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June 28, 1996

VIA FEDERAL EXPRESS

William F. Canton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

Dear Secretary Canton:

Enclosed are an original and ten copies of the comments of the Staff of the Indiana Utility Regulatory Commission in response to the Notice of Proposed Rulemaking in the above-captioned docket.

Also, please find enclosed an additional copy and self-addressed return envelope, to be date-stamped received and returned.

If you have any questions, please call me at (317) 232- 2737.

Sincerely,

Robert C. Glazier
Director of Utilities

Enclosures

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List ABCDE

In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

Indiana Utility Regulatory Commission
Indiana Government Center South
302 West Washington, Suite E306
Indianapolis, Indiana 46204

Respectfully Submitted:

Robert C. Glazier
Director of Utilities

Staff of Indiana Utility Regulatory Commission June 26, 1996

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

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In The Matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provision of the Telecommunications Act of 1996	)	CC Docket No. 96-128

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COMMENTS OF THE
STAFF OF THE INDIANA UTILITY REGULATORY COMMISSION

I. INTRODUCTION

The Staff of the Indiana Utility Regulatory Commission ("IURC Staff") hereby submits its comments in response to the Federal Communications Commission ("FCC") Notice of Proposed Rulemaking ("Notice") adopted on June 4, 1996.[1] The Notice proposes to set rules that would accomplish the following:

> (1) compensation for 'each and every completed intratstate and interstate call using [a] payphone'; (2) termination of all subsidies for LEC payphones, including 'access charge payphone service elements'; (3) prescription of nonstructural safeguards for Bell Operating Company ("BOC") payphones; (4) promulgation of rules permitting the BOCs to negotiate with the payphone location provider about a payphone's presubscribed interLATA carrier, unless the

[1] In the Matter of Implementation of the Pay Telephone Reclassification of Compensation Provisions of the Telecommunications Act of 1996, CC Docket 96-128, Adopted June 4, 1996.

> Commission finds that such negotiations are 'not in the public interest'; (5) promulgation of rules permitting all payphone providers to negotiate with the location provider about a payphone's presubscribed intraLATA carrier; and (6) establishment of a class of public interest payphones to be located 'where there would otherwise not be a payphone.'[2]

These comments contain IURC Staff responses to issues (1) and (6). We also comment on letterless keypads. Our comments are limited due to pending cases before the IURC.

II. DISCUSSION

The payphone industry has peculiar industry characteristics leading to consumers being charged exorbitant amounts for relatively brief interLATA calls at some payphone locations. First, the private payphone owner ("PPO") is a customer and competitor of the LECs. Second, location competition (alternative public service providers ("PSP") at the same location) is virtually nonexistent. Third, many states cap the rates for local coin calls.[3] Fourth, some calls from a PPO go uncompensated. Fifth, if a customer does not bypass the PSP's interlata toll provider, the rates are often unknown.

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[2] Notice, ¶ 1, at 3-4.

[3] Indiana caps the rate for local coin calls at the highest rate the LECs can charge, $.25. See, In the Matter of an Investigation to Determine the Extent of Regulation of Pay Telephone Equipment ("COPT") by the Commission Pursuant to Public Law 92-1985, IC 8-1-2.6-2, Et Seq., Cause No. 38158, November 1987.

The Notice and suggestions within attempt to rectify some of these industry characteristics which, in turn, may resolve problems customers face at payphones.[4]

III. COMPENSATION

As suggested previously, if the PPO's could be correctly compensated, the problem of exorbitant interLATA toll calls may diminish. Given this, the Notice asks for the definition of "fairly compensated."[5] The IURC Staff defines "fairly compensated" as a rate that covers the cost of a payphone service, with a reasonable rate-of-return. The rate must be technically feasible to calculate and not be administratively burdensome to collect. The IURC Staff recommends, as does the FCC, that the rulemaking should prescribe rules for all calls at a payphone station,[6] including international calls.[7]

We will go through a prescribed method of compensation for two major types of calls at payphone stations: local calls and 800 calls. Regarding the rate for local calls, the IURC Staff agrees with the option of allowing the states to set the coin

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[4] The FCC also has a Notice, CC Docket No. 92-77, to cap the rate for interstate toll calls from a payphone to a certain percentage over the average of the major interstate toll carriers or the payphone provider must disclose the rates to callers.

