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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	)	CC Docket No. 96-128
Reclassification and Compensation	)	
Provisions of the	)	
Telecommunications Act of 1996	)	

REPLY COMMENTS OF
ARCH COMMUNICATIONS GROUP, INC.

Pursuant to Section 1.429(g) of the Commission's rules, 47 C.F.R. § 1.429(g), Arch Communications Group, Inc. ("Arch"),[1] hereby submits these Reply Comments in the above-captioned proceeding.[2]

I. THE DEFAULT COMPENSATION RATE IS ARBITRARILY HIGH AND CREATES A WINDFALL FOR PAYPHONE SERVICE PROVIDERS

In the *Remand Order*, the Commission established 28.4 cents as the default per-call rate for the next two years. After that, the "fair compensation" rate mandated by Section 276 of the Telecommunications Act of 1996 will be the deregulated market rate for a local coin call, adjusted for costs.[3] The Commission based the default rate on a

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1 Arch is a nationwide paging carrier and a leading provider of paging services with approximately 4 million pagers currently in service. Arch operates in more than 40 states, and in 80 of the 100 largest markets in the United States.

2 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Order on Reconsideration, 11 FCC Rcd 21233 (1996), *rev'd and aff'd, Illinois Public Telecommunications Ass'n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997), *Second Report and Order*, FCC 97-371, 62 FR 58659 (Oct. 30, 1997) ("*Remand Order*").

3 *Remand Order* at ¶ 117.

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perceived "market rate" of 35 cents, and a reduction of 6.6 cents to reflect cost differences.[4]

Arch concurs with those petitions and comments which demonstrate that there are serious flaws in the Commission's analysis. As the Consumer-Business Coalition for Fair Payphone - 800 Fees ("the Coalition"), AirTouch, AT&T and others point out, the cost data upon which the Commission relied in adopting the per-call rate is inflated and unreliable.[5] For example, the Commission increased the local coin market rate by 1 cent "to account for additional costs to PSPs resulting from ANIii implementation to identify payphone originated calls for the benefit of IXCs . . . ."[6] As AirTouch correctly points out, however, the American Public Communications Council ("APCC") cost data relied on by the Commission to derive the $0.01 add-on figure is inaccurate since APCC has submitted revised data demonstrating that the costs of implementing FLEX ANI are *one-tenth* of its previous figures.[7] Clearly, the Commission's default rate is based on outdated, overinflated cost data and should therefore be reconsidered.

The Commission also failed to review all cost data available to it for consideration; instead, the Commission relied solely on cost data submitted by independent payphone

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4 *Id.*

5 Coalition Comments at 4-5; AT&T Petition at 12-13; *see also* Air Touch Comments/Opposition at 7-8; MetroCall Comments/Opposition at 6-8; Mobile Telecommunications Technologies Corp. ("MTel") Petition at 1-6.

6 *Remand Order* at n. 267.

7 AirTouch Comments/Opposition at 9 *citing* Letter from Keith Townsend, USTA, to John Maleta, October 24, 1997, CC Docket No. 96-128, wherein APCC now argues that the add-on cost for ANIii should be $0.049 per call.

providers ("IPP").[8] As AT&T points out, the Commission incorrectly regarded the IPP's costs as "representative of the payphone industry as a whole."[9] Arch agrees with both the Coalition and AT&T that the Commission should have also examined cost data submitted by the local exchange carriers ("LECs") which own a majority of the nation's payphones."[10] At the very least, the Commission should review the cost study conducted by Southwestern Bell Corporation ("SBC").[11] As AT&T explains, this study demonstrates that the overall cost of providing payphone service is significantly <u>lower</u> than the costs relied upon by the Commission in setting the current default compensation rate.[12] Specifically, the SBC data reveals that the average monthly cost for an SBC payphone is \$93.11 - less than 40% of the cost figure submitted by the APCC.[13] Arch supports AirTouch, AT&T, and the Coalition in their request that the Commission conduct a comprehensive analysis of costs incurred by <u>all</u> payphone providers, including LECs. This analysis will likely yield a significantly different and much lower per-call compensation rate than that currently in effect.

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8 *Remand Order* at ¶ ¶ 48, 70.

9 *Id.* at ¶ 48; *see also* AT&T Petition at 12-18.

