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October 21, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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

Re: Ex Parte Presentation - Detariffing
CC Docket: 96-61

Dear Mr. Caton:

Today, on behalf of the American Petroleum Institute, Joseph D'Auria, Susan Hafeli and the undersigned met with Daniel Gonzalez, Legal Advisor to Commissioner Chong, to discuss API's position in the above-cited proceeding. The attached material was discussed in the meeting.

Two (2) copies of this letter along with the attachments are being submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's rules.

Very truly yours,

C. Douglas Jarrett

C. Douglas Jarrett

Attachment

cc: Daniel Gonzalez, Esq.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

POSITION OF THE AMERICAN PETROLEUM INSTITUTE

CC Docket No. 96-61
October 21, 1996

I. THE COMMISSION SHOULD ADOPT A MANDATORY DETARIFFING POLICY FOR MULTIYEAR SERVICE ARRANGEMENTS

- **Mandatory detariffing is a reasonable interpretation of the Commission's statutory forbearance authority**

  - Carriers' overly restrictive interpretation of "forbearance" turns regulatory scheme on its head

  - "Permissive detariffing" contemplated by carriers allows carriers, not Commission, to decide when and whether to file tariffs

- **Sound public policy supports mandatory detariffing**

  - Carrier concerns regarding administrative burdens associated with detariffing are absolutely inapplicable to customer-specific contracts

  - Mandatory detariffing fosters price competition, service innovation, and responsiveness to market trends

  - In a competitive environment, tariffs promote carriers' interests, not end-users' interests

- **Mandatory detariffing, which eliminates a regulatory burden, is consistent with Congress' deregulatory approach**

  - Mandatory detariffing emulates a competitive marketplace

  - Carriers' permissive detariffing is not deregulatory, because it obligates the Commission to perform a function absent in competitive markets

- **Mandatory detariffing eliminates carriers' recourse to the filed rate doctrine**

  - All terms and conditions of negotiated multiyear service arrangements can and should be consolidated in a single document

  - Permissive detariffing allows carriers to "hide behind" their tariffs

  - AT&T offers no basis for its claim that negotiated rates could prevail over permissively-filed rates; indeed, its Maislan citation explicitly refers to the *elimination* of filing requirements

II. CPE BUNDLING PROHIBITION SHOULD BE LIFTED

- Current policy has outlived its usefulness
- Permissive, optional bundling of CPE and services is far more in line with current requirements of large users
- Integrated offerings of service and equipment may be critical in the commercialization of advanced technologies

  - Promotes innovative end-to-end solutions

  - Allows customers and carriers to work together in testing new technologies

I. REAL WORLD CONSIDERATIONS SUPPORTING MANDATORY DETARIFFING

- Vendors should be accountable.
- Vendor representatives often do not know their own tariffs.
- Agreements should be consolidated in one document, not an agreement and sets of tariffs subject to change at the carriers' discretion.
- Detariffing will minimize carriers' benchmarking of rates and terms and conditions.
- Transaction costs for users will be reduced significantly.

II. BUNDLING OF CPE AND SERVICES CREATES MORE OPTIONS AND OPPORTUNITIES FOR USERS.