

FEDERAL SECTION

Federal Communications Commission

DA 97-2321

DISPATCHED BY

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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

## ORDER

Adopted: November 4, 1997

Released: November 4, 1997

By the Acting Chief, Enforcement Division, Common Carrier Bureau:

1. On October 29, 1997, the American Public Communications Council (APCC) filed a motion for extension of time for filing reply comments<sup>1</sup> in response to the *Public Notice*<sup>2</sup> regarding petitions to waive certain payphone-specific coding digit requirements established in the *Payphone Orders*.<sup>3</sup> Reply comments in response to the *Public Notice* are due on November 6, 1997. APCC requests an extension for three additional business days or until November 11, 1997, pursuant to Section 1.46 of the Commission's Rules. We deny APCC's request.

2. On October 7, 1997, the Common Carrier Bureau granted on its own motion a limited waiver until March 9, 1998, to those local exchange carriers (LECs) and payphone service providers (PSPs) that cannot provide payphone specific digits as required by the *Payphone Orders*.<sup>4</sup> The Bureau stated that an immediate waiver was necessary to begin per-call

<sup>1</sup> Motion for Extension of Time of the American Public Communications Council, October 29, 1997 (APCC Motion).

<sup>2</sup> Pleading Cycle Established For Petitions to Waive Payphone Coding Digits Requirements, DA 97-2214, released October 20, 1997.

<sup>3</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 20,541, 20,591, paras. 98-99 (1996); Order on Reconsideration, 11 FCC Rcd 21,233, 21,265-66, 21,278-80, paras. 64, 93-99 (1996) (together the "*Payphone Orders*"), vacated and remanded in part, *Illinois Public Telecommunications Ass'n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997); *Supplemental Opinion*, September 16, 1997; see also Second Report and Order, CC Docket No. 96-128, FCC 97-371 (October 9, 1997).

<sup>4</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Order, DA 97-2162 (Com. Car. Bur., Oct. 7, 1997) ("*Coding Digit Waiver Order*"). This limited waiver applies to the requirement that LECs provide payphone-specific coding digits to PSPs, and that PSPs provide coding digits from their payphones before they can receive per-call

compensation on October 7, 1997, in keeping with the Commission's mandate under Section 276 of the Communications Act. The limited waiver recognized that three parties, United States Telephone Association, LEC ANI Coalition, and TDS Communications Corporation, filed petitions for waiver of the payphone-specific coding digit requirements.<sup>5</sup> The *Public Notice* seeks comments on those waiver requests.<sup>6</sup> The *Public Notice* also addresses filings from AT&T indicating that it could not comply with the requirements of the *Coding Digit Waiver Order*, and proposing alternative methods of compliance.<sup>7</sup>

3. In its motion for extension of time, APCC states that additional time is needed because there are "many difficult issues to consider and resolve with respect to payphone coding digits," and that industry segments, such as IXC's and LEC's, are likely to have "widely diverging views."<sup>8</sup> APCC also states that the pleading cycle established in the *Public Notice* conflicts with an APCC conference.<sup>9</sup> APCC argues that it without the extension of time it will be unable to collect its members' views and incorporate those views into the reply comments.<sup>10</sup>

4. We deny the APCC Motion for several reasons. The Commission does not routinely grant time extensions.<sup>11</sup> We also note that parties have filed extensive pleadings on the issue of coding digits in the ruling proceeding, so the views of parties are not being revealed for the first time in the comments. Moreover, as stated by APCC, and as reflected in the *Coding Digit Waiver Order*, the provision of payphone-specific coding digits is an essential element of the per-call compensation scheme established in the Payphone Orders.<sup>12</sup> In the *Coding Digit Waiver Order*, we granted on our own motion a waiver of the requirements for LEC's and PSP's

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compensation from interexchange carriers (IXC's) for subscriber 800 and access code calls.

<sup>5</sup> *Coding Digit Waiver Order* at paras. 5-7.

<sup>6</sup> *Public Notice* at paras. 2-4.

<sup>7</sup> *Id.* at paras. 5-6.

<sup>8</sup> APCC Motion at 2, 4.

<sup>9</sup> *Id.* at 2.

<sup>10</sup> *Id.* at 3. APCC argues that the Commission should grant this extension because it granted similar extensions in other proceedings: *Represcribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, CC Docket No. 89-624, 5 FCC Rcd 3450 (Com. Car. Bur. 1990); *Competition in the Interstate Interexchange Marketplace*, CC Docket No. 90-132, 5 FCC Rcd 3530 (Com. Car. Bur. 1990).

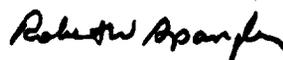
<sup>11</sup> 47 C.F.R. § 1.46. Section 1.46(a) states "[i]t is the policy of the Commission that extensions of time shall not be routinely granted."

<sup>12</sup> See APCC Motion at 2; *Coding Digit Waiver Order* at paras. 4, 11.

to provide coding digits effective October 7, 1997 to ensure that per-call compensation proceeded as planned.<sup>13</sup> We are aware, however, that there are a number of significant economic and technological matters at issue with respect to the provision of payphone-specific coding digits, and we believe it is therefore in the interest of both the industry and the public that we proceed on schedule to obtain a final resolution of this matter. Given the above considerations, we are not persuaded by APCC's arguments that the special circumstances associated with its conference are sufficient to justify a delay in this proceeding. Moreover, we do not find persuasive APCC's argument that extensions of time that were granted in other proceedings with different circumstances and issues serves as a basis to provide an extension in this proceeding.

5. Accordingly, IT IS ORDERED, pursuant to Sections 1 and 4 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, and the authority delegated by Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the October 29, 1997 motion by the American Public Communications Council to extend the reply comment period IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Robert W. Spangler  
Acting Chief, Enforcement Division  
Common Carrier Bureau

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<sup>13</sup> The Bureau stated that an immediate waiver was necessary to begin per-call compensation on October 7, 1997, in keeping with the Commission's mandate under Section 276 of the Communications Act. *Coding Digit Waiver Order* at para. 2 (citing 47 U.S.C. § 276).