BEFORE THE

# Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

APR 25 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Policy and Rules Concerning the Interstate, Interexchange Marketplace | ) | CC Docket No. 96-61 |
| | ) | |
| Implementation of Section 254(g) of the Communications Act of 1934, as amended | ) | |

DOCKET FILE COPY ORIGINAL

To: The Commission

COMMENTS
OF
THE AMERICAN PETROLEUM INSTITUTE

Wayne V. Black
C. Douglas Jarrett
Susan M. Hafeli
Brian Turner Ashby
**KELLER AND HECKMAN**
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
(202) 434-4100

Its Attorneys

Dated: April 25, 1996

No. of Copies rec'd 0+6
List ABCDE

**TABLE OF CONTENTS**

Page

SUMMARY . . . . . iii

I. PRELIMINARY STATEMENT . . . . . 2

II. DISCUSSION . . . . . 3

A. API Strongly Supports The Commission's Mandatory Detariffing Proposal For Domestic Services Of Non-Dominant Interexchange Carriers . . . . . 3

1. The Commission Is Required By Section 401 Of The Telecommunications Act Of 1996 To Adopt A Mandatory Detariffing Policy For Domestic Services Of Non-Dominant Interexchange Carriers . . . 3

2. The Commission Should Implement A Mandatory Detariffing Policy To Eliminate The Ability Of Non-Dominant Interexchange Carriers To Ensure That Customer-Specific Service Arrangements Can Be Enforced . . . . . 6

3. The Commission Should Forbear From Requiring Non-Dominant Interexchange Carriers To Tariff The International Component Of Individually Negotiated, Customer-Specific Agreements . . . . . 9

4. The Rates, Terms, And Conditions Contained In Existing Customer-Specific Agreements And Tariffs Should Continue To Govern The Relationship Between Non-Dominant Interexchange Carriers And Their Customers After Detariffing . . . 10

B. API Urges The Commission To Implement The Proposal To Eliminate the Prohibition Against Non-Dominant Interexchange Carrier Bundling Of Customer Premises Equipment With Interstate, Interexchange Services . . . . . 11

1. The Commission's Tentative Conclusion To Eliminate The Bundling Prohibition Is Consistent With The Telecommunications Act of 1996's Pro-Competitive, De-Regulatory National Policy . . . . . 11

2. The Commission's Tentative Conclusions Regarding Mandatory Detariffing Apply With Equal Force To The Proposal To Eliminate The Bundling Prohibition . . . 13

3. Large, Sophisticated Customers Of Non-Dominant Interexchange Carriers Require Integrated Equipment And Service Packages . . . . . 15

4. Retaining The Bundling Prohibition Will Require The Commission To Draw Increasingly Fine Distinctions In A Period Of Rapid Technological Change . . 16

III. CONCLUSION . . . . . 17

**SUMMARY**

The American Petroleum Institute commends the Federal Communications Commission for issuing the instant Notice of Proposed Rulemaking so soon after passage of the Telecommunications Act of 1996. Adoption of at least two of the proposals contained therein would promote the pro-competitive, deregulatory purpose of the 1996 Act.

First, API urges the Commission to adopt the mandatory detariffing proposal for the services of non-dominant interexchange carriers. The tariff filing requirement contained in Section 203 of the Communications Act of 1934, as amended, is no longer needed to ensure that the rates, terms, and conditions of the domestic services of non-dominant IXCs are just and reasonable. On the contrary, the tariff filing requirement now serves as an impediment to Section 203's objectives in that it inhibits price competition, service innovation, and the ability of non-dominant IXCs to respond quickly to market trends. Thus, the Commission is compelled by Section 401 of the 1996 Act to implement a mandatory detariffing policy.

