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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

February 3, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW - Room 222
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

RE: Ex-Parte Meeting
<u>CC Docket No. 94-1</u>

DOCKET FILE COPY ORIGINAL

On February 2, Lee Selwyn of Economics and Technology, Inc. and Colleen Boothby of Levine, Blaszak, Block & Boothby, representing the Ad Hoc Telecommunications Users Committee ("Ad Hoc") met with Mark Uretsky, Anthony Bush, and Alexander Belinfante of the Common Carrier Bureau's Tariff Division. The attached *ex parte* filing, made by Ad Hoc on February 2, was discussed.

The original and a copy of this ex parte notice are being filed in the Office of the Secretary. Please include it in the public record of this proceeding.

If you have any questions regarding this filing, please do not hesitate to call us.

Respectfully submitted,

Leah Moebius

Leah Moebius

cc: Alexander Belinfante
Anthony Bush
Mark Uretsky

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OFFICE OF THE SECRETARY

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

Re: USTA Ex Parte Comments
CC Docket No. 94-1

Dear Mr. Caton:

Pursuant to Section 1.51(c) of the Commission's Rules, attached please find an original and four copies of the comments of the Ad Hoc Telecommunications Users Committee ("Ad Hoc") in the above captioned matter. Please date stamp the additional copy and return it with our messenger.

If you have any questions regarding this filing, please do not hesitate to call us.

Sincerely,

Colleen Boothby

Colleen Boothby

cc: Alexander Belinfante
Anthony Bush
Dan Grosh
Michael Katz
Geri Matisse
Richard Metzger
David Nall
Mark Uretsky
International Transcription Service ("ITS")

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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

Price Cap Performance Review for Local Exchange Carriers	)))))	CC Docket No. 94-1

DOCKET FILE COPY ORIGINAL

Critique of USTA's Modest Proposal for a New Price Cap Option by the Ad Hoc Telecommunications Users Committee

SUMMARY

In its most recent *ex parte* presentation in this docket, the United States Telephone Association ("USTA") has proposed a new regime for price cap regulation.[1] USTA included in its presentation substantial changes to the *historical* data upon which its earlier productivity study was supposedly based, under the guise of merely updating that earlier submission. Moreover, USTA waited until the eleventh hour of this proceeding, given the schedule imposed by the annual access tariff filing rules, to make these substantial changes to its data and to propose fundamental changes to the price caps regime.

Thus, USTA has not only conceded that the data in its earlier submission were unreliable but it has seriously compromised the ability of

[1] *See* Letter from Mary McDermott, Vice President and General Counsel, USTA, to William F. Caton, *ex parte* presentation in CC Docket No. 94-1 (January 18, 1995) ("USTA January 18 Filing").

interested parties and the Commission to analyze its "updated" data and comment on its new plan. Nevertheless, even the cursory review possible within the time frame created by USTA's filing reveals significant defects in its proposal, its data, and its methodology, all of which are described below.

Because of the fundamental flaws in USTA's proposal, the Commission should reject USTA's last-ditch attempt to de-rail the price caps rule changes that have been justified by the record in this docket.

DISCUSSION

Under USTA's newly proposed plan, price cap LECs would be able to choose between the existing price cap structure (but without the 4.3% X factor/200 basis point sharing alternative that presently exists) and a new price caps option. The salient features of the new option are as follows:

- The X factor would be adjusted annually based upon a five-year moving average LEC TFP with a two-year lag. Thus, the X factor applicable in 1995 would be based upon the average LEC TFP for the period 1988-1992; the X Factor applicable in 1996 would be based upon the average LEC TFP calculated for the period 1989-1993, etc.

- The X factor itself would be equal to the difference between the moving average *LEC* TFP and the moving average *economy*-wide TFP calculated over the same five-year period with a two-year lag.

- LECs electing to adopt the new USTA option would be required to reduce their Price Cap Index ("PCI") for the year of the election by 1%. Subsequent annual changes in the PCI would use the election-year PCI as a base. No other reinitialization of rates would be required.

- Sharing would be totally eliminated.

- In the initial year in which the USTA option is offered, the Consumer Productivity Dividend ("CPD") would be increased to 1%, would be set at 0.5% in the second year, 0.25% in the third year, and be phased out altogether thereafter. Note that the CPD phase-out runs from the adoption of the USTA plan by the FCC, not from the date of its election by any individual LEC. LECs would be permitted to elect the USTA plan at any time following the date of its adoption by the Commission, and would be subject to the then-existing CPD. Once elected, reversion to the current plan would not be permitted.

