Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

REPLY

MCI Telecommunications Corporation (MCI) hereby replies to the comments on the petitions of the United States Telephone Association (USTA), TDS Telecommunications Corporation (TDS) and the LEC ANI Coalition (Coalition) seeking a waiver of the Commission's requirement that local exchange carriers (LECs) provide unique payphone coding digits as part of ANI that can be transmitted with calls from payphones.

I. OLNS/LIDB

A number of local exchange carriers (LECs) argue that LECs should be allowed to provide unique payphone coding digits through originating line screening service (OLNS)/ line information database (LIDB). As demonstrated by MCI, however, OLNS/LIDB-- as currently provisioned by the LECs-- does not comply with the Commission's payphone order because a unique payphone coding digit is not provided with ANI. Rather, with OLNS/LIDB, the coding digit "07" is provided with ANI and the carrier must then query LIDB to obtain the unique payphone digit. None of the LECs demonstrates any "special circumstance" that would justify a waiver of the Commission's requirement. For example, not one of the LECs argues that Flex-ANI or hard-coding of unique payphone coding digits is not technically feasible. The only justification offered by the LECs is that they believe it would be more cost effective to implement OLNS/LIDB rather than to implement Flex-ANI or hard-code payphone coding digits at the switch.[1] However, as demonstrated by MCI, the Commission has already included the cost of hard-coding and/or Flex-ANI in the payphone compensation amount. Accordingly, cost to the LECs cannot be the basis of a waiver.[2]

In addition, the LECs' requests are untimely petitions for reconsideration of the Commission's payphone orders and are not properly considered in the context of a waiver. A waiver must implicitly accept the validity of the rules sought to be waived and thus may not be based on considerations that would be advanced in support of a change in the rules.[3] The LECs' requests to provide unique payphone coding digits via OLNS/LIDB, by their nature, are based on considerations that should be addressed in a rulemaking context-- namely, that they should not be

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[1] Illuminet Comments at 2-3; SNET Comments at 3; US West Comments at 2; TDS Comments at 2.

[2] LECs should be able to recover the cost of providing payphone coding digits to PSPs from PSPs since the payphone compensation amount set by the Commission includes the cost of information digits.

[3] Industrial Broadcasting Co. v. FCC, 437 F.2d 680, 683 (D.C. Cir. 1970); WAIT Radio v. FCC, 418 F.2d 1153, 1158 (D.C. Cir. 1969)

required to provide unique payphone coding digits as part of ANI. The rationale presented by the LECs-- that OLNS/LIDB is more cost effective for them to implement-- is the identical rationale that would be advanced and considered in a rulemaking proceeding in support of a change in the Commission's payphone orders. As in Station WHTR-TV, 47 Rad. Reg. 2d (P&F) 1130, 1132 at § 5, (1980):

> T]he petition [for waiver] does not really advance matters which would be appropriate in support of waiver of the rule- that is, circumstances which are peculiar to this situation and which distinguish it from the general run of situations to which the rule applies.... Rather, the matters advanced are considerations which... go to the basis for the rule itself, and should be evaluated in a rule-making proceeding....

The LECs' arguments could be raised by any other LEC. Such issues cannot be decided on the basis of a waiver request.[4] The LECs' petitions, accordingly, must be denied.

The comments also demonstrate that the use of OLNS/LIDB would be extremely costly for interexchange carriers to implement; it would degrade the efficiency of the network; and it could not be implemented for at least 12 months.[5] Accordingly, the LECs' waivers must be denied and the LECs must be required to provide unique payphone coding digits as part of ANI.[6]

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[4] See, Cincinnati Bell Tel. Co. Petition for Waiver, 9 FCC Rcd 7658, 7662, at para. 10 (1994) (where arguments "are actually an attack on the substance of" the rules, waiver denied.)

[5] Contrary to the statement by APCC at page 21 of its Comments, MCI has demonstrated that it cannot implement OLNS/LIDB for at least 12 months.

[6] APCC argues that the Commission needs to determine whether LECs should be required to implement Flex ANI universally. APCC Comments at 14. MCI disagrees. The Commission has ordered LECs to make available to PSPs unique payphone coding digits as part of ANI. There are at least two ways for LECs to do this-- namely, through Flex-ANI or by hard-coding the digits at the switch. The Commission does not need to require the LECs to use one of these methods over the other.

II. 0- TRANSFER SERVICE

Bell Atlantic (BA) and Southwestern Bell Telephone Company (SWBT), Pacific Bell and Nevada Bell argue that Flex ANI information digits cannot be delivered on 0- transfer service calls. Transfer service is when a caller dials "0" to reach the "0" carrier, and then asks the carrier-operator to transfer the call to another carrier. The call is transferred only if the other carrier has requested transfer service from the "0" carrier. Compensation on such calls, therefore, should be the responsibility of the "0" carrier. Of course, compensation would then become a cost to the "0" carrier, which could be added to the charge for transfer service.

