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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-128 DA 97-2214

PETITION OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL FOR PARTIAL RECONSIDERATION

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TABLE OF CONTENTS

Page No.

SUMMARY ii

STATEMENT OF INTEREST 1

BACKGROUND 2

DISCUSSION 5

I. COIN MECHANISM COSTS MUST BE INCURRED IN ORDER TO HAVE A PAYPHONE, AND SHOULD BE ATTRIBUTED TO ALL CALLS 9

II. THE RECORD PROVIDED A BASIS FOR ESTIMATING THE COST OF COLLECTING DIAL-AROUND COMPENSATION 14

III. THE COST OF ANI DIGIT UPGRADES IS OCCASIONED BY DIAL-AROUND COMPENSATION AND SHOULD BE ATTRIBUTED TO DIAL-AROUND CALLS ONLY 16

A. The Cost Of ANI Digit Upgrades Should Be Divided By The Number Of Dial-Around Payphone Calls, Not The Total Number Of Payphone Calls 16

B. The Manner In Which LECs Actually Recover Their Cost Of ANI Digit Upgrades Should Be Reflected In Dial-Around Compensation Rates Applicable To "Smart" and "Dumb" Payphone Lines 17

IV. THE REVISED COMPENSATION RATE SHOULD APPLY TO THE PRE-OCTOBER 6, 1997 PERIOD 18

CONCLUSION 20

SUMMARY

In the Second Report and Order, the Comission adopted a conservative approach to represcribing compensation for payphone service providers ("PSPs") for "dial-around" calls. On reconsideration, the Commission should reexamine a number of alternatives, such as the use of blended market surrogates that incorporate 0+ commission levels as well as or in lieu of local coin rate levels, as the baseline benchmark for calculating dial-around compensation.

Further, in implementing its chosen approach of adjusting the local coin calling rate for cost differences between local coin calls and dial-around calls, the Commission made a number of mistakes that require reconsideration.

First, the Commission incorrectly determined that the portion of fixed payphone costs that relates to the payphone's coin mechanism should be attributed solely to local coin calls, and not to dial-around calls. The Commission's economic rationale for this determination incorrectly assumes that a PSP first decides whether to put in a payphone at all, based on expected revenue from coinless calls alone, and that only after cost-justifying a coinless payphone based on coinless calls does the PSP consider whether the additional costs of a coin mechanism are justified by the revenue from "additional coin traffic". The Commission's reliance on this economic model is logically inconsistent. If the model were accurate, it would require that dial-around compensation be set high enough to ensure that all costs of a coinless payphone can be recovered from coinless calls.

However, the model is inconsistent with the reality of the payphone industry. In reality, few if any locations can support coinless payphones from coinless revenue, and PSPs rely on revenues from all calls -- coin and coinless -- to support fixed costs of payphones with coin and coinless capabilities. The Commission should reconsider its treatment of coin capability costs in light of this reality and should add back the 3.1 cents that was subtracted from the compensation rate as a coin mechanism cost differential.

Second, the Commission should reconsider its refusal to adjust the local calling rate by adding an allowance for dial-around uncollectibles and collection fees and expenses. The Commission disregarded evidence submitted by APCC indicating dial-around uncollectibles, fees, and expenses will average 4.3 cents per call.

Third, the Commission should reconsider the level of its adjustment for ANI digit upgrade costs. The Commission should have divided the estimated monthly cost of ANI digit upgrades by 116, the number of dial-around calls at a low-volume location. Instead, it divided the cost by 542,. the total call volume estimated at a low-volume location.

In addition, the Commission should reconsider the ANI digit adjustment to the extent necessary to reflect any differential in upgrade charges assessed on PSPs subscribing to "smart" and "dumb" payphone lines.

Finally, the various revisions made on reconsideration should be applied retrospectively, to the pre-October 1997 period, as well as prospectively to the post-October 1997 period.