It is important to note that the USTA filing contains both a new rule proposal and a new Christensen X factor study. Ad Hoc has performed a preliminary analysis of the new study. Because the new study and its underlying data revisions were not available to Ad Hoc until January 27, 1995, however, Ad Hoc is unable at this time to include a comprehensive analysis of USTA's revisions to the study's underlying data.

I. USTA'S ELEVENTH HOUR FILING DEPRIVES THE COMMISSION AND INTERESTED PARTIES OF ANY MEANINGFUL OPPORTUNITY TO COMMENT AND THEREFORE DESERVES LITTLE OR NO CONSIDERATION IN THIS PHASE OF THE PRICE CAPS RULEMAKING

After being battered by commenters who identified major flaws in the productivity study USTA filed earlier in this docket, USTA has buried in its *ex parte* filing last minute revisions to that study. In its January 18 *ex parte* filing, USTA disingenuously refers to the revised study as a "1993 Update" to the Christensen study previously filed.[2] When it filed the "updated" study two days later, USTA described it as a "report" that "incorporates 1993 data."[3] Instead, the "1993 Update" substantially revises the data and conclusions of the original Christensen study, including historical data for the years *preceding* 1993. Indeed, the 1993 data that USTA would require to perform a true update, given

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2 *See* USTA January 18, 1995 Filing at Attachment 1 at p. 4, note (1) to Table 1.

3 *See* Letter from Mary McDermott, Vice President and General Counsel, USTA, to William F. Caton, *ex parte* presentation in CC Docket No. 94-1 (January 20, 1995) ("USTA January 20 Filing").

the methodology it advocates, is not even available yet from the Bureau of Labor Statistics.[4]

By inserting significant data changes into the record at the last minute, USTA can effectively insulate its "evidence" from critical review by either the Commission or the other parties to this rulemaking. The Commission should reject this obvious attempt to avoid the kind of scrutiny that previously disclosed fundamental defects in USTA's study. Since USTA has compromised the ability of the Commission and interested parties to evaluate and respond to its *ex parte* supplement to this record, the Commission should give little or no weight to this filing when it balances the competing evidence in the record.

II. USTA'S NEW PLAN AND NEW DATA CANNOT WITHSTAND EVEN CURSORY REVIEW

Despite the time constraints of this late stage in the LEC price caps performance review, the Ad Hoc Users Committee has analyzed USTA's latest proposal and the revised data on which it is based. Even a truncated analysis of USTA's *ex parte* filing reveals serious defects in USTA's proposal. The results of that analysis, prepared for the Ad Hoc Committee by its economic consultants, ETI, are detailed below.

4 *See* discussion *infra* at Section II.A.

A. USTA Has Failed To Correct Defects In Its Calculation Of The X Factor

In its Initial Comments and Reply Comments in this docket, the Ad Hoc Committee demonstrated that the annual change in the prices of inputs utilized by LECs in producing their services is growing at a consistently slower rate than overall economy-wide input price changes. This phenomenon is due, in part, to the substantial productivity and technological gains being experienced in those segments of the telecommunications industry that supply equipment and other capital resources to the LECs,[5] as well as to the capital-intensive nature of the local exchange telephone business and telecommunications generally. Thus, even if there were no endogenous productivity growth within the LEC industry itself, the real decreases in the exogenous cost of LEC inputs (as reflected in the prices that LECs pay their suppliers) would (absent market failure due to the lack of competition for most LEC services) result in LEC output price growth rates correspondingly lower than the overall economy-wide rate of inflation.

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[5] The telecommunications equipment market has become enormously competitive in the decade since the break-up of the former Bell System, when the MFJ's "manufacturing restriction" was imposed. Under the terms of the MFJ, BOCs can no longer purchase equipment and supplies from captive affiliates, but must instead acquire such inputs via open competitive market dealings. During the 1984-92 period, the seven Regional Bells spent in excess of $126-billion on gross additions to their rate base plant.

