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

In the Matter of Inquiry into Policies and Programs to Assure Universal Telephone Service in a Competitive Market Environment	)))))	RM-8388

REPLY COMMENTS OF
AMERICAN TELEPHONE AND TELEGRAPH COMPANY

Pursuant to the Commission's Public Notice of November 16, 1993, American Telephone and Telegraph Company ("AT&T") submits this reply to comments on the petition of MFS Communications, Inc. ("MFS") for a notice of inquiry into policies and programs related to universal service (hereinafter "Petition").[1] The comments reveal virtually unanimous agreement on the need for prompt, decisive action on universal services issues, and on several key principles that should guide the Commission's actions.

As to procedural matters, virtually all of the commenters agree that the Commission should comprehensively review all subsidy-related issues, including the Universal Service Fund ("USF") as well as other subsidy mechanisms.[2]

1 A list of these comments is attached at Appendix A.

2 See, e.g, MCI Comments at 2-3; NECA Comments at 4; USTA Comments at 14; Pacific/Nevada Comments at 3-4; Southwestern Bell Comments at 5-6; NYNEX Comments at 2; Bell Atlantic Comments at 1; Sprint Comments at 1; ICA Comments at 2; Hyperion Comments at 2; ELI Comments at 1. Even as it calls for a "comprehensive" review, Ameritech suggests that the Commission should exclude from consideration the subsidies inherent in the current separations process. Ameritech Comments at 3. This suggestion is meritless. As NYNEX correctly points out, the current rules "overallocate costs to

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In addition, and contrary to MFS's own suggestion (Petition at 3), there is widespread agreement that the Commission should conduct such a review without delaying other closely related proceedings, such as the previously announced rulemaking on USF issues.[3] Accordingly, AT&T believes the Commission can best address the issues raised in the Petition by pressing forward immediately with the USF rulemaking and simultaneously beginning a second, more comprehensive rulemaking on other subsidy-related issues.[4]

Substantively, the comments reveal a striking degree of agreement on certain key principles that should guide the Commission's analysis of all subsidy-related issues: First, subsidies should generally be targeted to

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2 (...continued) the interstate jurisdiction, producing interstate access rates priced well above cost, which in turn provides an implicit subsidy for basic residential exchange service." NYNEX Comments at 6. There is no good reason to exclude this subsidy from consideration.

3 Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Notice of Proposed Rulemaking, FCC No. 93-435 (September 14, 1993). See especially NECA Comments at 1 (the "issues can be included in the Commission's planned comprehensive review of the [USF]"); GCI Comments at 1; US WEST Comments at 4-5; Staurulakis Comments at 1-2. Indeed, many of the commenters do not support an en banc hearing. E.g., MCI Comments at 2; NECA Comments at 7; USTA Comments at 8; US WEST Comments at 1; Bell Atlantic Comments at 9. Even the Consumer Federation of America, while opposing a new, wide-ranging inquiry into all subsidy-related issues, does not oppose the comprehensive rulemaking on USF-related issues that the Commission has previously announced. See CFA Comments at 3-5.

4 See AT&T Comments at 5.

customers, not telephone companies, on the basis of financial need,[5] and should be limited to those services that are necessary to provide full access to the telephone network.[6] Second, subsidy programs should be administered whenever possible by the Commission or some other disinterested third party.[7] Third, financial responsibility for subsidies should be spread as broadly as possible, with all telecommunications companies contributing on a competitively neutral basis.[8] The existence within the industry of widespread agreement on these fundamental principles provides a further reason for quickly launching -- and concluding -- appropriate rulemakings on subsidy-related issues.

The principal disagreement among the commenters concerns the appropriate vehicle with which to begin these proceedings. The United States Telephone Association ("USTA"), along with several other commenters (principally

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5 E.g., Petition at 10-12; AT&T Comments at 3; Bell Atlantic Comments at 5; GCI Comments at 2; ALTS Comments at 2.

6 E.g., Petition at 10-12; AT&T Comments at 3; Southwestern Comments at 12, 13-14; U S West Comments at 7; Bell Atlantic Comments at 4.

7 See, e.g., Petition at 17-18; AT&T Comments at 3-4; GCI Comments at 3; U S West Comments at 7-8; TCG Comments at 4.

8 E.g., Petition at 18-19; AT&T Comments at 4; Bell Atlantic Comments at 8; NYNEX Comments at 2 n. 4; BellSouth Comments at 4; USTA Comments at 7; Ameritech Comments at 2; GCI Comments at 3; ALTS Comments at 3; Southwestern Comments at 9, 15; GTE Comments at 4-5, 8-9; U S West Comments at 2, 4 n. 6; MCI Comments at 4.

the various Bell operating companies),[9] suggests that the Commission should examine the issues raised by MFS in conjunction with USTA's recent proposal to reform access charges.[10] However, as AT&T and several other commenters have shown, the USTA proposal is not an appropriate starting point for analysis of these issues because it is based on the erroneous assumption that the local exchange market is either fully competitive or will inevitably become fully competitive.