Moreover, as the Commission correctly notes in the NPRM, adoption of the mandatory detariffing proposal would moot the filed rate doctrine. Without the ability to file tariffs or tariff revisions that are inconsistent with non-tariffed contracts or previously filed tariffs,

non-dominant IXCs would be bound by the representations and commitments incorporated in the agreements negotiated with their customers. The entire user community would endorse this change. Implementation of a mandatory detariffing policy would have the salutary effect of ensuring that individually negotiated, customer-specific agreements entered by non-dominant IXCs become commercially enforceable. Potentially unfair and unconscionable holdings reached by the courts concerning the filed rate doctrine would be mooted.

Second, API strongly supports the Commission's tentative conclusion that the prohibition against non-dominant IXC bundling of customer premises equipment and interstate, interexchange services should be eliminated. In the 16 years since adoption of the bundling prohibition, both CPE and business services markets have matured into highly competitive markets. Given the changed circumstances, the prohibition no longer serves its original objectives of fostering greater customer choice and encouraging development of a competitive CPE market. Rather, the bundling prohibition now impedes the ability of large, sophisticated telecommunications users to obtain integrated packages of telecommunications services and equipment.

BEFORE THE

# Federal Communications Commission

WASHINGTON, D.C 20554

RECEIVED
APR 25 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

| | | |
|---|---|---|
| **In the Matter of** | ) | |
| | ) | |
| **Policy and Rules Concerning the Interstate, Interexchange Marketplace** | ) | **CC Docket No. 96-61** |
| | ) | |
| **Implementation of Section 254(g) of the Communications Act of 1934, as amended** | ) | |

**To: The Commission**

**COMMENTS**
**OF**
**THE AMERICAN PETROLEUM INSTITUTE**

The American Petroleum Institute ("API"), by its undersigned attorneys, hereby respectfully submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("Commission") on March 25, 1996 in the above-captioned proceeding.[1/] API urges the Commission to adopt: (1) the mandatory detariffing proposal for the services of non-dominant interexchange carriers ("IXCs"); and (2) the proposal to eliminate the prohibition against non-dominant IXC bundling of customer premises equipment ("CPE") with these carriers' services.

---

[1/] 61 Fed. Reg. 14717 (April 3, 1996).

## I. PRELIMINARY STATEMENT

1. API is a national trade association representing approximately 300 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products, and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

2. API obtained communications services provided by IXCs pursuant to standard tariffs and/or individually negotiated, customer-specific arrangements, such as those embodied in contract tariffs[2/] or governed by AT&T's Tariff 12.[3/] In addition, API member companies are large purchasers of CPE and other telecommunications equipment. Accordingly, API is pleased to submit these comments on the Commission's mandatory detariffing and CPE bundling proposals.

---

[2/] See Competition in the Interstate Interexchange Marketplace, 6 FCC Rcd 5880 (1991).

[3/] See AT&T Communications; Revisions to Tariff F.C.C. No. 12, 4 FCC Rcd 7928 (1989).

## II. DISCUSSION

### A. API Strongly Supports The Commission's Mandatory Detariffing Proposal For Domestic Services Of Non-Dominant Interexchange Carriers

3. API commends the Commission for its decision to propose implementation of a mandatory detariffing policy for domestic services of non-dominant IXCs so soon after passage of the Telecommunications Act of 1996 ("1996 Act").[4] API agrees with the Commission's tentative conclusion that it is compelled by Section 401 of the 1996 Act[5] to prohibit non-dominant IXCs from tariffing their domestic interexchange services.[6]

#### 1. The Commission Is Required By Section 401 Of The Telecommunications Act Of 1996 To Adopt A Mandatory Detariffing Policy For Domestic Services Of Non-Dominant Interexchange Carriers

4. As the Commission tentatively concludes in the NPRM, Section 401 of the 1996 Act requires that it forbear from applying the tariff filing requirement contained in Section 203 of the Communications Act of 1934 ("Communications Act"), as amended,[7] to domestic services

---

[4] Pub. L. No. 104-104, 110 Stat. 56 (February 8, 1996).

