STATE OF CALIFORNIA PETE WILSON, *Governor*

PUBLIC UTILITIES COMMISSION
550 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

EX PARTE OR LATE FILED

February 2, 1995

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William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20036

DOCKET FILE COPY ORIGINAL

Re: PR Docket No. 94-105

Dear Mr. Caton:

Please find enclosed an original and eleven copies of California's Reply to Comments of the Cellular Telecommunications Industry Association In Response To The Commission's January 25, 1995 Order in the above-referenced docket.

Also enclosed is an additional copy of this document. Kindly file-stamp this copy and return it to me in the enclosed, self-addressed stamped envelope.

If you have any questions, please call the undersigned at (415) 703-2047.

Very truly yours,

Ellen S. LeVine

Ellen S. LeVine
Attorney for CPUC

ESL:dp

Enclosures

No. of Copies rec'd 0+11
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 2055 DOCKET FILE COPY ORIGINAL

In the Matter of	)	
	)	
	)	PR Docket No. 94-105
Petition of the State of California	)	
and the Public Utilities Commission	)	
of the State of California to Retain	)	
Regulatory Authority over Intrastate	)	
Cellular Service Rates	)	
	)	

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CALIFORNIA'S REPLY TO COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION
IN RESPONSE TO THE COMMISSION'S JANUARY 23, 1995 ORDER

The People of the State of California and the Public Utilities Commission of the State of California ("CPUC") hereby reply to the comments filed by the Cellular Telecommunications Industry Association ("CTIA") on January 30, 1995 in the above-referenced proceeding.

In its comments, CTIA responds to the Order of the Federal Communications Commission, released January 25, 1995, which requires CTIA to supply the data underlying the analysis of Jerry Hausman, sponsored by CTIA in opposition to the CPUC petition, if CTIA wishes Mr. Hausman's analysis to be considered by the FCC. CTIA objects that it lacks sufficient time within which to provide such data, but, in any event, believes that Hausman's analysis should be considered absent such data.

The FCC's Order with respect to CTIA should stand without revision. Although initially complaining that it requires more time in order to submit the source data underlying Hausman's

analysis, CTIA's comments make clear that CTIA has no intention of providing such data at any time. CTIA never proposes or requests a period of time within which it could reasonably provide this data.

CTIA instead challenges the FCC's order (without seeking consideration under the FCC's rules) by claiming that the FCC should accord weight to Mr. Hausman's analysis even without the supporting assumptions and data which underlie it. CTIA's claim is without merit. Unless CTIA supplies the assumptions and source data upon which Hausman's analysis is based, no weight whatsoever should be accorded that analysis. As the petitioning party, the CPUC must be given a fair and reasonable opportunity to rebut CTIA's opposition to the CPUC petition, and should not be made to guess at the assumptions and data which produced the results which CTIA placed into the record. Indeed, the assumptions and data, if disclosed, might thoroughly discount Hausman's analysis entirely.[1] Accordingly, the FCC should continue to give no weight to Hausman's analysis unless and until CTIA produces the data and assumptions underlying it.

CTIA nevertheless repeats its curious claim that the CPUC has "long had access to the relevant data for the California markets here at issue, and the sources Dr. Hausman identified as the basis of his other data." CTIA Comments at 3. CTIA then cites as examples general federal statistics that any member of

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1. Contrary to CTIA's claim, the CPUC is denied the opportunity to comment on the reliability and accuracy of Hausman's analysis absent the underlying data and assumptions.

the public can access. CTIA Comments at 3 n.7. Such information is utterly meaningless without knowing how Hausman used it in conjunction with other data CTIA refuses to provide and which Hausman relied upon. For example, the CPUC examination of source data provided by AirTouch underlying another analysis produced by Hausman revealed that federal population statistics were inappropriately used. Reply by California to Opp. to CPUC Petition to Retain Regul. Auth. Over Intrastate Cellular Service Rates at 66 (Oct. 18, 1994).

Moreover, as indicated in the CPUC's Reply to Opposition to CTIA to CPUC Emergency Motion to Compel Production of Information, the CPUC does not know what pricing data Mr. Hausman used, the carrier-specific subscriber data Mr. Hausman used, or any other data Mr. Hausman reviewed or relied upon in undertaking his study.[2] See Letter of September 26, 1994, appended hereto. Nor does the CPUC have any idea whether and to what extent Mr. Hausman adjusted the data, including discarding certain data. Neither the CPUC nor the FCC should be asked to take on faith CTIA's assertion that the analysis of Hausman, based on aggregated data, is sound. Obviously, if the raw inputs to Hausman's analysis are flawed, the entire analysis is flawed.

