1 members to uniformly meet IURC rules. These units are
2 hereafter referred to as IPA COPTs.

3 From the data provided, the number of IPA COPTS within
4 the State of Indiana were counted. It was concluded that
5 this total was approximately 3,795. Excluded from this
6 are 206 COPTs that do not provide 10XXX access and which
7 are owned by one IPA member. These excluded COPTs are
8 located in correctional facilities.

9 Q: **DESCRIBE THE PRELIMINARY TESTING THAT WAS DONE.**
10 A: As noted earlier, a test data sheet was constructed and
11 utilized in the preliminary testing. Attachment 1 is a
12 copy of the test data sheet that finally evolved. It
13 shows the results associated with pay phones visited in
14 the preliminary testing.

15 Some of the headings in the test data sheet are
16 numerically keyed to supplementary information that was
17 prepared. This supplementary information is found in
18 Attachment 2 and is titled "Notes."

19 Twelve pay phones were visited for preliminary testing
20 purposes. One was an AT&T unit at Fort Harrison; one was
21 an Indiana Bell pay phone in the Indiana Government
22 Center North; and ten were IPA COPTs in the Indianapolis
23 area. Consistent with an agreement that the OUCC has
24 with the IPA, the location and telephone number of the

1 COPTs visited is not indicated in Attachment 1.

2 In reviewing Attachment 1, it will be noted that the
3 preliminary testing was conducted in November, December,
4 and January. Some payphones were visited more than once
5 during this period. A significant number of COPTs
6 exhibited blocking of access to IXCs, and even to the
7 Indiana Bell operator. The information that is supposed
8 to be displayed to customers of COPTs was also found to
9 be lacking on some units.

10 **Q: PLEASE PROVIDE FURTHER COMMENT ABOUT THE INFORMATION THAT**
11 **IS SUPPOSED TO BE AVAILABLE TO CUSTOMERS.**

12 A: This is information that the COPT should display for
13 customer benefit, as defined in the Order in Cause
14 Numbers 38158 and 38812 of the Commission. This
15 information is identified in Attachment 2 as items (1)
16 telephone number, (2) COPT owner's name and address, (3)
17 OSP's name and address, and (4) how to register
18 complaints with the IURC. This information was not
19 always displayed at the COPTs tested by the OUCC.

20 While the test data sheet in Attachment 1 can be used to
21 try to itemize deficiencies in the display of this
22 information (and in the process thereby help familiarize
23 a tester with the COPT), photographs of COPTs can be used
24 to better demonstrate these deficiencies. Some
25 photographs of information displays at IPA COPTs were

1 taken in the preliminary testing, as well as in the
2 subsequent testing for blocking of access to IXCs from
3 COPTs. These photographs are shown in Attachment 3.

4 Q: **PLEASE COMMENT ON THE PHOTOGRAPHS IN ATTACHMENT 3.**
5 A: Pages 1 through 4 of Attachment 3 show displays for the
6 following IPA COPT vendors: Anthony Wayne Vending,
7 Hoosier Payphone Management, Stellar Communications, and
8 Communications Central; respectively. It will be noticed
9 that the displays photographed do not indicate the OSP or
10 how to contact the IURC about complaints. The telephone
11 number of the COPT in the photograph on page 3 of
12 Attachment 3 is missing. Also, the name of the company
13 owning the COPT in the photograph on page 4 is indicated
14 to be US Public Communications, Inc., of Birmingham, AL.
15 Information, provided in response to the data request
16 seeking the owners of COPTs, indicated instead that the
17 company responsible for this COPT was Communications
18 Central of Roswell, GA.

19 Pages 5 through 7 of Attachment 3 show displays for the
20 following COPT vendors: Coin Phone Management Co.,
21 Peoples Telephone Co., and again Communications Central.
22 It should be noted that the displays photographed do not
23 provide information on contacting the IURC about
24 complaints. Also, the Communications Central display on
25 page 7 indicates the COPT is owned by US Public

Communications, Inc.

Pages 8 through 11 of Attachment 3 show displays for the following COPT vendors: C&J Payphones, Fort Wayne Payphones, TeleSys, and Village Pantry. It should be noted that these displays do not provide OSP addresses or information on contacting the IURC about complaints. Not all COPT displays have OSP and IURC information omitted. Page 12 of Attachment 3 shows a display for IPA vendor Indiana Telcom that makes this information available to the customer.

Q: AFTER THE PRELIMINARY TESTING HOW DID YOU GO ABOUT SELECTING THE COPTS TO BE TESTED?