[5] 1996 Act at § 401.

[6] API urges the Commission to require that non-dominant IXCs detariff all of their domestic services, including residential and small business services. However, the remainder of this portion of these comments focuses only on services provided through individually negotiated, customer-specific agreements.

[7] 47 U.S.C. § 203 (1996).

of non-dominant IXCs.[8] API concurs with the Commission that, under Section 401, application of the tariff filing requirement no longer is necessary to: (1) ensure that the rates, terms, and conditions of non-dominant IXCs are just and reasonable; (2) protect consumers; or (3) safeguard the public interest.[9] Rather, as the Commission recognizes in the NPRM, application of the tariff filing requirement now impedes the original objectives of Section 203.[10] Market forces and the complaint process constitute effective avenues to ensure continued achievement of those objectives.

5. The Commission repeatedly has concluded that the tariff filing requirement is not necessary to ensure that the rates for interexchange services are just and reasonable, concluding that this requirement is actually counterproductive. Previously, the Commission held that "traditional tariff regulation of nondominant carriers is not only unnecessary to ensure just and reasonable rates, but is actually counterproductive since it can inhibit price competition, service innovation, entry into the market, and the ability of carriers to respond quickly to market

---

[8] NPRM at ¶ 27.

[9] Id. at ¶¶ 28-31.

[10] Id.

trends."[11] The 1996 Act empowers the Commission to implement this long-standing policy determination.

6. Moreover, there is overwhelming support for the Commission's conclusions that application of tariff filing requirements to non-dominant IXCs is not necessary to protect consumers of interexchange services or safeguard the public interest. The tariff filing requirement adversely impacts consumers and the public interest because it imposes unnecessary administrative costs on carriers and removes incentives for carriers to engage in aggressive price discounting.[12] By contrast, mandatory detariffing will benefit consumers and advance the public interest by promoting greater price competition and deterring price coordination.

7. The Commission is urged, therefore, to adopt rules consistent with its tentative conclusion that forbearance from the tariff filing requirement should be implemented on a mandatory, rather than a permissive, basis. The Commission correctly notes that "[t]he risk of

---

[11] Tariff Filing Requirements for Nondominant Common Carriers, 8 FCC Rcd 6752, 6752 (1993); see also Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services, 9 FCC Rcd 1411, 1478 (1994) (the Commission concluded that "non-dominant carriers are unlikely to behave anticompetitively . . . because they recognize that such behavior would result in a loss of customers.").

[12] See Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, 99 FCC2d 1020, 1030 (1985).

anticompetitive conduct inherent in, and the costs associated with, tariff filings by non-dominant interexchange carriers . . . would persist if carriers were permitted to file tariffs voluntarily."[13] Thus, API urges the Commission to adopt a mandatory, not a permissive, detariffing requirement.

**2. The Commission Should Implement A Mandatory Detariffing Policy To Eliminate The Ability Of Non-Dominant Interexchange Carriers To Ensure That Customer-Specific Service Arrangements Can Be Enforced**

8. Another fundamental policy objective supporting mandatory detariffing is that it will moot the filed rate doctrine. Under the filed rate doctrine, carriers are required to assess the rates contained in their tariffs even if they previously agreed with the customer to different rates, terms, or conditions.[14] The filed rate doctrine, despite its name, applies to all of the terms and conditions of a carrier's service, not just the carrier's rates.[15] Consequently, using the filed rate doctrine, carriers can knowingly and willfully misrepresent the rates, terms, and conditions of their services to induce customers to take service from them, and then file tariffs with the Commission

---

[13] NPRM at ¶ 34.

[14] See Maislin Indus., U.S., Inc. v. Primary Steel, Inc., 497 U.S. 116, 126-128 (1990) (the tariffed rate is the only lawful rate) ("Maislin").