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PETITION OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL FOR PARTIAL RECONSIDERATION

The American Public Communications Council ("APCC") hereby petitions for partial reconsideration of the Second Report and Order in this proceeding, FCC 97-371, released October 7, 1997.

STATEMENT OF INTEREST

APCC is a national trade association of some 2,000 independent (non-local exchange carrier) payphone service providers ("PSPs"). APCC's membership also includes equipment manufacturers, suppliers, and service providers serving the payphone industry. For the last eight years, APCC has actively participated in federal legislative and regulatory proceedings in order to ensure fair compensation of payphone providers for the use of their payphones.

BACKGROUND

Since at least 1990, payphone service providers have been compelled to deliver to interexchange carriers ("IXCs") all calls dialed from their payphones with access codes or "subscriber 800" numbers. 47 U.S.C. § 226(c).[1] Such "dial-around" calls generate hundreds of millions of dollars in revenue annually for IXCs. Yet, IXCs do not voluntarily share any of this revenue with PSPs. In 1990, Congress required the Commission to consider prescribing compensation for independent PSPs[2] for originating dial-around calls. 47 U.S.C. § 226 (e)(2). The FCC, in 1992, required that the IXCs compensate independent PSPs at a rate of $.40 for each interstate access code call, on an assumed base of 15 calls per payphone per month. Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Second Report and Order, 7 FCC Rcd 3251 (1992). However, the FCC erroneously ruled that it was not authorized to prescribe any

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[1] Section 226(c) expressly requires unblocking of "access codes." Access codes include specialized dialing sequences such as 10XXX, 101XXXX and 950-XXXX, as well as hundreds of "800" numbers such as 1-800-CALL-ATT and 1-800-COLLECT, which enable the caller to reach a carrier's calling platform for "operator-assisted" calls. "Subscriber 800" numbers include all other "toll-free" 800 (and 888, 877, etc.) numbers such as 1-800-FLOWERS, airline and hotel reservation numbers, and the like. Because it is impractical for a payphone to differentiate the large and ever-increasing class of "access" 800 numbers from the remaining "subscriber" 800 numbers, payphone providers were compelled to allow free calling to all 800 numbers. Calls to access code and subscriber 800 numbers are known in the payphone industry as "dial-around" calls because they are not subject to the commission arrangements negotiated between the payphone provider and its presubscribed service provider(s).

[2] Compensation for use of local exchange carrier ("LEC") payphones was not addressed at this time because LEC payphones were still part of the rate base and LEC payphone costs were fully recoverable from regulated revenue requirements, including access charge subsidies.

compensation for subscriber 800 calls. While that ruling was on review, the volume of subscriber 800 and access code calls increased dramatically, reaching an estimated 152 calls per payphone per month by 1996. See APCC Remand Comments, Att. 4.[3] Thus, independent PSPs were effectively uncompensated for 90% of their total volume of dial-around calls. In 1995, the court of appeals ruled that the FCC had erred in interpreting its statutory authority and remanded the case to the FCC to correct its error. Florida Public Telecommunications Ass'n v. FCC, 54 F.3d 857 (D.C. Cir. 1995) ("FPTA").

Before the FCC could act on the 1995 remand, Congress enacted the Telecommunications Act of 1996. Congress explicitly directed the FCC to expand its deficient compensation plan, and to "ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone." 47 U.S.C. § 276(b)(1)(A). The Commission was also required to terminate the existing access charge subsidies for LEC payphones and to incorporate LEC payphones into the new compensation plan. Id., § 276(b)(1)(B). Congress required the Commission to complete "all actions necessary" to establish the new compensation plan within nine months after the date of enactment, or by November 8, 1996. Id., § 276(b)(1).

