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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Petition of Bell Atlantic Corporation for Relief from Barriers to Deployment of Advanced Telecommunications Services	)	CC Docket No. 98-11
	)	
Petition of US WEST Communications, Inc. for Relief from Barriers to Deployment of Advanced Telecommunications Services	)	CC Docket No. 98-26
	)	
Petition of the Alliance for Public Technology Requesting Issuance of Notice of Inquiry And Notice of Rulemaking to Implement Section 706 of the 1996 Telecommunications Act	)	CC Docket No. ____
	)	
Petition of Ameritech Corporation to Remove Barriers to Investment in Advanced Telecommunications Capability	)	CC Docket No. ____

MOTION TO CONSOLIDATE FILING OF COMMENTS AND REPLIES BY THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

The Association for Local Telecommunications Services ("ALTS") hereby moves that the four above-captioned petitions be consolidated for the purpose of filing comments and replies pursuant to the current briefing schedule in Docket No. 98-11.[1] While the petitions differ as to the particular relief requested, each petition raises similar legal and policy issues.

Although section 706 does not require the Commission to commence a Notice of Inquiry ("NOI") concerning "the availability

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[1] See Order released February 25, 1998, in CC Docket No. 98-11, extending the deadline for the filing of comments to April 1, 1998, and replies to May 1, 1998.

of advanced telecommunications capability to all Americans" until August 8, 1998 (and that inquiry is not required to be completed until February 4, 1999), it would conserve the resources of the commenting parties, as well as the Commission, to consolidate the current petitions solely for the purpose of filing comments and replies. ALTS is not asking the Commission at this time to: (1) resolve these petitions via a single order or via individual orders; (2) use the proposed consolidated record as a basis for an NOI, an NPRM, or any other particular form of relief; or (3) alter the existing comment and reply schedule.[2]

ARGUMENT

ALTS is requesting a consolidated comment and reply cycle for these four petitions solely as a convenience for the commenting parties and the Commission. In requesting consolidation, ALTS does not suggest that the petitions are meritorious, or that prompt action is required (the Commission is not required to complete the NOI required by section 706(b) until February 4, 1998).

There is no question that several important issues are common to these petitions:

- Section 10 of the Telecommunications Act requires that whenever the Commission forbears "from applying any

[2] In the event any interested party can not reasonably comment on all four petitions under the existing schedule in CC Docket No. 98-11, ALTS would not object to extending the schedule.

regulation or any provision of this Act," it must first determine whether the "regulation or provision is not necessary for the protection of consumers" (section 10(a)(2); emphasis supplied), and whether "such forbearance will promote competition" (section 10(c)). Despite the plain language of Section 10, three of the section 706 petitions claim the Commission can forbear from enforcing statutory or regulatory requirements pursuant to section 706 without first complying with the requirements of section 10.[3]

- The petitions assume that the provisions of section 251(c) and its implementing regulations, as well as section 271, have the effect of deterring investment by ILECs in advanced telecommunications.[4]

- The petitions assume that increased investment by the ILECs in Internet facilities would increase Internet speeds.[5]

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[3] See, e.g., Bell Atlantic Petition at 10 (the section 10 proviso "is an exception only to the Commission's forbearance authority under Section 10(a)"); US WEST Petition at 36 n.15 ("By contrast [with section 10], the more targeted grant of forbearance authority in Section 706 contains no such limitation"); and Ameritech Petition at 14 n. 23 ("Section 706(a), however, represents an independent grant of forbearance authority that is not so limited"). But see APT Petition at 21 (" ... the Commission has the authority to forbear enforcing Sections 251(c) and 271 only after their full implementation ...").

[4] See, e.g., Bell Atlantic Petition at 17 ("The investments required for Bell Atlantic to carry out its plan are both substantial and fraught with risk. Such investments are less likely to be made if the reward must be shared with non-investors through the competitor-access requirements, or if the resulting services must be priced at artificially limited prices ..."); US WEST Petition at 3 ("But regulatory barriers prevent US WEST from doing much of what it could accomplish"); APT Petition at 15 ("We have shown that the requirement that ILECs provide competitors discounted access to advanced telecommunications facilities under the UNE platform scheme is problematic and has created a substantial disincentive to their investment"); and Ameritech Petition at 8 ("Ameritech has already made a significant investment in such facilities, but its incentives to invest further are constrained by regulatory requirements ...").

[5] See, e.g., Bell Atlantic Petition at 14 ("Substantial new investment by new companies with different incentives is needed

(continued...)

