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August 6, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TW-A325
Washington, D.C. 20554

Re: Written *Ex Parte* Presentation
CC Docket No. 00-199

Dear Ms. Salas:

The FCC is considering how to streamline the current accounting and reporting requirements imposed on certain incumbent LECs consistent with its statutory obligations under Section 11 of the Telecommunications Act of 1996. The current accounting rules no longer reflect how ILECs do business and the reporting requirements do not reflect today's competitive environment. In its comments and reply comments, USTA has provided specific proposals to assist the FCC in accomplishing its task. On July 26, 2001, ALTs filed a document in the above-referenced proceeding misrepresenting USTA's Phase II accounting and reporting simplification proposals. The ALTs ex parte is replete with inaccurate and unsupported statements. The attached document corrects those inaccuracies.

In accordance with Section 1.1206(a)(1) of the Commission's rules, an original and a copy of this notice are being filed in the Office of the Secretary. Please include a copy of the letter in the above-referenced proceeding. If there are any questions regarding this submission, please contact the undersigned.

Respectfully submitted,

Linda L. Kent

Linda L. Kent
Associate General Counsel

Attachment
cc: Dorothy Attwood
Carol Mattey
Tim Peterson
Andy Mulitz
Mika Savir

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USTA Response To:

ALTS/XO Communications Ex Parte

August 6, 2001

USTA Response to ALTS/XO Communications

ALTS/XO Communications ex parte misrepresents USTA's Phase II simplification proposal

USTA and the ILEC industry have clearly shown - by providing real evidence rather than unsupported statements - that now is the time to make simple modifications to the FCC's Part 32 and 64 rules that -

- *Recognize the substantial changes that have occurred in FCC rate making.*
- *Reduce the micro-management of ILEC accounting processes.*
- *Allow ILEC's to begin consideration of new cost efficient accounting systems.*
- *Allow the large ILEC's to utilize the Class B chart of accounts that the FCC put in place over 12 years ago.*

The following pages refute the many unsupported and inaccurate statements contained in the ALTS/XO ex parte.

USTA Response to ALTS/XO Communications

ALTS/XO Communications has ignored the Commission's Biennial Review criteria. The Commission's criteria is not limited solely to economic competition.

In paragraph 6 of the FCC's 2000 Biennial Review Report the FCC explained the criteria to be used (See CC Docket 00-175, FCC 00-456, released 1/17/01).

"The Commission did not limit its review to whether meaningful economic competition alone justified changes, but instead looked for any justification to modify or eliminate a rule which would serve the public interest. Our Biennial reviews, thus, go beyond the minimal statutory requirements of examining our rules… that are no longer necessary as a result of meaningful competition."

USTA has shown that its proposed changes are in the public interest

USTA Response to ALTS/XO Communications

ALTS/XO Communications state that "USTA's Proposal would gut FCC's non-structural accounting safeguards and strip Federal and State regulators of critical data to protect against against … anticompetitive and discriminatory behavior"

ALTS/XO statement is incorrect and unsubstantiated

USTA's proposal to modify the Class A Chart of Accounts does <u>not</u> "gut" accounting safeguards nor does it change other regulatory requirements.

- The Price Cap *pricing rules*, by severing the link between embedded cost and pricing, provide the primary safeguard to ensure against anticompetitive and discriminatory behavior.
- The Part 32 rules governing affiliate transactions and the Part 64 rules governing cost allocation are not eliminated under USTA's Phase II proposals.
- Section 272 arm's length affiliate transaction requirements and nondiscrimination requirements are <u>not</u> changed
- Regulators are <u>not</u> limited in any way in the information ILECs are obligated to provide to them

USTA Response to ALTS/XO Communications

ALTS/XO Communications state that Class A data is used for forward looking cost models and without this requirement rates will go up and ILEC's will have an unfair advantage in rate making proceedings.

ALTS/XO is correct that some embedded cost information is used in forward looking cost models, however, **they are incorrect in implying that only the Class A chart of accounts will produce the needed information, that rates will go up and that ILECs will have an advantage**

- Class B as well as Class A carriers provide data for UNE cost proceedings
- Cost models have already been created and will not change with the use of Class B accounts.
- The charge that rates will go up if Class B accounts are used is ridiculous.
  - Because UNE cost proceedings are very detailed, they require data not shown in either Class A or Class B accounts. Even for Class A carriers, special studies are needed to break out the data. These studies will continue to be conducted regardless of the chart of accounts in use.
  - Embedded costs that are a starting point for developing input to forward looking-cost models are aggregated prior to being used by the models. For example, the USF nonrural model aggregates all overhead expense costs into a single model input.

