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April 5, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF CLERKSHIP

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

In the Matter of:

Petition for Declaratory Ruling)
by the Inmate Calling Services Providers) FCC File No. RM-8181
Task Force)

Dear Mr. Caton:

Enclosed are an original and eleven copies of the Petition for Partial Reconsideration or Stay of Cincinnati Bell Telephone in the above referenced proceeding. A duplicate original copy of this letter and attached Petition is also provided. Please date stamp this as acknowledgment of its receipt and return it. Questions regarding this Petition may be directed me at the above address or by telephone on (513) 397-1393.

Sincerely,

David L. Meier
Director - Legislative &
Regulatory Planning

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

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In the Matter of)
)
Petition for Declaratory Ruling) RM - 8181
by the Inmate Calling Services)
Providers Task Force)

FILED
APR 5 1996
WASHINGTON, D.C.

**PETITION OF CINCINNATI BELL TELEPHONE COMPANY
FOR RECONSIDERATION AND STAY**

I. INTRODUCTION

Pursuant to Rule 1.429 of the Commission's Rules, Cincinnati Bell Telephone Company ("CBT"), an independent, mid-size local exchange carrier herein petitions the Commission for reconsideration of its Declaratory Ruling in the above-captioned proceeding, published in the Federal Register on March 6, 1996, and for a stay of the implementation of the requirements set forth in that Declaratory Ruling pending exhaustion by CBT of all avenues for review.

II. ARGUMENT

In its Declaratory Ruling in this proceeding, the Commission required that:

- inmate only customer premises equipment ("CPE") must be provided on an unregulated and unbundled basis;
- investment recorded on local exchange carrier books must be reclassified as non-regulated by September 2, 1996;
- revisions be made to Part 64 cost pools related to these services;
- revisions be made to Cost Allocation Manuals ("CAM") to reflect the Commission's ruling;

- appropriate revisions to a LECs tariff which reflects the Commission's ruling.

In promulgating these requirements for inmate calling services, the Commission did not distinguish between service providers. The Commission failed to recognize the distinctions which exist between the nature of competition for services in an area served by a Bell Operating Company ("BOC") and those areas served by smaller carriers. This position is inconsistent with that taken by the Congress in its enactment of the Telecommunications Act of 1996 (the "Act"), where the Congress clearly understood that the regulatory environment governing payphone services for a BOC must be different from that governing smaller LECs, such as CBT.

Section 276(b) of the Act calls for the Commission to promulgate regulations within nine months of enactment of the Act "to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public." This is the only provision in the Act which gives to the Commission the express authority to promulgate regulations relating to payphone services. Section 276(d) specifically includes "the provision of inmate telephone services in correctional institutions" within the scope of the services for which the Commission is to articulate rules.

However, Section 276 only applies to payphone services which are provided by BOCs. This provision was positioned by the Congress in Subtitle B of Title I of the Act, "Special Provisions Concerning Bell Operating Companies," with the clear intent that it only provide the Commission authority to issue regulations relating to payphone services provided by BOCs. In positioning this provision within the Act in this manner, the Congress clearly

indicated its intent for the Commission to create a different regulatory structure for the smaller LECs, than for the BOCs. Any attempt by the Commission to promulgate regulatory standards for payphone service applicable to non-BOC providers should be comprehensive, rather than singling out one particular area of service, such as inmate payphone service. The Commission should reconsider its Declaratory Ruling and stay the implementation of its rules pending consideration of this issue in a comprehensive manner.

In drawing the distinction between the BOCs and the other smaller LECs, the Congress obviously considered and understood that a marked difference exists between the competitive environment in which a BOC offers a given service, such as payphone service, and the competitive environment in which a smaller LEC provides a similar service. The intent of the Congress was that the Commission not consider regulations relating to payphone services with a "one size fits all" approach. However, this is what the Commission has done in its Declaratory Ruling on inmate payphone services. The Commission has ignored the obvious intent of the Congress by treating all LECs, both the BOCs and smaller LECs, the same for the purposes of issuing regulations relating to inmate payphone services. The Commission's regulations governing the provision of inmate service should reflect the distinctions between the BOCs and the smaller LECs which the Congress intended in enacting the Act.

The requirements promulgated by the Commission through its Declaratory Ruling place an unwarranted burden on smaller LECs, such as CBT, in administering a service which represents a very small portion of their total payphone service market. For CBT, inmate payphone service amounts to only approximately four percent (4%) of total payphone

service. This service results only in a *de minimis* amount of traffic and revenues for a smaller LEC, traffic and revenue which does not justify the administrative costs which will result from the Commission's regulations.

The Commission must reconsider its ruling in this matter in light of the clear intent of the Congress to treat the BOCs differently from other smaller LECs for the purposes of regulating payphone services. Further, given the burdensome administrative costs which will result from the implementation of these regulations, the Commission should stay the implementation of these regulations pending the exhaustion of all possible avenues of review and the final resolution of this issue.

III. CONCLUSION

For the foregoing reasons, the Commission should grant CBT's Petition for Reconsideration and stay any further implementation of the regulations promulgated by the Declaratory Ruling in this matter.

Respectfully submitted,

FROST & JACOBS

By 
Thomas E. Taylor
Jack B. Harrison

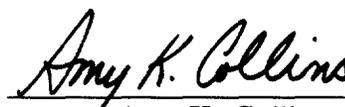
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Attorneys for Cincinnati Bell
Telephone Company

Dated: April 4, 1996

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing **Petition for Reconsideration of Cincinnati Bell Telephone Company** have been delivered by first class United States Mail, postage prepaid, on April 5, 1996, to the persons on the attached service list.



Amy K. Collins

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