UNITED STATES
TELEPHONE
ASSOCIATION

EX PARTE OR LATE FILED

June 14, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte in CC Docket No. 96-262

Dear Ms. Salas:

On June 11, 1999, David Hostetter (SBC), Mike Alarcon (Ameritech), Chris Tsevekou (Telcordia), Don Barbour (BellSouth), Bob McDonnell (Bell Atlantic), John Kure (U S WEST), Dennis Weller (GTE), Jay Bennett (SBC), Mike Van Weelden (SBC) and the undersigned, on behalf of the United States Telephone Association (USTA), met with Tamara Preiss, Steve Spaeth, Ed Krachmer and Dana Bradford of the Common Carrier Bureau. The purpose of the meeting was to discuss USTA's pricing flexibility proposal, attached hereto. Also attached is a letter from Mr. Roy Neel, President and CEO, USTA to Chairman Kennard regarding the need for regulatory reform in view of convergence in the communications industry. That letter cites information on the provision of telephone service over broadband cable loops.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, two copies of this ex parte notice are being filed in the Office of the Secretary. Please include this notice in the above-referenced proceeding.

Respectfully submitted,

Linda L. Kent

Linda L. Kent
Associate General Counsel

Attachments

Cc: Tamara Preiss
Steve Spaeth
Ed Krachmer
Dana Bradford

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June 1, 1999

USTA Pricing Flexibility Proposal

Baseline Stage		
Structural Changes	*Process relief in Part 69 to permit elements and sub-elements associated with new services to be filed without a waiver or public interest showing* *Geographic deaveraging of the Subscriber Line Charge (SLC) using existing SLC caps* *Zone pricing for remaining transport services and for local switching services* *Volume and term pricing plans for transport and local switching services*	
Competitive Stages		
Market Areas	*ILEC's service territory within a LATA that is located in a Metropolitan Statistical Area (MSA)*	
	ILEC's service territory within a LATA that is located in a Rural Service Area (RSA)	
Service Categories	***Transport***	*Consists of transmission elements associated with special access services and switched transport services*
	Switched Access	*Consists of common line and local switching elements*
Transport Phase 1	***Trigger***	*25% of the business lines in a market area have "access to" alternative facilities-based transport services; business lines with "access to" include:* - *Those business lines that are served by wire centers in which there is operational collocation, and* - *Those business lines located within 1000 feet of another provider's facility*
	Flexibility	*New transport services filed with no cost support and outside of price caps* *Contract pricing for transport services and filed without cost support; contract prices outside of price caps and earnings regulation* *Promotional pricing with a promotional period not to exceed 120 days; promotional prices filed with no cost support or price cap showing*
	Safeguard	*Competitive Transition Mechanism to ensure services removed from price caps do not trigger LFAM*

June 1, 1999

USTA Pricing Flexibility Proposal

Transport Phase 2	***Trigger***	*75% of the business lines in a market area have "access to" alternative facilities-based transport services; business lines with "access to" include:* - *Those business lines that are served by wire centers in which there is operational collocation, and* - *Those business lines located within 1000 feet of another provider's facility*
	Flexibility	*Transport services removed from price caps and earnings regulation* *Tariff filings for transport services made without cost support* *Tariff filings for transport services made on one day's notice period*
	Safeguard	*Interim pricing safeguards could be used for non-contract based transport services*
Switched Access Phase 1	***Trigger***	*25% of the total lines in a market area have "access to" alternative facility-based local services; lines with "access to" include:* - *Those lines served by wire centers in which there is operational collocation and unbundled loops or local switching elements have been taken, and* - *Those lines located within 1000 feet of another provider's facility* ***NOTE:*** *This showing can be made for residence/SL business vs. multi-line business lines; when a separate showing is made for residence/SL business, it may be appropriate to use a threshold less than 1000 feet of another provider's facility*
	Flexibility	*New switched access services filed with no cost support and outside of price caps* *Volume and term pricing plans for common line elements* *Contract pricing for switched access services and filed without cost support; contract prices outside of price caps and earnings regulation* *Promotional pricing with a promotional period not to exceed 120 days; promotional prices filed with no cost support or price cap showing*
	Safeguard	*Competitive Transition Mechanism to ensure services removed from price caps do not trigger LFAM*

