Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of The Provision of Interstate and International Interexchange Telecommunications Service via the "Internet" by Non-tariffed, Uncertified Entities	))))))	RM No. 8775

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COMMENTS OF U S WEST, INC.

U S WEST, Inc. ("U S WEST") hereby files these comments on the Petition for Declaratory Ruling, Special Relief and Institution of Rulemaking ("Petition"), filed March 4, 1996 by the America's Carriers Telecommunication Association ("ACTA").[1] In its Petition, ACTA requests that the Federal Communications Commission ("Commission") assume regulatory jurisdiction over "the Internet" and take various other actions in the exercise of this jurisdiction, including enjoining, on an interim basis, the sale of software which permits access to the Internet for telecommunications purposes.

ACTA's position is premised on the fact that new services over the Internet are capable of displacing, and are displacing, many traditional common carrier services. Indeed, other than the fact that Internet transport does not seem to be precisely traceable to any particular carrier (due to the fact that the Internet protocol uses routers rather than switches), many aspects of Internet service seem analo-

[1] See Public Notices, rel. Mar. 8, 1996 and Mar. 25, 1996.

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gous to current interstate carrier services. Certainly, as Internet services develop quality voice applications, interexchange Internet services will become more and more interchangeable with more traditional interexchange voice services. Disparate regulatory treatment of these two types of interstate interexchange services forms the gist of ACTA's request for Commission intervention.

U S WEST's perspective is somewhat different. Internet Service Providers (that is, those entities who provide Internet connectivity), because they are enhanced service providers ("ESP"), are classified as end users by the Commission for purposes of applying interstate access charges. As such, Internet Service Providers do not pay (or at least are not required to pay) carrier's carrier charges pursuant to Section 69.5(b) of the Commission's rules. Instead they pay local exchange rates plus special access charges (plus surcharges) on the same basis as "leaky" PBX end-user customers. U S WEST has opposed this "access charge exemption" (which applies to all interstate ESPs) for some time. Moreover, recent developments make the existing access charge exemption as applied to Internet Service Providers more pernicious. Many Internet Service Providers are collocating in the points of presence ("POP") of interexchange carriers. In such a circumstance, unlike the traditional "leaky" PBX situation, these Internet Service Providers order local exchange lines directly into the POP, avoiding much of the interstate local exchange cost assignment by avoiding payment of special access rates (including the "leaky" PBX surcharge).[2] In addition, Internet usage is growing exponentially -- U S WEST es-

[2] Of course, placement of a PBX on a carrier POP would not avoid any access charge payments, and, indeed, would result in payment of switched access charges.

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 8th day of May, 1996, I have caused a copy of the foregoing **COMMENTS OF U S WEST, INC.** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.

Kelseau Powe, Jr.

***Via Hand-Delivery**

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timates that, by the year 2000, as much as 30% of all local exchange traffic may be traffic which ultimately utilizes the Internet. A high percentage of this traffic will be interstate in nature -- much more than the current interstate traffic percentages on the voice network. Dramatic increases in interstate usage which remain classified as intrastate in nature (as is the case with Internet terminations today) clearly present a problem demanding the Commission's immediate attention.

In other words, the problem identified in the Petition is real. Indeed, the interstate access problems which Internet access presents demand extremely rapid resolution in light of the anticipated growth of Internet usage. The development of interconnection contracts under the new Telecommunications Act of 1996 will further exacerbate anomalies caused by the exemption Internet Service Providers (and all ESPs) currently enjoy from carrier's carrier charges. However, U S WEST does not see the solution proposed by ACTA to be necessarily optimal. Enjoining deployment of a technology does not seem consistent with the Commission's statutory requirement to do its utmost to encourage new technological development. Furthermore, in the context of competitive provision of interexchange services, it would seem a little anomalous to demand that a service be outlawed because it was underpriced. U S WEST submits that the best solution to the Internet problem is to commence the access charge reform docket immediately, and to address the application of access charges (as well as interconnection rules, to the extent that they are not covered in the current Interconnection docket (CC Docket No. 96-98)) to Internet Service Providers in that proceeding. Access charge reform now borders on

emergency status, and the Petition brings to light another reason to commence the access charge reform docket immediately. U S WEST does not object to commencement of a proceeding which would examine the carrier status of Internet Service Providers (or of the Internet network itself).

Respectfully submitted,

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