A: I selected 200 COPTs to be tested. This is about 5% of the 3,795 IPA COPTs, a number sufficient to represent a good sample. To make the sample unbiased, I selected approximately 5% of the COPTs reported by each IPA member. In all cases, I selected at least two COPTs associated with each member. The amount selected varied from 2 for the IPA member reporting the fewest number of COPTs to 61 for the IPA member reporting the greatest number of COPTs. In selecting COPTs, care was exercised not to select multiple COPTs from the same installation. That is, if a business had two or more COPTs, only one was selected for testing. Also, no COPTs were selected that had been used in the preliminary testing.

Q: HOW WERE THE COPTS YOU SELECTED DISTRIBUTED AROUND THE STATE?

A: Some IPA members have installations widely distributed throughout the State and this facilitated the selection process. I decided on eight routes for testers to follow. Each route contained 25 COPTs, associated with as few as one to as many as six IPA members. These routes included COPTs in the following Indiana communities (the number of IPA members with COPTs to be tested along the route are indicated in parenthesis):

(A') Terre Haute, Sullivan, Shelburn, Brazil (contained five IPA members' COPTs)

(B') South Bend, Plymouth (contained six IPA members' COPTs)

(C') Gary, Lafayette, Lebanon (contained six IPA members' COPTs)

(D') Columbus, Franklin (contained six IPA members' COPTs)

(E') Fort Wayne, Warren (contained four IPA members' COPTs)

(F') Gas City, Lagro, Marion, Wabash (contained four IPA members' COPTs)

(G') Indianapolis; downtown, North, and East (contained four IPA members' COPTs)

(H') Indianapolis; downtown, North, and West (contained one IPA members' COPTs)

1 Q: **WHEN WERE THE TESTS CONDUCTED ON THE COPTS?**

2 A: From the middle of January through the first week in

3 February, 1993.

4 Q: **WERE THERE ANY PROBLEMS IN FINDING THE COPTS TO BE**
5 **TESTED?**

6 A: When the routes were actually travelled by testers some

7 adjustment was necessary. On a few occasions not every

8 COPT identified could be found or tested and so another

9 was selected. In these cases an effort was made to

10 select a COPT associated with the same IPA member. In

11 some cases, a COPT could not be found or could not be

12 tested. This resulted in the number of COPTs that were

13 finally tested being 192. Of these, two belonged to non-

14 IPA members.

15 Q: **HOW WERE THE NUMBER OF COPTS DISTRIBUTED AMONG THE LOCAL**
16 **EXCHANGE CARRIER (LEC) OPERATING AREAS?**

17 A: Of the 192 COPTS tested; the numbers in specific LEC

18 areas were:

19 * 118 Indiana Bell

20 * 61 GTE

21 * 11 United Telephone

22 * 1 Northern Indiana Telephone

23 * 1 Citizens Telephone Corporation

24 Q: **WERE ANY SPECIAL ARRANGEMENTS MADE WITH TESTERS BEFORE**
25 **THEY STARTED ON THEIR ROUTES?**

1 A: Yes, I met with each tester, individually or in pairs,
2 gave them a copy of Attachment 1 and Attachment 2, and
3 discussed with them the preliminary testing that I had
4 done. I also encouraged them, if they had not done
5 testing before, to visit the payphone in the Indiana
6 Government Center North building, or a COPT, that I had
7 tested. I had recorded information on these telephones
8 in Attachment 1 and they could compare their results
9 against mine while gaining familiarity with testing.
10 Also, I made arrangements to be available by telephone
11 when testers were on their routes so that I could help
12 them select an alternate COPT if one I had originally
13 selected could not be tested.

14 **Q: DID YOU DO ANY TESTING?**
15 A: Yes, I was the tester on route (E′), Fort Wayne and
16 Warren.

17 **Q: HOW WERE THE RESULTS OF THE TESTING SUMMARIZED?**
18 A: When the testers returned from their routes they reviewed
19 their data and entered it on clean test data sheets.
20 They then gave me the data and I reviewed it and
21 subsequently discussed it with each tester. I then
22 summarized the data onto sheets for each route. These
23 sheets were of two types. A first type for the location
24 and telephone number of each COPT and a second sheet for

1 blocking conditions that might have existed relative to
2 that COPT. These sheets were then reviewed with each
3 tester to insure that I had not made any errors
4 transcribing the data. Attachment 4 presents copies of
5 the second type of sheet for each route. Copies of the
6 first type of sheet are not included so as to maintain
7 our obligations under the non-disclosure agreement
8 existing with the IPA.