USTA Pricing Flexibility Proposal

Switched Access Phase 2	***Trigger***	*75% of the total lines in a market area have "access to" alternative facility-based local services; lines with "access to" include:* - *Those lines served by wire centers in which there is operational collocation and unbundled loops or local switching elements have been taken, and* - *Those lines located within 1000 feet of another provider's facility* ***NOTE:*** *This showing can be made for residence/SL business vs. multi-line business lines; when a separate showing is made for residence/SL business, it may be appropriate to use a threshold less than 1000 feet of another provider's facility*
	Flexibility	*Switched access services removed from price caps and earnings regulation* *Tariff filings for switched access services made without cost support* *Tariff filings for switched access services made on one day's notice period*
	Safeguard	*Interim pricing safeguards could be used for non-contract based switched access services*

STATUS OF COLLOCATED WIRE CENTERS
SBC

MSA-Name	Total Number Of Wire Centers	Wire Centers With Collocation	% Collocated Wire Centers	% Collocated Business Lines	% Collocated Total Lines
Enid, Ok.	2	1	50.00%	98.83%	97.08%
Los Angeles-Long Beach, Ca.	62	46	74.00%	91.00%	89.00%
Springfield, Mo.	13	2	15.38%	89.51%	77.87%
San Jose, Ca.	19	17	89.00%	88.00%	94.00%
Topeka, Ks.	7	2	28.57%	86.76%	75.43%
San Diego, Ca.	51	26	51.00%	85.00%	83.00%
Stockton-Lodi, Ca.	9	3	33.00%	83.00%	78.00%
Dallas, Tx.	54	16	30.00%	81.00%	64.00%
Fresno, Ca.	22	6	27.00%	80.00%	75.00%
Oakland, Ca.	39	19	49.00%	79.00%	71.00%
Sacremento, Ca.	37	9	24.00%	78.00%	66.00%
Ft. Worth-Arlington, Tx.	31	11	35.00%	76.00%	63.00%
Longview-Marshall, Tx.	5	2	40.00%	75.00%	66.00%
Austin-San Marcos, Tx.	28	6	21.00%	74.00%	58.00%
Orange County, Ca.	31	14	45.00%	71.00%	61.00%
San Francisco, Ca.	35	13	37.00%	70.00%	63.00%
Tulsa, Ok.	26	5	19.23%	68.48%	56.62%
Modesto, Ca.	12	1	8.00%	62.00%	51.00%
Kansas City, Mo.-KS.	16	5	31.25%	61.91%	57.74%
Kansas City, Mo.-KS.	22	6	27.27%	60.46%	43.66%
Bakersfield, Ca.	22	2	9.00%	60.00%	45.00%
San Antonio, Tx.	31	6	19.00%	59.00%	44.00%
Houston, Tx.	60	14	23.00%	57.00%	45.00%
Little Rock-N. LittleRock, Ar.	24	3	12.50%	56.06%	39.45%
Oklahoma City, Ok.	37	7	18.92%	48.54%	37.88%
Visalia-Tulare-Porterville, Ca.	17	1	6.00%	48.00%	40.00%
Reno, Nv.	13	4	30.77%	46.39%	50.85%
Santa Rosa, Ca.	18	1	6.00%	46.00%	36.00%
San Luis Obispo, Ca.	15	1	7.00%	44.00%	29.00%
Santa Cruz-Watsonville, Ca.	8	2	25.00%	44.00%	36.00%
Waco, Tx.	14	1	7.00%	42.00%	36.00%
St. Louis, Mo.-Ill.	50	6	12.00%	39.27%	21.79%
Corpus Christi, Tx.	9	1	11.00%	37.00%	22.00%
Riverside-San Bernardino, Ca.	11	2	18.00%	34.00%	29.00%
Ventua, Ca.	14	2	14.00%	32.00%	23.00%
El Paso, Tx.	13	1	8.00%	29.00%	14.00%
Vallejo-Fairfield-Napa, Ca.	13	1	8.00%	17.00%	22.00%
Amarillo, Tx.	8	0			
Beaumont-Pt. Arthur, Tx.	24	0			
Brazoria, Tx.	8	0			
Brownsville-Harlingen, Tx.	9	0			
Chico-Paradise, Ca	9	0			
Fayetteville-Springdale, Ar.	8	0			
Ft. Smith, Ar.-Ok.	2	0			
Galveston-Texas City, Tx.	7	0			
Jonesboro, Ar.	7	0			
Joplin, Mo.	6	0			
Killeeen-Temple, Tx.	6	0			
Laredo, Tx	3	0			
Las Vegas, Nv.	7	0			
Lawrence, Ks.	3	0			
Lawton, Ok.	3	0			
Lubbock, Tx	6	0			
McAllen-Edinburg-Mission, Tx.	9	0			
Memphis, Tn.-Ar,-Ms.	5	0			
Merced, Ca.	6	0			
Odessa-Midland, Tx.	8	0			
Pine Bluff, Ar.	4	0			
Redding, Ca.	7	0			
Salinas, Ca.	19	0			
Sherman-Denison, Tx.	2	0			
St. Joseph, Mo.	4	0			
Tyler, Tx.	5	0			
Victoria, Tx.	1	0			
Wichita Falls, Tx.	5	0			
Wichita, Ks.	29	0			
Yolo, Ca.	6	0			
Yuba City, Ca.	12	0			
MSA TOTAL	238	0	23.49%	64.95%	54.98%
NON MSA TOTAL	744	0			
TOTAL	**1872**	**265**	**14.16%**	**60.00%**	**50.00%**