In fact, the local exchange companies continue to hold a bottleneck monopoly over key exchange and access services, and there is simply no evidence that effective competition will develop anytime soon.[11] Even NYNEX admits that full, effective competition is, at best, "on the horizon,"[12] and BellSouth concedes that such limited

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9 See USTA Comments at 1; BellSouth Comments at 5; Pacific Bell/Nevada Bell Comments at 3; Southwestern Comments at 2-3; US WEST Comments at 4-5; NYNEX Comments at 2-3; Bell Atlantic Comments at 1-2.

10 USTA, Reform of the Interstate Access Charge Rules, Petition for Rulemaking, RM-8356 (filed September 17, 1993).

11 Indeed, there is substantial evidence that the local exchange is a natural monopoly, and thus may be incapable of competition under its current technological and economic limitations. See AT&T Comments in DA-93-481 at 11-14; AT&T Reply Comments in DA-93-481 at 4-5.

12 NYNEX Comments at 6.

competition as now exists is the result of a regulation-induced LEC pricing "umbrella."[13]

Because USTA's pervasive assumption about the competitiveness of local exchange markets is so at odds with reality, USTA's proposal does not provide an appropriate framework in which to address the issues raised in MFS's

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13 BellSouth Comments at 3. In any case, competitive access providers ("CAPs") have managed to capture less than one percent of the access market nationwide. As was pointed out in comments to USTA's petition for rulemaking, Sprint paid 99.55 percent of its access charges to LECs in the first half of 1993, while AT&T and MCI paid 99.86 percent and 99.4 percent, respectively, to LECs in 1992. See AT&T Reply Comments, RM-8356, at 3-4. Moreover, CAPs serve primarily large business users in large urban areas, and there is no reason to think that they will be able to make significant inroads beyond that customer base in the near future.

Similarly, there is no basis for concluding that radio-based services and other technologies such as "two-way services over cable networks" (USTA Comments at 10-11) will create effective competition anytime soon. As AT&T has demonstrated elsewhere, the prices of radio-based services would have to decline dramatically before consumers regarded them as meaningful substitutes for traditional landline services. See, e.g., AT&T Comments in DA-93-481 at 15-16; AT&T Reply Comments in DA-93-481 at 6-7. Moreover, even the initial upgrades that would be necessary for the provision of services over cable networks are still years away; certainly, such technologies do not currently threaten the LECs' overwhelming monopoly.

Petition.[14] The Commission has recently (and correctly) refused to act on such unrealistic assumptions.[15]

Rather than simply assuming that competition already exists in the local exchange market, the Commission should carefully review the universal service and other subsidy mechanisms with an eye toward creating a test of the potential for competition in those markets. Along with MFS's many good suggestions, both the Commission's staff and NARUC's Access Issues Working Group have developed comprehensive proposals for reforming the way the various subsidies are calculated, targeted, and paid for.[16] The Commission should use these proposals -- rather than USTA's unrealistic access reform proposal -- as the starting point for rulemakings with respect to USF issues and more comprehensive reform of the other implicit and explicit subsidies.

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14 Indeed, for these and other reasons, AT&T has urged that the Commission deny USTA's still pending petition for rulemaking regarding access charge reform. <u>See</u> AT&T Comments in RM-8356; AT&T Reply Comments in RM-8356.

15 <u>See</u> <u>Simplification of the Depreciation Prescription Process</u>, CC Docket No. 92-296 (FCC 93-452, released Oct. 20, 1993) at ¶ 28 ("the competitiveness of the LECs' markets overall [is] not sufficiently robust to warrant any additional flexibility" in the regulation of LEC depreciation practices).

16 <u>See</u> AT&T Comments at 4-5.

CONCLUSION

For the foregoing reasons, MFS's Petition should be granted, except to the extent that it proposes to have subsidy-related issues addressed through a notice of inquiry rather than through immediate rulemakings.

Respectfully submitted,

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January 3, 1994

APPENDIX A

LIST OF COMMENTERS
RM-8388

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Consumer Federation of America ("CFA")

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GTE Service Corporation ("GTE")

Hyperion Telecommunications, Inc. ("Hyperion")

International Communications Association ("ICA")

MCI Communications Corporation ("MCI")

National Exchange Carrier Association ("NECA")

NYNEX Telephone Companies ("NYNEX")

Pacific Bell and Nevada Bell ("Pacific/Nevada")

Southwestern Bell Telephone Company ("Southwestern")

Sprint Communications Company ("Sprint")

John Staurulakis, Inc. ("JSI")

Teleport Communications Group, Inc. ("TCG")

United States Telephone Association ("USTA")

U S West Communications, Inc. ("U S West")

CERTIFICATE OF SERVICE

I, Paula Allen, do hereby certify that on this 3rd day of January, 1994, 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 below.

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