

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

THE PROVISION OF INTERSTATE AND
INTERNATIONAL INTEREXCHANGE
TELECOMMUNICATIONS SERVICE VIA THE
"INTERNET" BY NON-TARIFFED, UNCERTIFIED
ENTITIES

AMERICA'S CARRIERS TELECOMMUNICATION
ASSOCIATION ("ACTA"),
Petitioner

PETITION FOR DECLARATORY RULING,
SPECIAL RELIEF, AND
INSTITUTION OF RULEMAKING AGAINST:

VocalTec, Inc.; Internet Telephone
Company; Third Planet Publishing Inc.;
Camelot Corporation; Quarterdeck
Corporation; and Other Providers of Non-tariffed,
and Uncertified Interexchange Telecommunications
Services,
Respondents.

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OFFICE OF SECRETARY

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To the Commission:

PETITION FOR DECLARATORY RULING,
SPECIAL RELIEF, AND INSTITUTION OF RULEMAKING

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Dated: March 4, 1996

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TABLE OF CONTENTS

SUMMARY OF FILING i

STANDING 2

STATEMENT OF FACTS AND BACKGROUND 3

ASSERTION AND ENFORCEMENT OF JURISDICTION 4

ARGUMENT 5

 Commission’s Authority to Regulate the Internet 5

 Commission’s Authority to Regulate Respondents
 as Interstate Telecommunications Carriers 6

 Commission’s Authority to Grant Special
 Relief to Maintain the Status Quo 8

 Other Issues Necessitating the Commission’s
 Regulation of Long Distance via the Internet 9

INFORMATION REGARDING RESPONDENTS 10

CONCLUSION 11

SUMMARY OF FILING

America's Carriers Telecommunication Association ("ACTA"), a trade association of interexchange telecommunications companies, submits this Petition for Declaratory Ruling, for Special Relief, and for Institution of Rulemaking Proceedings. This petition concerns a new technology: a computer software product that enables a computer with Internet access to be used as a long distance telephone, carrying voice transmissions, at virtually no charge for the call.

ACTA submits that the providers of this software are telecommunications carriers and, as such, should be subject to FCC regulation like all telecommunications carriers. ACTA also submits that the FCC has the authority to regulate the Internet.

ACTA submits that it is not in the public interest to permit long distance service to be given away, depriving those who must maintain the telecommunications infrastructure of the revenue to do so, and nor is it in the public interest for these select telecommunications carriers to operate outside the regulatory requirements applicable to all other carriers.

ACTA asks the Commission to issue a declaratory ruling confirming its authority over interstate and international telecommunications services using the Internet.

ACTA asks the Commission, as special relief, to order the Respondents to immediately stop their unauthorized provisioning of telecommunications services pending their compliance with 47 U.S.C. § 203 and 214, and in order to give the Commission time for appropriate rulemaking.

ACTA asks the Commission to institute rulemaking to govern the use of the Internet for providing telecommunications services.

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Corporation; and Other Providers of Non-tariffed,)
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To the Commission:

**PETITION FOR DECLARATORY RULING,
SPECIAL RELIEF, AND INSTITUTION OF RULEMAKING**

America's Carriers Telecommunication Association ("ACTA"), by its attorneys, submits this Petition for Declaratory Ruling, for Special Relief, and for Institution of Rulemaking Proceedings. In support of this petition, the following is shown.

STANDING

ACTA is a national trade association of competitive interexchange, non-dominant telecommunications companies. Its members provide interexchange telecommunications services on an intrastate, interstate and international basis to the public at large.

Some of its members also act as underlying (or wholesale) carriers providing network facilities, equipment and service to other member carriers which permits telecommunications services to be resold to the public. Other ACTA members supply facilities and equipment to member and non-member wholesale and resale carriers.

ACTA's carrier members must be certificated and tariffed before the FCC and most state regulatory commissions in order to render their telecommunications service to the public. In addition, ACTA carrier members are subject to the requirements of the Communications Act of 1934, as amended (the "Act"),¹ and various state laws and regulations which prohibit engaging in unreasonable practices and/or unduly discriminatory conduct.

ACTA carrier members are required to pay, directly or indirectly, various fees and charges in order to render their services to the public. Filing fees and annual fees are levied by the FCC and most states.

