

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition of the United States)
Telephone Association for Reform) RM-8356
of the Interstate Access Rules)

REPLY COMMENTS OF
AMERICAN TELEPHONE AND TELEGRAPH COMPANY

Pursuant to the Commission's public notice of October 1, 1993, American Telephone and Telegraph Company ("AT&T") submits this reply to the comments on the petition of the United States Telephone Association ("USTA") for a comprehensive rulemaking on access-related issues ("Petition").¹

INTRODUCTION

Virtually all of the commenters agree on the need for a broad-ranging, expeditious review and reform of the Commission's access rules to align them with recent technological and marketplace developments.² Thus, the issue presented by USTA's petition is not whether the

¹ A list of the parties submitting comments is attached as Appendix A.

² See AT&T Comments at 1; Ad Hoc at 1; Ameritech at 1; Bell Atlantic at 1; BellSouth at 1; CompTel at 1; GCI at 1; GTE at 2; MCI at 2; ITAA at 2; MFS at 1; Moore & Liberty at 1; NECA at 1; NTCA at 1-2; NYNEX at 1-2; Pacific/Nevada at 1; Southwestern at 1; Sprint at 1; Tipton at 1; United at 1; U S WEST at 2; Winnebago at 1; Yelm at 1.

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Commission should undertake such an effort -- it clearly should. The real question is whether the proposal advanced by USTA provide an appropriate "starting point" (NYNEX at ii, 2; NTCA at 4) or a "foundation" (BellSouth at 2; U S WEST at 6) for further Commission action.

As AT&T explained in its comments, USTA's proposal does not provide such a foundation because it is based on the false assumption that widespread local exchange competition either exists already or will shortly develop, without further regulatory action. AT&T Comments at 3-7. Further, USTA's proposal unnecessarily seeks to have the Commission resolve, in a single, omnibus proceeding, issues that the Commission has already undertaken to address in other proceedings. Id. at 8-10.³

The comments overwhelmingly confirm these points. Indeed, for a variety of reasons, many of the LECs themselves agree that USTA's proposal "is not an appropriate mechanism" by which to undertake comprehensive access reform. United at 2.⁴

³ To be sure, AT&T agrees with some of USTA's specific, subsidiary proposals. See AT&T at 2-3. But USTA's overall proposal cannot provide an adequate framework or roadmap for further action because its central features are plainly misguided.

⁴ See also NTCA at 4 (proposing even broader inquiry than that proposed by USTA); Pacific/Nevada at 1 (same).

I. THE COMMENTS CONFIRM THAT USTA'S CENTRAL ASSUMPTION OF WIDESPREAD LOCAL COMPETITION IS UNWARRANTED AND THAT USTA'S PROPOSAL THEREFORE CANNOT SERVE AS A FOUNDATION FOR FURTHER COMMISSION ACTION.

As the comments recognize, the central feature of USTA's proposal is its proposed deregulation of access rates (see Petition at 20-37), which is based on USTA's assumption that exchange access services are or soon will be subject to pervasive competition. See id. at 9.⁵ However, the record compiled in this proceeding (as well as other evidence currently before the Commission), overwhelmingly refutes this central premise, and thereby deprives USTA's proposal of any value as a foundation or "roadmap" for further Commission action.⁶

USTA's claims of widespread access competition are squarely foreclosed by evidence demonstrating that LECs retain an overwhelming share of the nationwide access market. For example, Sprint points out that 99.55 percent of its payments for local access went to LECs rather than to so-called "competitive access providers" or CAPs during the first six months of 1993. Sprint at 5. Similarly, LECs received 99.86 percent and 99.4 percent, respectively, of AT&T's and MCI's total payments for local

⁵ See Ameritech at 1; NYNEX at 1; Moore & Liberty at 1; Tipton at 1; Winnebago at 1; Yelm at 1; AT&T at 4; MCI at 2-3; CompTel at 3; Sprint at 1; MFS at 4.

