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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Re: *Ex parte presentation*, CC Docket No. 96-128

Dear Mr. Caton:

On behalf of the Ad Hoc Telecommunications Users Committee ("Ad Hoc"), in consultation with Economics and Technology, Inc. ("ETI"), we are writing in support of the payphone compensation cost study submitted by AT&T Corp. ("AT&T") in response to the Commission's *Public Notice*[1] on remand in the above-referenced proceeding. AT&T's cost study concludes that the level of compensation provided to payphone service providers (PSPs) should be 11¢ per call for dial around and subscriber 800 calls Ad Hoc's support for this study is based on the following conclusions:

1. The AT&T Study Is Cost-Based, Not Market-Based

The cost studies submitted to the FCC in this docket generally fit into one of two categories: cost-based or market-based.[2] AT&T submitted one of the few studies based on the *cost* of providing service rather than the *price* of providing service.[3] The Court of Appeals for the District of Columbia remanded the

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1 *Pleading Cycle Established for Comment on Remand Issues in the Payphone Proceeding*, CC Docket No. 96-128, DA 97-1673 (rel. Aug. 5, 1997) ("*Public Notice*").

2 The cost models reviewed as part of this analysis were submitted by three PSPs – Communications Central, Inc., Peoples Telephone Company, Inc. and Telaleasing Enterprises, Inc. – the American Public Communications Council ("APCC"), the RBOC/GTE/SNET Coalition ("RBOC Coalition") and three IXCs – AT&T Corp. ("AT&T"), MCI Telecommunications Corporation ("MCI") and Sprint Corporation ("Sprint").

3 The other cost-based study was submitted by MCI, in which 8.3¢ was determined as the appropriate compensation to PSPs. While the MCI study is plausible, the assumptions made therein

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Commission's 1996 *Payphone Orders*[4] in part because the Commission had failed to properly consider the *costs* of coin and coinless calls.[5] In its *Public Notice,* the Commission requested data on the difference in *cost* between subscriber 800/access code calls versus local coin calls.[6] Cost-based studies, therefore, are in accordance with the *Remand Order* and *Public Notice*. They also are the only way to establish compensation that is fair to the consumer, the PSP, and the carrier.

The RBOC Coalition and PSPs contend that the FCC should use "market-based surrogates" – such as the price of a local coin call or the commissions paid by IXCs for 0+ calls – as the basis for establishing compensation for dial around and subscriber 800 calls. As noted above, however, the Court of Appeals has rejected this proposal in favor of studies based on the cost of providing service.[7] As argued in many comments, most notably by Sprint, "the issue is not <u>whether</u> payphone compensation should be based on costs. Rather, the issue is <u>how</u> to determine the appropriate measure of cost."[8]

Those parties that support market-based compensation (e.g., APCC and the PSPs) inconclusively argue that costs are "highly subjective."[9] Economic theory does not support this argument. What might be subjective are the elements included in the total cost of providing service, but not the cost of the elements themselves.

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are based on cost factors which Ad Hoc and ETI were unable to compare to industry standards. The AT&T study employed assumptions utilized by competing cost studies and therefore is more verifiable.

4 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 20541; Order on Reconsideration, 11 FCC Rcd 21233 (1996) ("*Payphone Orders*").

5 *Illinois Public Telecommunications Association v. FCC et al.*, 117 F.3d 555, 563-564 (D.C. Cir. 1997) ("*Remand Order*"), *clarified by* Supplemental Opinion, 1997 U.S. App. LEXIS 24440 (Sept. 16, 1997) ("*Supplemental Order*").

6 *Public Notice* at 2.

7 *Remand Order*, 117 F.2d at 564 ("The FCC failed to respond to any of the data showing that the costs of different types of payphone calls are not similar.").

8 Sprint Comments on Remand at 3 (emphasis in original).

9 APCC Comments on Remand at 6. This argument appears throughout APCC's analysis and is also implied in the comments submitted by PSPs.

2. AT&T's Study is the Most Comprehensive in Differentiating Between Costs for Coin and Coinless Calls

Pursuant to the *Remand Order*, the FCC's *Public Notice* explicitly sought comments on the cost differential between coin and coinless calls.[10] There is no doubt that costs for coin and coinless calls are not identical and it would be wholly inappropriate to set coinless call prices based on higher average payphone call costs.

Of those cost studies responsive to this request, AT&T's study is the most complete in terms of differentiating the costs of coin and coinless calls. Not only are the costs for coin and coinless calls disaggregated, but the total cost of providing payphone service is presented in a clear and comprehensive manner. The affidavit accompanying AT&T's Remand Comments, which concludes that the costs of a coinless call are approximately 11¢, clearly and conclusively explains the costs avoided by coinless calls.[11]

This figure is further supported by a cost study performed by NYNEX and submitted to Massachusetts Department of Public Utilities. In this study, which was submitted for a tariff case seeking to increase local payphone rates from 10¢ to 25¢, NYNEX claimed the cost of a local coin call to be 16.7¢.[12] This study is criticized by the RBOCs on the grounds that it is not representative of the "fully embedded costs of operating payphones nationwide,"[13] the low number of calls in their case study, and that basic line charges are higher elsewhere.