[15] See Richman Brothers Records, Inc. v. U.S. Sprint Communications Co., Inc., 10 FCC Rcd 13639, 13641 (1995).

that contain different rates, terms, and conditions to avoid having to provide their customers with the benefits of any bargains negotiated by them.

9. As the courts repeatedly have recognized, application of the filed rate doctrine to customer-specific agreements "often leads to harsh and seemingly unfair results."[16] For instance, in TCI Mail, TCI Mail claimed that the rates contained in MCI's tariff and charged by it exceeded the rates the carrier had promised to charge by about 50%. Relying on the filed rate doctrine, as MCI argued, the court held that the rates in the carrier's tariff governed even though it recognized that application of the filed rate doctrine "could permit a carrier to deliberately misrepresent its rates to unwitting customers and then demand the full tariff amount after the contract is performed . . ."[17] Likewise, under facts similar to those in TCI Mail, another federal court concluded that the carrier's tariffs, "not the representations of its salespeople, determines the terms of the contract between

---

[16] MCI Telecommunications Corp. v. TCI Mail, Inc., 772 F.Supp. 64, 67 (D.R.I. 1991) ("TCI Mail").

[17] TCI Mail, 772 F.Supp. at 67.

MCI and [its customer]."[18] Other contemporary examples of carrier abuse of the filed rate doctrine abound.[19]

10. Adoption of the mandatory detariffing proposal, as the Commission notes in the NPRM, would eliminate the ability of non-dominant IXCs to abuse the filed rate doctrine.[20] Without the ability to file tariffs or superceding tariff revisions, IXCs would be bound by the representations and commitments they make in contracts with their customers. The inability of carrier customers to rely on the representations and commitments made by carriers during contract negotiations undermines the utility of entering customer-specific agreements with carriers. API seriously doubts that the major IXCs enter into multi-year, multi-million dollar agreements to purchase goods or services where the suppliers had the legal authority to unilaterally alter the terms of the agreements.

11. As explained above, API urges the Commission to adopt a mandatory, not a permissive, detariffing policy. In

---

[18] The Capps Agency, Inc. v. MCI Telecommunications Corp., 863 F.Supp. 1560, 1561 (M.D.Fla. 1994).

[19] See Marco Supply Co. v. AT&T Communications, Inc., 875 F.2d 434, 436 (4th Cir. 1989) (the court held that a carrier "must charge the tariff rate established with the appropriate regulatory agency, even if it has quoted or charged a lower rate to its customer."); see also Maislin, 497 U.S. 116, 126-128 (1990); MCI Telecommunications, Corp. v. Graham, 7 F.3d 477, 479 (6th Cir. 1993); MCI Telecommunications Corp. v. Garden State Investment Corp., 981 F.2d 385, 387 (8th Cir. 1992); Carter v. American Tel. & Tel. Co., 365 F.2d 486, 496 (5th Cir. 1966).

[20] NPRM at ¶ 92.

addition to the reasons described above, adoption of a mandatory detariffing policy would "eliminate possible invocation by carriers of the filed rate doctrine, which allows carriers certain rights unilaterally to change rates, terms, and conditions of contract tariffs and other long-term service arrangements, and to limit their liability for damages."[21] While non-dominant IXCs undoubtedly will argue in favor of a permissive detariffing policy -- this would allow them the option of detariffing their service offerings when doing so is in their interests but also maintain tariffs when necessary to avail themselves of the filed rate doctrine -- there simply is no justification for adopting a policy that is susceptible to "gaming" by carriers. The 1996 Act requires adoption of a mandatory detariffing policy, and the Commission, therefore, must adopt such a policy.

### 3. The Commission Should Forbear From Requiring Non-Dominant Interexchange Carriers To Tariff The International Component Of Individually Negotiated, Customer-Specific Agreements

12. One matter raised in the NPRM is whether to detariff customer-specific agreements that cover both domestic and international services.[22] The Commission should forbear from requiring non-dominant IXCs to tariff the international service elements included in those

---

[21] Id. at ¶ 34.