The Commission acted diligently and expeditiously to complete the compensation plan within the prescribed deadline, and the new compensation plan took

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[3] Comments and reply comments in the proceeding that led to the Second Report and Order are referred to herein with the name of the party and "Remand Comments" or "Remand Reply Comments."

effect for independent PSPs on November 8, 1996.[4] Report and Order, 11 FCC Rcd 20541, recon., 11 FCC Rcd 21233 (1996). Under the new plan, IXCs were required to compensate PSPs for subscriber 800 and access code calls at a market-based rate of 35 cents per call, for the first two years, and subsequently at a "default" rate equal to the deregulated rate for local coin calls.[5]

With this FCC decision, it appeared that the statutory mandate of Section 276 had been fulfilled, ending the IXCs' six-year "free ride" in which independent PSPs went uncompensated for 90% of the dial-around calling from their payphones. However, in decisions issued July 1, 1997 and September 16, 1997, the court of appeals vacated and remanded the compensation plan for further consideration by the Commission. Illinois Public Telecommunications Association v. FCC, 117 F.3d 555 (D.C. Cir. 1997)("IPTA"), Supplemental Opinion, 123 F.3d 693 (D.C. Cir. 1997)("IPTA Supp."). The court concluded that the Commission had not justified setting the compensation rate equal to

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[4] With respect to LECs, the regulations were completed by November 8; but LECs were allowed five months, or until April 15, 1997, to complete the removal of access charge subsidies and switch to the new compensation plan.

[5] Because carriers had not yet deployed the capability to track all compensable calls, the Commission's plan further provided that, in the first year of the two year interim compensation period, PSPs would be compensated at a flat rate of $45.85 per payphone per month, based on 35 cents times the estimated average volume of 131 access code and subscriber 800 calls per payphone per month. Carriers with more than $100 million annual toll revenues were to contribute shares of the $45.85 per phone payment based on their shares of the overall toll market. The prescription of flat-rate interim compensation was also vacated and remanded by the court of appeals. Compensation for this one-year "flat-rate" period, therefore, has been interrupted pending further action by the Commission.

the local coin calling rate. Noting that the Commission had found that the costs of local coin calls and subscriber 800 and access code calls are similar, the court faulted the Commission for failing to address evidence in the record indicating that the costs of the calls are not similar. IPTA, 117 F.3d at 563-64.[6]

On remand, the Commission prescribed a new dial-around compensation rate, which became effective October 7, 1997. The new rate is 6.6 cents *less* than the vacated rate:[7] a uniform 28.4 cents per call for the first two years, and subsequently 6.6 cents less than the local coin rate at each payphone. Second Report and Order, ¶ 1, Appx. C.

DISCUSSION

In its remand proceeding, the Commission acted to correct the mistakes identified by the court of appeals in the Commission's original prescription of dial-around compensation. In vacating the originally prescribed rate, the court did not disapprove the use of market-based local coin rates as a benchmark. The court remanded the FCC's original compensation rate solely because: (1) in setting the dial-around rate equal to the local coin rate, the FCC relied upon its finding that the costs of dial-around calls and local coin calls are similar; and (2) the FCC failed to address record evidence indicating that the costs of the two types of calls are not similar. 117 F.2d at 563-64.

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[6] The Court did *not* reject the Commission's adoption of a market-based approach to setting compensation rates. Indeed, it specifically affirmed the Commission's reliance on market forces to determine fair compensation for local coin calls. Id. at 563.

[7] The new rate is *more than ten cents less* than the 40-cents-per-call dial-around rate established by the Commission in 1992.

On remand, the FCC reasonably continued to adhere to a market-based approach to setting compensation for dial-around calls. However, the Commission conducted additional analysis and collected additional data to determine the difference in the costs attributable to local coin calls and dial-around calls, and to ensure that the difference is reflected in the compensation rate.[8] The compensation rate was redetermined based on the market-based local coin calling rate *minus* the net differential between costs attributable to local coin calls and costs attributable to dial-around calls. The Commission then checked the results of this analysis by considering record evidence of total payphone provider costs attributable to dial-around calls. Second Report and Order, ¶ 26.