In addition, the FCC and most states require interexchange carriers to assess and collect from the using public specific charges to support various regulatory policies and programs used to sustain and advance national and state goals for telecommunications.

Entities, like those which are described hereinafter, which do not comply with or operate subject to the same statutory and regulatory requirements as ACTA's carrier members, distort

¹ 47 U.S.C. § 201 et seq.

the economic and public interest environment in which ACTA carrier members and non-members must operate. Continuing to allow such entities to operate without complying with or being subject to the same legal and regulatory requirements as ACTA carrier members threatens the continued viability of ACTA's members and their ability to serve the public and acquit their public interest obligations under federal and state laws.

As the appointed representative of its members charged with advancing their economic interests and assisting in achieving and maintaining their legal and regulatory compliance, ACTA has standing to file and prosecute these petitions.

STATEMENT OF FACTS AND BACKGROUND

A growing number of companies are selling software for the specific purpose of allowing users of the Internet to make free or next to free local, interexchange (intraLATA, interLATA) and international telephone calls using the user's computer² (Attachment 1). One of the Respondents, VocalTec, Inc., advertises the ability of its software, called "Internet Phone," to connect any user of "Internet Phone" with any other user of "Internet Phone" anywhere in the world. The software enables users to audibly talk with one another in real-time. Respondents make a one-time charge for the software, but users incur no other charges for making local or long distance telephone calls to any other "Internet Phone" user in the world (except for whatever the user already pays monthly to whomever provides them Internet access).

² The user must hook up a microphone to his computer and either a headset or speakers.

ASSERTION AND ENFORCEMENT OF JURISDICTION

ACTA submits that it is incumbent upon the Commission to exercise jurisdiction over the use of the Internet for unregulated interstate and international telecommunications services. As a first step, ACTA submits that the Commission may deem it appropriate to issue a declaratory ruling officially establishing its interest in and authority over interstate and international telecommunications services using the Internet.

Secondly, ACTA submits that the Commission has an obligation, heightened by the recent enactment of the Telecommunications Act of 1996, to address on a focused basis the ongoing, unregulated and unauthorized provisioning of telecommunications services. The Commission should, as special relief, issue an order to the Respondents to immediately stop arranging for, implementing, and marketing non-tariffed, uncertified telecommunications services without complying with applicable provisions of the Act, particularly Sections 203 and 214, codified at 47 U.S.C. § 203 and 214.

Further, ACTA submits that it is incumbent upon the Commission to examine and adopt rules, policies and regulations governing the uses of the Internet for the provisioning of telecommunications services. The use of the Internet to provide telecommunications services has an impact on the traditional means, methods, systems, providers, and users of telecommunications services. The unfair competition created by the current unregulated bypass of the traditional means by which long distance services are sold could, if left unchecked, eventually create serious economic hardship on all existing participants in the long distance marketplace and the public which is served by those participants. Ignored, such unregulated operations will rapidly grow and create a far more significant and difficult to control "private"

operational enclave of telecommunications providers and users. Such development will clearly be detrimental to the health of the nation's telecommunications industry and the maintenance of the nation's telecommunications infrastructure.

ARGUMENT

Commission's Authority to Regulate the Internet. ACTA submits that the Commission has the authority to regulate the Internet under the provisions of 47 U.S.C. § 151, which created the Commission:

[f]or the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication. . . .

The Internet is a unique form of wire communication. It is a resource whose benefits are still being explored and whose value is not fully realized. Its capacity is not, however, infinite. The misuse of the Internet as a way to bypass the traditional means of obtaining long distance service could result in a significant reduction of the Internet's ability to handle the customary types of Internet traffic. The Commission has historically protected the public interest by allocating finite communications resources/frequencies and organizing communications traffic. ACTA submits that here also it would be in the public interest for the Commission to define the type of permissible communications which may be effected over the Internet.

