



ORGANIZATION FOR THE PROTECTION AND ADVANCEMENT OF SMALL TELEPHONE COMPANIES

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FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Re: 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

Dear Ms. Searcy:

Please find enclosed for filing the original and eleven copies of the Organization for the Protection and Advancement of Small Telephone Companies' reply comments in the above-captioned proceeding.

Thank you for your assistance in this matter.

Sincerely,

Lisa M. Zaina
General Counsel

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RM 8221

**THE ORGANIZATION FOR THE PROTECTION AND
ADVANCEMENT OF SMALL TELEPHONE COMPANIES'
REPLY COMMENTS**

OPASTCO
21 Dupont Circle, NW
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(202) 659-5990

June 7, 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
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Rules to Establish and Implement)
Regulatory Procedures for Video)
Dialtone Services)

RM 8221

**REPLY COMMENTS OF
THE ORGANIZATION FOR THE PROTECTION AND
ADVANCEMENT OF SMALL TELEPHONE COMPANIES**

I. INTRODUCTION

On April 8, 1993, the Consumer Federation of America and the
National Cable Television Association (Petitioners) requested

The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) hereby replies to the comments submitted, and joins the majority of commenters in opposing the Petitioners' request.²

OPASTCO is a national trade association of more than 400 independently owned and operated telephone companies serving rural areas of the United States and Canada. Its members, which include both commercial companies and cooperatives, together serve almost two million customers. The ability of OPASTCO's member companies to provide video dialtone services to their subscribers in the future will be greatly affected by factors such as those discussed by the Petitioners. OPASTCO believes that the Petitioners' requests would thwart the timely development of video dialtone services in rural areas, and therefore should be denied.

II. DISCUSSION

The Petitioners request that the FCC establish a Federal-State Joint Board to recommend the proper allocation of plant

²On May 21, 1993, 13 parties files in opposition to the Joint Petition (Ameritech Operating Companies, Bell Atlantic, BellSouth, Citizens for a Sound Economy, GTE Service Corp., National Telephone Cooperative Association, NYNEX, Pacific and Nevada Bell, the Southern New England Telephone Company, Telecommunications Industry Association, United States Telephone Association, U S West, and the World Institute on Disability) and eight parties filed in support of it (Association of Independent TV Stations, California Cable Television Association, Indiana Utility Regulatory Commission, National Association of Regulatory Utility Commissioners, National Association of State Utility Consumer Advocates, New Jersey Cable Television Association, Public Service Commission of DC, and Public Utility Commission of the State of California).

used for the provision of both telephone service and video dialtone service; adopt video dialtone-specific cost accounting rules; determine the proper application of access charge and price cap rules to video dialtone; adopt procedures to separate regulated and non-regulated costs; and adopt rules concerning joint marketing and privacy.

The Petitioners' requests appear to be little more than a tactic designed to slow down, or even stall, the development of video dialtone services and technology.³ OPASTCO strongly agrees with USTA's assertion that "the Commission has already dealt with the issues raised in the Petition."⁴

The overall structure of video dialtone, as ordered by the FCC, will automatically preclude many of the practices the Petitioners predict. Telephone companies must first build a common carrier platform that will accommodate demand from multiple video programmers as well as expand as that demand increases.⁵ The Commission also adopted a two-level regulatory framework that clearly divides basic platform services from enhanced, non-common carrier services.

³Ameritech Comments at 1; U S West Comments at 2; United States Telephone Association (USTA) Comments at 2.

⁴USTA Comments at 3.

⁵Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, CC Docket No. 87-266, Second Report and Order, Recommendation to Congress and Second Further Notice of Proposed Rulemaking, 7 FCC RCd 5781-5889 (1992). (Second Report and Order)

More specifically, the FCC declined to further modify its existing regulatory environment at this stage of the development of video dialtone. The Commission stated,

While it is true that this regulatory scheme was not developed with video distribution in mind, no party has demonstrated that it should be changed at this time for video dialtone. We find that the concerns of potential discriminatory conduct and improper cross-subsidization are similar for common carrier services, whether voice, data, or video.⁶

Quite simply, OPASTCO believes that nothing has changed since the Commission arrived at this conclusion. The Petitioners seem to place a great deal of emphasis on the fact that several video dialtone trials have recently been proposed, but in fact this development was foreseen by both the industry and the Commission. The FCC vowed to monitor specific proposals through the Section 214 process, and "take appropriate enforcement action" should telephone companies fail to comply with Section 214 requirements.⁷ Furthermore, the FCC promised a review of the rules and regulatory framework in three years, once it and the industry had acquired a little experience with specific video dialtone systems.

OPASTCO has long maintained that, while the video dialtone concept could benefit rural subscribers, the Commission should not mandate particular services, technologies, or deployment schedules in order to promote the concept. The more desirable

⁶Second Report and Order at 5828.

⁷Second Report and Order at 5832.

alternative, and the one the FCC agreed to in its Second Report and Order, is to allow the telephone companies themselves to decide how best to serve their customers. This will not be possible without exactly the type of trials that have been proposed; furthermore, these trials will only be successful and provide useful information if they are allowed to proceed without the additional regulatory burdens proposed by the Petitioners. For these reasons, OPASTCO believes the FCC should deny the Petitioners' request.

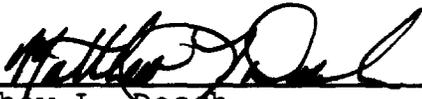
OPASTCO also supports NTCA's assertion that, if at some point in the future the FCC decides to revisit the issues presented by the Petitioners, it do so "in the context of

III. CONCLUSION

For the reasons outlined above, OPASTCO respectfully requests that the FCC deny the CFA/NCTA petition for rulemaking.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROTECTION AND ADVANCEMENT
OF SMALL TELEPHONE COMPANIES**

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By: 
Lisa M. Zaina
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June 7, 1993

CERTIFICATE OF SERVICE

I, Megan A. Gillispie, hereby certify that a copy of OPASTCO's reply comments was sent on this, the 7th day of June, 1993, by first class United States mail, postage prepaid, to those listed on the attached sheets.

Megan A. Gillispie

Megan A. Gillispie

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