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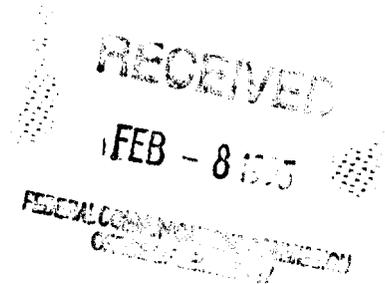
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February 8, 1995



**BY HAND DELIVERY**

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

**Re: Notice of Ex Parte Filing in CC Docket No. 94-1**

Dear Mr. Caton:

Enclosed for filing is an original and two copies of the Response of LDDS Communications, Inc., to the January 18, 1995, USTA Ex Parte Filing in the referenced proceeding. Please return a date-stamped copy of the enclosed (copy provided).

Please contact the undersigned if you have any questions.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda L. Oliver".

Linda L. Oliver  
Counsel for  
LDDS Communications, Inc.

Enclosure

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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C.

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OFFICE OF SECRETARY

In the Matter of )  
 )  
Price Cap Performance Review ) CC Docket No. 94-1  
for Local Exchange Carriers )

**RESPONSE OF LDDS COMMUNICATIONS, INC. TO  
JANUARY 18, 1995, USTA EX PARTE FILING**

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February 8, 1995

## SUMMARY

LDDS Communications, Inc., urges the Commission to reject USTA's pricing flexibility proposals because they would deprive the Commission of the tools it needs to enforce the antidiscrimination requirements of the Communications Act. Those tools will be even more important in the future, as LECs increasingly will be competing with companies who depend on LEC access to reach their customers. Also, in considering whether and how to lift the MFJ's interLATA restriction, the Justice Department, the courts, and Congress will need to be assured that FCC regulatory safeguards are effective in preventing the RBOCs from discriminating in favor of themselves, as the Bell system did prior to divestiture. The Commission must act now to ensure that it can respond to these challenges.

The premise of USTA's ex parte -- that LECs must have even greater pricing flexibility in order to respond to developing access competition -- is flawed. First, access competition today is extremely limited, and no competition exists at all for tandem-switched transport service. Second, and more important, even if new local exchange providers were to enter the market, interexchange carriers still would have no practical choices for access services. This is so because it is the *subscriber's choice* of a local service provider that necessarily predetermines the *interexchange carrier's provider* of switched access service. Thus, even if in the future an end user can choose between a LEC and a new entrant for its local

service, the IXC will have no similar choice. Marketplace forces will not constrain LEC incentives and ability to engage in access discrimination.

The measures USTA proposes would leave the Commission unequipped to prevent LEC discrimination. USTA's plan would effectively eliminate even the weak safeguards present today under price cap regulations. LECs would have virtually complete latitude to recover overhead costs primarily from customers who have no competitive alternatives, while offering discounted rates to customers who have competitive options. USTA would also eviscerate the new services test, giving LECs the ability to introduce further discrimination under the guise of "new" offerings.

In sum, the Commission must dismiss USTA's proposals and instead strengthen its price cap rules by requiring uniform recovery of overheads and adopting the improvements to the new services test proposed by WilTel (now a part of LDDS) in its comments. 1/

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1/ LDDS also opposes USTA's "moving average" productivity formula and the abandonment of sharing. These elements of the USTA plan would allow LEC rates to move even further away from cost.

**TABLE OF CONTENTS**

	<u>Page</u>
SUMMARY .....	i
INTRODUCTION .....	1
I.    TELECOMMUNICATIONS COMPETITION REQUIRES INCREASED ATTENTION TO LEC DISCRIMINATION.....	3
II.   THE USTA PROPOSALS FOR ADDITIONAL PRICING FLEXIBILITY WOULD ROB THE COMMISSION OF THE TOOLS IT WILL NEED TO PROMOTE COMPETITION .....	9
III.  USTA’S PROPOSED “INTERIM” MEASURES WOULD OPEN THE GATES FOR INCREASED LEC DISCRIMINATION .....	12
IV.  THE COMMISSION MUST STRENGTHEN, NOT WEAKEN, PROTECTIONS AGAINST DISCRIMINATION IN THE PRICE CAP PLAN .....	15
CONCLUSION .....	16

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C.