Commission's Authority to Regulate Respondents as Interstate Telecommunications

Carriers. ACTA submits that by both established precedents defining "common carriage" or "public utility" type of operations for purposes of regulatory jurisdiction, and by statutory enactment, the Respondents, as purveyors of Internet long distance services, are interstate telecommunications carriers, subject to federal regulation.³ Section 3 of the new "Telecommunications Act of 1996," Pub. L. No. 104-104, 110 Stat. 56 (1996), to be codified at 47 U.S.C. 153, includes the following definitions:

(48) Telecommunications.--The term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(49) Telecommunications Carrier.--The term "telecommunications carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

³ ACTA assert that Respondents are also intrastate telecommunications carriers, subject to regulation by state public utility commissions.

(51) Telecommunications Service.--The term "telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

It would appear that Respondents are currently operating without having complied with the requirements of the Communications Act of 1934, as amended, applicable to providing interstate and international telecommunications services, e.g., Sections 203 and 213, codified at 47 U.S.C. § 203 and 214.

Case law also supports the Commission's authority to regulate the Respondents. In 1968, the Supreme Court was presented the issue of the Commission's authority to regulate the cable television industry, or CATV, then still in its infancy but growing quickly. In *United States v. Southwestern Cable Co.*, 392 U.S. 157 (1968), the Supreme Court had to decide whether the Federal Communications Commission 1) had the authority under the Communications Act of 1934, as amended, to regulate CATV systems, a new technology and therefore not specifically discussed in the Act, and 2) if the Commission had such authority, whether it also had the authority to issue the particular prohibitory order that it had: one designed generally to preserve the status quo pending further investigation and proceedings, and not issued pursuant to the cease and desist rules of Section 312 of the Act (47 U.S.C. § 312).⁴

⁴ The Commission had ordered that respondents, a cable company, generally restrict their carriage of Los Angeles signals to areas served by them on February 14, 1966, pending hearings to determine whether the carriage of such signals into San Diego contravened the public interest. The order did not prohibit the addition of new subscribers within areas served by respondents on February 15, 1966; it did not prevent service to other subscribers who began receiving service or who submitted an "accepted subscription request" between February 15, 1966, and the date of the Commission's order; and it did not preclude the carriage of San Diego and

The Supreme Court answered both questions in the affirmative.

The Supreme Court stated that “the [Federal Communications] Commission has reasonably concluded that regulatory authority over CATV [was] imperative if it [was] to perform with appropriate effectiveness certain of its other responsibilities.” *Id.* at 173. At that time, cable television characteristically neither produced its own programming nor paid producers or broadcasters for use of the programming which CATV redistributed. *Id.* at 162. The Court noted the Commission’s concern that competition by CATV might destroy or degrade the service offered by local broadcasters and exacerbate the financial difficulties of UHF and educational television broadcasters.

Commission’s Authority to Grant Special Relief to Maintain the Status Quo. With regard to the procedural issue, the Court in *Southwestern Cable* upheld the authority of the Commission to issue an order maintaining the status quo. The argument was made that the Commission could only issue prohibitory orders under the Act’s Section 312 cease and desist provisions which, the Court assumed without finding, were only proper after a hearing or the waiver of the right to a hearing. The Court rejected that argument, stating:

The Commission’s order was thus not, in form or function, a cease-and-desist order that must issue under Sections 312(b), (c). The Commission has acknowledged that, in this area of rapid and significant change, there may be situations in which its generalized regulations are inadequate, and special or additional forms of relief are imperative. It has found that the present case may

Tijuana, Mexico, signals to subscribers in new areas of service. *United States v. Southwestern Cable Co.*, 392 U.S. 157, 180 (1968).

prove to be such a situation, and that the public interest demands "interim relief . . . limiting further expansion," pending hearings to determine appropriate Commission action. Such orders do not exceed the Commission's authority. This Court has recognized that "the administrative process [must] possess sufficient flexibility to adjust itself" to the "dynamic aspects of radio transmission," *F. C. C. v. Pottsville Broadcasting Co.*, *supra*, at 138, and that it was precisely for that reason that Congress declined to "stereotyp[e] the powers of the Commission to specific details" *National Broadcasting Co. v. United States*, *supra*, at 219.⁵

The Commission should take the same action in 1996 with regard to the new technology of long distance calling via Internet as it did thirty years ago in 1966 with regard to the then-new technology of cable television: grant special relief to maintain the status quo so that it might carefully consider what rules are required to best protect the public interest and to carry out its statutory duties.

