

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Petition of Bell Atlantic for Relief from	)	CC Docket No. 98-11
Barriers to Deployment of Advanced	)	
Telecommunications Services	)	
	)	
Petition of U S WEST for Relief from	)	CC Docket No. 98-26
Barriers to Deployment of Advanced	)	
Telecommunications Services	)	
	)	
Petition of Ameritech for Relief from	)	CC Docket No. 98-32
Barriers to Deployment of Advanced	)	
Telecommunications Services	)	

**REPLY COMMENTS  
OF THE  
UNITED STATES TELEPHONE ASSOCIATION**

**INTRODUCTION**

The United States Telephone Association ("USTA") respectfully submits its reply comments in the above-referenced proceeding. USTA is the principal trade association of the local exchange carrier ("LEC") industry. Its members provide over 95 percent of the incumbent LEC-provided access lines in the U.S.

Parties opposing the applications of Bell Atlantic, U S West and Ameritech ("RBOC Petitions") raise no new issues. In fact, the Commission has heard these same protectionist theories since it began implementation of the Telecommunications Act of 1996 ("Act"). What is clear from opposition comments is that they seek big-brother protection from competition,

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limited consumer choices based upon selective deployment of high-speed advanced telecommunications networks by any company other than a LEC, and unfettered access to existing and future ILEC networks, products and services at government subsidized rates, which are akin to bankruptcy pricing levels for ILECs. This *Hobbesian*<sup>1</sup> theory is anachronistic in an age of market-based competition. According to Congress, the Act is intended “to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapid private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition....”<sup>2</sup>

Those parties opposing the RBOC Petitions simply ignore the unmet consumer demand for high-speed data and Internet networks. This demand continues to increase at ever increasing levels. In addition, opposing parties dismiss the empirical data from the federal government that demonstrates the need for deployment of advanced telecommunications networks to ensure that American commerce maintains its technological and competitive edge in the global marketplace. Also, advanced telecommunications networks are needed to advance the health, education, and general welfare of the nation, which parties who oppose the pending RBOC Petitions apparently care nothing about. Unfortunately, consumers and business customers are left with only an

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<sup>1</sup> A political theory promulgated by Thomas Hobbes (English Philosopher — 1588-1679) who advocated a powerful government as the only means of adequately controlling the inevitable problems created by the inherently selfish, aggrandizing nature of human beings. Congress has chosen not to adopt this theory of government in passing the Act.

<sup>2</sup> See *Telecommunications Act of 1996*, Senate Report No. 104-230, Conference Agreement at 113.

*Hobson's choice*<sup>3</sup> dictated by anti-competitive opponents of ILECs competing in the data and Internet marketplace

The Commission has within its control the ability to create the next great explosion in economic growth and human development by simply approving the RBOC Petitions to build high-speed data and Internet networks now. Clearly the benefits of access to next generation technology, products and services outweighs even the most dire predictions of technological Armageddon that those opposing these applications have been able to image. Conversely, if the Commission fails to act swiftly by forbearing from imposing regulations currently applicable to existing wireline networks, then the economic incentive to build these networks will not exist, consumers will have limited choices, price competition would be artificially controlled and reduced, foreign competitors will fill the void with little or no regulations because of WTO commitments, areas of the nation will go unserved, and the intent of Congress for rapid private sector deployment of advanced telecommunications services will not be realized.

USTA urges the Commission to remove barriers to entry and regulatory uncertainty for ILECs to compete on the same terms and conditions as other competitors like WorldCom/MCI, Qwest/LCI, Level 3, Bell Canada and any other company wishing to provide high-speed data and Internet services. This market is highly competitive. The Commission need only open the door to competition by stepping away from burdensome regulatory paradigms which do nothing more

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<sup>3</sup> According to the American Heritage Dictionary, Second College Edition, a *Hobson's choice* is defined as "An apparently free choice that offers no real alternative [After Thomas *Hobson* (1544-1631), English liveryman, from his requirement that customers take either the horse nearest the stable door or none]." Parties which oppose ILECs entering the competitive market for advanced high-speed data and Internet networks would leave modern day consumers with the option of using any non-ILEC network or no network at all.

that forestall deployment of critically important technological innovations, while protecting others from the very competition intended by the Act. The public interest is best served by competition. ILECs are prepared to compete with any competitor in constructing high-speed advanced telecommunications networks, and in meeting the ever-increasing demand for products and services. The marketplace, not government regulations should determine winners and losers. Moreover, the marketplace is a laboratory that shows how effective it can be in driving innovation. Qwest, Level 3, UUNET and Bell Canada's announced plans to build a high-speed data and Internet network serving Canada and the northern United States would never have happened if the protectionist and anti-competitive proposals of parties opposing ILECs construction of such networks free of Section 251(c) and other regulations were applicable to those companies. The Commission can avoid the loss in consumer welfare and the delay regarding the deployment of voice-messaging and cellular services discussed in USTA's comments in this proceeding, and in the rulemaking proceeding involving the petition filed by the Alliance for Public Technology by approving the RBOC Petitions, by sending the correct signal to ILECs that the Commission encourages the upgrading of existing networks and the deployment of advanced telecommunications networks.

