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Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

DA 97-2735

Released: December 31, 1997

PLEADING CYCLE ESTABLISHED FOR PETITION TO WAIVE PAYPHONE PER-CALL COMPENSATION OBLIGATIONS

(CC Docket No. 96-128)

Comments Due: January 15, 1998
Reply Comments Due: January 22, 1998

1. On December 15, 1997, AirTouch Paging (AirTouch) filed a petition for a limited waiver,¹ pursuant to Section 1.3 of the Commission's rules, of its payment obligations to pay any payphone service providers (PSPs) on a per-call basis² from October 7, 1997 until those PSPs provide payphone-specific coding digits and AirTouch is able to selectively block calls from payphones operated by that PSP.³

¹ AirTouch Petition for Waiver, filed December 15, 1997.

² See 47 C.F.R. §§ 64.1300(c), (d). Per-call compensation obligations and coding digit requirements were established in the *Payphone Orders*. See *Pay Telephone Reclassification and Compensation Provisions*, 11 FCC Rcd 20,541 (1996) ("Report and Order"); 11 FCC Rcd 21,233 (1996) ("Order on Reconsideration") (collectively the "Payphone Orders"). The *Payphone Orders* were affirmed in part and vacated in part. See *Illinois Public Telecomm. Ass'n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997) ("*Illinois Public Telecomm.*"). On remand, in the *Second Report and Order* in CC Docket 96-128, the Commission established a new rate of \$0.284 per call as the default per-call compensation rate, absent a negotiated agreement, for subscriber 800 and access code calls, and inmate and 0+ calls, for the first two years of per-call compensation, i.e., from October 7, 1997 until October 7, 1999. *Pay Telephone Reclassification and Compensation Provisions*, Second Report and Order, FCC 97-371 (rel. Oct. 9, 1997) ("*Second Report and Order*"), *pets. for recon. pending, review pending, MCI Telecomm. Corp. v. FCC*, D.C. Circuit No. 97-1675 (filed Nov. 7, 1997); *Sprint Corp. v. FCC*, D.C. Circuit No. 97-1685 (filed Nov. 13, 1997); *Personal Communications Industry Association v. FCC*, D.C. Circuit No. 97-1709 (filed Dec. 1, 1997); *Illinois Public Telecommunications Association v. FCC*, D.C. Circuit No. 97-1713 (filed Dec. 3, 1997).

³ AirTouch Petition for Waiver, filed December 15, 1997 at ii, 6.

AirTouch claims that because of the *Coding Digit Waiver Order*⁴ and other circumstances, AirTouch will not receive coding digits and will not be able to block calls coming specifically from payphones.⁵ AirTouch states that it will suffer substantial harm if it must pay compensation on a per-call basis without the ability to block calls selectively, because PSPs will have no incentive to negotiate rates and AirTouch's liability will be unlimited for calls from payphones.⁶

2. We will treat this proceeding as permit-but-disclose for purposes of the Commission's *ex parte* rules. See generally, 47 C.F.R. § 1.1200-1.216. Permit-but disclose proceedings are subject to the permit-but-disclose requirements under Section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206 (b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in Section 1.1206 (b), as well.

a. Comment Filing Dates Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments with the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M St. N.W., Washington, D.C. 20554 on or before **January 15, 1998**, and reply comments on or before **January 22, 1998**. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. In addition, parties should file two copies of any such pleadings with the Chief, Enforcement Division, Common Carrier Bureau, Stop 1600A, Room 6008, 2025 M Street, N.W., Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C. 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, DC.

For further information, contact Rose Crellin or Greg Lipscomb, Enforcement Division, Common Carrier Bureau, 202/418-0960.

Action by the Acting Chief, Enforcement Division

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⁴ *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*"). On October 7, 1997, the Common Carrier Bureau granted, on its own motion, a limited waiver of five months, until March 9, 1998, to those local exchange carriers (LECs) and payphone service providers (PSPs) that cannot provide payphone-specific coding digits as required by the *Payphone Orders*. See also *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, 21265-66, 21,278-80, paras. 64, 93-99 (1996).

⁵ AirTouch Petition at 9.

⁶ *Id.* at 12.