The Commission's overall approach to the remand proceeding was substantially more conservative, and resulted in a substantially lower dial-around rate, than a number of other approaches the Commission could have taken consistently with the court of appeals decision. On remand, the Commission could have relied upon different market-based surrogates such as commissions paid to PSPs by IXCs for routing 0+ operator-assisted calls,

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[8] Although the court of appeals decision focused on evidence in the record of the 1996 proceeding that tended to show that the costs of local coin calls are *higher* than the costs of dial-around calls, APCC and others showed that this evidence was mostly illusory and that, in fact, the existing record of the 1996 proceeding supported the inference that the avoidable costs of dial-around calls are as high or possibly even higher than the avoidable costs of local coin calls. See, e.g., APCC's Opposition to Petitions for Reconsideration of IXCs and Messaging Providers, filed October 28, 1996, at 11-15 (showing that the costs of coin calling capability are attributable to all categories of calls); Letter to William F. Caton from Albert H. Kramer dated September 16, 1996 ("APCC 9/16/96 Ex Parte") (showing that collection costs are likely to be at least as high for dial-around calls as for coin calls). Even based on the existing record, therefore, correcting the flaw in the Commission's reasoning identified by the court did not require any reduction in the 35-cent dial-around rate.

as an alternative to, or supplement to, local coin call rates. See APCC Remand Comments at 7-9 (estimating AT&T's 0+ commission levels at 45-80 cents per call); RBOC/GTE/SNET Payphone Coalition Remand Comments at 24-26 (estimating 0+ commission levels, adjusted for the lower price of dial-around calls, to be 39-63 cents per call). These market-based surrogates would have resulted in a higher dial-around compensation rate, both because the average 0+ commission level is higher than the local coin calling rate and because there is no cost differential to be subtracted to take account of costs attributed to 0+ calls that are not attributable to dial-around calls.[9]

The Commission also could have set the dial-around rate based on the "bottoms-up" cost data submitted by independent payphone providers. These submissions showed that the cost per call for purposes of dial-around compensation is in the neighborhood of 35-40 cents per call. APCC Remand Reply Comments at 22-23.

APCC believes these alternatives should be re-examined based on the considerations addressed in the comments and reply comments of APCC and the RBOC/GTE/SNET Payphone Coalition.

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[9] RBOC/GTE/SNET Payphone Coalition Remand Comments, Declaration of Professor Jerry A. Hausman, ¶ 22. Indeed, the costs of 0+ calls are likely to be *lower than* the costs of dial-around calls. Because 0+ commissions are collected from a "friendly" IXC with which the PSP has a contract, PSPs do not incur the same collection costs for 0+ calls as for dial-around calls. In addition, the record does not indicate that ANI upgrades are required in order to enable IXCs to track 0+ calls.

APCC also has specific concerns with the Commission's implementation of its chosen approach. In implementing its overall approach, the Commission made a number of mistakes that require reconsideration, as discussed below.

In represcribing the dial-around compensation rate, the Commission began with the proposition that compensation should be set equal to the market rate established for local coin calls, adjusted for any differences between the avoidable costs attributable to local coin calling and dial-around calling. Second Report and Order, ¶¶ 23-28, 42. The Commission concluded that the following costs should be *subtracted* from the local coin calling rate, on the grounds that they are attributable only to local coin calling: (1) the capital costs of the payphone's coin mechanism (3.1 cents per call) (Id., ¶¶ 52-53); (2) the per-message or per-minute charges assessed by LECs on PSPs for transmission of local coin calls (2.5-3.0 cents per call) (Id., ¶ 54);[10] and (3) the costs of collecting coins and maintaining the coin mechanism (2.1-3.0 cents per call) (Id., ¶ 55). The Commission concluded that the following costs should be *added* to the local coin calling rate to reflect avoidable costs of dial-around calls that are not attributable to local coin calls: (1) the cost of upgrading local exchange networks to ensure that ANI ii digits that uniquely identify