- The petitions address issues currently implicated in the Commission's proceeding dealing with ISP usage of the public switched network (Usage of the Public Switched Network by Information Service and Internet Access Providers (CC Docket No. 96-263, released December 24, 1996).[6]

- The petitions address issues being considered in the Commission's FNPRM on remand from Computer III (Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, CC Docket No. 95-20, released January 30, 1998).[7]

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[5](...continued)
to create the universally high-quality Internet access for 'all Americans' contemplated by Congress"); US WEST Petition at 3 ("US WEST is uniquely positioned to invest in the infrastructure needed to bring advanced data telecommunications and information services to 'all Americans'"); APT Petition at 12 ("Finally, of greatest importance to this point, the ILECs, which have deep resources and expertise for innovation, have vigorously argued that the retail price competition of the UNE platform is discouraging their investment in advanced telecommunications capabilities"); and Ameritech Petition at 8 ("The only clearly effective solution to this inherent mismatch between the embedded circuit-switched network and the ever-expanding high-speed broadband needs of customers is enormous new investment in packet data capability").

[6] See, e.g., Bell Atlantic Petition at 17 ("Expanded packet-switching capacity would allow data traffic to be re-routed onto such networks in order to relieve the burdens on the local voice networks caused by increased use of on-line services"); Petition of APT at 2 (seeking a "negotiated rulemaking to fashion an ISP access charge that is reasonable and acceptable to the Internet industry ..."); and Ameritech Petition at 4 ("And, as data and Internet use increases, the circuit-switched networks of the regulated incumbent LECs become increasingly congested").

[7] In carrying out its remand from the Ninth Circuit (Computer III FNPRM), the Commission recently found that interLATA information services can only be provided by an RBOC through a section 272 subsidiary, and has requested comments as to whether CEI or structural separations should be applied on an intraLATA basis (at ¶¶ 48-70). Each of the petitions requests interLATA relief without refering to this determination. See, e.g., Bell Atlantic Petition at 3 ("The Commission should permit Bell Atlantic to provide high-speed broadband services without regard to present LATA boundaries); US WEST Petition at 27 ("The ban on in-region, interLATA data transport makes it simply
(continued...)

Because these important issues are common to almost all of these section 706 petitions, the Commission should adopt a consolidated comment and reply cycle.

CONCLUSION

For the foregoing reasons, ALTS requests that these section 706 petitions be consolidated for the purpose of filing comments and replies.

Respectfully submitted,

By: Richard J. Metzger

Richard J. Metzger
Vice President and General Counsel
Association for Local
Telecommunications Services
888 17 Street, N.W., Suite 900
Washington, D.C. 20006
(202)969-2583

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[7](...continued)
impossible for US WEST to build an Internet backbone (or any other kind of regional high-seed data network) in its fourteen states"); and Ameritech Petition at 2 (" ... the Commission should recognize that the concept of local access and transport areas ('LATA') is meaningless in the context of high-speed data services").

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion of the Association for Local Telecommunications Services was served March 9, 1998, on the following persons by first-class mail or hand service, as indicted.

Richard J. Metzger

A. Richard Metzger
Chief, Common Carrier
Bureau
Federal Communications
Commission, Room 500
1919 M Street, N.W.
Washington, D.C. 20554*

Richard Welch
Deputy Chief, Common
Carrier Bureau
Federal Communications
Commission, Room 500
1919 M Street, N.W.
Washington, D.C. 20554*

Carol Mattey
Chief, Policy and Plans
Division
Federal Communications
Commission, Room 544
1919 M St., N.W.
Washington, D.C. 20554*

Linda Kinney
Policy and Plans Division
Federal Communications
Commission, Room 544
1919 M St., N.W.
Washington, D.C. 20554*

Enforcement Task Force
Office of General Counsel
FCC, Room 650-L
1919 M Street, N.W.
Washington, D.C. 20554*

John Thorne
Robert Griffen
Bell Atlantic
1320 N. Court House Road
8th Floor
Arlington, VA 22201

Richard Taranto
Farr & Taranto
2445 M St., NW
Suite 225
Washington, D.C. 20037

Maureen Lewis
Alliance for Public
Technology
901 15th St., NW
Suite 230
Washington, D.C. 20037-7146

William T. Lake
John H. Harwood II
Jonathan J. Frankel
Wilemr, Cutler & Pickering
2445 M St., NW
Washington, D.C. 20037

Robert B. McKenna
Jeffry A. Brueggeman
US WEST, Inc.
1020 19th St.,NW
Washington, D.C. 20036

John T. Lenahan
Christopher Heiman
Frank Panek
Ameritech
Room 4H84
2000 W. Ameritech Center Dr
Hoffman Estates, IL 60196-
1025

ITS Inc.
2100 M Street, N.W., Suite
140
Washington, D.C. 20037