The Committee has already demonstrated that this very relationship was itself calculated by USTA's productivity expert, Dr. Laurits Christensen, and is an integral component of his study and calculations. However, rather than recognize the slower-than-economy-wide LEC input price growth, USTA instead proposed in its earlier filings and *ex parte* presentations that the X factor be calculated by utilizing a much higher inflation rate as the basis for the annual change in LEC input prices.[6]

Significantly, this fundamental deficiency in the original USTA position has not been corrected or even addressed by USTA in its latest effort. USTA continues to maintain, incorrectly, that LEC input prices should not be used in calculating the X factor, but fails to provide any compelling explanation for that position or to justify its self-serving inconsistent use of economy-wide input price movements. Thus, whatever the merits of USTA's proposal to use a five-year moving average X, rather than a fixed X, USTA's calculation of the X is still incorrect.

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[6] Specifically, USTA proposed that the X factor be calculated by *increasing* the GDP-PI by the economy-wide TFP on the basis that economy-wide input prices are rising slightly faster than the price of economy-wide outputs. That relationship is *inferred* by the presence of positive economy-wide productivity growth: USTA "reverse-engineers" the effects of economy-wide productivity by adding the economy-wide productivity growth rate to the output price inflation rate. Thus, according to USTA, if output prices are rising at an annual rate of 3.7% and the economy-wide productivity growth rate is 0.3%, then the price level of economy-wide inputs must be growing by 4.0%. USTA thus recognizes that the X factor should be based upon the combined effects of both the changes in the price of inputs and the endogenous LEC TFP. However, while it uses LEC input price changes in calculating LEC TFP, it conveniently reverts to economy-wide input price changes when calculating the X factor.

Ad Hoc has previously demonstrated that the X should be 5.7%,[7] which contrasts dramatically with the 2.3% proposed by USTA.[8] Specifically, Ad Hoc showed that for the post-divestiture period 1984-1992 (the entire period for which data was available), LEC input prices enjoyed an annual growth rate that was 2.6 percentage points lower than the GDP-PI. USTA, by adopting so-called "economy-wide input price growth" based upon GDP-PI plus the economy-wide TFP growth rate, proposes an X factor that is substantially lower than that which would be minimally necessary to capture the combined input cost and productivity changes being regularly experienced by the LEC industry overall. Without this correction to the X used in either the original or the revised USTA proposals, price cap LECs will be allowed a windfall gain of some $700-million per year, compounded again in each year during which the price cap system is in place.[9]

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7 Reply Comments of Ad Hoc Telecommunications Users Committee, CC Docket No. 94-1 at 25, (June 29, 1994) ("Ad Hoc Reply Comments"). This is composed of a 2.6% productivity component, plus a 2.6% input price differential, plus a 0.5% consumer productivity dividend. Quantitative studies submitted in this docket by both AT&T and MCI -- which each use different methods from Ad Hoc's -- also reach X factors that are very similar to Ad Hoc's results.

8 Letter from Linda Kent, Associate General Counsel, USTA, to William F. Caton, *ex parte* presentation in CC Docket No. 94-1 at 5 (September 9, 1994) ("USTA September 9 Filing"). The 2.3% consists of the 2.6% LEC TFP calculated by the Christensen 1994 study reduced by the 0.3% economy-wide TFP, as published by the Bureau of Labor Statistics.

9 Interstate revenues for price cap LECs are approximately $20-billion; 3.4% of that amount is approximately $700-million. Note that this excess rate increase will be repeated annually with the prior years' increase also being retained. Thus, in the second year, the LEC windfall will be some $1.4-billion; in the third year, it will be $2.1-billion, in the fourth year it will be $2.8-billion; and in the fifth year it will be $3.5-billion. If USTA's

B. On Its Face, The USTA Proposal Demonstrates That Annual Recalculation Of The "TFP Differential" Is Anything But A Mere Mechanical Process.

Even if the calculation of the X factor were corrected to accurately capture LEC-specific input price movements (which it should be in any event), USTA's new option is still problematic. USTA claims, as one of the benefits, that the basis for "[a]nnually updating the TFP differential could be mechanized and routine."[10] In point of fact, ex parte filing proves precisely the contrary.