⁶ See MFS at 3; MCI at 2; CompTel at 2-3; Sprint at 10; Ad Hoc at 3-4; Hyperion at 2.

access during 1992.⁷ As AT&T has elsewhere demonstrated, there is no reason to believe the LECs' share of the nationwide access market will decrease markedly anytime soon.⁸ Accordingly, the Commission could not reasonably do what USTA urges -- namely, propose an integrated set of access reforms based on the assumption of widespread competition.

Indeed, as Sprint notes (at 7-8), any such proposal would be doubly unreasonable in light of the Commission's own recent conclusion that "the competitiveness of the LECs' markets overall [is] not sufficiently robust to warrant any additional flexibility" in the regulation of LEC depreciation practices.⁹ It follows a fortiori that competition for LEC access

⁷ See Testimony of Robert Allen, AT&T Chairman, before the Committee on Commerce, Science, and Transportation, September 8, 1993; Letter from Gerald J. Kovach, MCI Senior Vice President for External Affairs, to the Honorable Daniel K. Inouye, Chairman, Subcommittee on Communications, Committee on Commerce, Science, and Transportation, United States Senate, September 17, 1993.

⁸ Comments of AT&T in Petition for a Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region, DA 93-481 (June 11, 1993) at 11-14; Reply Comments of AT&T in DA 93-481 (July 12, 1993) at 4-5.

⁹ Simplification of the Depreciation Prescription Process, CC Docket No. 92-296 (FCC 93-452, released October 20, 1993) at ¶ 28.

services is likewise "not sufficiently robust" to warrant significant deregulation of access services.

Not surprisingly (given these facts), USTA's supporters offer only conclusory, self-serving assertions about the state of access competition.¹⁰ And none of the commenters offers any analysis in support of USTA's extremely lenient standard for determining when a particular access market has become competitive.¹¹ In

¹⁰ Some of these parties incorporate by reference various analyses of local competition submitted in the Ameritech proceeding. E.g., Ameritech at 1; NYNEX at 3 n.3. AT&T has already refuted these analyses in that proceeding and will not repeat its response here. See AT&T Ameritech Reply Comments at 4-8.

The only LEC that even attempts to offer evidence on this critical issue is Bell Atlantic, which claims that it is facing widespread access competition because its share of DS3 and DS1 circuits has declined substantially in the four major urban areas it serves. See Bell Atlantic at 2-3. But Bell Atlantic fails to provide any hard data on DS3 and DS1 circuits within its service area; instead, it asks the Commission simply to accept its unsubstantiated conclusions on blind faith. Moreover, even if Bell Atlantic is correct about its share of DS3 and DS1 circuits, this says little about its market share. AT&T's own internal data show that it obtains from Bell Atlantic substantially all of the DS1 and DS3 circuits used in the provision of special access in Bell Atlantic's service area. And AT&T has no reason to believe that its major competitors obtain a substantially smaller percentage of their DS1 and DS3 circuits from Bell Atlantic. Thus, Bell Atlantic retains a monopoly on access services within its territory.

¹¹ See AT&T at 5-6. As Ad Hoc points out, USTA proposes to eliminate all pricing constraints even when "customers representing the great majority (75 percent) of total demand for the LEC's access services do not have alternative sources of supply, leaving the LEC as the clearly dominant provider of interstate access

(footnote continued on following page)

sum, the claims of widespread access competition advanced by USTA and others are based on what MFS correctly calls "a familiar and threadbare tale." MFS at 4-5.

Rather than initiate access reforms on the assumption that competition has already developed, the Commission should (i) take steps to create the opportunity for the development of genuine exchange and exchange access competition; and (ii) ensure that consumers are protected in the meantime. AT&T and several other parties have provided a number of concrete suggestions in this regard.¹² The Commission should adopt those suggestions as a roadmap for further reform, rather than the now unsupportable framework proposed by USTA.

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services." Ad Hoc at 10. Similarly, Sprint notes that USTA's proposal would allow full deregulation of all access services within a wire center serving area if there exists even "the theoretical ability of any [alternative] forms of transmission" -- including a microwave tower, a satellite station, an IXC POP, or a strand of non-LEC fiber optic cable -- "to handle one-fourth of the LECs' access demand, coupled with a preliminary step by an IXC to explore an alternative source of supply." Sprint at 6. Worse yet, "there would have to be no actual loss of business to a local service competitor before the LECs could engage in . . . completely deregulated pricing." Id. at 7.

