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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

IN THE MATTER OF	)	
	)	CC Docket No. 92-77
BILLED PARTY PREFERENCE	)	
FOR 0+ INTERLATA CALLS	)	

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REPLY COMMENTS OF THE
METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

The Metropolitan Washington Airports Authority ("MWAA" or the "Airports Authority") submits these reply comments in opposition to those who argue that the Commission should mandate Billed Party Preference ("BPP").[1/] The record establishes unequivocally, that, even on its own terms, the costs of Billed Party Preference far outweigh the conjectural benefits that might flow from it. Further, we maintain that the Commission's analysis of benefits and costs is focused far too narrowly and that Billed Party Preference will actually interfere with the Commission's goals of consumer convenience in the telecommunications field as a whole. We demonstrate this point by describing the novel telecommunications arrangements we have created for two airports we operate, Washington National and Washington Dulles International Airports.

1/ The Airports Authority is a member of and endorses the comments filed by the Airports Council International in this rulemaking proceeding.

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In support, the following is stated:

THE PUBLIC BENEFITS OF MWAA'S SHARED TENANT SERVICE SYSTEM IMPORTANTLY DEPEND UPON PAYPHONE SERVICE CONCESSION REVENUES

In April of this year, MWAA entered into an unusual contractual arrangement for the provisioning of telecommunications services and facilities at the two airports it operates,[2/] one which, we believe, will yield immeasurable direct and indirect benefits to the traveling public. We have established a shared tenant service arrangement for both of our airports on a concession basis. Although other airports in the country have shared tenants service systems, the arrangement we have created is the first to be offered on a concession basis with private sector involvement.

Our fifteen (15) year contractual arrangement--which is the result of competitive bids--with Harris Corporation will enable us to completely upgrade our communications infrastructure, replacing old, outmoded and inadequate copper wiring with a fiber sonet ring and with state-of-the-art customer premises equipment. The upgrade includes substantial

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[2/] The Airports Authority is a public body politic and corporate created by interstate compact between the District of Columbia and the Commonwealth of Virginia. It is responsible for the operation, maintenance, promotion and improvement of both Washington National Airport and Washington Dulles International Airport. National is served by more than 18 airlines, Dulles by more than 30. Both are used by thousands of general aviation users. Taken together, the airports encompass nearly 11,000 acres of land with multiple terminals and facilities to serve the traveling public. The Airports served more than 27.5 million passengers in the last 12 months.

improvements to our public phone equipment and systems. Our contract with Harris will also enable us to offer local and long distance telephone service at rates which are more favorable than those than individual tenants or payphone users could otherwise obtain. The arrangement specifically contemplates implementation of new telecommunications technologies -- such as wireless -- as they are deployed and demand for them arises.

Under the contract, Harris may not change its rates without the Authority's prior approval. This assures us, our tenants and the public that the full benefits of shared tenant service offer will be realized. In short, the shared tenant concession arrangement will make it possible for MWAA to provide for the infrastructure investment so that all of the public that needs and uses the airports will have a state-of-the-art telecommunications service.

The benefits to the public that will flow from this plan would not be possible without concession revenues derived from the operation of the system, including concession revenues provided by public pay phones. Combined, there are more than 1,000 payphones at National and Dulles. As part of the contractual arrangement with Harris, MWAA has agreed that Harris will take over responsibilities for these public phones and will contract out (subject to MWAA's approval) with suppliers of payphone equipment and providers of service under a competitive bidding process to upgrade payphone equipment and

improve services. The revenues flowing to the telecommunications system from payphone pre-subscription arrangements are an essential element of the source of funds that will be used to rebuild our infrastructure and improve our ability to offer newer and better telecommunications services to airport users.

The Authority is quite proud of this new form of delivering telecommunication service in the airport context.[3/] The paramount objective of the Authority is safety, comfort and convenience to the traveling public. In the modern world, this objective can be realized only if the airport has a state-of-the-art communications system. The direct benefits of our innovative telecommunication service delivery plan are obvious: an improved infrastructure resulting in more efficient and less costly telecommunication service to the Authority, its tenants and the public. There are also very important indirect benefits. The efficiencies and economies that we generate in the operation of telecommunication service, in turn, enables us to generate economies and efficiencies in all of the functions that an airport must provide. Payphone users will directly benefit from the improved infrastructure and new public phone services we will be able to provide. Payphone users will also indirectly benefit through better, more efficient delivery of non-telecommunication services and

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3/ Our arrangement has received much interest and favorable comment in the airport community and may well serve as the model as other airports seek to upgrade their communications delivery capabilities.

functions that an airport and its tenants must provide. The fact is, however, if BPP as proposed were in effect, this new service, this new infrastructure investment, would be an undertaking that the Airports Authority would simply not take.

THE COST AND BENEFIT ANALYSIS OF THE FURTHER NOTICE IS TOO NARROWLY FOCUSED

In its comments, Bell Atlantic--one of the original proponents of BPP--has persuasively shown that, even in the narrow sense of the public interest, the costs of deploying BBP far outweigh its benefits. Comments of Bell Atlantic at 1-15. Bell Atlantic persuasively demonstrates that the Commission has substantially underestimated the cost of installing, operating and maintaining the line information data base that supports Billed Party Preference. Bell Atlantic also shows that the expected savings--reduced usage-sensitive rates--will, in all likelihood, be more than offset by the actual costs of supporting BPP.