[10] APCC is not seeking reconsideration of the Commission's estimate of these costs. However, Paragraph 54 confusingly uses the term "line charges" to describe these costs. "Line charges" usually means the charges assessed for the local exchange line, apart from any per-call usage charges. These fixed charges are properly attributed to both local coin calls and dial-around calls. APCC estimated local usage charges averaging about 3 cents per call, approximately the same as the Commission's estimate. However, the Second Report and Order incorrectly described APCC's estimate as an estimate of "local exchange line charges" and incorrectly included them in the bottoms-up cost analysis under the heading "Payphone Lines".

payphone lines are transmitted with payphone calls (1.0 cent per call) (Id., ¶ 57); and (2) the interest or capital cost attributable to the delay in collecting dial-around compensation (0.8 cents per call) (Id., ¶ 59). These cost differences netted out to a subtraction of 6.6 cents per call. Based on its estimate that the market rate for local coin calls averages about 35 cents per call, the Commission prescribed dial-around compensation for the first two years at a rate of 35 cents minus 6.6 cents, or 28.4 cents per call.

In thus implementing its approach based on the market-based local coin calling rate, adjusted for the differential between the avoidable costs attributable to local coin calls and dial-around calls, the Commission made the following mistakes, which should be corrected on reconsideration.

I. COIN MECHANISM COSTS MUST BE INCURRED IN ORDER TO HAVE A PAYPHONE, AND SHOULD BE ATTRIBUTED TO ALL CALLS

As noted above, the Commission subtracted 3.1 cents from the local coin calling rate based on its determination that the capital costs of a payphone's coin mechanism are an avoidable cost of local coin calls that is not attributable to dial-around calls. The Commission should reconsider this determination.

In its comments, APCC and others showed that the fixed costs of the payphone, including any portion of the fixed costs that is related to the coin calling capability of the payphone, should be attributed to all calls. APCC Remand Comments at 11-12; Peoples

Telephone Co. Remand Comments at 6-7; RBOC/GTE/SNET Payphone Coalition Remand Comments at 16-17.[11]

The Commission determined that the fixed costs attributed to the coin mechanism of the payphone should be attributed solely to coin calls. The Commission reasoned as follows:

> Because we are looking at the long run, where all costs are avoidable, we consider the decision made by the PSP at the time the phone is installed. When a payphone provider considers installing a telephone at a new location, it must consider whether the additional coin traffic at that location would justify the additional cost of installing a coin telephone. The PSP would not install a coin payphone instead of a coinless payphone unless the additional coin traffic would at least cover the additional costs of a coin mechanism. Therefore we conclude that costs directly associated with the coin mechanism should be attributed to coin traffic.

Second Report and Order, ¶ 52. According to this reasoning, a PSP first decides whether to install a payphone, presumably based on the expected revenue from coinless traffic. Having decided to install a payphone, the PSP then decides whether to include a coin mechanism in the payphone, based on "the additional coin traffic at that location." Id. The Commission's analysis assumes that, if the additional revenue expected from coin

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[11] As APCC and others noted, there are a number of ways to allocate joint and common costs that are attributable to more than one category of call. The most precise method is "Ramsey pricing," in which costs are allocated in proportion to the elasticity of demand for the various services provided. APCC Remand Comments at 12; RBOC/GTE/SNET Payphone Coalition Remand Comments at 20-24. Another approach is to simply allocate the joint and common costs equally among all calls by dividing the total costs by the total number of calls.

traffic does not justify installing a coin payphone, then the payphone provider will simply install a coinless payphone instead.

One serious difficulty with this analysis is that it is logically inconsistent. If the PSP decides whether or not to install a payphone based on coinless traffic alone, before deciding whether to add a coin mechanism, then the revenue from coinless calls alone must be high enough to recover the total cost of a coinless payphone. Otherwise, the payphone provider's decision would be to install no payphone at all. It logically follows that, for purposes of the commission's compensation analysis, the entire fixed cost of a payphone without coin capability should be attributed to coinless calls (including dial-around calls), and no part of that cost should be attributed to local coin calls. Otherwise, the dial-around compensation rate will not be set high enough to ensure that the cost of the payphone can be recovered from coinless calls alone, as the analysis presumes.[12] Accordingly, to be consistent with its own reasoning, the Commission should have *added* the per-call cost of a coinless payphone as an "add-on" adjustment to the local coin rate in order to arrive at the dial-around rate, just as it added the cost of ANI digit upgrades and interest on dial-around revenue. The Commission's failure to attribute this cost to dial-around calls is inconsistent with its analysis in Paragraph 52.