In the Matter of )  
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Price Cap Performance Review ) CC Docket No. 94-1  
for Local Exchange Carriers )

**RESPONSE OF LDDS COMMUNICATIONS, INC. TO  
JANUARY 18, 1995, USTA EX PARTE FILING**

**INTRODUCTION**

In response to the Commission's Public Notice of January 24, 1995, LDDS Communications, Inc., ("LDDS") hereby addresses the January 18, 1995, ex parte filing of the United States Telephone Association (USTA) in the referenced proceeding. LDDS is one of the nation's four largest interexchange carriers. 1/

The primary focus of this response is on USTA's pricing flexibility proposals set forth in Attachment 2 of the ex parte. LDDS believes that the

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1/ LDDS recently completed its acquisition of WilTel, Inc. WilTel filed comments and reply comments in this proceeding. As the owner of WilTel, and in its own right as the nation's fourth largest long distance company, LDDS is continuing to press the concerns and proposals advanced in WilTel's comments in this proceeding.

primary problem with LEC price cap regulation is its failure to include checks on discrimination, and particularly discrimination in the recovery of overhead that makes up a substantial (and still increasing) percentage of LEC access cost. Discrimination is the primary competitive issue facing the Commission as it looks to the future of the telecommunications industry. Today such discrimination distorts competition among interexchange carriers by creating non-cost-based differences in the prices that end users must pay (directly or indirectly) to access and therefore use different IXCs. Tomorrow, if the MFJ is revised, the inability of price caps to check discrimination would permit RBOCs to discriminate in favor of their own interstate interexchange services. Yet the price cap revisions proposed in the USTA ex parte would eliminate rather than improve the already weak checks on discrimination in the price cap system today.

LDDS also opposes USTA's proposal for a "moving average" productivity formula and the abandonment of sharing. As we stated in our comments and reply comments, the overall rate levels under price caps must be brought down closer to cost by raising the productivity factor to more accurately reflect LEC productivity gains. 2/ Sharing also must be retained in order to serve as a check on the accuracy of the productivity factor. The USTA proposal attempts to avoid these necessary steps by effectively eliminating sharing and weakening the productivity factor. Finally, the rate reductions that should flow from a

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2/ WilTel Price Cap Comments (filed May 9, 1994) at 23-26; WilTel Price Cap Reply Comments (filed June 29, 1994) at 20-21.

strengthening of the productivity factor should be used to cure discrimination that is present in existing price cap rate relationships.

We will not address USTA's productivity and sharing proposals further here. This does not reflect a view that overall interstate access rate levels are unimportant; we obviously are concerned that our primary cost of service not be priced at excessive rate levels that violate Section 201. We have addressed this issue previously and strongly support the views of other interexchange carriers and users in this area.

However, we submit that access *discrimination* is an even more serious and market-distorting problem than total access rate levels. And it is in the area of discrimination that the price cap system must be strengthened, not gutted as proposed by USTA here. These matters are discussed further below.

**I. TELECOMMUNICATIONS COMPETITION REQUIRES INCREASED ATTENTION TO LEC DISCRIMINATION.**

The premise of USTA's ex parte is that LECs must have even greater pricing flexibility than they already enjoy under price caps in order to respond to developing access competition. Obviously this raises an empirical question of how much competition the LECs actually face. Today that competition is limited to dedicated interoffice transport and special access, and even there exists only to a minor extent in certain limited geographic areas. LDDS, for example, still uses LECs for over 98% of its access service. And in particular, no competition whatsoever exists in the market for the tandem-switched interoffice service that

LDDS and other IXCs require. Therefore, we are directly exposed to discrimination in the interoffice market.