III. FGB SERVICE

The Coalition argues that FGB is "simply incompatible with the transmission of any coding digits for '950' calls where the customer is connected at the tandem" and, therefore, LECs should not be required to provide payphone-specific digits to carriers "who elect to use Feature Group B."[7] SWBT, Pacific Bell and Nevada Bell also argue that information digits cannot be passed with FGB service.[8] Although ANI is not normally available with FGB, in an effort to implement the Commission's Payphone Reconsideration Order, MCI endeavored to work with

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[7] Coalition Comments at 6, n. 2. The Coalition also states that it "assumes that LECs are obligated to provide payphone-specific digits only to those carriers who request such digits." The Coalition is incorrect in this assumption as the Commission's orders clearly state that the LECs must provide unique payphone coding digits to PSPs, who then must transmit those digits with calls from payphones in order to be eligible for compensation. Carriers receiving calls from payphones must track and pay compensation on calls when the information digits are received with ANI. The orders in no way put any requirement on carriers to request coding digits from LECs. As MCI has stated before, if it receives unique payphone coding digits with ANI, MCI can track calls from payphones.

[8] SWBT, Pacific Bell and Nevada Bell Comments at 4.

the LECs to implement a "fix" so that ANI and information digits would be available on 950 calls and MCI would be able to track and pay compensation on those calls. Essentially, MCI asked the LECs to convert FGB circuits to FGD. Many LECs have since implemented the fix proposed by MCI and MCI should be able to track 950 calls from these areas. Based on information provided earlier this year, MCI believes that Pacific Bell and SWBT implemented the fix and converted 100% of the affected circuits by July, 1997. Accordingly, MCI is unaware of any reason why these carriers need a waiver with respect to 950 calls.

U S West, Nevada Bell, NYNEX and SNET, however, refused to make the changes requested by MCI on the grounds that 950 calling is minimal. It is MCI's understanding that there is no technical reason why these carriers could not implement the fix like the other carriers. Accordingly, the Commission should require LECs to either justify why they cannot provide ANI with 950 calling or require them to do so.

IV. NON-EQUAL ACCESS AREAS

The commenters do not oppose a waiver of the requirement to provide unique payphone coding digits with ANI at LEC non-equal access switches.[9] If the Bureau waives this requirement for LEC non-equal access switches, however, carriers should be allowed to pay compensation for payphones in non-equal access areas on either a per-phone or per-call basis. In addition, a waiver should be granted only until the switch is converted to equal access.[10]

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[9] APCC Comments at 19, n. 26.

[10] The Commission included the cost of upgrading non-equal access switches in determining the amount of per-call payphone compensation. Although including such costs was not appropriate under any circumstance, if the Bureau grants this waiver for non-equal access

The comments support MCI's position that per-phone compensation would have to be based on a greatly reduced estimate of the number of compensable calls given the rural nature of non-equal access areas.[11] Per-phone compensation was calculated by the Commission based on a nationwide average of 131 calls per phone. It follows that a per-phone compensation amount for payphones in non-equal access areas only, which are rural in nature, must be based on a much smaller number of calls per phone.

V. AT&T'S REQUEST

APCC apparently argues that AT&T's request for a waiver of the requirement to pay compensation on a per-call basis until PSPs are required to provide unique payphone coding digits with ANI should only be granted if all carriers are required to pay compensation on a per-phone basis rather than a per-call basis.[12] MCI objects to such a requirement. Rather, carriers that can pay per-call compensation during the waiver period should be able to do so.

MCI also opposes the argument of the Coalition and APCC that carriers should be required to pay compensation on a monthly basis.[13] In the payphone orders, the Commission left it to the parties to determine payment arrangements and there is no reason to mandate a specific payment schedule now. In addition, it simply is not feasible to pay compensation on a monthly

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LECs, the amount of compensation should be reduced, accordingly.

[11] The appropriate number of calls should be determined based on a call volume analysis of non-equal access areas only.

[12] APCC Comments at 28.

[13] APCC Comments at 25.

basis as long as carriers must rely on the current LEC ANI lists to determine the appropriate PSPs entitled to compensation because of the manual nature of the process and because the lists vary by format and data and they contain numerous inaccuracies. In any event, the Commission increased the per-call compensation amount to compensate PSPs for the delay in payment which results from a quarterly payment schedule. Accordingly, the PSPs are compensated for any costs they might incur and, therefore, there is no need for the Commission to impose a monthly payment schedule.

MCI supports AT&T's request that LECs should be required to indicate which switches are not currently able to transmit unique payphone coding digits. LECs also should be required to provide a schedule stating when they will provide unique payphone coding digits with ANI from their other switches.

VI. CONCLUSION

Based on the foregoing, MCI requests that the Bureau deny the requests of the LECs and APCC as discussed herein and in MCI's Comments.

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CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that the foregoing "Reply" was served this 6th day of November, 1997, by hand delivery or first-class mail, postage prepaid, upon each of the following persons:

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