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[12] As APCC and others showed, if coinless payphone costs were distributed among the average number of coinless calls, the cost per coinless call, which would have to be included in the dial-around rate, would be much higher -- in APCC's analysis, about 65 cents per call. APCC Remand Comments at 12, n. 11.

The second difficulty with the Paragraph 52 analysis is that it is inconsistent with the facts of the payphone industry. In the overwhelming majority of locations, the choice presented to the payphone provider is *not* between installing a coinless payphone and installing a payphone with coin capabilities: it is between installing a payphone that handles coin *and* coinless calls, and not installing a payphone at all. Except in certain very specialized locations, revenues from coinless calls alone are simply insufficient to justify incurring the cost of a payphone.[13] Therefore, in deciding whether to install a payphone, the payphone provider must consider how the fixed costs of the payphone -- including coin and coinless calling capabilities -- will be recovered from *all* calls. The net revenue from coin and coinless calls combined (after subtraction of marginal costs that vary with call volume), must recover the fixed costs, or the payphone will not be placed.

In short, in the vast majority of locations, the payphone provider cannot avoid the fixed costs of coin capabilities by choosing to install a coinless payphone instead. If the payphone is to be installed at all, the fixed cost of the payphone, including coin capabilities, must be recovered from all calls, including local coin calls *and* dial-around calls. Elsewhere

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[13] Therefore, it is incorrect to portray the payphone provider as first deciding to install a coinless payphone, based on the ability to recover coinless payphone costs from coinless calls, and then deciding whether to add coin capabilities, based on the ability to recover the additional coin capability costs from coin calls. Of course, it would be equally incorrect to reverse the analysis, as the IXCs seem to prefer, and portray the payphone provider as first deciding to install a coin payphone, based on the ability to recover coin payphone costs, and then deciding whether to add coinless "capability," based on the "additional keypad wear-and-tear" and other "marginal" costs of offering coinless calls. This analysis would make sense only if PSPs could somehow save money by preventing the payphone from being used for coinless calls. They cannot. Once the PSP decides to install a payphone, it has no choice but to allow coinless calls.

in the Second Report and Order, the Commission recognized this reality, finding that "[f]or payphone service, the marginal unit of production is the installation of a payphone at a low traffic location . . . . A single instrument would be required to provide both coin and coinless calls at such a location with neither class of calls, by itself, sufficient to justify installation of a payphone." Id., ¶ 46. This reality of the payphone industry must also be recognized in the Commission's analysis of fixed payphone costs. Coin capability costs, like other fixed costs, are attributable to all calls, and should not be attributed as an "avoidable" cost solely to local coin calls.

In principle, in order to mimic the operations of a freely functioning market, the proportion of fixed payphone costs that would be included in the price of each type of call should be determined based on demand elasticities. APCC Remand Comments at 12; RBOC/GTE/SNET Payphone Coalition Remand Comments at 20-24. However, the Commission determined that it is not feasible to apportion costs based on demand elasticities. Second Report and Order, ¶ 67.

Assuming that that determination is correct, the Commission should have distributed the costs of the coin mechanism equally among all calls, and subtracted nothing from the local coin rate to reflect a differential in the attribution of coin mechanism costs to local coin calls and dial-around calls. Correcting this mistake should increase the dial-around compensation rate by the full amount subtracted, or 3.1 cents per call.