Other Issues Necessitating the Commission's Regulation of Long Distance via the Internet. The Commission has a duty to oversee and effect the Telecommunications Act of 1996 as well as its long-standing duties under 47 U.S.C. § 151. The Commission should take action in order to preserve fair competition and the health of the Nation's telecommunications industry. Absent a healthy industry, with users paying telecommunications companies a fair price for telecommunications services, the Commission's duty to effectively promote universal service

⁵ *Id.* at 180.

cannot be achieved. Absent action by the Commission, the new technology could be used to circumvent restrictions traditionally found in tariffs concerning unlawful uses, such as gambling, obscenity, prostitution, drug traffic, and other illegal acts.

INFORMATION REGARDING RESPONDENTS

ACTA does not possess a listing of all the companies providing free long distance calls via computer software. However, Attachment 1 contains some information regarding the following Internet telephone software companies and products:

- a. Company: VocalTec, Inc.
 157 Veterans Drive
 Northvale, NJ 07647
 Telephone: (201) 768-9400
Product: Internet Phone
Distributors: VocalTec, Inc.; and
 Ventana Communication Group
 Research Triangle Park, NC

- b. Company: Internet Telephone Company
 Boca Raton, FL
 Telephone (407) 989-8503
Product: WebPhone

- c. Company: Third Planet Publishing Inc., a division of Camelot
 Corporation
Product: Digiphone

- d. Company: Quarterdeck Corporation
 13160 Mindanao Way, 3rd Floor
 Marina Del Ray, CA 90292
 Telephone (310) 309-3700
Product: WebTalk

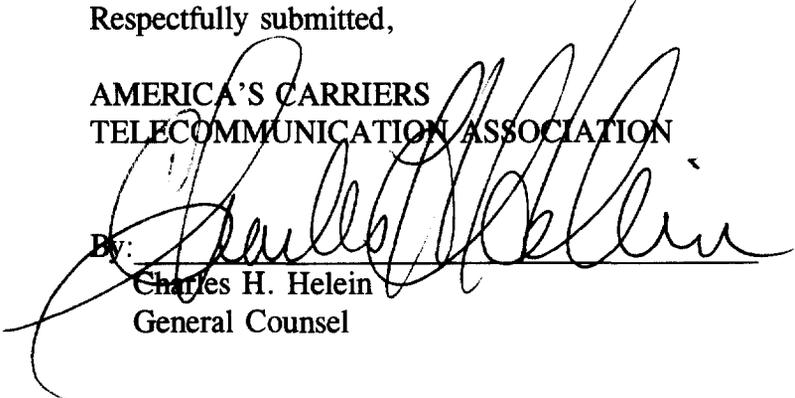
- e. Company: Unknown
Product: CyberPhone

CONCLUSION

Permitting long distance service to be given away is not in the public interest. Therefore, ACTA urges the Federal Communications Commission ("the Commission") to exercise its jurisdiction in this matter and: issue a declaratory ruling establishing its authority over interstate and international telecommunications services using the Internet; grant special relief to maintain the status quo by immediately stop the sale of this software; and institute rulemaking proceedings defining permissible communications over the Internet.

Respectfully submitted,

AMERICA'S CARRIERS
TELECOMMUNICATION ASSOCIATION

By: 

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Dated: March 4, 1995

CERTIFICATE OF SERVICE

I, Suzanne M. Helein, a secretary in the law offices of Helein & Associates, P.C., do hereby state and affirm that copies of the foregoing "Petition for Declaratory Ruling, Special Relief, and Institution of Rulemaking," were served in the manner indicated, this 4th day of March 1996, on the following:

Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554
(via hand delivery)

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W.
Room 802
Washington, D.C. 20554
(via hand delivery)

Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street, N.W.
Room 826
Washington, D.C. 20554
(via hand delivery)

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W.
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Commissioner Susan Ness
Federal Communications Commission
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William E. Kennard, General Counsel
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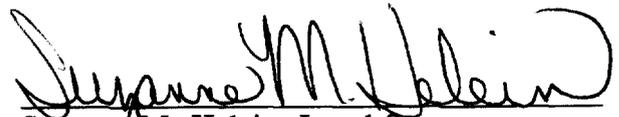
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Diane Cornell, Chief
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VocalTec, Inc.
157 Veterans Drive
Northvale, New Jersey 07647
(via first class mail)