9 **Q: DID YOU MAKE AN ATTEMPT TO DETERMINE THE SOURCE OF**
10 **BLOCKING RELATIVE TO EACH COPT, AS IDENTIFIED IN**
11 **ATTACHMENT 4?**

12 A: Yes. I sent a data request to each LEC providing service
13 to COPTs where blocking was observed. I provided them
14 information on the blocking condition as experienced at
15 the COPT, essentially as reported in Attachment 4.

16 I then asked the LEC to verify whether or not conditions
17 in their network would have resulted in the blocking
18 observed. I was concerned as to if the blocking might
19 have existed as a result of the COPT being served by a
20 non-equal access or other unusual line arrangement from
21 the LEC. For each call reported as blocked, I asked the
22 LEC if the call would have gone through had it been made
23 from a conventional telephone connected to the tip-ring
24 pair of the line serving the COPT.

25 **Q: HOW DID THE LECS RESPOND TO YOUR DATA REQUEST REGARDING**

1 **THE SOURCE OF BLOCKING?**

2 A: The Northern Indiana Telephone Co. (NITCO) responded that
3 their circuits should not have caused any blocking
4 condition reported in regard to 102880, 102220, or
5 103330. They connected a lineman's set on the line in
6 question, repeated the dialing of access codes where
7 blocking had been reported, and did not experience any
8 blocking. With respect to 950-1022, however, NITCO
9 replied that MCI had not ordered 950 access from them.
10 Thus, one could not expect dialing of 950-1022 to get to
11 MCI. The particular blocking condition experienced is
12 reported on line 23 of page 6 of Attachment 4. Excluding
13 the 950-1022 blocking condition, since it is not caused
14 by the COPT, still leaves other blocking conditions
15 attributable to the telephone however.

16 The Citizens Telephone Corporation responded that when
17 the access codes 102880, 102220, 950-1022, and 103330
18 were dialed; their circuits provided a local intercept
19 recording. These particular blocking conditions were
20 experienced as reported on line 23 of page 10 of
21 Attachment 4.

22 United Telephone responded that their maintenance
23 personnel tested their network for each COPT where
24 blocking was reported. The results were that none of the
25 blocking conditions would have been caused by the United

network. The particular conditions are those identified on line 9 of page 3; and on lines 2, 6, 7, 9, 13, 17 through 20, and 22 of pages 7 and 8 of Attachment 4.

GTE responded that conditions in their network would not have been the source of blocking, except for calls to the telephone number 950-1022 and then only for certain locations in their service area. These locations are associated with some of the blocked conditions on pages 1, 2, 5, 6, 11, and 12 of Attachment 4. As a consequence, lines 10 and 16 on page 1 can be considered to represent the results of testing where the COPT did not exhibit any blocked condition. (Note, the blocked conditions reported on lines 14 and 17, on pages 1 and 2 respectively, are considered blocked by the COPT since it is believed that GTE would not have requested a $.25 deposit after the number 950-1022 was dialed.) The blocked condition reported in line 5 on page 11 is likewise considered to represent the result of testing where the COPT did not exhibit any blocked conditions. All other test results, where COPTs are identified to exhibit blocked conditions, would continue to exist since 950-1022 was not the only blocked condition turned up in the testing.

Indiana Bell responded that each of the telephone numbers associated with COPT stations, where blocking was

reported, were verified in their switch. Their response indicated: "All line class codes associated with the stations have been correctly translated in the switch. Blocking, therefore, should not occur. Indiana Bell is unaware of any reason why blocking should occur on such lines." It is concluded that none of the blocking conditions experienced at COPTs located in Indiana Bell territory would have been caused by the Indiana Bell network.

Q: WHAT CONCLUSIONS REGARDING BLOCKING OF ACCESS TO IXCS HAVE YOU REACHED FROM THE TESTING PROGRAM?

A: I have counted the number of COPTs where blocking was experienced in our testing program. This number is 165.

In evaluating feedback from the LECs as to whether or not the circuits that they provide could have contributed to the blocking observed, I have concluded that in four situations this could have been the case. Accounting for this cause of blocking as being exterior to the COPT, the 165 figure is reduced to 161. This result then represents the number of COPTs where blocking was experienced and where it was not attributable to LEC circuits. Given that there were 192 COPTs in our test program my conclusion then is that [redacted] exhibited blocking.