II. THE RECORD PROVIDED A BASIS FOR ESTIMATING THE COST OF COLLECTING DIAL-AROUND COMPENSATION

In the Second Report and Order the Commission declined to adjust the local coin calling rate by adding two components identified by the parties as components of dial-around collection costs: (1) bad debt from uncollectible compensation; and (2) compensation clearinghouse fees and other administrative costs of collecting compensation. The Commission ruled that it does not "have sufficient information to attribute an amount to bad debt and/or collection charges" related to collection of dial-around compensation. Id., ¶ 56.

This determination should be reconsidered. APCC provided information to support an estimate of these costs, based on its five years of experience in operating a clearinghouse for the collection of payphone compensation. This information updated information that APCC submitted prior to the Commission's original compensation order. See APCC 9/16/96 Ex Parte (Attachment 1 to this petition for reconsideration).

APCC's updated information indicated that approximately 8% of billed compensation is not collected. This information supported an estimate of bad debt amounting to some 2.8 cents per call. APCC Remand Comments at 14. Uncollectible compensation is likely to increase under a per-call compensation system, due to the difficulty of ensuring accurate call counts.

APCC also estimated that its compensation collection fees average about 0.5 cents per call. Id. These estimates do not even include the administrative expenses

incurred directly by PSPs, nor do they include the likely litigation expenses that will be incurred in collecting from carriers that refuse to pay or fail to accurately track dial-around calls. Again, costs are likely to escalate under a per-call system, because of the need to monitor calling volume and variable payments involving hundreds of individual carriers. APCC estimated that additional fees, expenses and uncollectibles under a per-call system would amount to at least one cent per call.

The Commission entirely disregarded the information presented by APCC.[14] Only by omitting to consider APCC's submission could the Commission have found that "[n]either the Coalition nor the other PSPs included specific estimates of increased collection and bad debts," and erroneously concluded that "we do not have sufficient information to attribute an amount to bad debt and/or collection charges." Second Report and Order, ¶ 56.

In light of the record, it was clearly unreasonable for the Commission to attribute 2-3 cents per call to coin collection while attributing no costs to bad debt and collection fees and expenses for dial-around calls. The Commission should reconsider and add at least 4.3 cents per call in bad debt and collection fees and expenses for dial-around calls.

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[14] Elsewhere in the Second Report and Order, the Commission acknowledged APCC's estimate of collection costs. Id., ¶ 83. However, the Commission failed to address APCC's estimates in its decision.

III. THE COST OF ANI DIGIT UPGRADES IS OCCASIONED BY DIAL-AROUND COMPENSATION AND SHOULD BE ATTRIBUTED TO DIAL-AROUND CALLS ONLY

A. The Cost Of ANI Digit Upgrades Should Be Divided By The Number Of Dial-Around Payphone Calls, Not The Total Number Of Payphone Calls

The Commission attributed one cent per call as the estimated cost to payphone providers of the required upgrading of LEC ANI ii digit screening service to enable IXCs to track payphone calls. The cost of ANI ii digit screening is treated as an "upward" adjustment to the coin rate, since it is a cost that is occasioned in order to collect compensation for dial-around calls. Second Report and Order, ¶ 63. While the Commission was clearly correct to adjust for this cost, the Commission made an error in calculating the adjustment. The Commission estimated that $600 million in additional LEC investment would be required, and that such increased investment would translate into $5.65 per line per month. The Commission then divided that amount by the *total number of calls* at a low traffic location, or 542 calls per month, to yield a per-call charge of about one cent per call. Id., ¶ 57.

Because the cost of ANI digit upgrades is properly attributed to dial-around calls alone, the cost should have been divided by 116 calls per payphone per month (the assumed number of dial-around calls at a low traffic location).[15] The resulting per-call cost is not 1.0 but 4.9 cents per call.