Quarterdeck Corporation
13160 Mindanao Way, 3rd Floor
Marina Del Ray, California 90292
(via first class mail)


Suzanne M. Helein, Legal Secretary

ATTACHMENT 1

It's the 'Net's Best Thing To Being There

With Right Software, Computer Becomes a Toll-Free Telephone

By Mike Mills
Washington Post Staff Writer

With headset and microphone at the ready, a somewhat skeptical caller tries out new software designed to turn his personal computer into a telephone on the Internet. After a few minutes, a distant voice with a thick European accent breaks through: "Hello? Who is there?"

The voice belongs to Bert Karlsson of Norrköping of Sweden, who saw on his computer screen that a stranger was looking for someone to talk to.

In the resulting impromptu interview, Karlsson said he uses his computer to speak with his grandparents and cousins 3,700 miles away in the Canary Islands, without paying a single krona in long-distance charges.

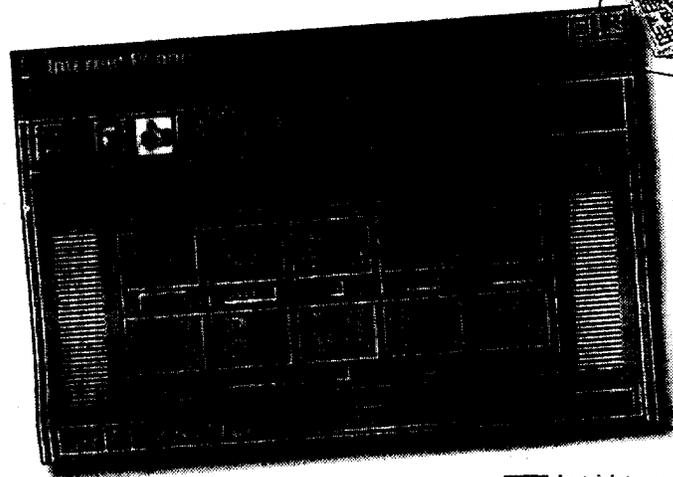
Karlsson is among a growing number of people equipped with the hardware, software and patience required to turn the Internet into a global telephone system, capable of connecting to other Internet subscribers. For now it's mostly for hobbyists, but down the road, some analysts believe, it could take a serious bite out of the business of long-distance phone companies.

"I like it," said Karlsson. But it takes some organizing, because both parties must be signed on to the Internet at the same time to make it work. "Usually I phone them in advance [to tell them to get on-line], but sometimes we arrange the next time to talk" while conversing on their computers, he said.

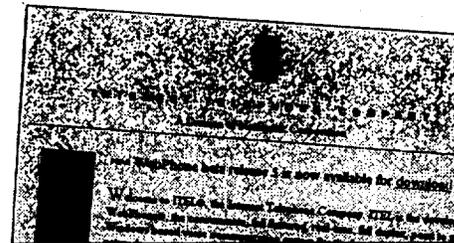
The five-minute conversation with Karlsson would have cost about \$7 by traditional means. But over the Internet the call was free, if you don't count the monthly fee for Internet access, and the roughly \$50 for the Internet phone software.

Internet phone software has been available for about a year. About 20,000 people are regular users, according to International Data Corp., a Framingham, Mass., consulting firm. Many are like ham radio operators, talking with strangers a continent away for the sheer pleasure of it.

See PHONES, C5, Col. 1



What I-Phone's software looks like in use.



COMPARISON			
Company	Product	Features	Price
VocalTec	I-Phone	Discussion groups Personal phone directory	\$99.95
Camelot	Digiphone	E-mail messaging Voice encryption	\$89.95
Quarterdeck	WebTalk	Web software Call holding/muting Caller location map	\$49.95
ITEL	WebPhone	Voice messaging Multiple phone lines	\$49.95

SOURCE: International Data Corp.

Quarterdeck WebTalk



WebTalk, above, and WebPhone, below left, are two companies that offer phone software demos on the World Wide Web.