1 Q: **DOES THE DATA SHOW THAT 10XXX ACCESS TO ANY CARRIER IS**
2 **MORE LIKELY THAN TO OTHER CARRIERS?**

3 A: Yes. AT&T was observed to be blocked less than MCI or
4 SPRINT. AT&T was blocked only at 15 COPTs. Six of these
5 blocking conditions were experienced at COPTs associated
6 with the same IPA member, who blocked access to the other
7 carriers also.

8 Q: **THEN ACCESS TO MCI AND SPRINT WAS BLOCKED AT A MAJORITY**
9 **OF THE COPTS?**

10 A: Yes, access by dialing 102220 (for MCI) or 103330 (for
11 SPRINT) was often blocked. Usually, though, access could
12 be obtained by dialing one of the other codes that these
13 carriers have. Most often an 800 code. A customer has
14 to dial considerably more digits when access is via an
15 800 code and I don't believe this should be necessary.
16 I think the number of dialing errors and amount of
17 customer frustration can increase significantly as the
18 number of digits required for access increase. Open
19 access requires that the customer should be able to gain
20 access by use of 10XXX.

21 In the cross examination of Mr. Nelson, in the first
22 phase of these proceedings on December 14, 1992, he did
23 not answer directly the question of whether or not IPPs
24 should allow all forms of access to IXCs (see pages A4
25 through A6 of the transcript presented in Attachment 5).
26 He instead pointed out that IPPs have problems with MCI

1 and SPRINT in trying to prevent toll fraud. The
2 implication can be drawn that not all forms of access to
3 these two carriers is provided. This is consistent with
4 our findings that some form of access to these two
5 carriers was often blocked. Also, I gathered from his
6 recent letter to our office that his company has blocked
7 10XXX access to IXCs because of fraud considerations (see
8 Attachment 6). I am not convinced that fraud
9 considerations are a sufficient justification for
10 blocking, however. Also, I don't believe the Commission
11 rules allow for this.

12 Q: **HAVE YOU INVESTIGATED THE CLAIM BY THE AT&T WITNESS, MR.**
13 **QUAGLIA, WHERE HE ASSERTED IN HIS TESTIMONY IN THE FIRST**
14 **PHASE OF THESE PROCEEDINGS THAT AT&T HAD RECEIVED**
15 **APPROXIMATELY 3,100 COMPLAINTS FROM CUSTOMERS, RELATING**
16 **TO 10XXX ACCESS, DURING THE FIRST NINE MONTHS OF 1992?**

17 A: Yes. I sent a data request to AT&T. Their response was
18 quite complete. It tabulated on numerous sheets what
19 they believed to be 3,624 complaints. They indicated
20 that 1,656 of these complaints were most likely related
21 to Independent Payphone Provider telephones (COPTs);
22 1,042 were most likely related to LEC payphones; 914 were
23 most likely related to either LEC payphones or COPTs
24 (from the available data, they weren't sure which); and
25 that 12 of the complaints were most likely associated
26 with splashed calls (e.g., calls started with one carrier
27 but "splashed," or transferred, to AT&T for completion).

1 I checked the data on several of the sheets where
2 complaints relating to 10XXX access from COPTs were
3 reported. This data identified complaints by telephone
4 number, and in some cases the owner of the COPT and the
5 business where it was located was supplied too. In more
6 than 50 cases, where a complaint was associated with an
7 IPA member, I was able to confirm that the location, and
8 often the specific telephone number, was identical to
9 that provided to me by the IPA in regard to their COPTs.

10 I also checked the 5% of IPA phones that I had selected
11 for our test program against the AT&T data. I was able
12 to confirm, in the case of six COPTs that I had selected
13 for test, that the AT&T data showed customer's had
14 complained to them about 10XXX access. In OUCC testing,
15 we found that two of these COPTS blocked just 102220, two
16 blocked both 102220 and 103330, and that two blocked all
17 three IXCs: 102220, 102880, and 103330.

18 Q: **WHAT CONCLUSIONS HAVE YOU REACHED REGARDING THE AT&T**
19 **DATA?**

20 A: I believe AT&T has received a significant number of
21 complaints from customers regarding access to their
22 network from COPTs. They have identified COPT locations,
23 from customer complaints, by telephone number that match
24 the information the IPA provided me (and presumably not
25 to them) and I have not found any inconsistency in their

data.

Q: DO YOU HAVE ANY RECOMMENDATIONS TO THE COMMISSION?