As the Ad Hoc Committee has shown, the TFP study originally relied upon by USTA in its Initial Comments revealed an annual rate of LEC input price changes that is approximated by the relationship "GDP-PI minus 2.6%."[11] While USTA has sought to challenge the use of the GDP-PI minus 2.6% input price adjustment in the calculation of the X factor, it has heretofore not questioned the specific mathematical relationship that Ad Hoc has identified using Christensen's own data.[12] Under the process by which USTA's consultant Dr. Christensen calculates TFP, any *decrease* in the gap between LEC and

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formulation of the X factor is retained without sharing for a full five years, the price cap LECs will have overcharged consumers more than $10-billion for interstate services.

10 USTA January 18 Filing at Attachment 1, p. 2.

11 Ad Hoc Reply Comments at 25.

12 Specifically, for 1984-1992, Ad Hoc calculates a 1.1% annual rate of increase for LEC input prices, a 3.7% rate for GDP-PI, and thus an input price differential of 2.6%. USTA does not disagree with the mathematics of these calculations. USTA has argued, however, that the 1984-92 period is an anomaly, and that the long term relationship between LEC and economy-wide input price changes approaches equality. In making this claim, USTA relies upon ancient, pre-divestiture price data and upon unsupported speculations as to future conditions.

economy-wide input price growth rates would have produced a corresponding (and nearly equal) offsetting *increase* in the computed rate of LEC productivity growth.[13]

Incredibly, however, just two days prior to the January 18, 1995 date of its *ex parte* filing, USTA received from Dr. Christensen a totally revised LEC TFP study, cited by USTA in Note (1) at Attachment 1, page 4 of its January 18 submission in which no such increase appears despite a decrease in the gap between LEC and economy-wide input growth rates.

The January 16 study which was cited in the January 18 filing was transmitted to the Commission on January 20. The diskette containing some of the data underlying the study was not made available to other parties until January 27. Accordingly, Ad Hoc is unable at this time to provide a complete assessment of the revision. We do, however, offer the following preliminary observations:

- The new January 1995 Christensen study appears to constitute a major revision of the earlier work, including pervasive and significant modifications to the underlying historical data for the same 1984-1992 time period included in the original study.

[13] Letter from Ad Hoc Telecommunications Users Committee to William F. Caton, *ex parte* presentation in CC Docket No. 94-1 (October 26, 1994).

Those modifications can be summarized as follows:

	Christensen 1994 Study		Christensen 1995 Study	
Year	TFP	input price	TFP	input price
1984				
1985	1.9%	0.5%	1.1%	0.1%
1986	2.7%	-0.3%	2.8%	1.3%
1987	2.0%	2.0%	1.8%	1.7%
1988	2.0%	0.2%	2.1%	-3.2%
1989	2.3%	-5.5%	2.0%	-3.7%
1990	4.5%	12.1%	4.6%	11.9%
1991	1.1%	3.6%	1.2%	1.3%
1992	4.0	-3.2%	3.5%	4.4%
84-92 avg	2.6%	1.1%	2.4%	1.7%

- **The January 1995 study appears to narrow the gap between LEC and economy-wide input price growth rates for the 1984-1992 time period.[14] Although an increase in LEC TFP would normally follow from an increase in LEC input prices, no such increase appears in the new study. The new study leaves the overall LEC TFP result essentially unchanged. That result is impossible without other, substantial changes to the study and/or the underlying data upon which it was based. Ad Hoc has yet to discover a description or justification for those changes. At a minimum, it would take more than the simple inclusion of 1993 data which USTA claims as the justification for its revised results.**

[14] Specifically, the input price growth rate in the 1994 study was 1.1% (*i.e.*, GDP-PI minus 2.6%), whereas the corresponding figure from the 1995 study was 2.2% (*i.e.*, GDP-PI minus 1.5%). (Annual GDP-PI growth for the 1984-92 period was 3.7%.)

- The purported rationale for the revision --the availability of 1993 data -- is entirely specious. Since USTA continues to insist on the fallacious use of its so-called "differential TFP" measure, USTA needs both LEC and economy-wide data for each year. While LEC data for 1993 may now be available, BLS economy-wide TFP data for 1993 has not yet been published. Accordingly, Christensen could not even utilize the LEC data for 1993 that he had assembled and whose existence was used to rationalize USTA's belated attempt to produce study results more to its liking.

- The basis upon which USTA proposes a "two year lag" in the application of its five-year moving average is, in fact, the lack of availability of more current data. USTA thus acknowledges that data for 1993 is not yet available when it suggests the two-year lag, but nevertheless cites the availability of 1993 data as a rationale for the complete revision of its study. Of course, none of this would explain why data for the years 1984 through 1993 has suddenly been altered.