CTIA further claims that parties can use the market and carrier-specific data provided by the CPUC in order to rebut

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2. CTIA selectively cites to some of the source data Mr. Hausman relied upon, but never indicates which specific data was used, which data was rejected, and whether the data was adjusted in any way. CTIA Comments at 3 n.7.

Hausman's analysis. The CPUC's data is California-specific. Hausman's data is nationwide. The two are thus not directly comparable. Moreover, inasmuch as the CPUC does not know what California-specific data Hausman relied upon, the CPUC does not know whether the CPUC already is in possession of it.

In sum, the FCC correctly concluded that Hausman's analysis should be accorded no weight unless the underlying source data and assumptions are provided to parties. CTIA's challenge to this conclusion is meritless.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
ELLEN S. LEVINE

By: Ellen S. LeVine
Ellen S. LeVine

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San Francisco, CA 94102
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Attorneys for the People of the State of California
Public Utilities Commission of the State of California

February 2, 1995

STATE OF CALIFORNIA
PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

PETE WILSON, Governor

September 26, 1994

Via Fax

Michael F. Altschul
Vice President, General Counsel
Cellular Telecommunications Industry Association
1250 Connecticut Avenue, NW, Suite 200
Washington, DC 20036

Dear Mr. Altschul:

In the Affidavit of Professor Jerry A. Hausman which appears as an attachment to Opposition of the Cellular Telecommunications Industry Association, Professor Hausman includes an analysis and comparison of rates in the top 30 cellular markets and for Rural Statistical Areas (RSAs). We would like the data which underlies this analysis.

Please send the entire data set used for the "1994 Price Regression for Top 30 Cellular Markets" found in Appendix 1, "1989-1993 Price Regression for Top 30 Cellular Markets" found in Appendix 2, "1989-1993 Price Regression for RSA Cellular Markets" found in Appendix 3 and "1989-1993 Demand Regression for Top 30 Cellular Markets found in Appendix 4 of the Affidavit of Professor Jerry A. Hausman. Specifically, this data should include:

1. 1989 through 1994 price information for the cellular carriers in the top 30 markets and RSAs. In addition to the price used in the regression analysis, include the major City in the market, the MSA number and the service providers. For each service provider, indicate the minimum bill, the monthly fee, the per minute peak and off-peak price, the free minutes categorized as unspecified, peak and off peak.

2. The source of the 1989 through 1994 price data included in the study.

3. The states which regulate cellular rates and the source of this information, i.e. the "Regulation" dummy variable in the regressions.

4. The per capita personal income, population and mean commute time from work used in the regressions and the sources for this data.

5. The number of subscribers from 1989 to 1993 and the source for this data.

6. If in developing the regression analysis for the top 30 cellular markets, a larger data set was compiled (i.e., for all MSAs or the top 60 MSAs), please provide that data set and answers to items 1 through 5 above regarding that data set.

7. Please state all assumptions in specifying this regression and all assumptions regarding the error disturbances.

Please provide the above data in printed form by Thursday, September 29, 1994 by facsimile to (415) 703-1965. If possible, also send data in an ASCII text format either through electronic mail to jol@cpuc.ca.gov or on a 3.5 inch floppy disk. We will arrange to keep subscriber count data confidential, if this is considered necessary. If you have any questions concerning this request, please contact Brian Roberts at (415) 703-2334 or me at (415) 703-2047.

We look forward to your cooperation in this matter.

Sincerely,

Ellen LeVine

Ellen S. LeVine
Attorney for California Public Utilities Commission

cc: Jerry A. Hausman
Massachusetts Institute of Technology
Department of Economics
Building E52-271A
Cambridge, MA 02139

CERTIFICATE OF SERVICE

I, Ellen S. LeVine, hereby certify that on this 2nd day of February, 1995 a true and correct copy of CALIFORNIA'S REPLY TO COMMENTS OF THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION IN RESPONSE TO THE COMMISSION'S JANUARY 23, 1995 ORDER was mailed first class, postage prepaid to all known parties.

Ellen S. LeVine

Ellen S. LeVine

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