A: Yes. If the Commission determines that IPA members and all COPT providers are deserving of compensation, then compenstaion should be awarded on a per call basis, not on a per phone basis. With per-phone compensation I feel that we can never be sure that the COPT owner will provide the access to carriers that he or she wants to be compensated for. [redacted] and [redacted] been [redacted] that [redacted]. I believe that this argues against per-phone compensation that the IPA is requesting. I support the recommendations of OUCC witness Dr. Trevor Roycroft.

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[1]Merrion, John K., Customer Owned Pay Telephone Test Report, Report By Engineering Division, Indiana Utility Regulatory Commission, May 31, 1990.

[2]Clifton, Joan K., Direct Testimony in Cause 38812, December 1990.

1 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

2 A Yes.

Telesector Resources Group
120 Bloomingdale Road White Plains New York 10605
914 644 2032

William J Balcerski
Attorney

Attachment D

Telesector Resources Group
A subsidiary of New England Telephone and New York Telephone

EX PARTE

May 31, 1994

Hon. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: New York Telephone Company -- Payphone Primary Interexchange Carriers
and
Oncor v. New York Telephone Company
File No. E-93-66

Dear Mr. Caton:

This is in response to the New York State Consumer Protection Board's (CPB) April 14, 1994 letter regarding the improper labeling of New York Telephone ("NYT") payphones. As explained below, this problem is due to the massive volume of unauthorized Primary Interexchange Carrier (PIC) change orders that NYT is receiving from interexchange carriers (ICs) and operator service providers (OSPs). This letter will identify the steps that NYT is taking to correct mislabeled payphones and to help prevent "slamming" from occurring. Before describing these steps, I would like to briefly describe the problem that NYT is currently facing.

Since the advent of public telephone presubscription in 1989, ICs and OSPs have been fiercely competing for market share. During late 1993 and continuing into 1994, competition has intensified and ICs and OSPs are engaging more often in slamming.

During late 1993, NYT began to notice a sharp increase in the number of PIC changes that were being made for its public telephones. As shown in the attached summary, approximately 362,000 PIC changes for public telephones were made during 1993. Over 163,000 of these PIC changes were made in November and December alone. The 362,000 PIC changes constitute 18% of all PIC changes made by NYT in 1993 even though its 116,000 public phones are only 1.2% of all NYT access lines (business, residential and public). Put another

way, this data shows that, on average, there were three PIC changes made for each payphone during 1993. In contrast, the number of PIC changes made for each residential and business line was .17. The data for 1994 is also alarming. For the first three months of 1994, NYT has already made 256,000 PIC changes for its public phones.

The attached summary also shows the number of PIC change requests that Oncor Communications ("Oncor") has submitted to NYT. In 1993, NYT received 174,000 PIC change requests from Oncor, of which 115,000 were submitted in the months of November and December alone. In the first three months of 1994, approximately 339,000 PIC change requests were submitted by Oncor. In fact, over 162,000 PIC change requests were submitted by Oncor in March 1994 alone.[1]

More and more, we are finding that carriers and OSPs are submitting entire lists ("hot lists") of disputed payphones for PIC changes at regular intervals. The end result is these payphones may have their PIC changed several times in a given month. This activity has caused considerable confusion among our customers and end users and has led to the unavoidable mislabeling of payphones.

In order to help our payphone customers from being slammed, NYT offers them the opportunity to freeze their PIC. If a payphone customer requests that his PIC be frozen, NYT will not accept any PIC changes submitted by a carrier.[2] To date, approximately 30,000 of our payphones have been "frozen" at the request of our customers. However, as the number of frozen lines has increased, carriers have increased their marketing activities on other "unfrozen" payphones. As a result, the number of PIC change requests has increased.

To address the escalating problem of slamming, NYT has decided that, on or about July 1, 1994,[3] it will no longer accept from interexchange carriers PIC changes for payphones that are submitted by electronic data transfer or on

---

1 Not every PIC Change request results in a PIC change for the phone. In many instances, Oncor submits PIC change requests for phones that are already presubscribed to Oncor.

2 Ironically, Oncor has filed a formal complaint (File No. E-93-66) with the Commission against NYT and other BOCs in which Oncor alleges that NYT's PIC Freeze practice is unlawful.

3 This date is subject to change if the Department of Justice objects to the necessary changes to NYNEX's Equal Access Plan.

magnetic tape.[4] Carriers will be required to submit their PIC changes on paper or by fax to our Public Telephone Sales Center. Our service representatives will verify the change request with the customer of record for the payphone before implementing the PIC change. We believe that this new process will eliminate PIC disputes among the carriers and, as PIC selections stabilize, permit us to ensure the accuracy of PIC designation cards on our payphones.