[22] Id. at ¶ 33.

agreements. Requiring non-dominant carriers to separate the international portion of those agreements from the domestic portion and tariff only the international portion would be administratively infeasible because the services frequently are offered on a bundled basis. The international component of negotiated service agreements are becoming a significantly larger component of API member company agreements. It is reasonable to assume most large users are experiencing substantial growth in international minutes. Moreover, because most customer-specific agreements cover a combination of international and domestic services, requiring that both the international and domestic portions be tariffed would undermine the benefits of the mandatory detariffing policy to many customer-specific agreements.

**4. The Rates, Terms, And Conditions Contained In Existing Customer-Specific Agreements And Tariffs Should Continue To Govern The Relationship Between Non-Dominant Interexchange Carriers And Their Customers After Detariffing**

13. If the Commission adopts a mandatory detariffing proposal, it will have to determine what rates, terms, and conditions will govern the relationship between non-dominant IXCs and their existing customers. Under the filed rate doctrine, the carriers' tariffs currently govern the relationship, but those tariffs will cease to be effective under a mandatory detariffing policy.

14. With respect to existing negotiated service arrangements, API believes that the underlying agreements

between carriers and their customers, as well as the general regulations and customer-specific tariff pages applicable to each such agreements, should govern the relationship between carriers and their customers in a detariffed environment. The parties would be free to amend their commitments before or after the arrangements are detariffed. Once detariffed, customer-specific agreements would be deemed free-standing, commercially enforceable agreements.

### B. API Urges The Commission To Implement The Proposal To Eliminate the Prohibition Against Non-Dominant Interexchange Carrier Bundling Of Customer Premises Equipment With Interstate, Interexchange Services

15. API strongly supports the Commission's tentative conclusion to allow non-dominant IXCs to bundle CPE with interstate, interexchange services.[23] Much like the tariff filing requirement, the bundling prohibition no longer serves its intended objectives.

#### 1. The Commission's Tentative Conclusion To Eliminate The Bundling Prohibition Is Consistent With The Telecommunications Act of 1996's Pro-Competitive, De-Regulatory National Policy

16. As the Commission recognizes, in the 16 years since adoption of the bundling prohibition, both the CPE and business services markets have matured into competitive markets.[24] The maturation of these markets, in conjunction with the Commission's recent finding that AT&T no longer possesses market power in the overall interstate, domestic,

---

[23] Id. at ¶ 88.

[24] Id. at ¶ 86.

interexchange market,[25] eliminates the underlying rationales for the bundling prohibition.

17. The bundling prohibition no longer serves the two purposes for which it was intended: (1) to foster customer choice; and (2) to encourage the development of a competitive CPE market.[26] Indeed, as the industry becomes increasingly competitive, the bundling prohibition increasingly serves as an impediment to attainment of those objectives. Rather than fostering customer choice, the prohibition is now limiting choice for large, sophisticated customers; rather than encouraging the development of a competitive CPE market, it is being brandished as a regulatory shield against competition.

18. Appended hereto is a brief statement summarizing an innovative deployment of advanced telecommunications technologies in which cutting edge "network services" and "equipment" were "bundled" to demonstrate the efficacy of a multimedia ATM network. API and several member companies spearheaded private industry's participation in this forward-looking telecommunications "incubation effort." Eventual commercialization of this effort would be impeded,

---

[25] Motion of AT&T to be Reclassified as a Non-Dominant Carrier, FCC 95-427 (released: October 23, 1995). AT&T's recent spin-off of its equipment division should further reduce traditional concerns regarding tying arrangements and potential market abuse.

[26] NPRM at ¶ 84.

if not undermined, in the event the bundling prohibition is eliminated.

19. Removal of regulatory edifices can be a difficult and often controversial process. Entities who enjoy regulatory protection tend to oppose de-regulatory efforts. Rather than operate in a fully competitive market, they would prefer to operate in a market distorted by regulatory constraints, including competitive barriers, so long as they obtain some benefit from those distortions.