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[15] The Commission determined that 147 of the 689 calls at an average location would be subscriber 800 and access code calls. It then determined that there would be 31 (Footnote continued)

APCC recognizes that USTA has since modified the cost estimate from which the $600 million additional investment estimate was derived. When the costs are correctly computed, the total cost may well be so low as to cancel out the effect of the mistake identified above. However, once a new cost estimate is determined, it should be divided by the number of dial-around calls in order to properly reflect the attribution of the cost to dial-around calls only.[16]

B. The Manner In Which LECs Actually Recover Their Cost Of ANI Digit Upgrades Should Be Reflected In Dial-Around Compensation Rates Applicable To "Smart" And "Dumb" Payphone Lines

Further, the Commission should reconsider its decision to apply the adjustment for ANI digit upgrades uniformly to all payphones, whether they use "smart" or "dumb" payphone lines. The application of the adjustment to "smart" and "dumb" payphone lines should mirror the manner in which LECs recover the cost of ANI digit upgrades to "smart" and "dumb" payphone lines. Since the Commission has not ruled, and LECs have yet to file tariffs for the recovery of such charges from PSPs, we do not yet know the manner in which the LECs will seek to recover these costs. The Commission must rule *either* (1) that LECs must assess charges for ANI upgrade charges uniformly on "smart"

(Footnote continued)
fewer subscriber 800 and access code calls at a marginal or low-traffic location. Id., ¶ 50. 147-31=116.

[16] Further, the FCC must ensure that the cost estimate used in computing dial-around compensation is consistent with the rates actually tariffed for ANI upgrades. To the extent that there is an inconsistency, either the compensation rate or the tariffed rates must be adjusted.

and "dumb" payphone lines, *or* (2) that any difference in charges must be reflected in different compensation rates for payphones using "smart" and "dumb" payphone lines.

For the reasons stated in its comments on the ANI digit waivers (See Attachment 2), APCC believes that the LECs should charge "smart" and "dumb" payphone lines uniformly for the costs of ANI digit upgrades. If the LECs do apply uniform charges to the two types of lines, then the adjustment to local coin rates should be uniform for both "smart" and "dumb" lines, i.e., the average per-call cost should be added to the local coin rate. However, if the LECs are allowed to apply ANI digit upgrade charges solely to "dumb" payphone lines (serving "smart" payphones), while exempting from ANI digit upgrade charges the "smart" payphone lines used predominantly by the LECs' own "dumb" payphones, then the adjustment to the dial-around rate must be varied for "smart" and "dumb" payphone lines to reflect the difference in the charges that apply to the two types of lines. It would be easy for IXCs to make differential compensation payments for "smart" and "dumb" payphone lines, because they receive different ANI digit pairs to indicate the two types of lines.

IV. THE REVISED COMPENSATION RATE SHOULD APPLY TO THE PRE-OCTOBER 6, 1997 PERIOD

As noted above at Note 4, the court of appeals' decision to vacate the compensation rate interrupted the payment of "flat-rate" compensation under the First Report and Order for the period from November 8, 1996 through October 7, 1997. In the Second Report and Order, the Commission did not conclusively address the

compensation rate for this period. However, the Commission tentatively concluded that "the $0.284 per-call rate we are adopting as a default rate on a going forward basis should also govern compensation obligations during the period ending October 6, 1997," and stated it would address carriers' payment obligations for this period in a subsequent order. Id., ¶ 4.

The points raised in this petition for reconsideration apply to compensation for the pre-October 7, 1997 period as well as the post-October 7, 1997 period. Accordingly, the Commission should make the adjustments requested in this petition with respect to the rate for the pre-October 7, 1997 period as well as the post-October 7, 1997 period.

CONCLUSION

On reconsideration, the Commission should (1) add 3.1 cents to the dial-around compensation rate to reflect that coin capability costs are fixed payphone costs attributable to all calls, (2) add 4.3 cents to the compensation rate to reflect record evidence of estimated dial-around uncollectibles and collection fees and expenses; and (3) reconsider its computation of the adjustment for ANI upgrade costs.

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Respectfully submitted,

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ATTACHMENT 1

APCC's 9/16/96 Ex Parte Letter
Re Dial-Around Collection Costs