[5] Notice, ¶ 16, at 11.

[6] Notice, ¶ 17, at 12.

[7] Notice, ¶ 18, at 12, 13.

rates.[8] A national local coin rate is not warranted because some states have higher payphone cost than others. Furthermore, we do not believe any confusion a customer may have about the local coin rate outweighs the concern of setting the rates based on cost that is above or below its appropriately cost determined rate or what a state determines. A state may subsidize the local coin rate if it believes the price of providing a local coin call is prohibitive. This may not violate the "fair compensation" principal if a fund is created to subsidize the local calls, with the money going to the payphone provider. Now is not the time for the FCC to establish a new mechanism that may result in subsidies among states for payphone charges.

Regarding 800 numbers for businesses, the IURC Staff recommends that the carrier over whose network the call is placed should compensate the payphone provider.[9]

These recommendations hinge on the ability of payphone providers to track calls. We recommend that the FCC require BOCs and other LECs to provide equipment to their own payphones and PPO's to track all calls.[10] Regarding administration of compensation, the IURC Staff believes that if the system Sprint

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[8] Notice, ¶ 22, at 14.

[9] Notice, ¶ 24, at 15.

[10] Notice, ¶ 31, at 18.

and AT&T presently uses is effective and provides fair compensation, it should be continued.[11]

IV. PUBLIC INTEREST PAYPHONES

The Telecommunications Act of 1996 requires the FCC to determine the need for public interest payphones and if there is such a need to determine a way to subsidize these payphones. Among the options the Notice proposes is for the FCC to prescribe federal regulations, establish national guidelines, or defer to the states.[12] The IURC Staff concurs with the separate statement of Chairman Reed E. Hundt in allowing the states to "define and designate public interest payphones."[13]

The Indiana Administrative Code requires each local exchange company to maintain in a prominent location in each exchange at least one lighted public payphone available on a 24-hour basis.[14] The IURC Staff does not believe this requirement is sufficient to cover the public interest concerns of the FCC regarding payphones. Each state must establish a set of guidelines for the location of public interest payphones. The IURC Staff has not proposed any guidelines, but school buildings, areas with low

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[11] Notice, ¶ 33, at 19.

[12] Notice, ¶ 78, ¶ 79, and ¶ 81, at 43-44.

[13] Separate Statement of Chairman Reed E. Hundt, FCC News Report No. DC 96-49, June 6, 1996.

[14] 170 IAC 7-1.1-11 L (1) and (2).

telephone penetration rates, and hospitals should be considered.

The more difficult questions are whether a payphone needs a subsidy and if so, the mechanism to finance that subsidy. Revenues from a payphone should be easy to calculate, but with all telecommunication services, determining the cost will be difficult. The current estimates for providing payphone service have a broad range.

In the case of a funding mechanism, the IURC staff has not determined the best methodology for creating a fund to subsidize public interest payphones. However, we do believe that all PSP's should be eligible to provide public interest payphones and receive a subsidy.

V. LETTERLESS KEYPADS

In order to bypass the payphone providers operator service provider, companies such as AT&T and MCI use vanity toll-free numbers (e.g., 1-800-call-AT&T). The FCC notes that some manufacturers produce keypads without letters.[15] Payphone providers install letterless keypads making it difficult for customers to use vanity numbers. The IURC Staff agrees with the FCC that these keypads violate the intent of the 1996 Act.[16] The IURC Staff recommends the FCC prohibit the placement of

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[15] Notice, ¶ 85, at 45.

[16] Notice, ¶ 87, at 46.

letterless keypads on payphones and should consider a penalty for violators.

Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

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1 Diskette