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

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated With Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms	)	CC Docket No. 98-171
	)	
Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990	)	CC Docket No. 90-571
	)	
Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size	)	CC Docket No. 92-237 NSD File No. L-00-72
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket 98-170

Opposition to Petition For Reconsideration

The Ad Hoc Telecommunications Users Committee (hereinafter "Ad Hoc" or the "Committee"), pursuant to section 1.429 of the Commission's Rules, hereby opposes the petitions for reconsideration filed by AT&T and the United States Telecom Association ("USTA") of the Commission's December 13, 2002 Report

and Order and Second Further Notice of Proposed Rulemaking, in the above-captioned proceedings.[1]

A. Alleged Deficiencies In AT&T's Billing Practices Do Not Justify The Changes Sought By AT&T.

AT&T, alone among the long distance carriers, seeks an eighteen-month transition period because of a so-called "unbillables" problem. AT&T contends that it does not "necessarily" have the ability to implement the alternatives suggested by the Commission as means for dealing with the "unbillable" problem by April 3, 2003. To avoid a shortfall in USF recovery, AT&T requests an eighteen month transition period until October 3, 2004 to remove unbillables from its USF line item.[2] Alternatively, AT&T seeks authority to include unbillables in a separate line item or as part of a line item that allegedly will recover only USF-related administrative costs.

AT&T's request is deficient for several reasons. First, AT&T has not stated without qualification that it cannot implement the Commission's suggestions for recovery of its so-called unbillables. It has simply stated that it may not "necessarily" be able to implement the Commission's suggestions. Second, AT&T has provided no description of the steps it would need to take to implement one of the Commission's suggestions, nor has it documented the costs of doing so. AT&T has failed to plead sufficient facts to justify the change sought.

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[1] *Federal State Joint Board on Universal Service,* Report and Order and Second Further Notice of Proposed Rulemaking, FCC 02-329, released December 13, 2002 (hereinafter the *Report and Order).*

[2] AT&T Petition at 4.

Allowing AT&T to include its alleged unbillables in its USF line item would inflate the Commission prescribed USF assessment factor by some amount. Neither Ad Hoc, nor the Commission, can know the level of inflation because AT&T's petition is unsupported with any data that would demonstrate the extent of the problem. Moreover, AT&T's request would result in the very kind of averaging of USF assessments to which AT&T objected in opposing petitions for waiver filed by CMRS providers. In effect AT&T wants the Commission to abandon, at least for eighteen months, an important aspect of the *Report and Order* in order to save AT&T some money – hardly adequate grounds for reconsideration of an important part of the *Report and Order.*

Ad Hoc also opposes AT&T's request that it be allowed to use a separate line item to recover the alleged unbillables, again not a problem that other long distance carriers seem to be suffering. Does AT&T propose a separate "Universal Service Fund Unbillables" charge? Or does AT&T propose to disguise the charge as something else, and thus raise the same kind of mischaracterization concerns that caused the Commission to conclude that carriers engage in an unreasonable practice by inflating the Commission's USF assessment factor? Ad Hoc's own petition for reconsideration raises concerns about the wisdom of allowing carriers to impose administrative line item charges on their customers. The Commission can count on the carriers grossly inflating those charges and should expect them to do the same with respect to an "unbillables" line item. The Commission should not invite, indeed, sanction, carrier abuse of customers, and enhancement of AT&T's profits, by allowing

AT&T to impose an "unbillables" line item or to include "unbillables" in the ill-advised administrative cost line charge.

Turning to USTA's petition for reconsideration, Ad Hoc opposes USTA's plea that the Commission reconsider the *Report and Order* to allow service providers to include administrative costs in their universal service contribution charges. If granted, USTA's petition would likely set the stage for unjustified mark-ups of the Commission prescribed USF assessment factor. Since issuance of the *Report and Order,* experience indicates that long distance carriers are unwilling to limit the level of their administrative charges and at least one would cap those charges at a clearly excessive level, *i.e.,* one percent of interstate and international revenues. Such administrative charges are substantially in excess of those suggested by USTA in footnote eighteen to its petition. Therein, USTA suggests that the relevant administrative costs would be in the neighborhood of two percent of the USF contribution amounts, not two percent of interstate and international revenues. Giving carriers flexibility to recover administrative line costs through USF factors certainly will inflate the Commission prescribed factor and give providers the opportunity to profit from a statutory program that is not intended to yield profits for providers.

Providers' administrative cost charges should in fact be capped, as suggested by USTA.[3] Ad Hoc's petition for reconsideration argues that those charges should be capped at one percent of the USF contributions collected, not the one percent of interstate and international revenues insisted upon by one

[3] USTA Petition at 18.

provider. The providers' USF administrative costs should be recovered through their rates, not a separate line item that encourages parallel pricing. If there is to be a separate line charge, it should be of the magnitude suggested in Ad Hoc's petition.

USTA argues that price cap carriers are disadvantaged by having to demonstrate that their administrative costs qualify for exogenous cost recovery.[4] The fact is that the providers' administrative costs of collecting and remitting their USF contributions are not likely to qualify as exogenous costs. Even by USTA's own reckoning, the administrative costs are very small. Moreover, carriers routinely change their billing systems to accommodate new product offerings and rates, including bundled service offerings and changes in local and toll calling areas. None of those costs are exogenous. Nor are the costs associated with implementation of the Commission's access charge rules and the *CALLS Order* cited in footnote sixteen of USTA's petition.

USTA's other arguments regarding recover of administrative costs also are without merit. USTA implausibly argues that providers will incur costs to project revenues and to track revenues for true-up purposes. This argument borders on the preposterous. Surely providers currently project revenues for business planning purposes and to predict earnings. The true-up process should be a simple administrative matter – certainly not a process that causes providers to incur other than extraordinarily minor costs. In any event, USTA has presented no facts to demonstrate the magnitude of this problem. Accordingly,

[4] *Id.* at 6-7.

this argument, like its other arguments, does not justify a reconsideration of the *Report and Order* that would give providers the flexibility to inflate the Commission prescribed USF assessment factor with administrative costs and profits.

Finally, USTA argues that providers should not be required to change billing systems because the Commission may adopt a "permanent" contribution mechanism other than a revenue-based methodology and that would require yet another set of billing system changes. Of course, there is no assurance that the Commission will adopt a non-revenue-based USF assessment methodology. USTA's argument is simply an unpersuasive effort to preserve the *status quo* for recovery of administrative costs.

In view of the foregoing, Ad Hoc urges the Commission to deny the relevant portions of the petitions for reconsideration of the *Report and Order* filed by AT&T and USTA.

Respectfully submitted,

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February 27, 2003

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Certificate of Service

I, Michaeleen I. Williams, hereby certify that true and correct copies of the preceding Opposition to Petition for Reconsideration of the Ad Hoc Telecommunications Users Committee was served this 27th day of February, 2003 via the FCC's ECFS system, and by first class mail upon the following:

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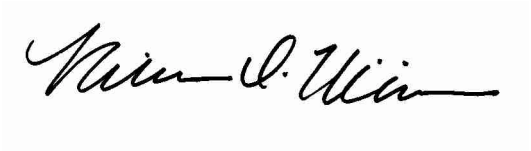

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February 27, 2003