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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

COMMENTS OF
RCN TELECOM SERVICES, INC.

RCN Telecom Services, Inc. ("RCN"), through undersigned counsel and pursuant to the Federal Communications Commission's ("FCC" or "Commission")Public Notice of August 5, 1997, hereby submits its Comments in the above-referenced proceeding.[1] Specifically, RCN maintains that a $.35 default per-call compensation rate for subscriber 800 and access code calls is excessive and unjustified. As discussed below, the record in this proceeding is replete with evidence that the costs of local coin calls are substantially higher than those for coinless calls and, as a result, the default rate for coinless subscriber 800 and access code calls should be significantly less than the local coin rate. In light of the decision issued by the United States Court of Appeals for the District of Columbia Circuit and the record in this proceeding, RCN urges the FCC to adopt a per-call default compensation rate for subscriber 800 and access code calls that is more reasonably related to the true costs of completing such calls.[2]

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[1] FCC Public Notice, DA 97-1673 (August 5, 1997).

[2] *Illinois Public Telecomm. Ass'n v. FCC*, D.C. Circuit Nos. 96-1394, *et. al.* (July 1, 1997).

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DISCUSSION

In setting the $.35 default per-call rate for subscriber 800 and access code calls, the Commission determined that the compensation rate for such calls should be equal to the deregulated local coin rate. In *Illinois Public Telecomm.*, however, the D.C. Circuit Court ruled the Commission action arbitrary and noted that the "record in this case is replete with evidence that the costs of local coin calls versus 800 and access code calls are *not* similar."[3]

In reconsidering the $.35 default rate, the Commission should acknowledge that AT&T, Cable & Wireless, Sprint, WorldCom and others are correct in their assertions that local coin calls are more costly to payphone service providers ("PSPs") than subscriber 800 and access code calls, and that the use of a $.35 default rate for these coinless calls is excessive and inappropriate.[4] The reason for the disparity in the PSPs' costs for each of these very different types of calls is straightforward. First, when completing a local coin call the PSP bears the costs associated with originating and completing the circuit; by contrast, when handling a subscriber 800 or access code call, the PSP bears only costs associated with origination.[5] Where subscriber 800 or access code calls are involved the PSP avoids incurring cost associated with completion since the call is

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[3] *Illinois Public Telecom.*, No. 96-1394, slip op. at 14.

[4] *See, e.g.*, AT&T Corporation Reply at 6 (filed July 19, 1996); Cable & Wireless, Inc. Petition for Reconsideration at 5-6 (filed October 21, 1996); Comments of Sprint Corporation at 9 (filed July 1, 1996); WorldCom, Inc. Petition for Reconsideration at 8-9 (filed October 21, 1996).

[5] The IXC also incurs originating access charges for completing its subscriber 800 or access code calls. Under the current mechanism, therefore, subscriber 800 or access code calls originating from a PSP could foreseeably be subject to double originating access charges.

terminated by the underlying interexchange carrier.[6] In addition, the $.35 deregulated local coin rate includes costs associated with usage and coin collection costs. The PSP, however, does not incur these costs when it originates a subscriber 800 or access code call.[7] Even the American Public Communications Council, a representative voice of the payphone industry, has argued that the "local coin rate should be *higher* than the rate for a [coinless] call because of the usage and coin collection costs typically associated with coin calling."[8] Indeed, it has been estimated that the true costs of local coin calls are three times higher than those of coinless calls.[9] Accordingly, the $.35 default rate is clearly in excess of the true costs associated with originating subscriber 800 and access calls, and must therefore be reduced.

Even if the cost of providing local coin service were comparable to the cost of originating non-coin calls -- which it is clearly not -- there is insubstantial evidence in the record to utilize the $.35 rate. Indeed, the only evidence in support of this figure is that $.35 is the rate for unregulated local service in four *rural* states (Iowa, Nebraska, North Dakota and Wyoming). As recognized by AT&T in its Petition for Reconsideration and Clarification, payphones in these states account for

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[6] *See, e.g.* Reply Comments of AT&T Corporation at 12 (filed July 15, 1996) (stating when a PSP carries a local call, it is responsible for "local switching, call completion to the terminating party, central office coin service functionalities (if applicable) and all aspects of coin rating and collection." With a subscriber 800 or access call, however, "the PSP merely delivers the call from the payphone to the serving LEC central office.")

[7] These costs include: repair and maintenance costs associated with coin capable equipment; having someone empty coins from the payphones; thefts from coin operated payphones; as well as the ongoing necessity to engage in "coin rating" and billing. The PSP does not have to bear any of these costs when its phones are used to originate subscriber 800 and access code calls.

[8] Comments of APCC, at 16, n. 15 (filed July 1, 1996).

[9] *See Illinois Public Telecomm.*, No. 96-1394, slip op. at 14-15.

only 2% of total number of payphones in service. Moreover, it is possible that because none of these states are densely populated, the costs associated with a PSP's completion of local coin calls is actually much higher than it would be on average, nationwide. Accordingly, the record must be supplemented to further determine what the actual deregulated "market" rate for local calls would be for the majority of payphones located in other states.[10] It can not be presumed that $.35 is an accurate figure based upon data derived from only four rural states.

CONCLUSION

The Commission should adopt a default rate that more accurately reflects the costs that a PSP would reasonably incur in delivering a subscriber 800 or access code call. The appropriate manner to determine this rate is to determine the true rate that PSPs would provide deregulated local coin service on a nationwide basis and subtract those costs unique to the local coin rate (*e.g.,* coin equipment and collection, coin rating, originating and terminating access). It is clear from the *Illinois Telecomm. Ass'n* decision that a $.35 rate cannot be justified. Thus, rather than opting for a rate that is in some manner vaguely similar to the local coin rate, the Commission should provide a reasoned justification for the per-call compensation rate it ultimately adopts.

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[10] Indeed, even by the RBOC Coalition's estimates -- "its member's average costs for providing payphone access for *all* types of calls -- including coin calls -- ranges from $.25 to $.32" *See* AT&T Petition for Reconsideration and Clarification, CC Docket 96-128 at 11 (filed October 21, 1996).

For the foregoing reasons, RCN respectfully requests that the Commission act in accordance with the recommendations provided herein.

Respectfully submitted,

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Dated: August 26, 1997

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CERTIFICATE OF SERVICE

I, Cathy Sampson, hereby certify that a copy of the foregoing *Comments of RCN Telecom Services, Inc.*, CC Docket No. 96-128 was sent to each of the following parties by hand delivery and regular mail (denoted with asterisk) on this 26th day of August, 1997.

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