USTA Response to ALTS/XO Communications

ALTS/XO Communications state that USOA assists in setting depreciation rates

ALTS/XO is correct that setting depreciation rates requires embedded cost data, however, **they are wrong in asserting that Class A accounting information is critical.**

- Carriers keep information needed to develop appropriate depreciation rates regardless of the level of detail on the chart of accounts.
- As USTA has already explained, to the extent forward looking models do make use of a carrier's embedded depreciation, it is the statistics created from asset lives, salvage and/or curves that are used, not the value of the asset or the expense on the carrier's embedded books. (See also CC Docket 96-45, Tenth Report and Order, released 11/2/99). Changing a carrier's chart of accounts does not change an asset's life, it's salvage or it's curve.

USTA Response to ALTS/XO Communications

ALTS/XO Communications state that USOA assists in establishing pole attachment rates.

ALTS/XO is correct that pole attachment rates require embedded cost data, however, **they are wrong in asserting that Class A accounting information is critical.**

- Pole attachment rate information was addressed when midsize carriers changed from Class A to Class B accounts.
- The information relative to two accounts (poles, conduit) can be provided to the FCC annually.
- It is not necessary to maintain <u>all</u> Class A accounts for two pieces of information.

USTA Response to ALTS/XO Communications

ALTS/XO Communications state that USOA assists in the cost allocation process.

ALTS/XO is correct that embedded cost data is used in the cost allocation process, however, **they are wrong in asserting that Class A accounting information is required.**

- The cost allocation rules do not require that Class A accounts be used. (See 47CFR 64.901 through 64.904)
- The small and mid-size Class B LEC's comply with the same cost allocation rules as the Class A companies.
- As USTA explained in its comments, going from Class A to Class B does not change directly assigned costs. Direct costs will simply be consolidated from multiple pools into one pool.
- The European Union countries have a standard set of cost allocation rules that are nearly identical to the USA rules, yet each country has a different chart of accounts.

USTA Response to ALTS/XO Communications

ALTS/XO Communications state that USOA assists in the separation process.

ALTS/XO is correct that embedded cost data is used in the separation process, however, **they are wrong in asserting that Class A accounting information is required.**

- The Part 36 separations rules were designed to specifically use the Class B accounting structure. "We conclude that adoption of the modified Class B Manual for use by all carriers would meet our goals of conformance and simplification" [See CC Docket 86-297, FCC 87J-4, Released 4/8/87, Amendment of Part 67 (new Part 36) of the Commission's Rules and Establishment of a Federal-State Joint Board]
- All ILEC's, even Class A ILECs, comply with the Part 36 separations rules today using the Class B manual.

USTA Response to ALTS/XO Communications

ALTS/XO Communications state that the link between rates and historic costs has not been broken and that Class A accounts are required to support exogenous adjustments in price cap proceedings (for example CLEC power charges)

ALTS/XO incorrectly confuses the development of data for price cap indices and prices charged to CLECs.

- Rates charged to CLEC's are based on forward looking costs not on price cap filed tariffs subject to exogenous adjustments.
- For tariffs that can be adjusted as a result of exogenous changes, embedded cost exogenous data is available regardless of the chart of accounts in use.
- Furthermore, exogenous cost adjustments represent less that a tiny fraction of the revenues in the annual price cap filing.

USTA is not claiming that historic costs are never used in regulatory proceedings!

The limited need for embedded costs can be satisfied by the Class B account structure (Class A account structure is unnecessary micro-management)

USTA Response to ALTS/XO Communications

ALTS/XO Communications state that the FCC should not eliminate the Continuing Property Records Requirement

ALTS/XO is again confused about USTA's proposal.

- Neither USTA nor the industry is advocating the elimination of the CPRs.
- All companies are required to follow good accounting practices which require some form of property records.
- USTA advocates the removal of FCC notification requirements that have absolutely no impact on how prices are set under price cap regulation.
- These rules impede the ILEC industry in responding to new and more efficient ways to maintain detailed property records that save cost and allow the industry to be more competitive.

USTA Response to ALTS/XO Communications

ALTS/XO Communications state that ILEC accounting and reporting requirements are not overly burdensome.

ALTS/XO again misses the point.

- The purpose of this proceeding is to determine if current accounting rules are still necessary based on the current regulatory environment.
- The FCC's regulatory structure has changed dramatically from the late 1980's when these rules were adopted and implemented.
- The link between historic costs and price setting has virtually disappeared.
- The FCC has not amended its accounting practices to keep up with the substantial changes in FCC pricing regulation.
- It is no longer necessary for the FCC to micromanage the ILEC's accounting processes without this direct link.
- The FCC has stressed the importance of using marketplace discipline to drive down the ILEC's cost.
- ILEC's need relief from the regulations that allow the FCC to micromanage accounting thus preventing ILEC's from installing the most cost efficient systems in the future.