5880 (1991), Memorandum Opinion and Order on Reconsideration, FCC 92-181, rel. Apr. 17, 1992.

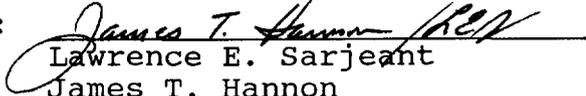
¹⁷The problems facing LECs, such as U S WEST, in introducing new switched access services are further exacerbated by the Commission's Part 69 rules. These rules require that LECs obtain Part 69 waivers to establish new switched access rate elements. It is Commission policy to require that Part 69 waiver requests be filed and approved prior to filing the subject tariff. As a result, any Commission efforts to streamline its tariff process should also address the issue of Part 69 waivers. U S WEST has suggested that the Commission incorporate any Part 69 showings in new service tariff filings rather than in separate petitions for waiver. See Letter from Laura Ford, Associate General Counsel-Federal Regulatory, U S WEST, Inc., to Ms. Cheryl Tritt, Legal Advisor to Chairman Sikes, Federal Communications Commission, dated Mar. 12, 1992. At a minimum, U S WEST's proposal would cut in half the time necessary for LECs to introduce new switched access services.

¹⁸The inequity of the Commission's current dominant/nondominant regulatory dichotomy is highlighted by NYNEX's discussion of New York Telephone's ("NYT") participation
(continued...)

III. CONCLUSION

As the foregoing demonstrates, Section 203(a)'s requirement that common carriers file tariffs need not be burdensome. It is well within the Commission's power to adopt tariff filing rules which satisfy the statutory mandate of Section 203(a) without stifling competition in either interexchange or local exchange markets.

Respectfully submitted,
U S WEST Communications, Inc.

By: 
Lawrence E. Sarjeant
James T. Hannon
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036
(202) 429-0303

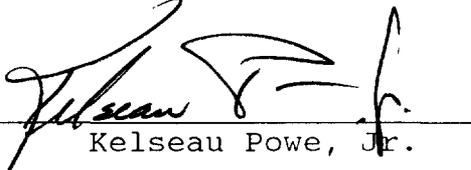
Its Attorneys

April 29, 1992

¹⁸ (...continued)
in the "New York/New Jersey Corridor" market. NYNEX at 16-17. NYT's market share (i.e., measured by originating minutes of use) in that market has declined approximately 94% since January, 1986, to less than 5% today. All the while, NYT, as a dominant carrier, has been subject to the full panoply of Commission regulations. See id.

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify on this 29th day of April, 1992, that I have caused a copy of the foregoing **REPLY** to be served via United States first class mail, postage prepaid, to the persons named on the attached service list.


Kelseau Powe, Jr.

*Hand Delivery

*Richard M. Firestone, Chief
Common Carrier Bureau
Federal Communications
Commission
1919 M Street, N.W.
Room 500
Washington, D.C. 20554

Andrew D. Lipman
Helen E. Disenhaus
Jonathan E. Canis
Ann P. Morton
Russell M. Blau
Catherine Wang
Swidler & Berlin
3000 K Street, N.W.
Washington, D.C. 20007

*James D. Schlichting, Chief
Policy and Program Planning
Division
Federal Communications
Commission
1919 M Street, N.W.
Room 544
Washington, D.C. 20554

James S. Blaszk
Patrick J. Whittle
Gardner, Carton & Douglas
1301 K Street, N.W.
Suite 900 East
Washington, D.C. 20005

*Andy LaChance
Policy and Program Planning
Division
Federal Communications
Commission
1919 M Street, N.W.
Room 544
Washington, D.C. 20554

Alan Y. Naftalin
Charles R. Naftalin
Young & Jatlow
1150 Connecticut Ave., N.W.
Washington, D.C. 20036

*Gary Phillips
Policy and Program Planning
Division
Federal Communications
Commission
1919 M Street, N.W.
Room 544
Washington, D.C. 20554

Francine J. Berry
Mark C. Rosenblum
American Telephone &
Telegraph Company
Room 3244J1
295 North Maple Avenue
Basking Ridge, NJ 07920

*Downtown Copy Center
Federal Communications
Commission
1919 M Street, N.W.
Room 246
Washington, D.C. 20554

Michael F. Altschul
Cellular Telecommunications
Industry Association
1133 21st Street, N.W.
Washington, D.C. 20036

Philip L. Verveer
Sue D. Blumenfeld
Willkie Farr & Gallagher
1155 21st Street, N.W.
Suite 600
Washington, D.C. 20036

Randolph J. May
David A. Gross
Sutherland, Asbill & Brennan
1275 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2404

Genevieve Morelli
CompTel
1140 Connecticut Ave., N.W.
Washington, D.C. 20036

Joe D. Edge
Sue W. Bladdek
Richard M. Singer
Hopkins & Sutter
888 16th Street, N.W.
Washington, D.C. 20006

Richard E. Wiley
Danny E. Adams
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Joan M. Griffin
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Robert W. Healy
Smithwick & Belendiuk
2033 M Street, N.W.
Suite 207
Washington, D.C. 20036

J. Roger Wollenberg
William T. Lake
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

Stuart G. Meister
Fairchild Communications
Services Company
300 West Service Road
Chantilly, VA 22021-0804

Timothy B. Hackman
International Business
Machine Corporation
2000 Purchase Street
Purchase, NY 10577

David L. Nace
Marci E. Greenstein
Lukas, McGowan, Nace
& Gutierrez
1819 H Street, N.W.
7th Floor
Washington, D.C. 20006

Patrick A. Lee
Edward E. Niehoff
NYNEX Telephone Companies
120 Bloomingdale Road
White Plains, NY 10605

James D. Heflinger
Litel Telecommunications
Corporation
4650 Lakehurst Court
Dublin, OH 43017

James P. Tuthill
Margaret deB. Brown
Pacific Telesis Group
140 New Montgomery Street
Room 1529
San Francisco, CA 94105

Frank W. Krogh
Donald J. Elardo
MCI Telecommunications
Corporation
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Stanley J. Moore
Pacific Telesis Group
1275 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Martin W. Bercovici
Carol Moors Toth
Keller and Heckman
1001 G Street, N.W.
Washington, D.C. 20001

Josephine S. Trubek
Rochester Tel Center
180 South Clinton Avenue
Rochester, NY 14646-0700

L. Marie Guillory
National Telephone
Cooperative Association
2626 Pennsylvania Ave., N.W.
Washington, D.C. 20037

James D. Ellis
William J. Free
Southwestern Bell Corporation
One Bell Center
Room 3512
St. Louis, MO 63101-3099

R. Michael Senkowski
Jeffrey S. Linder
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Michael F. Brecher
Dow, Lohnes & Albertson
1255 23rd Street, N.W.
Washington, D.C. 20037

Leon M. Kestenbaum
Phyllis A. Whitten
Sprint Communications
Company
Suite 1110
Washington, D.C. 20036

Andrew O. Isar
Telecommunications Marketing
Association
14405 SE 36th Street
Suite 300
Bellevue, WA 98006

Bob F. McCoy
Joseph W. Miller
Williams Telecommunications
Group, Inc.
Suite 3600
P.O. Box 2400
One Williams Center
Tulsa, OK 74102

Thomas J. Casey
Jay L. Birnbaum
Skadden, Arps, Slate
Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005

Spencer L. Perry
Interexchange Resellers
Association
P.O. Box 5090
Hoboken, N.J. 07030