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Joanne Salvatore Bochis
Associate General Counsel

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 16, 1993

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: MFS Communications Company, Inc.

Petition for a Notice of Inquiry
and En Banc Hearing

R. M. No. 8388

Dear Mr. Caton:

Enclosed herewith for filing with the Commission are the original and four copies of the National Exchange Carrier Association, Inc.'s Comments in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the duplicate copy of this letter furnished herewith for such purposes and remitting same to bearer.

Very truly yours,

Joanne S. Bochis
Joanne S. Bochis

JSB/bas
Enclosures

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
MFS Communications Company Inc.)
)
Petition for a)
Notice of Inquiry)
and En Banc Hearing)

RM 8388

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COMMENTS

The National Exchange Carrier Association, Inc. (NECA)¹ submits its comments in response to the Petition for a Notice of Inquiry and En Banc Hearing filed on November 1, 1993, by MFS Communications Company, Inc. (MFS).² In this Reply, NECA acknowledges that significant universal service issues can be included in the Commission's planned comprehensive review of the Universal Service Fund (USF).³

I. BACKGROUND

MFS petitioned the Commission to issue a Notice of Inquiry and convene an en banc hearing on an accelerated basis to determine

¹ NECA is a not-for-profit, membership association. NECA members serve over 1,400 local exchange carrier (EC) study areas.

² Comments Invited on MFS Communications Company, Inc.'s Petition for a Notice of Inquiry and En Banc Hearing, Public Notice, Report No. 1986, Associate Managing Director Public Information and Reference Services Petitions for Rulemaking Filed, released November 16, 1993.

³ This USF comprehensive review has been referenced in Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Notice of Proposed Rulemaking, 8 FCC Rcd 7114 (1993) (Interim USF Notice).

future policies for continuing to promote universal telephone service in a competitive market. MFS states that its petition responds to the competitive changes taking place in the communications industry, specifically the gradual erosion of economic barriers to local telephone service competition.

MFS, recognizing its responsibility to contribute to the funding of universal service, believes an inquiry is needed to address concerns with the necessary financial support mechanisms to attain universal service, as well as the means of raising funds for these programs. MFS maintains that the policy goals of providing universal service can be accomplished without restricting competitive entry. A stated objective of the petition, moreover, is to assist the Commission in ascertaining "an equitable non-discriminatory, and competitively neutral funding mechanism" for universal service.

MFS "understands" that the Commission/Joint Board comprehensive review of universal service may be narrowly focused to consider only the restructuring of the existing Fund.⁴ It asks the Commission to act expeditiously by conducting an en banc hearing before actions are taken in pending matters which may significantly affect universal service.

II. THE COMMISSION'S PLAN IS AN EFFICIENT MEANS FOR REVIEW OF UNIVERSAL SERVICE.

As administrator of the Universal Service Fund (USF), NECA recognizes that the process of evaluating universal service is

⁴ MFS Petition at 6.

complex. An evolving universal service definition for the 1990's and a review of all components necessary for achieving agreed-upon goals are items currently ripe for consideration.

Building and sustaining universal service has been a cornerstone of telecommunications policy in the United States. The challenge for policy makers today is to keep the definition of universal service in tune with the rapidly changing telecommunications technology and industry structure. A broad universal service concept has accomplished that in the past.

Upgraded service, affordability, improved quality and reliability, and the extension of service to those in sparsely populated areas are some of the shared benefits derived from public policies that promote universal service. Comprehensive deployment of state-of-the-art technology as soon as it becomes available is necessary if we are to achieve accessibility to modern telephone service for all areas of the country. A continuing evaluation of universal service policies and mechanics is needed as technology swiftly advances and people become ever more dependent on telecommunications.

In initiating the Interim USF Notice in September, the Commission was specific in referencing its intention to conduct a comprehensive proceeding. The "interim" measures were proposed to be in effect "for a limited time period while we pursue a rulemaking on a broad spectrum of USF issues."⁵ This statement does not suggest that the USF proceeding will be narrowly focused.

⁵ Interim USF Notice at 1 (emphasis added).

III. THE COMMISSION SHOULD CONSIDER BROAD UNIVERSAL SERVICE ISSUES, INCLUDING THE NEED FOR AN EN BANC HEARING, IN THE ANNOUNCED COMPREHENSIVE REVIEW.

NECA agrees with MFS regarding the importance of universal service and the need to address many complex universal service issues in a timely fashion. The proper forum to examine the broad issues raised by MFS will be the comprehensive review of universal service issues announced by the Commission.⁶ Many changes that may be contemplated will require Joint Board action.

The Commission's comprehensive review will provide the opportunity to examine the issues presented by MFS, along with a myriad of other universal service issues. These issues may be even more complex and further reaching than those articulated by MFS. NECA notes the November 17, 1993, NARUC Resolution which addresses the MFS petition.⁷ NECA backs NARUC's conclusion that it "supports a comprehensive review of the concept of universal service and issues related to the continuation and expansion of universal service", as well as NARUC's endorsement of "a collaborative process with the FCC, NTIA, and all interested parties in order to address and refine the concept of and issues relating to universal service."⁸

The Commission and Joint Board currently have before them other issues directly related to universal service. For example,

⁶ Id.