**ARGUMENTS OPPOSING ILECS  
CONSTRUCTING ADVANCED  
TELECOMMUNICATIONS NETWORKS  
LACK CREDIBILITY**

The opposition comments are consistent in arguments that ILECs must not be allowed to compete in the high-speed data and Internet marketplace. AT&T asserts that the Commission

has no authority under Section 706 to grant the RBOC Petitions, and that granting the Petitions would stifle competition.<sup>4</sup> WorldCom claims that there are no compelling facts to support the RBOC Petitions and that no further incentives are needed to ensure that ILECs will construct advanced telecommunications networks.<sup>5</sup> MCI generally argues that the Commission lacks authority to grant the RBOC Petitions and that consumers need protection from the RBOCs.<sup>6</sup> ALTS asserts that federal policy has no impact on Internet investment, that RBOCs are not needed to ensure adequate Internet investment, and would not invest in Internet facilities if their petitions were granted.<sup>7</sup> These comments are representative of the arguments why the Commission should either reject the RBOC applications on public policy grounds, that the Commission has no authority to approve the RBOC Petitions under Section 706, and if the Commission does approve the RBOC Petitions that it apply Section 251(c) obligations to ILECs who deploy high-speed data and Internet networks.

The comments of opposing parties are simply self-serving, anti-competitive protectionist rhetoric which is intended to prevent ILECs from competing in the data and Internet marketplace. Section 706 provides the Commission with the authority to remove regulatory barriers to deployment by ILECs of advanced telecommunications networks. In addition, the

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<sup>4</sup> *AT&T Comments* at 5-21.

<sup>5</sup> *WorldCom Comments* at 31-49.

<sup>6</sup> *MCI Comments* in CC Docket No. 11 at 12-29. Ironically, MCI filed a motion requesting that the Commission accept its late-filed pleading. According to MCI, "Due to a major computer system error, MCI was unable to timely file its comments...." Perhaps MCI lacked sufficient networking capability.

<sup>7</sup> *ALTS Comments* at 13-19.

RBOC Petitions represent legitimate efforts by Bell Atlantic, U S West, and Ameritech to build high-speed advanced data and Internet networks to meet an unmatched need for bandwidth capacity. If the Commission fails to provide the necessary incentives for RBOCs and ILECs to construct advanced telecommunications networks, then consumers will have fewer choices, services will not be provided to all Americans, and the economy will suffer.<sup>8</sup>

The Commission has an unprecedented opportunity to act in the public interest by approving the RBOC Petitions. In addition, ILECs which are not subject to regulations that impact the RBOCs should be encouraged to deploy advanced telecommunications networks without burdensome regulations that serve as disincentives to ILECs constructing high-speed data and Internet networks. USTA urges the Commission to dismiss the unsubstantiated arguments of parties opposed to competition by approving the RBOC Petitions.

## **CONCLUSION**

It is inconceivable that the need for the next generation of high-speed data and Internet networks can be met without the active participation of ILECs in this marketplace. Yet, many companies seek government protection from competition, cost and price regulation, and subsidized services from ILECs under the guise of protecting the public interest from the ILEC monopolist. Well, WorldCom/MCI will control 60% of the Internet backbone upon competition of their merger. Clearly, ILECs do not have monopoly control of data and Internet services or the backbone networks. The Commission, and indeed the nation, cannot afford to wait for

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<sup>8</sup> *USTA Comments* at 16-17.

resolution of pending dockets that could conceivably have some bearing on ILEC deployment of advanced telecommunications networks. Delay in approving the RBOC Petitions and future ILEC petitions will not only serve as disincentives to ILECs, limit the availability of high-speed data and Internet services to many areas, harm the economy and the ability of businesses to compete in the global marketplace, but also create adverse financial impacts based upon Wall Street's negative perceptions of these companies as viable ongoing businesses able to compete in the already highly competitive data and Internet marketplace. While facing regulatory constraints on their ability to enter new lines of businesses, declining valuations, regulatory burdens associated with the existing wireline network, the obligation to provide CLECs access to ILEC network services at below cost, ILECs will face dwindling customer bases which will inevitably led to business failures.

USTA urges the Commission to approve the RBOC Petitions to provide advanced telecommunications services through the construction of high-speed data and Internet networks.

Respectfully submitted,

**UNITED STATES TELEPHONE ASSOCIATION**

May 6, 1998

By:



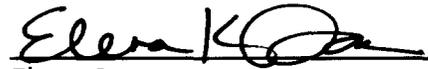
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