But another point is equally important insofar as this proceeding looks to future price cap regulation. USTA suggests that in the future competition will permit complete relaxation of price regulation generally. However, this premise is not only flawed, it is backward with respect to the interstate switched access service that makes up the vast majority of the revenue recovered under the price cap plan. Importantly, the carrier access service market exhibits a unique characteristic in that most rate elements for switched access service are inherently bundled with the subscriber's local exchange service. Local and interexchange access service is provided over the same loop. Therefore, conventional competitive pressures simply do not exist for this service since it is the *subscriber's choice* of a local service provider that necessarily predetermines the *interexchange carrier's provider* of switched access service. Put another way, even if in the future an end user can choose between a LEC and a new entrant for its local service, the IXC has no similar access choice. If the end user chooses the LEC, then the IXC must obtain switched access from the LEC. If the end user chooses the new entrant, then the IXC must obtain access from the new entrant. The only exception is if the IXC can convince the end user to use separate lines for local and interexchange traffic. 3/

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3/ We recognize that certain large users may have sufficient traffic to justify separate lines for local and interexchange traffic, but even there it is questionable whether such separation is technically efficient.

This linkage between local service and access is a subject of discussion in those states that have begun to open their local service and intrastate access markets to competition. State commissions are recognizing that even after new entry to the local market takes place, competitive forces cannot be relied upon to constrain intrastate switched access prices. <sup>4/</sup> In Maryland, for example, a staff witness stated that

In the case of access charges, the price is faced by the presubscribed interexchange carrier and not by the end user. The interexchange carrier does not have a choice of carries. I agree with [LDDS witness Joseph Gillan] that price regulation is needed to protect the user [ i.e. the interexchange carrier] when the user does not have choices. <sup>5/</sup>

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<sup>4/</sup> In Maryland, for example, the Commission has concluded that access competition does not eliminate the need for supervision of the rates and terms for access service provided to IXCs. See, Application of MFS-Intelenet of Maryland, Inc. for Authority to Provide and Resell Local Exchange and Interexchange Telephone Service, Maryland Public Service Commission Case No. 8584, April 25, 1994 at 30 (MFS-I must fully supported tariffs for terminating access because MFS-I “will be controlling bottleneck facilities that other carriers will need to access.”); Investigation by the Commission on its Own Motion into Legal and Policy Matters Relevant to the Regulation of Firms Which May Provide Local Exchange and Exchange Access Services in Maryland in the Future, Maryland Public Service Commission Case No. 8587, October 5, 1994, at 46 (requiring new local service providers to provide equal access and presubscription to all interexchange carriers).

<sup>5/</sup> Rebuttal Testimony of Staff Witness Ann A. Dean in SBC Media Ventures, Maryland Public Service Commission Case No. 8659, (October 26, 1994) at 10. The Maryland Commission has deferred consideration of SBC’s application, at SBC’s request, pending completion of other proceedings raising similar issues.

Staff witnesses in Illinois articulated similar concerns about the lack of competitive access choices for IXCs even after competition develops. 6/ These and other states have recognized the importance of applying some measure of regulation to the new entrant as well as continuing regulation for the incumbent LEC. 7/

The Commission must similarly recognize that the need for effective regulation of LECs evolves but by no means disappears in an environment of emerging local service competition. As a result, this proceeding must result in improvements to price cap regulation, not a schedule for its dismantlement. The principal market subject to the FCC's regulation is the same carrier access market that these -- the most procompetitive of states -- are recognizing will face distorted pricing incentives even after local competition becomes a reality. Where competitive pressures do not exist, the Commission's price cap rules must

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6/ See Illinois Bell Telephone Company, Ameritech's Customers First Plan, Illinois Public Service Commission Case Nos. 94-0096, 94-0017, 94-0146, and 94-0301, Surrebuttal Testimony of Staff Witness Charlotte F. TerKeurst (September 30, 1994) at 16; Surrebuttal Testimony of Michael Starkey (September 30, 1994) at 15. The Illinois Public Service Commission has not yet issued final orders in this proceeding.