That the NYNEX study does not represent the "fully embedded costs" of providing payphone service comes as no surprise. The NYNEX study in question represented an incremental, or forward looking cost study, the type of study favored by the FCC and the type of study that should be used to set prices in this matter. Moreover, the low call volume increases the per call cost. With higher call volumes, NYNEX's costs might have been even lower. Finally, while line charges may be

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10 The Court concluded that "IXCs showed the costs of local coin calls are higher because the PSP bears the cost of originating and completing local calls (i.e. end-to-end costs); by contrast, for coinless calls, the PSP only bears the costs of originating the calls. Even APCC, a trade group for independent PSPs, acknowledged that the costs of coin calls are higher than coinless calls." *Remand Order*, 117 F.3d at 563.

11 AT&T examined how the costs for equipment, installation, maintenance, replacement parts, coin collection and counting costs, and line costs differ for coin calls and coinless calls.

12 The study in which NYNEX calculated its costs to complete a call from a local payphone to be 16.7¢ is confidential and its use is restricted to Massachusetts DPU proceedings. In other words, how they calculated this figure, and not the figure itself, is considered proprietary. Nevertheless, assuming that the cost of coinless call is less than a coin call, the compensation rate should be less than 16.7¢.

13 RBOC Reply Comments, "Andersen Critique of Cost Studies and Other Issues" at 1.

higher elsewhere, the origination portion of the line charge – the only portion of the line charge appropriate to pass on to dial around and 800 subscriber providers – should not significantly alter the cost of a coinless call. Based upon data available to ETI and Ad Hoc, the NYNEX study appears to fairly represent the costs of a coin call. There has been no credible critique supporting that the study results would not be generalizable nationwide.

In contrast, the cost studies submitted by the RBOCs fail to disaggregate costs so that the costs for coin and coinless calls could be compared. For example, the RBOC Coalition asserts that "where a large proportion of costs are joint and common across multiple services, it does not make sense in a competitive market to base prices on an abstract, regulatory accounting cost allocations."[14] Moreover, although several PSPs argue that the cost of a coinless call at least equals, and perhaps exceeds, the cost of a coin call, no persuasive evidence is provided to support this assertion. APCC concedes that the cost of coin and coinless calls differ, even admitting that there are avoided costs associated with coinless calls. APCC follows this admission with the erroneous assertion that coinless calls incur additional costs greater than the avoided costs. These supposed additional costs, which APCC claims are excluded from the AT&T study, come from three sources: commission costs, collection costs, and local exchange line charges. All three of these charges are disputable.

3. AT&T's Assumptions Are Consistent With Those Relied Upon By The RBOCs and PSPs

The assumptions employed in the AT&T cost study regarding call volumes, discount rate, repair and maintenance costs, and the lifespan of equipment concur with the assumptions made in the studies submitted to the FCC by the APCC and other PSPs. In fact, to ensure concurrence AT&T compared and subsequently reassessed its assumptions after analyzing competing cost studies.

One critique of the AT&T study is that call volumes are overstated (AT&T's study uses all payphone calls as a base, not just coinless calls). This critique misunderstands the basis of the AT&T model. The AT&T model isolates from the total payphone costs those costs attributable only to coin calls. What remains are the costs applicable to <u>both</u> coin and coinless calls. This figure is then correctly divided by the average total number of calls per phone per month (700) to arrive at the 11¢ cost for a coinless call.

The only unsubstantiated assumptions in AT&T study are those relating to installation costs, for which there are no comparable figures submitted in other studies. This finding, however, in no way suggests that AT&T's figures are somehow inaccurate, but only that they were not submitted in any of the other studies.

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[14] RBOC Coalition Reply Comments on Remand at 10.

4. AT&T's Cost Study Is Forward Looking

AT&T's cost study represents one of only two studies submitted to the FCC that utilizes a forward-looking methodology; the other forward-looking cost study was submitted by MCI. This type of study complies with the guidelines set forth by the FCC governing how the cost of service, or elements of service, should by analyzed.

For the foregoing reasons, Ad Hoc urges the Commission to adopt the cost study submitted by AT&T, and set per call compensation for dial around and subscriber 800 calls at 11 cents per call.

Pursuant to Section 1.1206(a) of the Commission's rules, 47 C.F.R. 1.1206(a), we are filing the original and one copy of this letter.

If you have any questions, please do not hesitate to contact undersigned counsel for Ad Hoc.

Sincerely,

James S. Blaszak
Janine F. Goodman

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