¹² See AT&T at 7; MFS at 5-6; CompTel at 14-15.

II. THE COMMENTS DEMONSTRATE THAT MUCH OF USTA'S PROPOSAL UNNECESSARILY DUPLICATES EXISTING COMMISSION PROCEEDINGS.

The comments likewise confirm that much of what USTA proposes would unnecessarily duplicate existing Commission proceedings, and that this is itself a sufficient reason to reject USTA's proposed framework.

For example, one of USTA's principal supporters -- U S WEST -- has filed a table showing the extent to which the Commission is already addressing some of the same access reform issues in other proceedings. U S WEST at App. A. That table shows that the Commission is already addressing or soon will address (1) price cap design and sharing issues in the upcoming price cap review; (2) public policy support mechanisms (including USF-related issues) in CC Docket 80-286; and (3) contract-based pricing and other access pricing issues in Docket Nos. 93-36 (Filing Requirements for Non-Dominant Carriers), 91-213 (Transport Restructure), and 91-141 (Expanded Interconnection). See also AT&T at 8-9.

Thus, USTA is asking the Commission to duplicate, in a new, omnibus proceeding, much of the effort that is now being (or soon will be) expended in these proceedings. And USTA is doing so in spite of the Commission's having recently rejected efforts by parties in another proceeding to have the Commission "prejudge"

one of these pre-existing proceedings, namely the price cap LEC performance review.¹³

Like USTA itself, USTA's supporters defend this duplication of effort on the ground that "separate proceedings . . . will not permit the Commission to fully address the impact" of market and technological developments.¹⁴ But neither USTA nor the LECs offer any justification for this conclusion, and there is no reason to assume that the Commission is incapable of coordinating its analysis and resolution of related issues across several parallel proceedings.¹⁵

¹³ Amendment of Parts 32 and 64 of the Commission's Rules to Account for Transactions Between Carriers and Their Nonregulated Affiliates, CC Docket No. 93-251, released October 20, 1993, at ¶ 37.

¹⁴ NECA at 4. Accord U S WEST at 4-5; NTCA at 3; GTE at 4; NYNEX at 11. See also Petition at 6.

¹⁵ Bell Atlantic admits as much when it acknowledges that the price cap sharing issue should be addressed in the upcoming price cap review rather than in the proceeding proposed by USTA. Bell Atlantic at 4 n.7.

CONCLUSION

For the reasons stated above and in AT&T's opening comments, USTA's petition should be denied.

Respectfully submitted,

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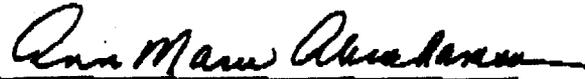
APPENDIX A

**LIST OF COMMENTERS
RM-8356**

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General Communication, Inc. ("GCI")
GTE Service Corporation ("GTE")
Harrisonville Telephone Company ("Harrisonville")
Hyperion Telecommunications, Inc. ("Hyperion")
Information Technology Association of America ("ITAA")
MCI Communications Corporation ("MCI")
MFS Communications Company, Inc. ("MFS")
Moore & Liberty Telephone Company ("Moore & Liberty")
National Exchange Carrier Association ("NECA")
National Telephone Cooperative Association ("NTCA")
NYNEX Telephone Companies ("NYNEX")
Pacific Bell and Nevada Bell ("Pacific/Nevada")
Southwestern Bell Telephone Company ("Southwestern")
Sprint Communications Company ("Sprint")
Tipton Telephone Company Inc. ("Tipton")
United and Central Telephone Companies ("United")
U S WEST Communications, Inc. ("U S WEST")
Winnebago Cooperative Telephone Association ("Winnebago")
Yelm Telephone Company ("Yelm")

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 16th day of November, 1993, a copy of the foregoing "Reply Comments of American Telephone and Telegraph Company" was mailed by U.S. first class mail, postage prepaid, to the parties listed on the attached Service List.


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