7/ See n. 4, supra (Maryland Commission). See also, e.g., Illinois Bell Telephone Company, Ameritech's Customers First Plan, Illinois Public Service Commission Case Nos. 94-0096, 94-0017, 94-0146, and 94-0301, Hearing Examiner's Proposed Order, January 24, 1995, at 116-117 (recommending the initiation of a new docket "to comprehensively review standards and rules to be applied to the new LECs."); Proceeding to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market, New York Public Service Commission Case No. 94-C-0095, Order Instituting Proceeding, February 10, 1994 (establishing a rulemaking to determine, inter alia, how to regulate incumbent LECs and new entrants).

aggressively promote price reductions toward costs. And where flexibility is granted, companion policies must protect against discrimination so that interexchange competition is not contaminated by unjustified access cost advantages.

Not surprisingly, USTA suggests that the Commission's goal should be to sever completely the link between price caps and the sometimes arbitrary assignment of costs that has been an element of conventional rate of return regulation. USTA ex parte at 2. What USTA really means, however, is that the FCC should forever sever the link between prices and any cost-based standard of review. To some extent, that has already been accomplished under price caps, with the substantial flexibility the LECs have to move prices within the broad constraints of baskets and bands. But what USTA ignores is that an examination of economic costs will still be necessary, even under a price cap approach, in order to prevent discrimination and anticompetitive pricing.

In particular, it is not surprising that a primary element of USTA's proposal is to eliminate what little review of overhead loadings remains in the current price cap rules. See USTA ex parte, Attachment 2, at 2-3. The incremental cost of telecommunications services in a fiber optic world approaches zero. As a result, the LEC will likely never fail a test that does not consider how the LEC is allocating overhead costs. The USTA test, then, eliminates any check on discrimination in the allocation of overhead costs.

We stress that we are not arguing that the Commission should regulate the amount of overhead costs to be recovered in rates, only how they are

recovered. This is an important point to emphasize, because it demonstrates how much flexibility the LECs still will have to manage their businesses, far more than the flexibility that such dominant carriers enjoy under rate of return regulation. Consistent with the goal of price caps, LECs should have incentives to operate more efficiently, and the Commission should not oversee the business judgments that result in the overall level of LEC overhead. However, effective telecommunications competition requires that the LECs at least recover their overhead costs on a consistent and nondiscriminatory basis across all services, whatever those costs may be. In that way the efficiency goals of price caps can be harmonized with the statutory prohibition on discrimination in Section 202.

And in that way too, as the Commission permits further flexibility in the form of zone pricing and deaveraging, it can be sure that in doing so it is not simply creating additional vehicles for discrimination. Thus, for example, LDDS would be willing to accept more disaggregation in services and zones if it could be certain that those services and zones would continue to bear a consistent share of overhead loadings. But if LECs receive increased pricing flexibility without a requirement of consistent overhead loadings, then they will simply be receiving the power to increase the degree to which they discriminate. Some newly disaggregated services will bear more overhead than others. As discussed below, LECs could use that discretion to unfairly drive market outcomes across a broad spectrum of telecommunications markets.

## II. THE USTA PROPOSALS FOR ADDITIONAL PRICING FLEXIBILITY WOULD ROB THE COMMISSION OF THE TOOLS IT WILL NEED TO PROMOTE COMPETITION.

The FCC's own recent statements show that it continues to be concerned, and properly so, about anticompetitive and discriminatory pricing. The Commission has paid close attention to cost issues such as the allocation of overheads and shared and common network costs in such proceedings as the expanded interconnection tariff review.

