

EX PARTE OR LATE FILED

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L Street NW • Washington, DC 20037-1526

Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: 202-828-2226

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March 28, 1997

Federal Communications Commission
Office of General Counsel

Mary Beth Richards
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, DC 20554

**EX PARTE
PRESENTATION**

Re: State Tariffing Requirements of the Commission's Orders in
Implementation of the Pay Telephone Reclassification and
Compensation Provisions of the Telecommunications Act of 1996,
CC Docket No. 96-128

Dear Mary Beth:

As we discussed yesterday, we would like to stress one additional point on behalf of the American Public Communications Council ("APCC"). There has been a good deal of debate over the issue of which local exchange carrier ("LEC") services are required to be federally tariffed pursuant to the Payphone Orders.¹ This debate should not obscure the crystal clarity of the Reconsideration Order on a more fundamental point: It is indisputable that *existing* as well as new services provided to PSPs under *state* tariffs must be provided at cost-based rates meeting the "new services" test. The Bell Operating Companies ("BOCs") have failed to comply with this fundamental requirement and must do so as a prerequisite to qualifying for payphone compensation.

As discussed in our March 26 Motion for a Ruling on Bell Companies' Compliance with the Payphone Orders, Paragraph 131 of the Reconsideration Order requires that "LECs will be eligible for compensation when they have completed the requirements for implementing our payphone regulatory scheme to implement Section 276." These requirements include having effective state tariffs for "basic payphone

¹ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Notice of Proposed Rulemaking, 11 FCC Rcd 6716 (1996), Report and Order, FCC 96-388, released September 20, 1996 ("Payphone Order"), Order on Reconsideration, FCC 96-439, released November 8, 1996 ("Reconsideration Order").

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services" and associated "unbundled functionalities" that meet the requirements of the Payphone Orders. Id. Paragraph 163 of the Reconsideration Order, in turn, makes clear that new *and existing* state tariffed services must be nondiscriminatory and must be tariffed at cost-based rates meeting the FCC's "new services" test.

To APCC's knowledge, not a single Bell Company filed any state tariff revisions in response to the Reconsideration Order to adjust its existing "COCOT" service ("dumb line") rates to bring them into compliance with the new services test. The Bell companies did not even request state commission determinations (or even assert) that existing "COCOT" rates complied with this requirement, as required by the Reconsideration Order.

The Commission must require the Bell companies to bring their state-tariffed services into compliance before they may receive interim payphone compensation. These points are fully set forth in the comments of APCC and state associations on the Bell companies' CEI plans, and in APCC's March 26 Motion for a Ruling on the Bell Companies' Compliance with the Payphone Orders.

Sincerely,



Albert H. Kramer

AHK/nw

cc: Tom Boasberg	Craig Brown
Jim Coltharp	Christopher Heimann
Dan Gonzalez	Michelle Carey
Jim Casserly	Michael Pryor
A. Richard Metzger	Michael Carowitz
Regina Keeney	Dan Abeyta
Richard Welch	Carol Matthey
Rose M. Crellin	Judy Nitsche
Ann Stevens	John B. Muleta
Blaise Scinto	Radhika Karmarkar
Linda Kinney	Brent Olson