STATUS OF COLLOCATED WIRE CENTERS
GTE

MSA-Name	Total Number Of Wire Centers	Wire Centers With Collocation	% Collocated Wire Centers	% Collocated Business Lines	% Collocated Total Lines
Orange County, Ca	13	9	69.20%	90.76%	90.91%
San Jose, Ca	7	4	57.10%	70.52%	66.38%
Los Angeles-Long Beach, Ca	88	47	53.40%	69.86%	64.62%
Elkhart-Goshen, Ind	13	6	46.20%	66.68%	60.16%
Dallas, Tx	66	20	30.30%	55.79%	44.21%
Honolulu, Hi	70	16	22.90%	54.13%	38.92%
Fort Wayne, Ind	42	13	31.00%	52.90%	49.53%
Chicago, Il	19	4	21.10%	46.46%	39.12%
Seattle-Bellevue-Everett, Wa	42	9	21.40%	45.88%	36.11%
Sarasota-Bradenton, Fl	26	5	19.20%	42.01%	30.00%
Riverside-San Bernardino, Ca	136	15	11.00%	36.41%	31.65%
Portland-Vancouver, Or-Wa	42	7	16.70%	35.02%	32.62%
Tampa-St.Petersburg-Clearwater, Fl	77	14	18.20%	32.46%	16.81%
Santa Barbara-Santa Maria-Lompoc, Ca	23	5	21.70%	24.84%	18.56%
Lakeland-Winter Haven, Fl	30	3	10.00%	23.06%	16.04%
Davenport-Moline-Rock Island, Ia-Il	13	2	15.40%	1.32%	2.36%
Abilene, Tx	1	0	0.00%	0.00%	0.00%
Austin-San Marcos, Tx	16	0	0.00%	0.00%	0.00%
Bakersfiled, Ca	36	0	0.00%	0.00%	0.00%
Beaumont-Port Arthur, Tx	2	0	0.00%	0.00%	0.00%
Bellingham, Wa	14	0	0.00%	0.00%	0.00%
Bloomington-Nnormal, Il	27	0	0.00%	0.00%	0.00%
Brazoria, Tx	2	0	0.00%	0.00%	0.00%
Brownsville-Harlingen-San Benito, Tx	2	0	0.00%	0.00%	0.00%
Bryan-College Station, Tx	11	0	0.00%	0.00%	0.00%
Champaign-Urbana, Il	31	0	0.00%	0.00%	0.00%
Corpus Cristi, Tx	10	0	0.00%	0.00%	0.00%
Decator, Il	14	0	0.00%	0.00%	0.00%
El Paso, Tx	1	0	0.00%	0.00%	0.00%
Evansville-Henderson, Ind-Ky	3	0	0.00%	0.00%	0.00%
Fort Worth-Arlington, Tx	8	0	0.00%	0.00%	0.00%
Fresno, Ca	24	0	0.00%	0.00%	0.00%
Galveston-Texas City, Tx	8	0	0.00%	0.00%	0.00%
Gary, Ind	9	0	0.00%	0.00%	0.00%
Houston, Tx	17	0	0.00%	0.00%	0.00%
Indianapolis, Ind	12	0	0.00%	0.00%	0.00%
Kankkakee, Il	1	0	0.00%	0.00%	0.00%
Kileen-Temple, Tx	1	0	0.00%	0.00%	0.00%
Kokomo, Ind	2	0	0.00%	0.00%	0.00%
Layfayette, Ind	14	0	0.00%	0.00%	0.00%
Longview-Marshall, Tx	7	0	0.00%	0.00%	0.00%
Louisville, Ky-Ind	14	0	0.00%	0.00%	0.00%
Lubbock, Tx	4	0	0.00%	0.00%	0.00%
McAllen-Edinburg-Mission, Tx	1	0	0.00%	0.00%	0.00%
Merced, Ca	8	0	0.00%	0.00%	0.00%
Peoria-Perkin, Il	33	0	0.00%	0.00%	0.00%
Richland-Kennewick, Or-Wa	14	0	0.00%	0.00%	0.00%
Rockland, Il	30	0	0.00%	0.00%	0.00%
Sacramento, Ca	4	0	0.00%	0.00%	0.00%
Salem, Or	4	0	0.00%	0.00%	0.00%
San Angelo, Tx	9	0	0.00%	0.00%	0.00%