Such concerns will only grow as markets move through a transition stage between monopoly and competition -- particularly insofar as the discrimination occurs in the pricing of an element like access that is a necessary input required by others in their retail products. <sup>8/</sup> In the following paragraphs we note examples of challenges that the Commission now faces, or will face, that will demand the use of tools to combat discrimination and to examine costs. If the Commission adopts the USTA proposals for pricing flexibility, the Commission would be robbed of these necessary tools.

1. **Looking beyond the MFJ**: As noted earlier, a primary question for the Justice Department, the courts, and Congress, in deciding whether and how to lift interLATA restrictions on the RBOCs, will be the effectiveness of regulatory tools in preventing the RBOCs from discriminating in favor of themselves, as the

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<sup>8/</sup> Thus, discrimination in the pricing of a necessary input is more troublesome than discrimination in the pricing of a retail product. See Katz, Michael L., "The Welfare Effects of Third Degree Price Discrimination in Intermediate Good Markets," American Economic Review, March 1987, at 154.

Bell System did prior to divestiture. RBOCs will argue -- as USTA does here -- that so long as they charge themselves more than incremental cost, it does not matter what they charge their competitors. However, it would be clearly anticompetitive if the RBOCs charged other IXCs a disproportionate share of common network costs or overhead.

In the intraLATA market, RBOCs have shown that given the flexibility to discriminate in pricing, they will do so. RBOCs have used access discrimination to dominate intraLATA toll services. Such discrimination must not be allowed to spread to the interstate market. The Commission must demonstrate that it is able to identify and respond to RBOC access discrimination. Decisions the Commission makes today will set precedents for the future.

2. **Expanded Interconnection**: The Commission already has found that the LECs have failed to justify the reasonableness of their expanded interconnection rates. Excessive prices thwart the ability of new local access providers to obtain expanded interconnection with LEC facilities. An important element of the FCC's analysis of the tariffs has been an examination of overhead loadings and other cost issues. <sup>9/</sup> USTA's broad proposals for pricing flexibility would take those tools away from the Commission.

3. **ONA**: The Commission also has long placed strong emphasis on the need to examine the LECs' open network architecture offerings to ensure that they

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<sup>9/</sup> See, e.g., In the Matter of Ameritech Operating Companies, et al., CC Docket No. 94-97 at 11-17 (released Dec. 9, 1994).

are not priced in a manner that would discriminate against LEC competitors or make it difficult for enhanced service providers to compete. The Commission has, of necessity, examined cost allocation and overhead allocations in reviewing the ONA tariffs. 10/

4. **Access Transport:** The Commission recognized from the beginning of the transport restructuring proceeding that if LEC access pricing is discriminatory, it can distort both (a) opportunities for new local competition, and (b) the structure of the long distance industry for which access is the largest single cost of providing service. In their transport filings, the LECs are attempting to increase discrimination between services where they face more competition (high volume interoffice transport) and those where they face no competition (tandem-switched transport). The result of such discriminatory non-cost-based volume discounts is to disrupt competition in the long distance market by denying all participants the shared efficiencies of the common local network. The FCC must retain the tools it needs to combat that discrimination if it is to preserve competition in the long distance market, particularly if the BOCs are allowed into the interLATA market.

5. **Future New Services:** The Commission will be called upon to evaluate other new LEC services in the future. If the new services test (or related price cap rules) are unsatisfactory, either by their terms or due to precedents

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10/ See, e.g., In the Matter of Open Network Architecture Tariffs of Bell Operating Companies, 9 FCC Rcd 440, 456-59 (1993).

eroding the quality of information that the Commission reviews when evaluating LEC tariffs, future telecommunications competition will be jeopardized.

### **III. USTA'S PROPOSED "INTERIM" MEASURES WOULD OPEN THE GATES FOR INCREASED LEC DISCRIMINATION.**

USTA's specific pricing flexibility proposals are two-pronged: first, USTA asks the Commission to adopt a number of "interim" measures that would give LECs extremely wide latitude immediately, and second, USTA asks the Commission to issue a further notice regarding its proposal to extend varying degrees of pricing flexibility to LECs depending on the competitiveness of a particular market area.

