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FEDERAL COMMUNICATIONS COMMISSION
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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

AT&T Reply

AT&T Corp. ("AT&T") hereby replies to the comments on the petitions for waiver of the Commission's rules regarding delivery of ANI identification digits filed by the United State Telephone Association ("USTA"), TDS Communications Corporation ("TDS"), and the LEC ANI Coalition ("Coalition") and AT&T's request for modification of the Common Carrier Bureau's sua sponte waiver issued on October 7, 1997. The comments show that the LECs' requests for general waivers should be denied; that a limited waiver covering only non-equal access offices should be granted; and that the Bureau's order should be modified as AT&T requested.

I. The LECs' General Waiver Requests Should Be Denied.

As APCC (p. 17) states, "[g]iven the revised USTA cost estimate" -- which lowers the anticipated cost of Flex ANI conversion for equal access offices by almost 90% from the ANI costs the Commission assumed in the Second Report and Order -- "there is no longer even a bad excuse for LECs to delay further

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their compliance with the Payphone Orders."[1] Thus, the LECs have failed to show the necessary special circumstances needed to justify a waiver,[2] and APCC (id.) accordingly agrees with AT&T[3] that all equal access LECs should be required to provide Flex ANI to PSPs and carriers no later than March 9, 1998.[4] APCC (p. iii) also recognizes that "[t]he record appears to favor Flex ANI as the least costly system that can fully and efficiently implement the required per-call [compensation] system."[5]

Enforcement of the March 9 date for Flex ANI implementation is clearly reasonable. BellSouth[6] and Ameritech (p. 2) have fully committed to comply by that date, and Bell Atlantic (p. 1) has stated it can meet that date (for its entire territory), with one minor exception.[7] The SBC companies also state (p. 2) that they "will do what is reasonably possible to help insure

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[1] See also AT&T October 30 Comments, pp. 1-3; MCI, p. 9.

[2] AT&T October 7 Comments, p. 5; MCI, p. 4; Worldcom, pp. 10-11.

[3] AT&T October 30 Comments, p. 3. See also Sprint, p. 4; Frontier, n.18.

[4] Several commenters even seek rescission of the Bureau's waiver in its entirety. CompTel, p. 1; Frontier, p. 2. See also RCN, n.13 (Bureau waiver is "particularly inequitable and procedurally suspect"); WorldCom, pp. 10-12 (same).

[5] See AT&T October 30 Comments, n.5.

[6] AT&T October 30 Comments, p. 3.

[7] Bell Atlantic (pp. 1-2) states that it may not be able to deliver Flex ANI on 0- transfer calls from one type of switch by a single manufacturer. This request should be treated in the same manner as the SBC companies' request, as described below.

compliance with the March 9, 1998 waiver date," which they describe as an "extremely aggressive" date. They request, however, a general extension until April 15. Given the LECs' prior intransigence on these issues, the ability of other large LECs to comply, and the need to complete promptly the transition to per-call compensation, there is no reason to extend their compliance date at this time.[8]

The SBC companies also request a permanent waiver for certain limited types of calls, which they state (p. 6) in the aggregate "represent a very small [but unstated] percentage of calls."[9] AT&T does not object to a waiver of the LECs' obligations to provide Flex ANI for these limited calls, provided that the Commission's rules are not also modified to require carriers to pay compensation for such calls. The SBC companies' claim (id.) that "per call compensation can be achieved" for calls covered by the waiver "by continued use of ANI lists and additional call information where needed" should be rejected. AT&T has already demonstrated that it would be inequitable and

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[8] As Frontier (p. 2) and Worldcom (p. 6) note, granting any waiver rewards LECs for their failure to comply with the Commission's clear requirements.

[9] The proposed waiver relates to 0- and misrouted calls from 47 DMS 100 and 100/200 switches; Feature Group B 950 calls where the customer is connected at the tandem; 800 or 888 calls routing to POTS telephone numbers; calls received over EAOSS trunk groups from DMS offices; Feature Group D 950 calls from 5ESS switches (when the industry moves to 4-digit CICs in June 1998) and calls from a number of DMS 10 switches until they are replaced in the second quarter of 1998.

costly to require carriers to develop additional tracking mechanisms for payphone calls at this late date.[10] Moreover, the SBC companies' proposal would require carriers to use two different types of tracking mechanisms for calls from the same payphone, an unreasonably expensive and wholly unworkable proposition for the "very small percentage" of calls that are affected.