San Antonio, Tx	6	0	0.00%	0.00%	0.00%
San Francisco, Ca	1	0	0.00%	0.00%	0.00%
San Luis Obispo-Atascadero-Paso Robles, Ca	6	0	0.00%	0.00%	0.00%
Santa Rosa, Ca	8	0	0.00%	0.00%	0.00%
Sherman-Denison, Tx	17	0	0.00%	0.00%	0.00%
South Bend, Ind	1	0	0.00%	0.00%	0.00%
Spokane, Wa	3	0	0.00%	0.00%	0.00%
Springfiled, Il	17	0	0.00%	0.00%	0.00%
St. Louis, Mo-Il	20	0	0.00%	0.00%	0.00%
Stockton-Lodi, Ca	12	0	0.00%	0.00%	0.00%
Terra Haute, Ind	17	0	0.00%	0.00%	0.00%
Texarkana-Tx-Texarkana Ar	9	0	0.00%	0.00%	0.00%
Tyler, Tx	2	0	0.00%	0.00%	0.00%
Ventura, Ca	10	0	0.00%	0.00%	0.00%
Victoria, Tx	1	0	0.00%	0.00%	0.00%
Visalia-Tulare-Poterville, Ca	19	0	0.00%	0.00%	0.00%
Waco, Tx	1	0	0.00%	0.00%	0.00%
Whichita Falls, Tx	6	0	0.00%	0.00%	0.00%
Yakima, Tx	2	0	0.00%	0.00%	0.00%
Yolo, Ca	4	0	0.00%	0.00%	0.00%
Yuba City, Ca	4	0	0.00%	0.00%	0.00%
TOTAL	**1254**	**170**	**36.86%**	**36.86%**	**28.85%**

UNITED STATES
TELEPHONE
ASSOCIATION

May 4, 1999

Mr. William Kennard, Chairman
Federal Communications Commission
445 12th Street, SW, 8th Floor
Washington, DC 20554

Dear ~~Chairman Kennard~~: Bill -

I write today on behalf of America's local exchange telephone industry to ask that you commence a long overdue docket on convergence in the communications industry. The competitive landscape in our industry has changed dramatically in the past three years. Phenomenal increases in Internet, data and wireless traffic have reshaped the communications industry forever. Increasingly, communications companies defy being labeled as just cable service providers, information services providers, wireless carriers or wireline carriers. The market and technology have brought about the emergence of full service communications companies. Cable's position as a provider of broadband local loop access for a wide variety of video, Internet and telecommunications services compels a reexamination of the assumption that local telephone companies control bottleneck or essential facilities that make them dominant in the local exchange and exchange access services markets. Today, cable companies are demonstrating that consumers have a facilities-based alternative for their local telephone service that is completely independent of local telephone lines. AT&T Broadband and Internet Services (AT&T) and other MSOs have publicly committed to making this alternative available on a mass market basis.