In effect, USTA is attempting to skip the difficult competitive issues by urging the Commission to put in place pricing flexibility measures now, without notice to the parties and without analysis of the competitiveness of access markets, while putting off to another proceeding the analysis of how competitive local access markets really are. USTA itself acknowledges that it is asking the Commission to "deal with those elements of a new framework which do not require specific conclusions regarding the degree of competition in access markets." Attachment 2 at 1.

We have already addressed in our previous comments in this proceeding the USTA proposals for a permanent "adaptive" framework for regulation (Attachment 2 at 3-4), and we refer the Commission to those

comments. 11/ The following paragraphs analyze each of USTA specific interim proposals, from Attachment 2, pages 1-3 of the January 18 ex parte.

**(a)(1) Elimination of DS1 and DS3 subindices.** The existing subindices offer only minimal protection against discrimination in access transport pricing, and unduly constrain the LECs' ability to move the DS1/DS3 rate relationships in the direction of the true cost relationship (which in our view is closer to 28-to-1 than 9.6-to-1). As USTA acknowledges, the purpose of its proposal is to allow the LECs to reduce prices on their more competitive services, such as DS3 and DS1 -- but with no undertaking to make corresponding reductions in lower-volume, less competitive services such as tandem-switched transport. The LECs have already engaged in such selective discounting in switched access volume discount tariff filings. Both Bell Atlantic and NYNEX reduced their DS3 rates by more than their DS1 rates, and have offered little or no corresponding decreases in tandem-switched transport prices. Eliminating the DS3 and DS1 subindices would allow the LECs to go even further in the direction of providing price reductions only to customers that have competitive choices. Such discriminatory pricing hurts both long distance competition and developing local competition.

**(a)(2) Expanding lower banding limits to 15 percent.** Again, this proposal would allow LECs to reduce prices selectively on those services for which they face competition without making similar reductions for other services. WilTel has supported relaxation of the price cap basket and band rules provided that safeguards are in place to ensure that rate reductions are not discriminatory. 12/ But the USTA proposal would open the door for the LECs to worsen the current discrimination in transport rates by lowering only the higher volume rates.

**(a)(3) and (4) Extension of zone pricing to local switching and all trunking categories.** LDDS does not object to zone density pricing, per se, but rather to the way in which it has been implemented, which has not reflected the actual cost characteristics of the network. The Commission also has failed to require such pricing to be used for tandem-switched transport services, even though the LECs realize the same cost economies of providing those services in denser zones. 13/ For these reasons, LDDS believes that the Commission should not

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11/ See WilTel Price Cap Reply Comments at 9-13.

12/ See, e.g., Comments of WilTel, Inc., filed Feb. 1, 1993, in Transport Rate Structure and Pricing, CC Docket No. 91-213 at 48-49.

13/ See, e.g., Petition for Reconsideration of WilTel, Inc., filed October 18, 1993, in Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, at 7-8.

expand the reach of zone density pricing, without addressing such underlying discrimination issues.

**(b)(1) Eliminating Part 69 waiver requirements for new rate elements.** USTA proposes that the Commission permit LECs to bypass the Part 69 waiver process and make rate structure changes in the tariff review process. It is unacceptable to permit carriers unilaterally to change the access charge rules in their tariff filings. There is great potential for abuse in permitting such leeway to ignore the FCC's rules. Ignoring the Part 69 rules also would obviously allow the LECs to engage in anticompetitive and discriminatory pricing simply by altering the rate structure prescribed by the Commission. The proper avenue for challenging the Part 69 rules is in a rulemaking, not in the tariff review process.