Because of the number of PIC changes that NYT is currently receiving, it is simply not possible to keep the information cards on its phones up to date. Nevertheless, as an interim effort, NYT coin collectors and service technicians are checking the PIC designation cards for accuracy on every station visit.[5] Any cards that do not match the PIC will be corrected. NYT is also in the process of sending a brochure to all of its payphone customers alerting them to the slamming situation and the change in PIC processing. In that brochure, we explain how the customer can check their payphone(s) for the current PIC and correct any discrepancies through our business office. We are also asking them to complete an information card to help us verify the accuracy of our customer records.

We believe that CPB's request that we not implement any PIC changes until we install the appropriate PIC designation card is impractical for several reasons. First, it would cause a delay in the implementation of PIC changes since this would require that a service technician be dispatched to change the card before the next scheduled visit. Second, the cost to change a PIC would increase significantly because of the need to dispatch and coordinate the necessary central office work with the change card.[6] With our modification to the PIC change process, the likelihood of slamming should decrease significantly.

---

4 The same procedure will also be utlized by New England Telephone.

5 Currently, the PIC information card is changed, if necessary, at the next regularly scheduled visit to collect the coins in the phone.

6 If NYT were to change the card at a shorter interval (i.e., make a special dispatch solely for the purpose of changing the PIC information card), the current $5.00 PIC change charge imposed on our payphone customers would likely increase to over $50.00. It should also be noted that even if a phone is mislabeled, end users can identify the PIC through the "branding" announcement provided by carriers at the beginning of the call. End users can also identify the carrier by dialing "00" to reach the carrier's operator.

NYT believes that its current practice for changing PIC designation cards is the most practical. Nevertheless, effective July 1, 1994, NYT will update the PIC designation cards no later than 30 days from the date a PIC change is made.

NYT does not agree with CPB's suggestion that any costs incurred by NYT to implement these new procedures should be borne by shareholders. The costs of implementing these new procedures are a legitimate cost of doing business and should be recovered from the carriers and end users as appropriate. On the other hand, we fully support CPB's suggestion that the Commission investigate Oncor's PIC change procedures and its rates.

We would be glad to answer any further questions that you may have.

Very truly yours,

William J. Balcerski

William J. Balcerski

WJB/bmc
7108M/09M
Attachment

cc: Robert Spangler
Richard M. Kessel
Mitchell Brecher, Esq.