Mr. Chairman, the market and technology have moved us beyond the era of monopoly telephone service to a new era in communications history. We now are in a multi-network, multi-provider, multi-service, digital and broadband-based world that at a business and operating level is undifferentiated by old labels such as LEC, ILEC, CLEC, IXC, CMRS, CATV, ESP and ISP. It is only in the regulatory arena that some cling tenaciously to these labels when it proves convenient in securing a competitive advantage. The public interest demands, though, that the FCC and other regulators conform their regulations to the new realities of the communications market. An FCC convergence proceeding begins that process.

Billions of dollars are being invested as communications companies of all types position themselves to be national and global communications services providers. Which, if any, of these service providers will be regulated, and to what degree, has a profound impact on the valuations that investors place on companies and their assets, as well as the long term viability of companies

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that find themselves hamstrung by excessive regulations that are disproportionate relative to the regulatory requirements imposed on their competitors. Owners, investors, employees and, most importantly consumers, are entitled to know what to expect from the FCC in the new millennium. It is long past time for the FCC to step up to the task of engaging the industry and the public in a comprehensive proceeding on convergence and the limited role of regulation in a converged world. The FCC sidestepped the convergence issue in its reports to Congress on universal service[1] and the deployment of advanced services,[2] although it has exercised little restraint in saddling ILECs with additional regulatory burdens.[3] A necessary outcome from such a proceeding must be an acknowledgment that ILECs are no longer dominant when competing with facilities-independent, communications companies such as AT&T.

I know that the events of the last ten months concerning MSO acquisitions have not escaped your attention. AT&T, for example, is now the nation's largest vertically integrated, facilities-independent, full service provider of telecommunications services (local exchange,

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[1] Federal-State Joint Board on Universal Service, Report to Congress, CC Docket No. 96-45, FCC 98-67 (rel. Apr. 10, 1998) ("Universal Service Report"). "In upcoming proceedings with the more focused records, we undoubtedly will be addressing the regulatory status of various specific forms of IP telephony, including the regulatory requirements to which phone-to-phone providers may be subject if we were to conclude that they are 'telecommunications carriers.'" Universal Service Report at ¶ 91.

[2] Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Report, CC Docket No. 98-146, FCC 99-5 (rel. Feb. 2, 1999) ("Advanced Services Report"). On the matter of access to broadband cable networks, the FCC stated: "We see no reason to take action on this issue at this time." Advanced Services Report at ¶ 101.

[3] Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order, CC Docket No. 98-147, FCC 99-48 (rel. Mar. 31, 1999) ("Collocation Order"). In the Collocation Order, the FCC determined that "incumbent LECs must allow collocating parties to access their equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the incumbent LEC's premises by requiring, for example, an incumbent LEC employee to be present." Collocation Order at ¶ 49. This decision is in contrast to other U.S. government efforts to make critical infrastructures such as the public telephone network less vulnerable to damage or destruction by criminal elements.

exchange access, InterLATA /IntraLATA, and wireless -- both voice and data), Internet access and video services in America, and perhaps in the world. If AT&T's $58 Billion-plus offer for MediaOne Group, Inc. ("MediaOne") is successful, "AT&T-owned [broadband local loops] would pass about 26 percent of all U.S. homes. But since both AT&T and Media One own partial shares of other cable companies, the total percentage reached would be about 61 percent."[4] This communications behemoth has surpassed the largest of today's telephone companies in terms of broadband local loop access to customers. Further, it has the capability to provide customers with service packages that include video, Internet access, wireline, wireless and data services on an unrestricted basis, and has stated its intention to do so.[5]

Telephone service over broadband cable loops is not tomorrow's dream; it is today's reality. A look at MediaOne is illustrative of this fact:

> "MediaOne's interactive Broadband network is the ideal solution for the emerging world of electronic commerce, because it has more two-way capacity than any other network. In addition to standard cable-TV service, the Broadband network can deliver telephone service, additional channels of audio and video and, of course, high-speed Internet access."[6]

> "[MediaOne] introduced MediaOne Digital Telephone service in six markets in 1998. The service, priced lower than the offerings of existing phone companies, proved attractive to consumers. By the end of the year [1998], 10,500 consumers had signed up for service. [Its] high-speed Internet service, as well, is growing in popularity, with 84,000 customers at the end of the year. Consumers understand it's the best deal in the marketplace."[7]

> "MediaOne Group Inc.'s broadband services arm has launched telephone

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[4] The Washington Post, AT&T Makes $58 Billion Offer for Media One, April 23, 1999, E3.

[5] Even without MediaOne, AT&T will have broadband local loop access to more than 50 million homes.

[6] MediaOne Group, 1998 Summary Annual Report, p. 10.

[7] Id.

> services over its digital cable TV network to about 7,500 homes in Northville Township in metropolitan Detroit. MediaOne intends to follow up with an offering of facilities-based local phone service to more than 50,000 homes in western Wayne County initially, and then expand the offering to more than 100,000 metro-Detroit homes by year-end [1999]. Eventually, it plans to offer digital telephony and high-speed Internet access to all 500,000 households in its Detroit-area service region.[8]

MediaOne is not the only cable company currently providing telephone service over broadband cable loops. Cox Communications, Inc. (Cox) provides digital telephone service in a number of markets, including Orange County, CA, and Omaha, NE. As of March 31, 1999, Cox passed more than 700,000 "Telephone Ready" homes and provided digital telephone service to more than 41,000 customers.

In discussing its offer to acquire MediaOne, AT&T Chairman and CEO C. Michael Armstrong said that "[c]ombining AT&T and MediaOne means that far more American consumers will have a choice in local phone service."[9] "Together, AT&T and MediaOne will bring broadband video, voice and data services to more communities, more quickly than we could separately or, in MediaOne's case, with any other company."[10] This bullishness about the multi-service capabilities of broadband cable networks is also echoed by equipment manufacturers such as General Instruments:

> "Ultimately, convergence is about dollars and cents. U.S. cable industry revenues were approximately $35 billion in 1998 [cited source - Paul

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[8] Telecommunications Reports, April 26, 1999, p. 43 (electronic version).

[9] AT&T News Release, AT&T offers $62 billion in cash, stock and assumed debt and preferred equity for MediaOne Group, April 22, 1999, p. 1.

[10] Id. Additionally, on February 1, 1999, AT&T announced that it had formed a strategic relationship with Time Warner that included "a joint venture to offer AT&T-branded cable telephony service to residential and small business customers over Time Warner's existing cable television systems in 33 states." AT&T News Release, AT&T and Time Warner for strategic relationship to offer cable telephony, February 1, 1999, p. 1. AT&T's News Release went on to state that the "two companies expect to pilot the service in one or two cities by the end of 1999 and to begin broader commercial operations in the year 2000."

> Kagan and Associates], and mainly derived from video services. Recent estimates anticipate a doubling of revenue for broadband cable operators over the next five to ten years [cited source -Paul Kagan and Associates] as deployment of digital cable, high-speed Internet access and telephony gains momentum."[11]

> "Multibillion-dollar commitments have confirmed the cable network as the mainstream broadband platform: from the AT&T merger with TCI and the investments by Microsoft in Comcast[12] and United Pan-Europe Communications, to Paul Allen's acquisitions of Marcus Cable and Charter Communications. These investments in cable companies and technologies endorse General Instrument's long-held vision of a significant broadband cable future."[13]

Now, USTA's member companies are not about to cede the competitive playing field to AT&T and others who have deployed broadband cable and IP networks as their platforms for the delivery of communications services to customers. While we recognize that the broadband distribution assets amassed by AT&T are substantial, and growing, USTA members are confident that if they do not continue to be handicapped by burdensome and unwarranted dominant carrier regulations, they can compete effectively in the broadband world for voice and data customers against AT&T and other broadband communications companies. But Mr. Chairman, the ILEC industry cannot afford further delay by the FCC in addressing convergence and deregulation. AT&T and other MSOs are executing their business plans today. They started rolling out telephony service in 1998. More roll-outs continue in 1999, and broad commercial operations are being readied for 2000. I do not believe that it is your desire to have FCC policy and regulations determine industry winners and losers. But, continued FCC inaction on convergence and ILEC deregulation will handicap my members as they compete against a formidable assemblage of facilities-independent communications companies in today's broadband-based marketplace.