10 Coalition Comments at 4-5; AT&T Petition at 12-16.

11 *See Project Quintet - Toll Analysis,* prepared by Southwestern Bell Telephone Corporation, Corporate Development (May 26, 1994). According to the Affidavit of Mr. David C. Robinson accompanying AT&T's Petition, this report was prepared by Southwestern Bell in mid-1994 when it was considering the sale of its public payphone business. The report contains a "detailed compilation of Southwestern Bell's revenues, expenses, assets, operating statistics and other significant public payphone actual results and projections." AT&T Petition, Affidavit of Mr. Robinson at 2.

12 *See* AT&T Petition at 15.

13 *Id.*

Arch also agrees with Source One, MTel and AirTouch that the Commission's decision to adopt the $.284 default rate was arbitrary insofar as the Commission premised its decision on the availability of call-blocking.[14] As Source One points out, "existing technologies will not support the blocking envisioned by some IXCs and other IXCs have stated that they will not develop blocking technologies. Furthermore, the IXCs have no economic incentive to block calls."[15] Arch supports AirTouch's conclusion that the Commission's "failure to address call blocking issues and to modify the rules accordingly [is] arbitrary and capricious."[16] The Commission should therefore reconsider its decision to adopt the current per-call default compensation rate.

Finally, Arch agrees that the Commission has failed to recognize that access code and subscriber 800 calling are two different services, with different usage and cost characteristics. Access code calls "provide connections with an IXC who will complete the call and charge either the calling party or another person, based on the calling party's choice.[17] Subscriber 800 calls, on the other hand, are placed to the 800 subscriber who agrees in advance to pay on a bulk discount basis. The distinctive prices charged for each

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14 AirTouch Comments/Opposition at 4; MTel Petition at 2-5; Source One Petition at 3-4.

15 Source One Petition at 3, *citing* White Paper on the Provision of ANI Coding Digits of the LEC ANI Coalition, CC Docket No. 96-128, at 6-8 (filed June 16, 1997). This "LEC ANI Coalition" was formed by a number of LECs, including Southern New England Telephone Co., Ameritech, Bell Atlantic, BellSouth, GTE, NYNEX, Pacific Bell, Southwestern Bell Telephone Co., and U S WEST.

16 AirTouch Comments/Opposition at 6.

17 Source One Petition at 4-5.

service reflect their respective usage characteristics.[18] Consistent with the views expressed by Source One, the Commission's failure to take these factors into account presents yet another reason why the Commission should reconsider its default compensation rate. Reconsideration is also warranted because, as MetroCall, AirTouch and AT&T note, the Commission has inadvertently created a windfall for PSPs — a windfall that affords PSPs compensation to which they are not entitled and which will adversely affect other segments of the telecommunications industry.[19]

II. THE COMMISSION SHOULD REEVALUATE THE MERITS OF A CALLING-PARTY PAYS SYSTEM

The inherent flaws in the Commission's current payphone compensation scheme will likely produce one of two results - - either 1-800 subscriber calls made from payphones will be blocked, or subscribers will experience a marked increase in their monthly bills. At least one major carrier has already announced that it will be requiring its customers to elect between blocking calls or paying per-call charges,[20] an action which may become widespread as carriers adjust to the new payphone rules. Given the economics of the Commission's new payphone scheme, other carriers that choose not to block will likely be required to pass the significant costs on to end users interested in maintaining the option of making 800 calls from payphones. This approach will almost certainly force many customers to stop subscribing to the service. Under either scenario,

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18 *Id.* at 5.

19 *See* AT&T Petition at 16; AT&T Comments/Opposition at 2-3; Coalition Petition at 2-3; AirTouch Comments/Opposition at 7-10; MetroCall Comments/Opposition at 5.

20 *See* AirTouch Communications, Inc., *Request for Waiver of Sections 64.1300(c) and (d) of the Commission's Rules,* at 90 (filed Dec. 15, 1997).

no one benefits, including the PSPs - - customers will be deprived of a desirable service to which they have become accustomed, PSPs will lose revenue as fewer payphone calls are made, and carriers will be unable to provide to all customers a service subscribers clearly want. The Commission should therefore consider adopting one of the following three alternatives to the current carrier-pays payphone compensation system.

