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

In the Matter of:)
)
Price Cap Performance Review) CC Docket No. 94-1
for Local Exchange Carriers)

**RESPONSE
OF THE
UNITED STATES TELEPHONE ASSOCIATION
TO AD HOC'S MOTION TO COMPEL AND
MOTION FOR EXTENSION OF TIME**

USTA hereby responds to the "Motion to Compel Production of Supporting Data" and the Motion for Extension of Time filed by the Ad Hoc Telecommunications Users Committee ("Ad Hoc"). At the outset, USTA wants to make clear that it wishes to cooperate with the Commission and with other parties to this proceeding whenever possible. In that spirit, USTA is attaching the data that Ad Hoc lists at Footnote 3 to its Motion to Compel.¹ However, Ad Hoc's Motion to Compel is seriously flawed in several respects.

First, Ad Hoc attempts through its Motion to cast unjustified and unsupported aspersions on USTA's May 9 comments in this proceeding. The Commission should give short shrift to Ad Hoc's attempt in its Motion to discredit USTA. Contrary to Ad Hoc's assertions, USTA did not "omit" parts of the Christensen Study, there is no "missing data"

¹Specifically, attached to this response are the following four tables: 1) Annual Price and Quantity Indexes of Inputs (1984-92); 2) Annual Input Cost Shares (1984-92); 3) Annual Price and Quantity Indexes of Outputs (1984-92); and 4) Annual Revenue Shares (1984-92).

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and USTA is not "hiding from Commission scrutiny". A party in a rulemaking proceeding has the right to present its data, analyses and arguments as it sees fit. The back-up data for expert statements is often voluminous and not all of it is germane. Each party is free to determine how best to present its experts' findings. In its own study submitted May 9, Ad Hoc certainly did not include underlying data at the level of detail it is now requesting from USTA.

In fact, although Ad Hoc leaves the impression it has been diligently analyzing the Christensen study, Ad Hoc is so unfamiliar with that study it misstates Christensen's main finding. Contrary to Ad Hoc's assertion that Christensen supports the current 3.3% productivity offset, the USTA study actually finds a TFP productivity differential of 1.7%.

Second, there is no provision in the FCC's rules that permits the filing by Ad Hoc of a "Motion to Compel." This is a "notice and comment" rulemaking. There are no discovery procedures. In an extraordinary case where the Commission might consider such a measure in a rulemaking, motions to compel are appropriate only if a party asks for information and is refused.² Ad Hoc made no such request of USTA. A simple telephone call to USTA's counsel might have accomplished Ad Hoc's goal weeks ago, without wasting time and effort. In this regard, USTA notes that the affidavit attached to the Ad Hoc motion was executed on Monday, May 23, showing that Ad Hoc spent an entire week preparing the Motion to Compel. Ad Hoc's time before and after that date -

²See *Teledial America, Inc. vs. Michigan Bell Telephone Company*, 8 FCC Rcd 1151, n.12 (1993) (Denying motion to compel because defendant failed to make required showing of good cause.); and *see also* *International Record Carriers*, 68 FCC 2d 1145, 1149 (1978).

indeed up to its filing on Friday, May 27 - could have been much better spent by contacting USTA to discuss the matter.³ Its request for information could have been quickly handled informally between the parties. And, of course, USTA would still have filed the data on the record and provided it to other parties.

Third, USTA notes that Ad Hoc simultaneously filed a motion for extension of time to submit reply comments. Ad Hoc waited until three weeks after initial comments were filed to request an extension, and will now have almost three weeks to study the attached data before the current reply date of June 22. It may well be that, because USTA is promptly providing the requested data, Ad Hoc no longer needs an additional extension of time.

Respectfully submitted,

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BY 

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June 2, 1994

³Even a phone call about the motion would have been helpful. Ad Hoc left the service copy of the motion at the USTA offices on May 27 after those offices had closed for the long holiday weekend. Consequently, USTA was unaware of the Motion until Tuesday morning - just two days ago.