20. Nonetheless, the progressive dismantling of the current regulatory structure is envisioned by the 1996 Act, which clearly enunciated a "pro-competitive, de-regulatory national policy framework."[27] The Commission's tentative conclusion to eliminate the bundling prohibition, which is appropriate given the current competitive conditions, furthers the transition to a competitive, technologically robust telecommunications industry and is consistent with this statutory national policy.

**2. The Commission's Tentative Conclusions Regarding Mandatory Detariffing Apply With Equal Force To The Proposal To Eliminate The Bundling Prohibition**

21. As previously discussed, API supports the mandatory detariffing proposal. The conclusions that underlie that proposal apply with equal force to the Commission's proposal to eliminate the bundling prohibition.

---

[27] See S. Conf. Rep. No. 230, 104th Cong., 2nd Sess. 1 (1996); see also NPRM at ¶ 1.

22. The Commission concludes that the objectives of the Communications Act do not depend upon tariff filings but "can be achieved effectively through market forces and the administration of the complaint process."[28] This conclusion is premised, in part, on the Commission's determination that no carrier in the domestic interstate, interexchange market exerts market power. Similarly, market forces and the complaint process constitute effective avenues to ensure continued achievement of those objectives originally attributed to the bundling prohibition. Since no carrier in the domestic interstate, interexchange market exerts market power, the Commission need not retain a regulatory requirement intended to constrain that power.

23. The Commission also concludes that, rather than protect consumers, tariff filings harm consumers. Among other things, tariff obligations "stifle[] price competition and service and marketing innovations."[29] Similarly, the bundling prohibition is detrimental to consumers, particularly large, uniquely-situated consumers with complex and sophisticated telecommunications requirements. As discussed below, the bundling prohibition hinders these consumers' efforts to obtain innovative system-wide telecommunications solutions.

---

[28] NPRM at ¶ 28.

[29] Id. at ¶ 29.

24. Finally, the Commission concludes that forbearance from required tariff filings for non-dominant IXCs is consistent with the public interest because it will promote competition and deter price coordination.[30] Similarly, eliminating the bundling prohibition will promote competition by removing a significant regulatory impediment to full competition. The opportunity to engage in price coordination is lessened when customers are freed of artificial constraints upon their equipment and service selection.

### 3. Large, Sophisticated Customers Of Non-Dominant Interexchange Carriers Require Integrated Equipment And Service Packages

25. The size and complexity of telecommunications requirements for major corporations requires a high level of coordination and integration. Given these requirements, large corporations tend to seek customer-specific system-wide solutions. This preference for an individualized telecommunications solution can be analogized to a preference for customized software as opposed to standard software requiring ad hoc modifications.

26. For these corporations, constraints on a carrier's ability to offer both equipment and service impedes the ability to obtain an integrated telecommunications package. Benefits of an integrated package include: (1) a single point of responsibility, control, and billing for all

---

[30] Id. at ¶ 30.

services and facilities; (2) cost savings due to volume purchases and long-term commitments; and (3) timely access to and the flexibility to implement new services and technologies. To the extent the bundling prohibition precludes the development of an integrated package, it stifles the service and marketing innovations that both the Commission and national policy favor and large telecommunications users seek.

27. By prohibiting non-dominant IXCs from bundling services with equipment, the bundling prohibition imposes a barrier to the development of joint carrier-user solutions, such as the ARIES project discussed above. Those solutions, of course, need not exclude CPE vendors. The current environment, however, does not reward such innovative solutions, as would a de-regulated market. Rather, the bundling prohibition effectively acts as a brake on technology deployment and acquisition, to the detriment of large users.