⁷ See Convention Floor Resolution No. 6, Resolution on Recent Initiatives to Consider Universal Service Policies, sponsored by the Committee on Communications (Adopted November 17, 1993).

⁸ Id.

the recent Recommended Decision to adopt an interim cap on USF amounts awaits a Commission order.⁹ In addition, AT&T has continued its longstanding request that a change be made in the method of allocating obligations for the fund.¹⁰ The Commission has also begun to take comments on overall access charge restructure.¹¹

Federal government initiatives outside the Commission may also influence the universal service comprehensive review. Recently, the National Telecommunications Information Agency (NTIA) created an Advisory Council on the National Information Infrastructure (NII). Among other things, the Council will consider "[p]olicies promoting greater competition with targeted support for disadvantaged users or especially high-cost or rural areas . . . [that would] . . . advance both rapid infrastructure modernization and expanded universal service." Possible congressional action on

⁹ See Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, Recommended Decision, CC Docket No. 80-286, FCC 93J-3, released December 10, 1993.

¹⁰ See Petition of American Telephone and Telegraph Company regarding MTS and WATS Market Structure, Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket 80-286, filed November 24, 1993 which asks the Commission to include in its upcoming comprehensive review of universal service, an examination of the PSL criteria for payment into the fund.

¹¹ The Commission has received comments in response to a NARUC request for a NOI on Access Issues (DA-847) (comments filed September 2, 1993 and replies on September 23, 1993); on a Common Carrier Bureau Staff Working Paper regarding "Federal Perspectives on Access Charge Reform" (comments filed September 23, 1993), and in response to USTA's Petition for Rulemaking on the Reform of the Interstate Access Charge Rules (RM 8356) (comments filed November 1, 1993 and replies filed November 16, 1993).

the Communications Act of 1934 must be considered as well.¹² Evaluation of these various government actions needs to be combined with analysis of the economic and technological changes occurring in the telecommunications industry when choosing a proper course for the future of universal service.

It would be inefficient for the Commission to conduct separate inquiries when it has already announced its intent to take action with respect to USF. As stated previously, the pending comprehensive review of universal service has not had limitations placed on the issues that can be incorporated.

The Commission will have the opportunity to look at the "whole picture" during its promised comprehensive review. Initiating a separate proceeding on the MFS petition at this time would divert energy and focus away from the longer-term issues of how to extend the universal service concept to ensure that information resources are available to all at affordable prices. As the comprehensive review unfolds, and the types of information needed becomes more clear, it may well be that an en banc hearing will become a desired procedural mechanism. NECA recommends that this decision can best be reached in the context of the comprehensive review, rather than now.

NECA will participate as an information resource in the Commission's comprehensive review. NECA is in a unique position to facilitate a consensus among many industry participants. As administrator of the current USF mechanism, NECA can assist in

¹² See, eg., H.R. 3636, 103d Cong., 1st Sess. (1993).

impact evaluation of various alternative plans related to universal service goals. The data to which NECA has access, along with the technical understanding NECA has of the current USF mechanisms, will enable it to contribute valuable analyses.

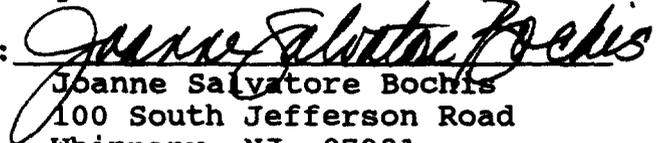
IV. CONCLUSION

MFS has advanced numerous important issues concerning universal service. NECA believes the Commission has announced efficient plans for comprehensive review of universal service. The Commission should postpone its decision regarding a need for an en banc hearing until the commencement of that proceeding.

Respectfully submitted,

National Exchange Carrier Association, Inc.

By:


Joanne Salvatore Bochi
100 South Jefferson Road
Whippany, NJ 07981

Its Attorney

December 16, 1993

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IV. CONCLUSION

MFS has advanced numerous important issues concerning universal service. NECA believes the Commission has announced efficient plans for comprehensive review of universal service. The Commission should postpone its decision regarding a need for an en banc hearing until the commencement of that proceeding.

Respectfully submitted,

National Exchange Carrier Association, Inc.

By: /s/Joanne Salvatore Bochis
Joanne Salvatore Bochis
100 South Jefferson Road
Whippany, NJ 07981

Its Attorney

December 16, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments were served this 16th day of December, 1993, by mailing copies thereof by United States Mail, first class postage paid, to the person listed.

By 
Lisa L. Leibow

The following party was served:

Andrew D. Lipman, Attorney
MFS Communications Company, Inc.
3000 K Street, NW, Suite 300
Washington, DC 20007

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I hereby certify that a copy of the foregoing Comments were served this 16th day of December, 1993, by mailing copies thereof by United States Mail, first class postage paid, to the person listed.

By /s/ Lisa L. Leibow
Lisa L. Leibow

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Andrew D. Lipman, Attorney
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