United States Telephone Association

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February 27, 1996

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

RE: LEC Price Cap Regulation
CC Docket No. 94-1

Dear Mr. Caton:

Pursuant to Section 1.45 of the Commission's rules, 47 C.F.R. § 1.45, USTA is filing an original and four copies of the attached Opposition to the "Motion for Leave to File Supplemental Reply Comments Or, In the Alternative, To Strike," filed February 23, 1996, by the Ad Hoc Telecommunications Users Committee. Please include USTA's Opposition in the public record of this proceeding

Should there be any questions, please contact the undersigned.

Sincerely,

Charles D. Cosson

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

Opposition of the United States Telephone Association to Ad Hoc Telecommunications' Motion for Leave to File Supplemental Reply Comments Or, In the Alternative, To Strike

On February 23, 1996, USTA filed an ex parte presentation which provided a full and complete response to a January 30, 1996, letter from James S. Blaszak, counsel for Ad Hoc Telecommunications Users Committee (Ad Hoc). On the same day, Ad Hoc filed a "Motion for Leave to File Supplemental Reply Comments Or, In the Alternative, To Strike," ("Ad Hoc Motion") which requested either leave to file supplemental comments within ten days of USTA's furnishing of a response to Ad Hoc's January 30th letter, or to strike USTA's January 16, 1996, filing. See Ad Hoc Motion, at 4.

Obviously, the Commission should deny Ad Hoc's request. First, there is no basis to strike USTA's filings from the record. USTA has provided Ad Hoc with the requested data "promptly upon request." See Fourth Further Notice, CC Docket 94-1, FCC 95-406 (September 27, 1995) ("FNPRM"), para. 15. As Ad Hoc's request notes, USTA filed information responsive to one of Ad Hoc's requests on February 8, 1996. Ad Hoc Motion at 2. This information consists of the data underlying the simplified Christensen TFP study, on which USTA primarily relies for its recommendations to the Commission in this proceeding. The remainder of the response was provided as soon as possible. As Ad Hoc's motion acknowledges, USTA advised counsel for Ad Hoc that USTA's complete response could be expected on February 23rd.

A review of Ad Hoc's data request, attached to its Motion, demonstrates that Ad Hoc's request was quite extensive. Preparation of USTA's response required that data be collected, that it be double-checked for accuracy, and that a formal filing be prepared. USTA and its consultants compiled a complete response and presented it in a readable fashion, while at the same time USTA was preparing our own reply comments, and preparing for implementation of the Telecommunications Act of 1996. USTA has fully complied with the requirements of paragraph 15 of the FNPRM to provide supporting data in a timely fashion.

There is also no need to grant Ad Hoc a special exemption to file supplemental reply comments. Ad Hoc has not been deprived of a meaningful opportunity to evaluate USTA's assertions. Should Ad Hoc elect to provide the Commission with additional evaluation of USTA's recommendations for the long-term price cap plan after filing its reply comments, Ad Hoc may make an ex parte presentation, pursuant to 47 C.F.R. § 1.1200 et seq. No other party has asked the Commission to strike USTA's comments and supporting materials or expressed a need to file supplemental reply comments.

As noted in USTA's February 23, 1996, ex parte letter, USTA takes a broad view of the requirements of paragraph 15, and therefore has provided a complete response to all parties' data requests. But it bears noting that the data requested by Ad Hoc is not necessary to replicate the results of the simplified Christensen TFP study on which USTA primarily relies. The underlying data for that study was provided with USTA's comments on January 16, 1996, in a readily understandable format. See USTA Comments, Attachment B (TFP Review Plan). Individual company data underlying the composite indexes in the simplified Christensent TFP study was provided on February 8, 1996. See Ad Hoc Motion, at 2.

In fact, the Commission should be aware that USTA has been cooperatively responding to the data requests of other parties, on an informal basis where possible. On February 8, 1996, USTA provided an initial response to a January 31, 1996, data request from AT&T. USTA also provided a complete response to AT&T's January 31st request - and a complete response to AT&T's February 7, 1996, supplemental request - on Friday, February 23, 1996. During the

interim between February 8th and 23rd (while the formal filing was being prepared), USTA, AT&T representatives, and AT&T's consultants held an informal conference call, at AT&T's request, during which USTA was able to provide AT&T's consultants with information needed in AT&T's preparation of their reply comments, such as references to the publications from which data was obtained[1]. Subsequent to this conference call, USTA extended the same invitation to Ad Hoc, who did not elect to take USTA up on its offer.

Ad Hoc's apparent presumption that USTA would either fail to furnish the requested data or fail to do so in a timely fashion is particularly unfair. For example, in the spirit of full cooperation contemplated by paragraph 15, USTA has also provided AT&T with copies of materials, even though such materials are already on the public record and available from the Commission's copy contractor, in order to facilitate AT&T's interest in replicating and analyzing the economic methods used by Christensen and others in support of USTA's recommendations in this proceeding. These same courtesies, of course, would also have been extended to Ad Hoc upon Ad Hoc's request.

USTA has filed a full and thorough response to Ad Hoc's data request. Ad Hoc has had ample time to review the data, particularly the data on which USTA primarily relies. Ad Hoc declined to take advantage of the offer of informal discussions. Ad Hoc can file any additional analysis it deems essential to the Commission's treatment of these issues as an ex parte filing. For the foregoing reasons, Ad Hoc's Motion should be denied in its entirety.

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[1]USTA's February 23, 1996, filing is a complete and thorough response, and includes spreadsheets, workpapers, and specific references to published data sources. Even so, USTA continues to respond to informal data requests from AT&T; USTA also expects to file sua sponte a further explanation of a data source (to trace the published source back to the Bureau of Economic Analysis figures used by the published study).

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

BY _____

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