**4. Retaining The Bundling Prohibition Will Require The Commission To Draw Increasingly Fine Distinctions In A Period Of Rapid Technological Change**

28. So long as the bundling prohibition is retained, the Commission will be forced to draw increasingly fine distinctions at a time when the lines between different categories are increasingly blurred. Indeed, the Commission already has recognized that "[c]omplex communications technologies such as frame relay blur the line between

common and private carriage."[31] The Commission's task in drawing these lines is made even more difficult given its limited resources and the pace of technological advances.

29. The 1996 Act contemplates a competitive industry that only a handful -- if any -- envisioned 16 years ago, when the bundling prohibition was first established. Given competitive markets for both CPE and interstate, domestic interexchange service, the Commission no longer needs to exercise regulatory oversight. To retain the bundling prohibition in these circumstances is to retain a regulatory framework which now operates to shield certain market participants from the effects of competition. In this context, regulation distorts the operation of those markets and ensures that the Commission and the courts, not the marketplace, will decide how consumers will be served. Such a result is inconsistent with both the Commission's public interest conclusions and the 1996 Act.

## III. CONCLUSION

30. The requirement that non-dominant IXCs tariff their domestic services is no longer needed to ensure that their charges, practices, and classifications are just and reasonable. Nor is the prohibition against non-dominant IXC

---

[31] Independent Data Communications Manufacturers, Inc. Petition for a Declaratory Ruling That AT&T's InterSpan Frame Relay Service Is a Basic Service; and American Telephone and Telegraph Company Petition for Declaratory Ruling That All IXCs be Subject to the Commission's Decision on the IDCMA Petition, DA 95-2190 (released: October 18, 1995).

bundling of CPE and interstate, interexchange services still needed to protect the public from having to purchase unwanted CPE in order to obtain interexchange service. Rather, given the highly competitive nature of the market for interexchange services and CPE, the tariff filing requirement and CPE bundling prohibition serve as impediments to their original objectives. Accordingly, API strongly supports the Commission's proposals to eliminate these outdated regulatory burdens and allow the relationship between non-dominant IXCs and their customers to be governed by market forces.

**WHEREFORE, THE PREMISES CONSIDERED,** the American Petroleum Institute urges the Federal Communications Commission to adopt its proposals to: (1) require non-dominant interexchange carriers to detariff their domestic interexchange services; and (2) eliminate the

prohibition against non-dominant interexchange carrier bundling of customer premises equipment and interstate, interexchange services.

Respectfully submitted,

**THE AMERICAN PETROLEUM INSTITUTE**

By: Brian Turner Ashby / WVB

Wayne V. Black
C. Douglas Jarrett
Susan M. Hafeli
Brian Turner Ashby
**KELLER AND HECKMAN**
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
(202)434-4100

Its Attorneys

Dated: April 25, 1996

**STATEMENT OF RAYMOND E. CLINE, JR.**

**Biographical Background**

My name is Raymond E. Cline, Jr. I am currently employed by the American Petroleum Institute ("API") as Director of Information Systems. I have held this position since May 1995. My duties include supporting the Information Systems and Telecommunications Committees of the API to facilitate shared projects and technical data exchange on information infrastructure within the petroleum industry. My current interests include the development of strategies to maximize the business impact of emerging information technologies, the interaction of local-area and wide-area information architectures, and the use of distributed knowledge-based systems.[1/]

---

[1/] I was previously employed at Sandia National Laboratories, holding several positions relating to computing and information infrastructure, including managing the Distributed Systems Research and Development Department. I served as the chairman of a multi-laboratory coordinating board governing the Department of Energy's Gas and Oil National Information Infrastructure program. I was also a member of a tri-laboratory management council for the Super Laboratory Project under the Department of Energy's Defense Information Infrastructure Program.

I have published research articles and given presentations on many aspects of computational and networking technology. I currently serve as an industrial liaison for the Supercomputing '97 conference to be held in San Jose, California, in 1997. I received a Bachelor of Science degree from Kent State University and a Ph.D. from the University of Illinois in chemical physics.