

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 )  
Amendments of Parts 32, 36, 61, )  
64 and 69 of the Commission's )  
Rules to Establish and Implement )  
Regulatory Procedures for Video )  
Dialtone Service )

RM-8221

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

REPLY COMMENTS

U S WEST Communications, Inc. ("U S WEST"), through counsel and pursuant to the Federal Communications Commission's ("Commission") Public Notice,<sup>1</sup> hereby submits its reply to comments on the Joint Petition for Rulemaking and Request for Establishment of a Joint Board ("Joint Petition") filed by the Consumer Federation of America ("CFA") and the National Cable Television Association ("NCTA").<sup>2</sup>

I. INTRODUCTION

Twenty-three parties filed comments on the Joint Petition.<sup>3</sup>

<sup>1</sup>Public Notice, DA 93-463, rel. Apr. 21, 1993.

<sup>2</sup>Amendments of Parts 32, 36, 61, 64, and 69 of the Commission's Rules to Establish and Implement Regulatory Procedures for Video Dialtone Service, Joint Petition for Rulemaking and Request for Establishment of a Joint Board, RM-8221, filed Apr. 8, 1993.

<sup>3</sup>Comments were filed by the following parties: American Telephone and Telegraph Company ("AT&T"); Ameritech Operating Companies ("Ameritech"); Association of Independent Television Stations, Inc. ("INTV"); Bell Atlantic Telephone Companies ("Bell Atlantic"); BellSouth Telecommunications, Inc. ("BellSouth"); California Cable Television Association ("CCTA"); Citizens for a  
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Commenting parties represented six broad interest groups: local exchange carriers ("LEC"), state regulators, franchised cable operators ("cable companies"), interexchange carriers ("IXC"), video programmers, and public interest groups. LECs, the largest group of commentors, unanimously opposed virtually all aspects of the Joint Petition. They cited a variety of reasons,<sup>4</sup> with the most prominent being that the same issues were raised and rejected by the Commission in the Video Dialtone Order.<sup>5</sup> AT&T, the lone IXC filing comments, supported the rulemaking portions of the Joint Petition and opposed suspending action on Section 214 Applications with the caveat that approval should be

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<sup>3</sup>(...continued)

Sound Economy Foundation ("CSE Foundation"); the Public Service Commission of the District of Columbia ("D.C. PSC"); Edison Media Arts Consortium ("Edison"); GTE Service Corporation ("GTE"); Indiana Utility Regulatory Commission ("IURC") and the Michigan Public Service Commission Staff ("MPSC"); National Association of Regulatory Utility Commissioners ("NARUC"); National Association of State Utility Consumer Advocates ("NASUCA"); NCTA; New Jersey Cable Television Association, Inc. ("NJCTA"); NYNEX Telephone Companies ("NYNEX"); Pacific Bell and Nevada Bell ("Pacific"); People of the State of California and the Public Utilities Commission of the State of California ("California"); Southern New England Telephone Company ("SNET"); Telecommunications Industry Association ("TIA"); U S WEST; United States Telephone Association ("USTA"); and World Institute on Disability, Consumer Interest Research Institute, Henry Geller, Barbara O'Connor ("WCHB").

<sup>4</sup>See, e.g., Ameritech at 2; Bell Atlantic at 1; BellSouth at 2.

<sup>5</sup>Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54 - 63.58, Second Report and Order, Recommendation to Congress, and Second Further Notice of Proposed Rulemaking, 7 FCC Rcd. 5781 (1992) ("Video Dialtone Order"), appeals pending sub nom. Mankato Citizens Telephone Co., et al. v. F.C.C., Nos. 92-1404, et al. (D.C. Cir. Sept. 9, 1992).

conditioned on compliance with the outcome of any rulemaking.<sup>6</sup> AT&T's primary concern appears to be the potential impact of video dialtone (or "VDT") on the cost of interstate access. State regulators largely supported the rulemaking portions of the Joint Petition.<sup>7</sup> The overriding concern of state regulators is cost allocation and the potential impact on intrastate rates. Not surprisingly, cable companies, represented by CCTA and NJCTA, supported the Joint Petition and holding Section 214 Applications in abeyance.<sup>8</sup> The two video programmers filing comments had opposing views, with INTV supporting the Joint Petition and Edison opposing any delay in implementing video dialtone.<sup>9</sup> Public interest groups opposed the Joint Petition as an attempt to delay the introduction of competitive video dialtone service.<sup>10</sup>

All in all, the positions of the parties were fairly predictable. U S WEST will not burden the Commission by repeating these positions in any detail -- they speak for themselves. However, it should be noted that there was little support, other than from cable companies, for the proposition

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<sup>6</sup>AT&T at 2.

<sup>7</sup>See, e.g., California at 3-4; D.C. PSC at 5.

<sup>8</sup>See, e.g., NJCTA at 1-3; CCTA at 1, 6-7.

<sup>9</sup>INTV at 2; Edison at 2.

<sup>10</sup>WCHB at 3; CSE Foundation at 1.

that the Commission should halt processing LEC Section 214 Applications for VDT service until the completion of proposed rulemakings.

II. THE PUBLIC INTEREST WOULD BE HARMED BY HOLDING SECTION 214 APPLICATIONS IN ABEYANCE

The objective of Joint Petitioners in proposing all-encompassing rulemakings is to delay the introduction of video dialtone service. Holding existing Section 214 Applications for VDT service in abeyance would accomplish this objective, regardless of the ultimate outcome of any rulemakings. Cable companies have a direct financial interest in delaying the introduction of VDT service. The Commission should not allow cable companies' private interests to take precedence over the public interest. As WCHB points out, "Petitioners' rulemaking request [is] a serious threat to the interest of consumers in accessing broadband multi-media services in their homes."<sup>11</sup> Placing a moratorium on the processing of LEC Section 214 Applications for VDT will delay, if not deny, consumers the benefits of competition.<sup>12</sup>

Neither Joint Petitioners nor the few parties supporting them have provided evidence of any public interest benefits to be gained from adopting the draconian remedy of a moratorium on Section 214 Applications. Not only would such a remedy be at

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<sup>11</sup>WCHB at 3.

<sup>12</sup>Id. at 4.

odds with the Commission's goal of "promoting a competitive video marketplace,"<sup>13</sup> it makes no sense, given the fact that the Commission has specifically identified the Section 214 process as the vehicle which it will use to evaluate LEC video dialtone proposals.<sup>14</sup>

Joint Petitioners' claim that implementation of VDT service will "undermine fair competition in the video marketplace"<sup>15</sup> simply "will not wash" when LECs have little if any market share in the multi-billion dollar market for the delivery of video entertainment services to the home. A moratorium on processing Section 214 Applications would only serve to harm the public interest by blocking market entry for an indefinite period of time. As such, the Commission should deny Joint Petitioners' request for a moratorium on the processing of LEC Section 214 Applications for VDT service.

### III. CONCLUSION

As the foregoing and U S WEST's original comments demonstrate, Joint Petitioners only have one objective -- to delay the introduction of competitive VDT service. A grant of Joint Petitioners' Petition would serve only the private financial interests of franchised cable operators, not the public

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<sup>13</sup>Video Dialtone Order, 7 FCC Rcd. at 5785-86 ¶ 6.

<sup>14</sup>See id. at 5819-20 ¶ 72.

<sup>15</sup>Joint Petition at 4-5.

interest. As such, the Commission should deny the Joint  
Petition.

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CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 7th day of June, 1993, I have caused a copy of the foregoing **REPLY OF U S**

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