

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

CC Docket No. 94-1

In the Matter of
Price Cap Performance Review
for Local Exchange Carriers

ORDER ON MOTION FOR EXTENSION OF TIME

Adopted: February 6, 1996; Released: February 6, 1996

By the Chief, Common Carrier Bureau:

1. On September 27, 1995, the Commission released its Fourth Further Notice of Proposed Rulemaking in CC Docket No. 94-1 (*X-Factor NPRM*).¹ In the *X-Factor NPRM*, the Commission solicited comment on a number of issues regarding the long term price cap plan for local exchange carriers. In particular, it sought comment on the following: (a) the productivity offset, or X-Factor, used to set the price index, including calculation of the X-Factor, and whether the X-Factor should be reviewed and modified periodically or set on a permanent basis; (b) the number of X-Factors to be included in the price cap plan, and the sharing requirements, if any, to be associated with each X-Factor; (c) the common line formula; and (d) the exogenous cost rules.

2. Comments in response to the *X-Factor NPRM* were originally due on November 27, 1995, with replies due on December 27, 1995. In response to a motion for extension of time, the Common Carrier Bureau (Bureau) granted a three-week extension for parties to submit comments in response to the *X-Factor NPRM*, so that comments were due on December 18, 1995, and replies were due on January 17, 1996.² On January 11, 1996, the Commission issued

a public notice requiring all documents due to be filed with the Commission during the time it was closed in December 1995 and January 1996 due to a lapse in funding or for weather emergencies, to be filed on January 16, 1996.³ On January 16, 1996, the Bureau rescheduled the due date for filing replies in the *X-Factor NPRM* proceeding to February 16, 1996.⁴

3. On January 31, 1996, the United States Telephone Association (USTA) filed a motion for an extension of time to file replies in response to the *X-Factor NPRM*, from February 16, 1996 to March 1, 1996.⁵ USTA asserts that inadvertent administrative errors prevented USTA and its consultants from readily obtaining copies of the work papers and spreadsheets supporting many of the arguments made in the initial comments of AT&T and the Ad Hoc Telecommunications Users Group (AHTUG).⁶ We note that certain of the items had been filed at our request. USTA points out that it should have been able to obtain this information on January 16, 1996 -- the last day on which the comments in response to the *X-Factor NPRM* could be filed -- or immediately thereafter.⁷ In its efforts to obtain these items, USTA alleges that copies of these spreadsheets were not available from the Commission's commercial contractor or Common Carrier Bureau staff.⁸ USTA asserts that the several diskettes, including those that it filed with the Commission, were probably misplaced, perhaps owing to circumstances relating to the government shutdown.⁹ USTA asserts that it later traded copies of work papers and diskettes with AT&T and AHTUG, but that USTA encountered problems reading AHTUG's diskette and "executing" AT&T's diskette.¹⁰ USTA alleges that it did not receive a readable diskette from AHTUG and "executable" spreadsheet files from AT&T until January 29, 1996.¹¹ USTA argues that the delay created by the unavailability of information at the Commission created delays in providing the information to USTA's consultants and member companies for analysis.¹² USTA complains that, as a result, it has less than 30 days to analyze the detailed submissions of AT&T and AHTUG, and to re-

¹ Price Cap Performance Review for Local Exchange Carriers, Fourth Further Notice of Proposed Rulemaking, CC Docket No. 94-1, FCC 95-406 (rel. Sept. 27, 1995). There were two other further notices of proposed rulemaking regarding price cap regulation issued in September 1995. See Price Cap Performance Review for Local Exchange Carriers, Second Further Notice of Proposed Rulemaking in CC Docket No. 94-1, Further Notice of Proposed Rulemaking in CC Docket No. 93-124, and Second Further Notice of Proposed Rulemaking in CC Docket No. 93-197, FCC 95-393 (rel. Sept. 20, 1995) (*Pricing Flexibility NPRM*); Price Cap Performance Review for Local Exchange Carriers, Second Report and Order and Third Further Notice of Proposed Rulemaking, 10 FCC Rcd 11,098 (1995) (*Video Dialtone NPRM*). We note that the filing deadlines for comments and replies in response to those two notices are not affected by this Order, except with respect to reply comments addressing matters raised in Issues 19 and 20 and paragraphs 159 through 172 of the *Pricing Flexibility NPRM*. See paragraphs 4 and 5 of this Order, *infra*.

² Price Cap Performance Review for Local Exchange Carriers, Order on Motion for Extension of Time, CC Docket No. 94-1, DA 95-2361 (rel. Nov. 21, 1995).

³ The Commission was closed from December 18, 1995 through

January 5, 1996, due to the lapse in funding, and on January 8, 9, 10, and 12, 1996, as a result of the weather emergency. Public Notice, Procedures for the Filing of Documents that were Due During the Government Shutdown or During the Weather Emergency, DA 96-2 (rel. Jan. 11, 1996).

⁴ Price Cap Performance Review for Local Exchange Carriers, Order on Motion for Extension of Time, CC Docket 94-1, DA 96-20 (rel. January 16, 1996). In that Order, in response to a request for extension, the Bureau extended the time to submit replies in response to the *Pricing Flexibility NPRM*, and, simultaneously, on its own motion, rescheduled the due date for filing replies in the *X-Factor NPRM* proceeding to February 16, 1996. The Bureau also granted an extension of time to February 16, 1996 to address the matters raised in Issues 19 and 20 and paragraphs 159 through 172 of the *Pricing Flexibility NPRM*.

⁵ USTA Motion at 1-2.

⁶ *Id.* at 1.

⁷ *Id.*

⁸ *Id.* at 1-2.

⁹ *Id.* at 2.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

respond to the other comments filed.¹³ Accordingly, USTA requests that the Commission grant an extension of two weeks on the reply comment deadline, to March 1, 1996.¹⁴

4. Although it is the policy of the Commission that extensions of time are not routinely granted,¹⁵ in light of the circumstances here presented and the important issues presented in this proceeding and to allow parties to submit comments that are more helpful to the Commission, the Bureau will grant an extension for parties to submit reply comments in response to the *X-Factor NPRM* proceeding to March 1, 1996. We also extend the deadline for filing reply comments with respect to the matters raised in Issues 19 and 20 and paragraphs 159 through 172 of the *Pricing Flexibility NPRM* to that date.

5. Accordingly, IT IS ORDERED, pursuant to Sections 4(j) and 5(c) of the Communications Act, as amended, 47 U.S.C. §§ 154(j), 155(c), and the authority delegated thereunder pursuant to Sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, that the motion of USTA for an extension of time IS GRANTED to the extent indicated herein. Reply comments relating to the *X-Factor NPRM* and to the matters raised in Issues 19 and 20 and paragraphs 159 through 172 of the *Pricing Flexibility NPRM* shall be FILED by the dates described above.

FEDERAL COMMUNICATIONS COMMISSION

Regina M. Keeney
Chief, Common Carrier Bureau

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See Section 1.46(a) of the Commission's Rules, 47 C.F.R. § 1.46(a).