The trick to sending speech over the Internet is to turn it into computer data, then "compress" that data by deleting extraneous bits. Only in this way is the data reduced to a volume that a computer with a standard 14,400 bit per second modem can handle. But compressing speech reduces audio quality. Also, both parties must use the same software and be on-line at the same time. Some users make a regular telephone call first to ask the other party to get on-line.

NASD Ur Rules on Industry Panel See

By Jerry Knight
Washington Post Staff Writer

A panel of securities industry experts yesterday called for major changes in the way investor complaints against brokers are handled by the National Association of Securities Dealers.

Investors should have more time bringing complaints, more say in picking arbitrators to hear their complaints and more efficient ways of settling their investment disputes, urged a six-member NASD committee headed by former Securities and Exchange Commission chairman David Ruder.

The Ruder panel, appointed by the NASD board in 1994, also endorses permitting investors to collect punitive damages from errant brokers, a remedy strongly opposed by the securities industry. And it urged the NASD to prevent brokerage firms from using lawsuits and other delaying tactics to fend off customer complaints.

USAir Reports Annual Profit

By Frank Swoboda
Washington Post Staff Writer

USAir yesterday reported its first annual profit in six years, but warned that time was running out in the company's efforts to cut its labor costs before the next downturn in the airline industry.

The Arlington-based USAir Group Inc. reported an after-tax profit of \$119.3 million (55 cents a share), compared with a loss of \$684.9 million in the previous year. USAir's revenue totaled \$7.47 billion, up 7 percent from \$6.9 billion in 1994.

The company also said it lost about \$40 million during the first two weeks of January because of bad winter weather and the federal government shutdown. USAir officials estimated the shutdown cost the company \$10 million.

John Harper, USAir's chief financial officer, said the company's first profit was a result of cost-cutting measures.

See USAIR, C5, Col. 3

DIGEST

DOW
5219.36
UP 34.68

DETAILS ON
PAGE 2



BONDS
30-YEAR TREASURIES

6.04% YIELD
+ 0.07

DOLLAR
VS. JAPANESE YEN (N.Y.)

105.77 YEN
+ 0.31 YEN

agreed to pay \$44 a share and assume \$150 million in debt.

Fear of the country's biggest oil companies reported strong fourth-quarter earnings. Exxon, the nation's biggest oil company, said strong crude oil and natural gas prices boosted its quarterly earnings by 7 percent before special items, to \$1.59 billion. Texaco's fourth-quarter income was up 27 percent, but after a special accounting charge, it reported a loss of \$251 million, compared with a profit of \$399 million a year ago. Amoco said net income was hurt in the quarter by a previously announced charge of \$380 million, but that earnings from operations rose 10 percent, to \$504 million. Arco said its earnings rose to \$348 million from \$211 million in the

Magellan accepted a sweetened \$758 million buyout

BIZ

Commercial Real Estate

A Trend Hitting D.C. Gives 'Home Office' New Look

By Maryann Haggerty
Washington Post Staff Writer

On the outside, 1312 Massachusetts Ave. NW looks a lot like other older office buildings in Washington. But on the inside, it's cutting edge: After more than 50 years, the building doesn't have home offices anymore.

Instead, it's a residential condominium dubbed the Hilltown on Mass Ave. The Hillside Group, a longtime local residential developer based in the District, last year bought the building cheap, gutted it and completely redid the interior to appeal to middle-income people who already live and work nearby.



Computers Can Become Telephones

PHONES, From C1

To connect, both parties must have Internet accounts, the same brand of telephone software and multimedia computers with 486 processors or better. One person speaks into a microphone that is plugged into a computer. The software converts the voice to digital information that flows across the Internet like any other collection of data. At the receiving computer, it is converted back into sound, which is heard through headphones or speakers.

The voice quality leaves much to be desired. Karlsson sounded as he might have in the fledgling days of long-distance phone service, with tinny sound quality and delays of up to several seconds splitting up the conversation. Still, quality has improved greatly compared with a year ago.

Three major companies peddle commercial versions of Internet telephone software for \$50 to \$60. Dozens of stripped-down variations are available free on the Internet.

"These products have sort of gone through an evolution, from something that really didn't work that well to something that is getting really interesting in terms of the quality of the sound and ease of use," said Mark Winther, a vice president at International Data Corp.