There is an obviously related economic reality that must not be overlooked by the Commission. The underlying economic fact of all public phone service is that the premises owner incurs a cost to provide that service. That cost simply must be recovered. The essence of BPP--indeed its apparent purpose--is to deprive premises owners of the opportunity to recover the costs directly through a usage fee. The Commission itself acknowledges that the premises owners may respond to this situation by curtailing or eliminating service--

particularly if it is marginal or incidental to the primary business--or by replacing "lost commissions" with direct surcharges or "charges for other non-telecommunications services." Further Notice of Proposed Rulemaking at ¶ 36. (Emphasis added). Public sector bodies do not have the full range of options envisioned by the Commission as open to them. Payphone service is an important public service which MWAA must provide as a part of its airport operations. We cannot, consistent with airport users' expectations, sharply curtail the number of payphones that we make available to the public. Nor can we, consistent with the principles that apply to sound airport operation, offset the "lost commissions" from payphone operation through increases in charges for other services provided at the airports. We cannot simply increase the cost of parking cars, the rental rate for the airport retail stores or the landing fee to the airlines in order to offset the costs of providing public payphones and other public telecommunications services. Even if we could in a legal sense alter our fee and rental structures in the way that the Commission contemplates, from an airport operating standpoint it would be economically irrational to do so.

The reality is this: if BPP were to be imposed, organizations like MWAA would be required either to impose a surcharge on payphone usage directly to replace the "lost commissions" or we would be forced to delay or alter significantly the improvements and enhancement that we

committed to make to our public payphone system under the shared tenant service concession arrangement we have entered into. Other airports, contemplating arrangements like those we have entered into, would similarly be constrained to reconsider their approach and delay or forego completely much needed or desirable improvements to their telecommunications infrastructure including, most especially, the structure that supports public and payphone service. The indirect benefits that will flow from our installation of a state-of-the-art communications infrastructure will also be affected.

These costs of Billed Party Preference, although indirect, must not be ignored by the Commission. A fundamental purpose of the Commission's policy that makes legally possible and encourages shared tenant service is to enable all users to gain access to state-of-the-art equipment and services. By aggregating, or sharing, the infrastructure needs of our tenants and the traveling public through our shared tenant service arrangement, we are able collectively to install, maintain and operate a telecommunications system that no one of us--least of all the traveling public--could alone afford. The Commission was right to make possible and encourage the development of arrangements like the one that the Authority has entered into. These arrangements serve the public interest in a broad sense: promoting competition in the telecommunications industry and permitting organizations like ours to deliver telecommunications and non-telecommunications services more

efficiently and more effectively. The Commission ought not now to undercut these values by focusing on one element of a much broader and interrelated telecommunications complex and by considering only the direct costs and benefits of that singular element.

The Commission acknowledges that Billed Party Preference will principally, if not exclusively, be of value to payphone users. Further Notice of Proposed Rulemaking at ¶ 36. The underlying rationale for this rule is that it would induce Operator Service Providers to "redirect their competitive efforts away from premises owners and toward end users." Further Notice of Proposed Rulemaking at ¶ 12. This equation is too narrow in two fundamental respects. First, it assumes that the sole interest of "premises owners" is to maximize profit from the payphone service it offers. That proposition is demonstrably false, in the case of public service providers like the Authority: as we have stated above, we are providing service at great expense and we have retained the ability to approve any rate changes, including rate changes affecting payphones, under our shared tenant service arrangement precisely to assure that payphone users pay their fair share of the costs of this important service but are not called upon to pay more than their fair share. Apart from our public service concerns with respect to the rates paid by payphone users at the airports, there are marketplace constraints on the rates that can be charged for this service,

particularly as the use of cellular telephones, advanced paging systems and other wireless applications become commonplace among the traveling public that might otherwise use payphones.

Second, the Commission's use of the word "end user" is too narrow. The fact is that the "end user" of payphone service at an airport is also the user of a variety of other services made available or possible by the premises owner. People do not come to airports solely for the purpose of placing telephone calls. They are using the entire Airport, roads and extensive public facilities that revenues from the telephone concession help provide. The "end user" is really an airport user. In assessing Billed Party Preference, therefore, the Commission should weigh the relatively small benefit, if any there turns out to be, that the "end user" of payphone service will realize from Billed Party Preference against the much larger harms that the "end user" will experience as a consequence of this regulatory construct as applied to the Authority and other airport operators.

In one respect, the Commission has recognized that public interest considerations, other than the direct cost and the direct benefits of Billed Party Preference, must be taken into account in its decisional processes. Because of concerns of toll fraud and security, the Commission has raised the question of whether prison payphone systems should be exempted from these requirements. See, Further Notice of Proposed Rulemaking at 51. Neither of these problems is unique to

prisons. Indeed, one of the important purposes of the Authority's determination to enter into a shared tenant telecommunications concession arrangement was to enable us to enhance security operations at both of our airports. Moreover, toll fraud is a problem wherever there are a large number of payphones in a public area, including airports. The broader public interest considerations, including but not limited to toll fraud and security, must be considered in all contexts.

The fundamental point that we wish to stress in these reply comments is this: it would be a serious mistake for the Commission, in resolving this issue, to focus solely upon direct benefits and direct costs of Billed Party Preference. The full range of effects of this change to the manner in which public payphone service is delivered must be taken into account. Treating the premises owner as the enemy to be overcome in the proceeding is wrong and counter-productive particularly when the premises owner is a larger public entity like the Airport Authority. Consequences in terms of other communications policies, including shared tenant service, must be factored into the public interest determination. Non-telecommunications consequences to the traveling public and other users of payphones must be weighed in the balance. Considerations such as toll fraud and security must be considered not only in the context of prison phone systems but with respect to all large providers of payphone service, including airports. So, even if the direct benefits of Billed

Party Preference were sufficient to outweigh its direct costs--and Bell Atlantic has shown that this is not the case--the Commission must reject the concept because it will have substantial, adverse collateral effects upon the telecommunication system at airports such as ours and, we believe, in this country. The effects may be unmeasurable but they are going to be manifestly contrary to the public interest.

Respectfully submitted,

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