PBAS System Administration - New York
PIC Changes
Monthly Summary - 1993/1994

Month	Type	Business	Residence	Coin	Total	% Coin	ONCOR
January	Carrier Initiated	14,107	18,008	10,559	42,674	25%	2,048
	End User Initiated	23,708	33,357	2,232	59,297	4%	
	Total PIC Changes	37,815	51,365	12,791	101,971	13%	
February	Carrier Initiated	18,987	33,263	6,487	58,737	11%	607
	End User Initiated	24,972	52,075	1,251	78,298	2%	
	Total PIC Changes	43,959	85,338	7,738	137,035	6%	
March	Carrier Initiated	21,564	36,189	6,938	64,691	11%	1,036
	End User Initiated	31,960	55,300	995	88,255	1%	
	Total PIC Changes	53,524	91,489	7,933	152,946	5%	
April	Carrier Initiated	21,712	41,271	13,662	76,645	18%	1,986
	End User Initiated	34,655	61,362	1,575	97,592	2%	
	Total PIC Changes	56,367	102,633	15,237	174,237	9%	
May	Carrier Initiated	19,657	35,158	11,235	66,050	17%	4,060
	End User Initiated	33,599	49,640	1,729	84,968	2%	
	Total PIC Changes	53,256	84,798	12,964	151,018	9%	
June	Carrier Initiated	17,387	33,018	12,842	63,247	20%	4,999
	End User Initiated	34,556	44,867	1,588	81,011	2%	
	Total PIC Changes	51,943	77,885	14,430	144,258	10%	
July	Carrier Initiated	21,116	38,356	28,114	87,586	32%	8,376
	End User Initiated	34,048	47,918	2,820	84,786	3%	
	Total PIC Changes	55,164	86,274	30,934	172,372	18%	
August	Carrier Initiated	16,739	31,114	28,416	76,269	37%	10,608
	End User Initiated	37,638	61,399	3,085	102,122	3%	
	Total PIC Changes	54,377	92,513	31,501	178,391	18%	
September	Carrier Initiated	12,882	29,470	24,561	66,913	37%	10,355
	End User Initiated	30,815	52,483	3,311	86,609	4%	
	Total PIC Changes	43,697	81,953	27,872	153,522	18%	
October	Carrier Initiated	15,772	32,963	32,031	80,766	40%	14,041
	End User Initiated	42,117	59,247	4,489	105,853	4%	
	Total PIC Changes	57,889	92,210	36,520	186,619	20%	
November	Carrier Initiated	13,865	27,688	57,380	98,933	58%	53,603
	End User Initiated	37,212	58,126	6,194	101,532	6%	
	Total PIC Changes	51,077	85,814	63,574	200,465	32%	
December	Carrier Initiated	19,481	35,040	93,822	148,343	63%	62,994
	End User Initiated	44,045	63,131	6,535	113,711	6%	
	Total PIC Changes	63,526	98,171	100,357	262,054	38%	
Total 1993	Carrier Initiated	213,269	391,538	326,047	930,854	35%	174,713
	End User Initiated	409,325	638,905	35,804	1,084,034	3%	
	Total PIC Changes	622,594	1,030,443	361,851	2,014,888	18%	
January	Carrier Initiated	15,904	47,694	72,435	136,033	53%	51,412
	End User Initiated	32,186	75,351	4,426	111,963	4%	
	Total PIC Changes	48,090	123,045	76,861	247,996	31%	
February	Carrier Initiated	15,807	49,799	81,238	146,844	55%	125,101
	End User Initiated	29,370	67,805	3,864	101,039	4%	
	Total PIC Changes	45,177	117,604	85,102	247,883	34%	
March	Carrier Initiated	19,876	53,025	89,223	162,124	55%	162,325
	End User Initiated	39,006	72,148	5,036	116,190	4%	
	Total PIC Changes	58,882	125,173	94,259	278,314	34%	
Total 1994	Carrier Initiated	51,587	150,518	242,896	445,001	55%	338,838
	End User Initiated	100,562	215,304	13,326	329,192	4%	
	Total PIC Changes	152,149	365,822	256,222	774,193	33%	

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
STATE CONSUMER PROTECTION BOARD
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April 14, 1994

Hon. William Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: New York Telephone Company -- Payphone Primary Interexchange Carriers

Dear Secretary Caton:

By this letter, the Consumer Protection Board (CPB)[1] asks the Federal Communications Commission (FCC) to take appropriate steps to protect consumers against exorbitant charges on long-distance calls from mislabelled New York Telephone Company (NYT) payphones.[2] Some 40,000 of approximately 120,000 payphones in New York State reportedly have signs saying long-distance service is provided by familiar carriers, like AT&T and MCI, but long-distance calls from those phones are actually handled by other companies, such as "Oncor Communications." As shown in Attachment A to this letter, Oncor charges approximately two to three times as much as AT&T and MCI on direct-dial credit card calls and up to nearly eight times as much on direct-dial, credit card, directory assistance calls.

Specifically, we request the following measures:

1) NYT should not change a payphone's primary exchange carriers (PIC) without first confirming directly with a

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[1] The CPB is authorized to represent the interest of New York consumers before Federal agencies, pursuant to Executive Law §553(3)(d).

[2] Herein, the term "payphone" refers to both "public" and "semi-public telephones."

premises owner[3] that he or she has authorized the carrier requesting a PIC change to make such a request.

2) NYT should not implement any PIC changes without first installing the appropriate signs required by Commission rules.

3) NYT should be ordered to file plans within 30 days for (a) verifying the accuracy of PIC information on payphone signs, (b) correcting all inaccuracies in such signs within a reasonable time period, and (c) establishing internal controls to assure that no further public telephone PIC changes are implemented at a carrier's request unless NYT both verifies the carrier's authorization with the premises owner <u>and</u> installs the appropriate sign.

4) The FCC should take all additional action necessary to prevent improper PIC changes by NYT and other local exchange telephone companies (LECs).

5) Refunds should be given to consumers for amounts paid in excess of rates charged for comparable interstate services by the interexchange carriers (IXCs) listed on the mislabelled payphones.

6) Any costs incurred by NYT and other telecommunications companies with respect to Items 1-5 should not be charged "above-the-line" but rather should be borne by their shareholders.

7) The FCC should investigate the reasonableness of Oncor's rates for interstate services, as well as the rates of other long distance companies that may have engaged in unauthorized PIC changes.