First, Arch concurs with Source One, AirTouch, AT&T, and PageMart that the calling party-pays framework continues to be the most equitable and economically prudent system for compensating PSPs.[21] A second alternative is the proposal suggested by the Dispatching Parties, and supported by the Ad Hoc Telecommunications Committee, pursuant to which callers would be notified when a toll free number is blocked and would have the option to override the blocked number by depositing a coin in the payphone.[22]

A third alternative would be to implement a "modified" calling party-pays system, such as that proposed by AirTouch and supported by PageMart and Source One.[23] Under this system, the Commission would retain the existing 800/888 codes, and allow carriers to pay the payphone charges or block payphone calls with respect to these codes. The Commission would then add a new 8XX code for callers that want to avoid blocked calls but that are willing to pay payphone charges. This system would help eliminate some of the market distortions associated with the existing framework by allowing much needed

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21 *See* AT&T Comments/Opposition at 18-20; AirTouch Comments/Opposition at 1-3; Source One Petition at 5-9; PageMart Petition at 6-8.

22 *See* Comments of The Dispatching Parties at 5; Consolidated Comments of The Ad Hoc Users at 5-10.

23 AirTouch Reply Comments at 5, n. 10 (filed Sept. 9, 1997); PageMart Petition at 8-9; Source One Petition at 8-9.

calls to blocked numbers, and by giving carriers and their toll-free subscribers added flexibility with respect to accepting, rejecting or paying for payphone calls. Such a system would be easy to administer, and would serve the public interest by providing benefits for all of the parties involved.

III. CONCLUSION

Arch appreciates the fact that the Commission was under a very strict Congressional mandate to devise and implement a system for compensating payphone providers; however, Arch believes the Commission should now take the time afforded it on reconsideration and reevaluate the current system. First, as explained above, the Commission should reconsider the per-call default compensation rate in light of all available cost-data, and should take into account the status of call-blocking and usage and price differences between 800 subscriber and access code calls. At the same time, Arch urges the Commission to also reevaluate the merits of a calling-party pays system because, under the current payphone compensation scheme, no one benefits, including PSPs.

Respectfully submitted,

Arch Communications Group, Inc.

By: Paul H. Kuzia
Executive Vice President,
Technology and Regulatory Affairs

Arch Communications Group, Inc.
1800 West Park Drive, Suite 250
Westborough, MA 01581
(508) 879-6600

January 20, 1998

CERTIFICATE OF SERVICE

I, Joy M. Taylor, do hereby certify that I have, on this 20th day of January, 1998, caused to be served by first class U.S. mail, postage prepaid, a copy of the foregoing Reply Comments to the following:

Howard J. Symons
Sara F. Seidman
Yaron Dori
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Washington, DC 20004-2608
Counsel for The Consumer-Business Coalition for Fair Payphone-800 Fees

Mark C. Rosenblum
Richard H. Rubin
AT&T Corp.
Room 3252I3
295 North Maple Avenue
Basking Ridge, NJ 07920

Thomas Gutierrez
J. Justin McClue
Lukas, Nace, Gutierrez & Sachs
1111 19th Street, N.W., Suite 1200
Washington, DC 20036
Counsel for Mobile Telecommunications Technologies Corp.

James S. Blaszak
Janine F. Goodman
Levine, Blaszak, Block & Boothby, LLP
2001 L Street, N.W., Suite 900
Washington, DC 20036
Counsel for Ad Hoc Telecommunications Users Committee

Phillip L. Spector
Patrick S. Campbell
Paul, Weiss, Rifkind, Wharton & Garrison
1615 L Street, N.W.
Washington, DC 20036
Counsel for PageMart Wireless, Inc.

David L. Hill
Audrey P. Rasmussen
O'Connor & Hannan, L.L.P.
Suite 800
1919 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-3483
Counsel for Source One Wireless II, L.L.C.

Frederick M. Joyce
Christine McLaughlin
Joyce & Jacobs
14th Floor - PH2
1019 19th Street, N.W.,
Washington, D.C. 20036
Counsel for Metrocall, Inc.

Carl W. Northrop
Christine M. Crowe
Paul, Hastings, Janofsky & Walker, LLP
10th Floor
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2400
Counsel for AirTouch Paging

Mark A. Stachiw
AirTouch Paging
Three Forest Plaza
12221 Merit Drive, 8th Floor
Dallas, TX 75251

Joy M. Taylor

Joy M. Taylor