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January 14, 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

RM-8388

Re: American Telephone and  
Telegraph Company  
Petition for Rulemaking

MTS and Wats Market Structure

Amendment of Part 36 of the  
Commission's Rules and  
Establishment of a Joint Board

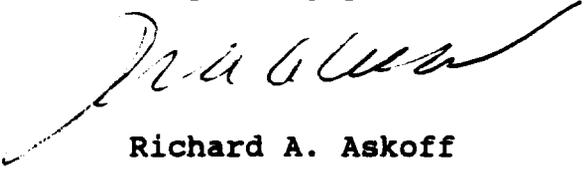
RM-8388

Dear Mr. Caton:

Enclosed herewith for filing with the Commission are the original and four copies of the National Exchange Carrier Association, Inc.'s Comments in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the duplicate copy of this letter furnished herewith for such purposes and remitting same to bearer.

Very truly yours,

  
Richard A. Askoff

RAA/bas  
Enclosures

cc: ITS

JAN 14 1994

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

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
American Telephone and	)	RM-8388
Telegraph Company	)	
Petition for Rulemaking	)	
	)	
MTS and WATS Market Structure	)	CC Docket No. 80-286
	)	
Amendment of Part 36 of the	)	
Commission's Rules and	)	
Establishment of a Joint Board	)	

COMMENTS

The National Exchange Carrier Association, Inc. (NECA)<sup>1</sup> submits its comments in response to the Petition for Rulemaking filed on November 24, 1993, by American Telephone and Telegraph Company (AT&T).<sup>2</sup>

AT&T requests that the Commission include Universal Service Fund (USF) billing issues within the context of its planned comprehensive review of the USF program.<sup>3</sup> Pending action in that

<sup>1</sup> NECA is a not-for-profit membership association. NECA members serve over 1,400 local exchange carrier (EC) study areas.

<sup>2</sup> Comments Invited on American Telephone and Telegraph Company's Petition for Rulemaking, Public Notice, Report No. 1990, Associate Managing Director Public Information and Reference Services Petitions for Rulemaking Filed, released December 15, 1993.

<sup>3</sup> This USF comprehensive review has been referenced in Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Notice of Proposed Rulemaking, 8 FCC Rcd 7114 (1993), (Interim USF Notice), Recommended Decision, FCC 93J-3, released December 10, 1993, and Report and Order, FCC 93-549, released December 23, 1993. In its Report and Order, the Commission adopted rule revisions that are intended to limit growth in the USF pending conclusion of the comprehensive USF review.

proceeding, AT&T urges the Commission to adopt interim revisions to the rules that would require NECA to assess USF charges on Interexchange Carriers (IXCs) based on proportionate shares of interstate revenue, similar to the revenue-based allocation mechanism recently implemented for the interstate Telecommunications Relay Service (TRS) shared fund.<sup>4</sup>

I. The Commission Should Consider the Issues Presented By AT&T In Its Planned Comprehensive Review of USF.

NECA agrees that the Commission should consider USF billing issues within the context of its planned comprehensive review. To the extent that the current mechanism imposes competitive inequalities among IXCs or inhibits the provision of competitive services to customers of NECA member companies, as AT&T claims,<sup>5</sup> changes in the billing method may be warranted. A revised billing method should not, however, create uneconomic bypass incentives, nor impose undue administrative burdens on NECA and its member ECs.

In particular, NECA believes that the Commission should not

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<sup>4</sup> Commission rules promulgated in CC Docket No. 90-571, pursuant to the cost recovery provisions of Title IV of the Americans with Disabilities Act (codified at 47 U.S.C. § 225(d)(3)), require interstate service providers to contribute to the interstate TRS shared fund on the basis of each carrier's proportionate share of total interstate revenues. See generally Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, Third Report and Order, 8 FCC Rcd 5300 (1993) (TRS Third Report and Order). Each interstate carrier is required to file a form with NECA, as TRS administrator, reporting detailed information as to interstate service revenues. The TRS Payment obligation is determined by applying an interstate payment factor, established by the Commission, to the carrier's interstate revenues.