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[11] General Instruments 1998 Annual Report, p. 5.

[12] "MediaOne Group will let Microsoft and America Online explore helping Comcast sweeten its $55.5 billion bid for the company." The Washington Post, DIGEST May 1, 1999, E1.

[13] Id.

I am not, at this time, calling for the imposition of regulations on cable companies that provide telephone services.[14] It may be appropriate that certain common carrier obligations attach to the provision of telephone and equivalent services by cable companies. That is a matter appropriate for consideration in a convergence proceeding, and possibly in other forums. What is of greater import at this time to USTA members is ILEC relief from dominant common carrier regulation, <u>at the very least</u>, within the franchise area of any cable company that is offering or marketing telephone or equivalent services. It cannot be credibly argued that an ILEC has a monopoly, a bottleneck or necessary facilities when there are facilities-independent service providers (whether cable or otherwise) providing telephone or equivalent services in the same geographic market.[15] Further, there should be no lines of business restrictions imposed on the RBOCs when competing against a facilities-independent carrier that is not equally constrained. The unfairness of AT&T being able to provide InterLATA voice and data services on a fully integrated and nondominant basis, entirely over its own network, while the RBOCs are constrained by dominant carrier regulations and InterLATA restrictions is clear. There also should be no structural separation or accounting requirements imposed on ILECs that are not also imposed on ILECs' facilities-independent competitors. In the face of facilities-independent competition, forbearance from ILEC Section 251(c)(3)[16] requirements should be immediate.[17]

I want to stress that what I am addressing here is but one, very obvious, form of competition that compels deregulatory relief for ILECs, and the RBOCs specifically, with respect to InterLATA services. There are, without question, other forms of competition that justify

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[14] I would be remiss, though, if I did not point out the rank hypocrisy of AT&T when one contrasts its refusal to provide access to its cable plant (<u>See</u> The Wall Street Journal, <u>Internet Access Battle Erupts</u>, January 22, 1999, A6. "AT&T has argued that it shouldn't have to open its network to rivals that aren't taking the multibillion-dollar risk of buying and upgrading it.") and its adamance that ILECs unbundle their networks and make piece parts available to competitors on demand.

[15] This is not to imply that other forms of competition do not or could not exist that would also justify ILEC relief from dominant carrier regulation. It is simply indisputable that there is no basis for dominant carrier regulation of an ILEC when it is competing against a competitor providing identical or equivalent telephony services over broadband, voice-capable cable facilities.

[16] 47 U.S.C. §251(c)(3).

[17] Interconnection and number portability requirements would remain.

deregulatory relief for ILECs and the RBOCs. For example, ILECs face significant competition from CMRS providers who offer calling plans (both national and local) that are substitutable for wireline service.[18]

I believe that it is within the FCC's jurisdiction to conduct a convergence proceeding that produces competitive equity among providers of comparable communications services. To the extent that you disagree, I welcome the opportunity to visit with you at your earliest convenience to discuss any limitations that you see concerning the FCC's ability to address convergence and regulate communications services providers in a competitively neutral manner.

America's position as a global leader in the information age will be secure as long as all of America's communications companies are permitted to participate in the marketplace free of unnecessary government regulation. Just as America's communications companies have no choice but to adjust and respond to a converged, global marketplace, regulators such as the FCC must also make an adjustment in how they go about the task of fulfilling their statutory mandates. I look forward to working with you to help the FCC make the adjustment.

Sincerely,

Roy

Roy Neel
President and CEO

cc: Commissioner Harold Furchtgott Roth
Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Gloria Tristani
Kathryn Brown, FCC Chief of Staff
Lawrence Strickling, CCB Chief
Debra Latham, CSB Chief

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[18] CMRS providers also operate networks that are facilities-independent in relation to ILEC networks.