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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D. C. 20554

In the Matter of)
)
Price Cap Performance Review for) CC Docket No. 94-1
Local Exchange Carriers; Treatment)
of Video Dialtone Services Under)
Price Cap Regulation)

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**COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the exchange carrier industry. Its members provide over 98 percent of the exchange carrier-provided access lines in the U.S. Many USTA member companies are seeking to provide video dialtone services. USTA's membership also includes all of the exchange carriers currently under price cap regulation.

I. VIDEO DIALTONE SERVICE IS COMPETITIVE AND SHOULD NOT BE SUBJECT TO PRICE CAP REGULATION.

As the Commission has recognized, the price cap plan adopted for exchange carriers is designed to mirror the efficiency incentives of competitive markets by encouraging exchange carriers to move prices for interstate access services to economically efficient levels, to reduce costs, to invest efficiently in new plant and facilities, and to develop and

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deploy innovative service offerings.¹ Even as a form of regulation, the current price cap plan is a transitional mechanism until the Commission is satisfied that competition makes price cap regulation unnecessary.² The Commission has stated its willingness to evaluate the extent of competition which exists in certain markets, in a manner similar to that found in AT&T's price cap plan, and to apply streamlined regulation to services in competitive markets. In addition, the Commission has stated that it will act on waiver petitions that seek relief from existing Commission rules in order to promote competition.³

Video dialtone will face competition as soon as it is introduced. Cable television (CATV) is already available to 97 percent of U.S. homes.⁴ CATV can be relieved from rate regulation if a video dialtone provider is offering service in a CATV franchised area.⁵ In the CATV Rate Regulation Order, the Commission found that a nascent video dialtone service represents effective competition for an entrenched monopoly CATV service. If

¹Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, First Report and Order, released April 7, 1995 at ¶ 1. [LEC Price Cap Performance Review].

²Id.

³Id. at ¶ 406.

⁴National Cable Television Association, Cable Television Developments, at 1-A (April 1994).

⁵Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992 - Rate Regulation, MM Docket No. 92-266, 8 FCC Rcd 5631, 5649-5650, 5990 (1993). [CATV Rate Regulation Order].

the Commission uses the same test established in the CATV Rate Regulation Order to relieve CATV providers from rate regulation, video dialtone providers will face effective competition and should be afforded similar regulatory relief.⁶ Based on the record already before the Commission, USTA recommends that video dialtone service not be subject to price cap regulation.

II. IF THE COMMISSION PLACES VIDEO DIALTONE SERVICE UNDER PRICE CAP REGULATION THE COMMISSION SHOULD ENSURE THAT THE REGULATION MAXIMIZES POSITIVE PRICE CAP INCENTIVES AND PERMITS MAXIMUM PRICING FLEXIBILITY.

As the Commission recognized when it adopted price cap regulation for exchange carriers, baskets and bands are methods of restricting the degree of pricing flexibility that would otherwise be permitted under a pure system of price regulation.⁷ While a single basket structure with no bands would maximize economic efficiency, the baskets and bands originally adopted by the Commission were intended to provide added protections to ratepayers, presumably without stifling the efficiency objectives of the price cap rules. Specifically, the Commission's goal in employing a system of baskets and bands was to permit incremental price changes to reward exchange carriers that become more efficient while ensuring that carriers cannot cross-subsidize or

⁶Likewise, Direct Broadcast Satellite service will soon be available to 100 percent of U.S. homes and these competitors are already free of regulation. See, "The ABC's of DBS," Broadcasting and Cable at 38 (December 6, 1993).

⁷Policy and Rules for Dominant Carriers, 5 FCC Rcd 6786 at ¶ 198. [LEC Price Cap Order].

engage in other anticompetitive behavior that might generate concern about their entry into new markets.

The pricing restrictions of the baskets and bands are unnecessary given the competitive nature of video dialtone services. In general, the regulatory complexity of the exchange carrier price cap basket and band approach is not relevant for competitive services. This approach, with its seemingly ever-increasing number of service categories and subindices, is far more restrictive than is necessary to ensure reasonable prices and unnecessarily sacrifices efficiency and incentives to regulatory constraints.

If video dialtone service is to be subject to price cap regulation, USTA believes that exchange carriers should be permitted the utmost flexibility in price managing video dialtone service offerings. A separate video dialtone basket, similar to the current interexchange basket, should be created. Given the competitive nature of the service and the need for greater pricing flexibility, no service band indices would be required. This approach would ensure that exchange carriers cannot cross subsidize other access rate elements, while allowing some pricing flexibility.

Productivity for the video dialtone basket should be set at zero. The price cap formula applied to CATV service contains no productivity offset. Since video dialtone service is competitive with CATV service, it is reasonable to assume that the productivity component would be the same. Exchange carriers

would use the current rules regarding bringing new services into price cap regulation to initialize the API and PCI as required under the exchange carrier price cap plan.

III. CONCLUSION.

For services that have already been deemed to be competitive, the regulatory treatment should be the same, regardless of the service provider. Since CATV and video dialtone are competitive, USTA recommends that video dialtone not be included within the constraints of price cap regulation. However, if the Commission determines that it will require video dialtone service to be regulated pursuant to the price cap plan, exchange carriers should be permitted the maximum amount of pricing flexibility available under the current price cap plan. A separate basket, similar to the current interexchange basket, should be created for video dialtone service. Service band indices should not be required and no productivity offset should be applied.

Respectfully submitted,

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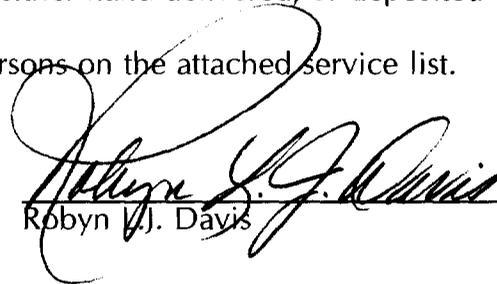
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CERTIFICATE OF SERVICE

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