Christensen Study Data

Table 1
Annual Price and Quantity Indexes of Inputs

	Capital Price	Capital Quantity	Labor Price	Labor Quantity	Materials Price	Materials Quantity	Total Input Price	Total Input Quantity
1984	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000
1985	0.946	1.036	1.046	0.944	1.035	1.060	0.995	1.012
1986	0.901	1.086	1.092	0.879	1.065	1.071	0.992	1.015
1987	0.930	1.134	1.086	0.884	1.098	1.053	1.012	1.033
1988	0.911	1.173	1.095	0.895	1.141	1.100	1.014	1.065
1989	0.769	1.220	1.137	0.875	1.192	1.170	0.960	1.094
1990	0.936	1.252	1.219	0.832	1.247	1.149	1.083	1.086
1991	0.961	1.289	1.283	0.810	1.297	1.172	1.123	1.099
1992	0.859	1.323	1.346	0.768	1.340	1.093	1.088	1.078

Christensen Study Data

Table 2
Annual Input Cost Shares

	Capital	Labor	Materials
1984	0.481	0.311	0.208
1985	0.468	0.306	0.226
1986	0.468	0.297	0.235
1987	0.485	0.286	0.229
1988	0.476	0.283	0.241
1989	0.429	0.295	0.276
1990	0.479	0.268	0.253
1991	0.482	0.262	0.256
1992	0.466	0.275	0.259

Christensen Study Data

Table 3
Annual Price and Quantity Indexes of Outputs

	Output Quantity Indexes							
	Local	Interstate End User Access	Interstate Switched Access	Interstate Special Access	Intrastate Access	Long Distance	Misc	Total Output
1984	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000
1985	1.009	1.030	1.068	1.027	1.095	0.988	1.082	1.031
1986	1.034	1.056	1.145	1.377	1.114	1.063	0.909	1.062
1987	1.043	1.088	1.268	1.466	1.185	1.144	0.890	1.103
1988	1.057	1.109	1.420	1.465	1.183	1.246	1.018	1.160
1989	1.096	1.143	1.592	1.418	1.235	1.343	1.037	1.219
1990	1.158	1.173	1.705	1.410	1.254	1.380	1.010	1.266
1991	1.196	1.212	1.804	1.320	1.289	1.369	1.015	1.295
1992	1.247	1.231	1.914	1.401	1.327	1.350	0.931	1.322

	Output Price Indexes							
	Local	Interstate End User Access	Interstate Switched Access	Interstate Special Access	Intrastate Access	Long Distance	Misc	Total Output
1984	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000
1985	1.050	2.658	0.941	0.973	1.028	1.011	1.035	1.034
1986	1.085	4.184	0.845	0.947	0.993	1.009	1.065	1.042
1987	1.088	5.253	0.710	0.922	0.951	0.993	1.098	1.020
1988	1.072	5.994	0.641	0.898	0.916	0.967	1.141	1.001
1989	1.058	7.127	0.541	0.829	0.891	0.928	1.192	0.974
1990	1.033	7.382	0.477	0.820	0.861	0.895	1.247	0.945
1991	1.042	7.376	0.446	0.842	0.823	0.868	1.297	0.938
1992	1.040	7.463	0.425	0.806	0.785	0.855	1.340	0.929

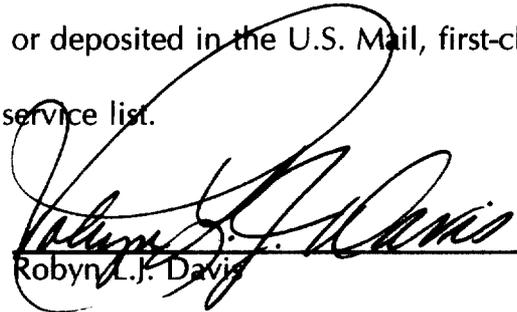
Christensen Study Data

Table 4
Annual Revenue Shares

	Local	Interstate End User Access	Interstate Switched Access	Interstate Special Access	Intrastate Access	Long Distance	Misc
1984	0.439	0.009	0.191	0.032	0.073	0.160	0.095
1985	0.438	0.024	0.181	0.030	0.073	0.153	0.101
1986	0.446	0.037	0.167	0.038	0.071	0.157	0.084
1987	0.444	0.047	0.153	0.039	0.072	0.163	0.083
1988	0.427	0.053	0.149	0.036	0.070	0.168	0.095
1989	0.430	0.064	0.139	0.032	0.069	0.167	0.099
1990	0.438	0.067	0.129	0.031	0.070	0.164	0.100
1991	0.449	0.068	0.126	0.029	0.070	0.154	0.103
1992	0.461	0.069	0.126	0.029	0.071	0.147	0.096

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on June 2, 1994 copies of the Response of the United States Telephone Association to Ad Hoc's Motion to Compel and Motion for Extension of Time were either hand-delivered,* or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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