Finally, contrary to TDS' (p. 3) and U S WEST's (p. 2) claims, there is no argument that the language of the payphone orders was unclear on whether 07 is a permissible indicator for payphone calls.[11] Indeed, TDS' argument fails because it omits the very words in paragraph 64 of the Reconsideration Order which squarely rebut its position: i.e., "Each payphone must transmit coding digits that identify it as a payphone and not merely as a restricted line (emphasis added)." There is no dispute that the 07 digits that would be provided as part of the OLNS solution only signify that a line is restricted.[12] This fact, together

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[10] AT&T October 7 Comments, pp. 6-7; letter from Elmer E. Estey, AT&T, to John Muleta, FCC, CC Docket No. 96-128, dated October 14, 1997 ("October 14 AT&T letter"). See also MCI, pp. 7-8; Sprint, p. 4.

[11] See also SNET, pp. 3-5 (supporting use of OLNS/LIDB for the delivery of payphone identification digits).

[12] MCI, p. 7. In addition, MCI (pp. 5-6) demonstrates that U S WEST (p. 2) is simply wrong in its "belief" that the OLS Order ever applied in this docket (see also Illuminet, pp. 2,3), because that order does not even reference 800 subscriber calls, which represent a large majority of the calls subject to per-call compensation. And Worldcom (pp. 3-4) shows that the RBOC

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with the Commission's express references in the Second Report and Order (¶ 57) to the costs for delivery of specific ANI coding digits using Flex ANI, forecloses all arguments that a LIDB/OLNS solution is permissible.[13] Further, as demonstrated by AT&T and MCI, there is no reason to require carriers to incur the additional expenses such a process would require.[14]

II. A Limited Waiver Should Be Granted For Non-Equal Access Offices.

There is unanimous agreement that the Commission should grant a limited waiver for non-equal access LEC offices.[15] Even the APCC, whose members would be the principal beneficiaries of the requirement to deliver Flex ANI digits, specifically argues (n.20) that the Commission "should not require [non-equal access] end offices to upgrade to equal access capability for the purpose of providing payphone specific ANI digits," because the costs of such upgrades are too high and because "[t]hese end offices are generally acknowledged to serve only a small number of payphones."

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Payphone Coalition appears to have supported the LECs' delivery of specific payphone digits over a year ago.

[13] The Commission has clearly treated Flex ANI separately from proposed OLNS solutions. Paragraph 58 of the Second Report and Order contains separate references to Flex ANI and "original [sic] line screening technology."

[14] AT&T October 7 Comments, p. 6; MCI, pp. 7-8.

[15] E.g., AT&T October 7 Comments, pp. 7-8; CompTel, n.2; Frontier, n.11,; MCI, p. 3; NECA, pp. 2-3; Sprint, p. 3.

Most commenters also agree with AT&T that such a waiver should be subject to a several conditions. First, the waiver should only apply until a LEC office is converted (for non-payphone related reasons) to equal access.[16] Second, the waiver should be based on a new traffic study that more accurately reflects payphone usage in the areas that would be covered by the waiver.[17] Contrary to APCC's view (n.20), it would be inappropriate to assume that this relatively small group of phones, which are typically in less populated rural areas, would have the same average calling volumes as all phones nationwide.[18] Thus, as Frontier (n.11) suggests, the Commission should order non-equal access LECs to coordinate on such a study promptly, so that it can be available for use by March 9, 1998, when the Bureau's waiver (which applies to both equal access and non-equal access offices) expires. Finally, as AT&T noted, some allowance should be made in the compensation rate for the fact that carriers will have to maintain duplicative payment systems to accommodate the waiver.[19]

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[16] E.g., AT&T October 7 Comments, n.9; APCC, n.20; CompTel, n.2; MCI, p. 4.

[17] E.g., AT&T October 7 Comments, p. 7; MCI, pp. 3-4; Frontier, n.11.

[18] The fact that the national average was used in connection with the payment of dial-around compensation (see APCC, n.20) is irrelevant. Compensation under the current scheme involves substantially more calls, the majority of which is 800 subscriber traffic.

[19] AT&T October 7 Comments, pp. 7-8.

III. The Bureau's Sua Sponte Waiver Must Be Modified To Permit Carriers To Pay Per-Phone Compensation.

AT&T's October 14 letter clearly explained that the Bureau's sua sponte waiver ignored record evidence which showed that, contrary to the Bureau's assumption, AT&T and similarly situated carriers would be significantly harmed by the waiver. No commenter opposes AT&T's request that the waiver be modified to permit such carriers to pay payphone compensation on a per-phone basis during the period that the Bureau's waiver is in effect.[20] APCC and the LEC Payphone Coalition, however, seek to impose unreasonable conditions on AT&T's request.