We do not know the details as to how the "new" and "revised" historical data in the January 16, 1995 study was requested or developed. But if the calculation of the TFP or of a differential TFP is as mechanical as USTA claims, so extensive a revision as it now offers should not have been possible or even imaginable.[15] Clearly, USTA's action belies its own assertions and, if the new "study" demonstrates anything at all, it is that the calculation of TFP, differential TFP, the input price differential, or the resulting X factor cannot be dismissed as a mere mechanical process that can be pursued by the FCC annually without controversy or detailed review. This undeniable conclusion is by itself sufficient basis upon which the Commission can and should reject USTA's "moving average" proposal.

C. USTA's Proposed TFP Calculations Won't Be Based on Publicly Available Information

Rather than becoming simpler and more mechanical, as USTA claims, the ongoing recalculation of LEC productivity that it proposes will become far more difficult in the future as the amount and reliability of publicly-available data on LEC prices and costs decline. USTA contends that "[m]ost of the data are either taken directly from public sources or derived from them."[16] In fact, the percentage of "the data" that comes from "public sources" will necessarily fall as the LEC's ARMIS reporting and tariff filing support requirements change or if LEC services are de-tariffed or are otherwise offered at prices that are not directly reflected in LEC tariffs or other "public record" documents.

15 The Commission has requested that USTA (and Dr. Christensen) prepare additional sensitivity tests and alternative calculations using a variety of alternative assumptions and procedures. *See* Letter from Richard Metzger, FCC, to Frank McKennedy, USTA, in CC Docket No. 94-1 (January 20, 1995) ("Metzger Letter"). The variety of the alternatives suggested by the Commission shows clearly that TFP and input price calculations are anything but "mechanized and routine."

16 USTA January 18 Filing at Attachment 1, p. 2.

In its new proposal, USTA is asking for precisely those regulatory changes that will reduce available information regarding LEC costs and demand.[17] Yet in order to calculate the change in LEC output -- a key element of a TFP study -- one needs to know both the change in LEC revenues overall and the change in the level of LEC demand and prices.

The LECs' tariffs will not, in any case, display prices for contract-based, non-tariffed, or non-common carrier services. Thus, the use of tariff rates in calculating the annual change in LEC price levels will tend to produce a misstatement of the annual LEC price increases for all telecommunications services which, in turn, will have the effect of misstating the growth in LEC physical output.[18] Understating the growth in physical output will, in turn, result in an understatement of LEC productivity overall.[19]

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[17] For example, USTA proposes to remove services or geographic areas from price caps regulation as competition develops. *See* USTA January 18 Filing at Attachment 2. Doing so would also remove the requirement that the LECs provide demand information about those services when the LEC makes its annual access filing.

[18] To see why this will occur, consider the following example. Suppose that aggregate LEC revenues increase by 5%, from $1-billion to $1.05-billion, from one year to the next, but that according to the LEC's *tariffs* its prices have also increased by an average of 5%. On that basis, one might conclude that the physical quantity of LEC output remained unchanged (*i.e.*, a 5% increase in revenues offset by a 5% increase in prices). However, suppose that because of private carrier offerings, contract pricing, de-tariffing and other events that occurred during the second year but that are not captured in public record documents, the *actual* LEC price level increased by only 3%. In such a situation, total LEC output would in reality have increased by approximately 2% (*i.e.*, 1.05/1.03), and not by the 0% that a straight tariff-based reprice would have implied.

[19] LEC TFP growth is calculated as the change in physical output divided by the change in physical input. If the change in physical output is understated, the resulting TFP calculation will similarly be understated.