**(b)(2) De minimis revenue test for new services.** There is no reason to reduce the tariff review period for new services with de minimis revenues. <sup>14/</sup> Such services still can have anticompetitive or discriminatory consequences. For example, the service may be related to ONA services, or may be designed to be offered to only one customer. Moreover, USTA does not specify what it means by de minimis. The LECs also have not shown why this notice period inhibits their ability to offer new services. <sup>15/</sup>

**(b)(3) Adoption of an incremental-cost-only test for new services.** USTA proposes that the Commission adopt a rule that requires LECs to show only that the price of a new service covers incremental cost, and that LECs need not allocate any overhead costs to that service. Obviously, rates set in this manner would by definition be discriminatory because the new service, unlike the existing service, would bear none of the overhead costs. More fundamentally, incremental costs are low in the telecommunications business, and overheads make up a high percentage of overall costs. In a fiber world an even greater amount of LEC costs relate to use of common network plant and overhead, costs that can be shifted in a discriminatory fashion. Allowing LECs to recover overhead costs in a selective fashion only gives them wide discretion to discriminate against those customers with the fewest alternatives.

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<sup>14/</sup> It also is unclear what USTA is referring to when it cites a de minimis test for new services for carriers subject to optional incentive regulation. The Commission appears to have abandoned that proposed approach in its final order. See Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation, CC Docket No. 92-135, 8 FCC Rcd 4545, 4556-57 (1993).

<sup>15/</sup> See WilTel Price Cap Reply Comments at 22-24.

**IV. THE COMMISSION MUST STRENGTHEN, NOT WEAKEN, PROTECTIONS AGAINST DISCRIMINATION IN THE PRICE CAP PLAN.**

As discussed above, the most important task for the Commission in the price cap review proceeding is to improve the ability of the price cap system to check unreasonable discrimination. This will require modifications to both the new services test and the price cap structure itself, with special focus on discrimination in the recovery of common costs and overhead loadings.

In its comments, WilTel pointed out that the existing price cap baskets and bands alone are not sufficient to prevent discrimination. It argued that the Commission must re-assess LEC rate relationships and adopt measures such as price indexing across baskets to curb the LECs' ability to discriminate in the future.

WilTel also proposed that the Commission make changes in the new services test to limit the LECs' ability to engage in discriminatory pricing while allowing the LECs to continue to offer new services. The current new services test gives the LECs broad latitude to engage in strategic and discriminatory pricing. It sets a floor to prevent predatory pricing, but does not adequately address the LECs' ability and incentive to discriminate in the recovery of network overheads:

As described more fully in WilTel's comments 16/, the Commission should adopt the following pro-competitive pricing principles to evaluate new and restructured LEC services:

- Prospective (not historical) costs should be used.
- Direct costs for all services should be determined using a long-run incremental cost approach.
- Uniform overhead allocations across all related services should be required (except as justified by LECs on a case-by-case basis).
- Other common costs or subsidy amounts should be recovered on a nondiscriminatory basis across all services.
- LECs should be given additional pricing flexibility only if price indexing is in place.

Each of these principles is necessary; failure to adopt any one would leave a large loophole for discrimination.

In sum, the Commission should reject USTA's extreme proposal for changes to the new services test, and instead adopt the principles we have outlined above to address discrimination.

## CONCLUSION

USTA's pricing flexibility proposals would move the Commission in exactly the wrong direction, leaving the Commission with no meaningful tools it can use to prevent the LECs from using price discrimination to distort long distance

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16/ WilTel Price Cap Comments at 30-33.

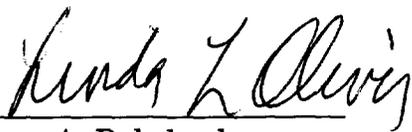
competition and impede the emergence of local exchange competition. The USTA plan must be rejected, and the Commission instead must take this opportunity to strengthen the price cap system's protections against discrimination.

Respectfully submitted,

**LDDS Communications, Inc.**

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February 8, 1995