AT&T's request for modification asked that carriers who are not currently able to perform "database matches" of 07 coded calls should be permitted to pay per-phone compensation based upon the same formula that the Commission ultimately orders for the initial per-phone period.[21] AT&T expects that the Commission will release its decision on those issues well before the end of March, 1998, the time when compensation will be due for the period beginning October 7, 1997.[22]

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[20] See APCC, p. 24; MCI, p. 3; Sprint, pp. 3-4.

[21] Contrary to APCC's claim (p. 21) the fact that AT&T has paid compensation on 800 subscriber calls in a single state (which it has done using a separate system that has actually paid on a per-phone basis) does not imply that it could develop a national per-call tracking and payment system in the time required to make payments for the fourth quarter of 1997.

[22] See LEC Payphone Coalition, p. 5. Moreover, provided that the Commission timely issues a decision on interim par-phone compensation, AT&T expects that per-phone compensation for

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APCC (pp. 26-34) and the LEC Payphone Coalition (pp. 4-8), however, appear to request that the Commission establish a separate compensation scheme that would apply only to the waiver period. This is inefficient and unnecessary, and it would only add expense and complication to the already complex processes for tracking and paying payphone compensation.

First, APCC (p. 26) and the LEC Payphone Coalition (pp. 7-8) suggest that the Commission increase the number of calls for which compensation would be due, based on new traffic studies. However, there is no evidence that APCC's study is statistically valid, nor is there evidence that the BellSouth study submitted by the LEC Coalition applies nationally.[23] Thus, there is no basis for increasing the number of compensable calls above 131, a figure which the Commission developed in the initial Payphone Order and which was never appealed by any party. Moreover, the LEC ANI Coalition already suggested that compensation during an interim period could be based on "whatever system the Commission imposes on remand."[24] That is all AT&T seeks here.

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payphones covered by the modification would be made in the same timeframe as per-call compensation (see APCC, p. 24).

[23] The BellSouth study also relies on an assumption that 25 seconds is sufficient to determine whether a call is completed (see Conley Affidavit, p. 2). AT&T believes that this is not sufficient to provide reliable results.

[24] Letter from Michael K. Kellogg, counsel for the LEC ANI Coalition, to Richard H. Rubin, counsel for AT&T, dated October 22, 1997, p. 22.

Second, the PSPs' requests that payments be made on a monthly basis[25] are not only outside the scope of this proceeding, they are also inconsistent with the Second Report and Order, which includes an interest factor to account for the current payment cycles.

Further, APCC suggests that the Commission require both "provisional" payments and two additional true-ups in connection with AT&T's requested modification. These are time-consuming, complicated and unnecessary steps which should be rejected. Moreover, to the extent APCC intends these proposals to apply to the initial per-phone compensation period, they are improperly raised in this context, which addresses only the LECs' waiver requests and AT&T's request to modify the Bureau's sua sponte waiver.[26]

The Commission should also reject the LEC Payphone Coalition's suggestion (p. 7) that carriers should only be allowed to pay per-phone compensation on subscriber 800 calls. As noted above, there is no reason why carriers should be required to maintain multiple tracking mechanisms and payment processes for a single phone. And given the LECs' consistent unwillingness to implement the Commission's clear requirements in

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[25] APCC, p. 24; LEC Payphone Coalition, p. 5.

[26] The LEC Payphone Coalition's suggestion (p. 5) that the requested modification should be based on payment of compensation for the pre-October 7, 1997 period ignores the fact that the Commission has not yet established on remand what those obligations are. Therefore, they cannot be a requirement here.

the Reconsideration Order, it would be unreasonable to require carriers to bear such additional costs.[27]

Conclusion

For the reasons stated above and in AT&T's prior comments, the requests for general waivers of the Commission's Flex ANI delivery requirements should be denied; a limited waiver of those rules should be granted for non-equal access end offices; and AT&T's request to modify the Common Carrier Bureau's sua sponte waiver should be granted.

Respectfully submitted,

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[27] Sprint (p. 5) supports AT&T's reasonable request that LECs provide implementation schedules for Flex ANI, and that such schedules be coordinated to cut over on the first day of a compensation month. Despite the LEC Payphone Coalition's assertion (p. 9), after-the-fact information regarding office cutovers are insufficient to enable carriers to plan for such changes.

CERTIFICATE OF SERVICE

I, Rena Martens, do hereby certify that on this 6th day of November, 1997, a copy of the foregoing "AT&T Reply" was served by U.S. first class mail, postage prepaid, to the following parties:

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