<sup>5</sup> AT&T Petition at 7-10.

adopt USF cost recovery methods that rely on charges or allocations based on minutes of use (MOU). Changes to the method for recovering USF costs should promote economic efficiency, avoid service pricing discrimination, and discourage uneconomic bypass. MOU-based billing allocation methods would not advance these objectives and in fact would encourage uneconomic bypass of the local loop.<sup>6</sup>

Revenue-based allocation mechanisms, such as the method currently being used for recovery of interstate TRS costs, do not appear to create uneconomic bypass incentives. This cost recovery method appears to work well for TRS revenue requirements, however, it is relatively new.<sup>7</sup> Further evaluation would be required before implementing a similar methodology for Lifeline Assistance/Universal Service Fund (LA/USF) revenue requirements.

In CC Docket 90-571, for example, the Commission had the benefit of an extensive record on the issue of TRS cost recovery, including an examination of the specific relevant provisions of the Americans with Disabilities Act.<sup>8</sup> The cost recovery mechanism

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<sup>6</sup> See generally MTS and WATS Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72 and 80-286, Order, 2 FCC Rcd 2953, 2959 (1987), (NTS Recovery Order), aff'd on recon., 3 FCC Rcd 4543 (1988).

<sup>7</sup> Monthly TRS fund collections began September 26, 1993. Over 2500 interstate carriers (including approximately 1400 exchange carriers) have submitted FCC Form 431 (TRS Worksheet).

<sup>8</sup> See Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1802, 1805-06 (1993).

eventually chosen by the Commission for TRS differs from the current LA/USF mechanism in a number of respects, including methods of determining revenue requirements,<sup>9</sup> establishment of payment obligations,<sup>10</sup> confidentiality and disclosure requirements,<sup>11</sup> and billing and collection procedures. While these differences do not preclude adoption of a revenue-based billing method for LA/USF as well, they appear to warrant careful consideration before moving forward with changes to the current method.<sup>12</sup>

## II. Conclusion

NECA agrees that the Commission should include an examination of alternative billing methods within the context of its comprehensive review proceeding. However, immediate

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<sup>9</sup> There is also an order-of-magnitude difference in relative size between the LA/USF funds and TRS. NECA currently estimates that the combined LA/USF revenue requirement for 1994 will be \$875 million (reflecting the impact of the Commission's recent decision to impose an interim limit on the USF effective January 1). The interstate TRS revenue requirement for the initial period was estimated to be \$30 million. See TRS Third Report and Order, 8 FCC Rcd at 5303.

<sup>10</sup> LA/USF payments are based on semi-annual counts of presubscribed lines by exchange carriers and billed under tariff to approximately 20 interexchange carriers by NECA, which acts as agent for exchange carriers in assessing these charges. TRS payments are calculated, certified by individual carriers, and paid pursuant to FCC rules, with NECA acting solely as fund administrator.

<sup>11</sup> Section 64.604(c)(4)(iii)(I) of the Commission's rules requires NECA to keep all TRS data confidential and to use this data only for purposes of administering the TRS fund.

<sup>12</sup> NECA intends to participate fully in the Commission's comprehensive review of USF, and will provide data or other information relative to billing issues to assist the Commission in resolving the issues raised by AT&T.

implementation of an interim revenue-based billing method, as requested by AT&T, may be premature. While NECA has successfully implemented a revenue-based cost recovery mechanism for the interstate Telecommunications Relay Service shared fund, this method has been in place only for a few months. As experience is gained with the revenue-based TRS billing method, NECA hopes to provide assistance and input to the Commission with respect to whether this method can be adapted for USF purposes.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER  
ASSOCIATION, INC.

Lisa Leibow  
Regulatory Manager

By: /s/ Richard A. Askoff  
Richard A. Askoff

Its Attorney

January 14, 1994

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Comments were served this 14th day of January 1994, by mailing copies thereof by United States Mail, first class postage paid, to the persons listed.

By /s/ Lisa L. Leibow  
Lisa L. Leibow

The following parties were served:

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