Ahead of the pack, for now, is Internet Phone by VocalTec Ltd., an Israeli company with U.S. offices in Northvale, N.J. The I-Phone, as it's called, connects one computer caller to another through one of 15 computer "servers" here and abroad. I-Phone works as a kind of audio "chat room," in which users can see on their screen who is online and choose to call or receive calls from anyone in the group.

Quarterdeck Corp. of Marina Del Ray, Calif., has an Internet telephone system called WebTalk, also using the "chat room" approach.

Digiphone, by Third Planet Publishing Inc., a division of Dallas-based Camelot Corp., takes a different approach. It lets callers type in the e-mail addresses of the parties and connect to them directly. Internet Telephone Co. of Boca Raton, Fla., is a newcomer with a product called WebPhone slated for release in several weeks. It too connects to e-mail addresses directly.

Phone company officials say they don't yet view these calls as a threat to their business. Those companies also happen to carry most of the Internet traffic, so they do get some compensation for the use of their networks.

"Obviously, this is a new area with many possibilities," said AT&T Corp. spokesman Mike Miller. "If our customers start moving toward it in a big way, it would only be prudent and responsible for us to meet those needs."

But new twists on Internet calling may make the companies pay greater attention. Services are being prepared that would let people with computer phones call people who have only ordinary telephones.

International Discount Telecommunications of Hackensack, N.J., is working to begin a service called Net2Phone. PC owners soon would be able to dial any telephone number in the world for 10 cents a minute, according to the company's brochure. The call would travel on the Internet to its country of destination, and then jump to the local phone system.

Jeff Pulver of Great Neck, N.Y., plans to offer a similar service free of charge as a cooperative venture with computer enthusiasts around the world. Pulver, a 33-year-old brokerage analyst, ham radio operator and Internet fan, is testing what he calls the Free World Dialup. He says 217 people worldwide will operate computers to put the calls on the local phone system.

"Phone companies overseas are taking this as a serious threat," he said. "But no one in the United States has really picked up on this yet."

Panel Urges NASD to Alt

ARBITRATE, From C1

Some of them can be implemented by the NASD on its own, while others would require SEC approval.

"Our underlying goal is to ensure that arbitration remains viable and cost-effective," Brophy said in a telephone news conference. But she did not endorse any of the specific recommendations.

Virtually all major brokerage firms require their customers to take disputes over investments to the NASD for arbitration instead of going to court. Having independent arbitrators deciding the cases once was quicker and cheaper than filing a lawsuit in state or federal court.

But dissatisfaction with the arbitration system has grown in recent years along with the volume of cases. The

NASD handled 6,000 new last year, three times as 1987. And the process more than a year, nearly quires a lawyer and often court anyway, NASD o knowledge.

Ruder said a key element public confidence is his to change the way arbit picked, giving investors choose among qualified. This, he said, would help perception that arbitrator Wall Street insiders who industry.

In a major setback for Ruder's panel recommend investors to collect a \$750,000 in punitive damage to their actual losses. firms campaigned to en

USAir Reports Profit of \$110

USAIR, From C1

officer, warned that despite the good year, the firm still had the highest unit labor costs in the industry. "Our full potential . . . cannot be realized, nor our existence assured, if we do not achieve a competitive cost structure," he said.

Yesterday was the first day on the job for Stephen M. Wolf, the former United Airlines chairman who was hired last week to replace Seth E. Schofield as USAir's chairman and chief executive. But Wolf declined to comment on the company's financial situation or his plans for the airline.

"I'm absolutely delighted to be here, but it would be premature for me to indicate anything about our future direction," Wolf told a morning teleconference with analysts. He told them he had managed "very nicely" without

them since leaving United. All questions were referred to other USAir executive

One of Wolf's first job trim \$2.5 billion in labor costs over the next three years. The company failed negotiate wage and work sions from its three unions national Association of Ma Air Line Pilots Association sation of Flight Attendar

Harper yesterday declined questions about how th would proceed on the lab did say that full-time em the airline had been cut b year to just below 40,000. number should be only sliq the end of 1996. Nearly 5, ees work in the Washington area.

Harper also wouldn't di


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