D. The USTA Plan would re-establish the link between rates and costs

The use of an annually recalculated LEC-specific TFP measure is both circular and self-serving. A key problem with USTA's new TFP proposal is that the TFP USTA would use is limited to the price cap LECs themselves. By using that TFP in a five-year moving average, USTA's proposal gives price caps LECs both the ability and the incentive to keep productivity measures low, because to do so will result in a lower X and permit correspondingly higher prices. The use of a TFP-based X factor the calculation of which is limited to price-cap LECs is not as much of a problem with a long-term historical based TFP in which it is recognized that the historical TFP trend was impacted by the type of "gold-plating" and inflation of the rate base that is inherent in rate of return regulation. Once recognized, the problem can be corrected with the inclusion of a "stretch factor" in the X to account for the improved productivity that movement away from rate of return should engender. The problem here is that USTA represents that its rolling average proposal will capture the productivity-enhancing effects of price caps and correspondingly proposes elimination of the consumer dividend ("stretch factor"). Since the five-year rolling average in fact incents and rewards the LECs for heavy capital investments, the effect on the "X" factor will be exactly opposite to that represented by USTA, meaning that the consumer dividend would have to be greatly increased from its level today. This result is contrary to the Commission's purpose when it adopted the price caps rules. Under rate of return/rate base type regulation, "gold plating" and other non-productive capital spending has the effect of bloating the rate base, thereby increasing the depreciation and overall cost of capital components of the LEC's revenue requirement. In principle, price cap regulation is supposed to de-link rates from costs. However, under USTA's proposal, the annually-recalculated X factor would actually be *driven* by current changes in LEC TFP, trended by means of a moving average. Any activities that result in a lower TFP for a particular year will reward the LEC with a lower X factor two years forward. Therefore, if LECs subject to price cap regulation in general pursue speculative and/or non-productive capital spending programs,[20] whose costs are not expressly allocated away from interstate services subject to price cap regulation, the LEC TFP trend will be decreasing (or, more generally, will be less than it would have otherwise been).

In fact, USTA's plan actually establishes an explicit linkage between LEC industry capital spending levels and LEC industry revenues: The more that LECs spend in constructing new broadband network facilities, the lower the LEC TFP growth rate will become. In turn, the X factor will decline over time, producing successively larger annual rate increases and revenue gains for the price cap LECs. This equates to a re-establishment of the link between prices and costs that price caps was supposed to eliminate.

[20] These would include capital spending programs that, even if profitable in the long run, result in short-term losses or in shifts of future revenues outside of the LEC entities themselves and into non-LEC affiliates.

Inasmuch as virtually every major LEC has announced plans for such large-scale spending programs,[21] the effect of the USTA proposal is to create precisely the kind of ongoing funding mechanism that the Ad Hoc Committee in its earlier comments correctly characterized as an "industrial policy" under which the government, via the FCC, would be creating a source of virtually risk-free capital to be used by the benefited LECs to support their own network reconstruction programs.[22]

If the various other infirmities and deficiencies that we have identified here were to be corrected and the Commission were to consider some sort of ongoing X factor adjustment process, it is essential that the calculation of TFP be extended well beyond the price cap LECs themselves. Only be including nonregulated firms and other telecommunications providers whose rates are in fact entirely disconnected from LEC costs can a truly exogenous X factor be established. If some sort of moving average TFP is to be calculated, it should include comparable services furnished by interexchange carriers, competitive access providers, value-added network service providers, and other telecommunications industry members.[23]

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21 For example, the LEC's have filed over three dozen video dialtone applications.

22 Comments of the Ad Hoc Telecommunications Users Committee, CC Docket No. 94-1 at 2-6 (May 9, 1994) ("Ad Hoc Comments").

23 Indeed, a case could well be made to actually *exclude* the LECs from such an ongoing calculation, since (by their sheer size) their inclusion would largely overwhelm the (potentially greater) productivity growth rates being experienced in the balance of the telecommunications marketplace.

Clearly, adoption of some sort of periodic mechanical recalculation scheme requires a great deal more examination and study than USTA has itself undertaken or that the Commission could undertake in the current time frame. Further, it is far from clear that adoption of the USTA scheme would constitute any consequential improvement over rate of return regulation both with respect to the nature of efficiency incentives offered the participating LECs or the reductions in the regulatory burden overall. Accordingly, USTA's proposed five-year moving average plan should be rejected.

CONCLUSION

USTA's latest proposal is too little and too late. USTA has failed to include sufficient data to account for the fundamental revisions it is now making to the Christensen study and has waited until the eleventh hour of this proceeding to file its new proposal based on those revisions. Moreover, USTA has failed to correct the fundamental flaws in its productivity study that commenters have already identified in their pleadings in this docket.

Accordingly, the Commission should give this filing little or no weight in its deliberations.

Respectfully submitted,

Colleen Boothby

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Dated: February 2, 1995

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