Further, with respect to excessive charges for intrastate calls made from mislabelled payphones, we are writing to the New York Public Service Commission (NY PSC) by separate letter seeking similar relief, including refunds of overcharges.

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[3] Herein, the term "premises owner" includes any entity in possession of premises where an NYT payphone is located.

BACKGROUND

Under State and Federal rules requiring equal access in the interLATA market, every public telephone is assigned a PIC which provides interLATA interexchange service by default when a payphone user does not dial the prefix code or access number of a different (IXC). Shortly after payphone equal access was introduced, regulators received numerous complaints from consumers who did not know (1) which carrier was providing interLATA service, (2) how to obtain rate information, and (3) where to direct complaints about charges or service. In light of that experience, regulations were adopted requiring that payphones post signs providing such information. For example, the NY PSC required that information about alternative operator service (AOS) providers presubscribed to payphones also be conspicuously posted. (NY PSC Rule 649.2, 16 NYCRR §649.2 (Attachment B))[4]

Recently, New York City television Channel 2 reported that customers had been charged exorbitant rates by an AOS provider known as "Oncor Communications, Inc." (Oncor)[5] for directory assistance and long-distance calls made from payphones whose signs indicated that they were served by more familiar carriers, such as AT&T and MCI. The report identified two types of concerns.

First, according to the Channel 2 report, NYT acknowledges failure to change payphone signs to reflect changed PIC carriers. As a result, customers may have the erroneous impression that a familiar carrier is providing service, even if the name of an unfamiliar company name accompanies the "bong" sound required to identify the carrier of a long-distance call originating from a payphone. Second, there apparently is a widespread problem of PIC changes being requested by carriers who, in fact, do not have authority to request such changes.

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[4] To avoid inconsistent rules, the New York Commission has required that AOS information posted on payphones conform with the posting rules for customer-owned, currency-operated telephones (COCOTs). NY PSC Case 88-C-102, Alternative Operator Service Providers, Opinion No. 90-13, Opinion, Order And Resolution Adopting AOS Regulations, issued March 30, 1990, at 17-19; see also, NY PSC Case 27946, COCOTs, Opinion No. 90-12, Opinion, Order And Resolution Adopting Revised Regulations, issued March 19, 1990, at 48-50.

[5] Upon information and belief, Oncor is a successor to International Telecharge, Inc.

According to the Channel 2 report, NYT acknowledges that one or both of these types of irregularities may affect as many as 40,000 of approximately 120,000 public telephones throughout New York State -- one out of every three. It is unclear whether Oncor is the exclusive or predominant carrier serving these mislabelled public telephones. However, we note that even the NYT payphone located in the hallway outside of the New York Commission's Albany hearing rooms is presubscribed to "Oncor," though it bears a sign stating that long-distance service is provided by AT&T and that complaints regarding service should be directed to AT&T's New Jersey offices.[6]

REMEDIAL ACTIONS

I. VERIFICATION OF AUTHORIZATION FOR PIC CHANGE REQUESTS

Under the FCC's rules, interLATA carriers may act as agents for "end users" -- in this context, premises owners -- in asking LECs to change their PIC designations. However, to ensure that carriers have actual authorization, the FCC imposes a penalty on carriers who cannot substantiate an end user's supposed request to change PICs.[7]

The CPB supports the FCC policy recognizing the importance to open competition of allowing customers to ask carriers to act as their agents in requesting PIC changes. However, it is apparent that existing mechanisms to prevent unauthorized PIC change requests are inadequate. The "substantiation" safeguard is only effective if the substantive proof is actually verified. The level of allegedly unauthorized public telephone PIC changes demonstrates that verification is not made timely -- if at all. This exposes the public to the risk that a carrier can improperly attain PIC status and charge excessive rates indefinitely. Those customers who charge their calls will not discover the excessiveness of the rates until they receive their bills. Some of those consumers will

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[6] The sign on that public telephone (number 518-449-3806) states, among other things:

> "1 + Area Code + Number Cash Calls are carried by AT&T
> 0 + Area Code + Number Calls are carried by AT&T
> Rates, Billing and Service disputes:
> AT&T, P.O. Box 723, Basking Ridge, NJ 07920 1+800+243-1288"

[7] NY PSC Case 28425, Toll Market Proceeding, Opinion No. 94-11, Opinion And Order Concerning IntraLATA Presubscription, issued April 4, 1994, at 48-49, citing Policies And Rules Concerning Changing Long Distance Carriers, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), reconsid., 8 FCC Rcd 3215 (1993).