



**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 )

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CC Docket No. 96-128

**To: Chief, Common Carrier Bureau**

**PETITION FOR RECONSIDERATION**

The American Public Communications Council (“APCC”) hereby requests reconsideration, in part, of the Common Carrier Bureau’s Memorandum Opinion and Order, DA 98-481, dated March 9, 1998 (“Order”), in which the Bureau clarified local exchange carriers’ (“LECs”) obligations under the Payphone Orders<sup>1</sup> to provide the “payphone-specific” ANI digit codes necessary for payphone providers to qualify for per-call payphone compensation.

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<sup>1</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order on Reconsideration, FCC 96-439, released November 8, 1996 (“Payphone Reconsideration Order”), (“Clarification Order”), vacated in part, Illinois Public Telecommunications Ass’n v. FCC, 117 F.3d 555 (“Payphone I”), clarified, 123 F.3d 693 (D.C. Cir.) (“Payphone I Clarification”).

In the course of clarifying the ANI digit code requirement, the Bureau ruled that LECs are not required to make payphone-specific ANI digit codes available to payphone providers who connect payphones to ordinary business service, centrex service, or PBX service.” The Bureau ruled that:

LECs are required to provide payphone-specific coding digits only from those payphones that are connected to tariffed payphone lines (for dumb, smart, and inmate payphones) as compared with, for example, payphones connected to business or Centrex lines.

Order, ¶ 32. The Bureau added that, in order to remain eligible for compensation, payphone providers must have all their payphones subscribed to LEC payphone lines within 30 days of the release of the order. Id.

APCC requests reconsideration of this ruling. A requirement that payphones be connected to a LEC’s “payphone lines” in order to be eligible to have ANI coding digits and to receive payphone compensation conflicts with both the Payphone Orders themselves and with the statutory policy supporting local competition by resale of incumbent local exchange carrier (“ILEC”) services. APCC requests that the Bureau reconsider and rule, instead, that LECs must provide payphone-specific ANI coding digits for payphones, whether or not the exchange service provided is classified as “payphone line” service.

### **Background**

In the Payphone Reconsideration Order, the FCC ruled that, in order to be eligible for compensation, “[e]ach payphone must transmit coding digits that specifically

identify it as a payphone, and not merely as a restricted line.” Payphone Reconsideration Order, ¶ 64. Accordingly, the Commission added, “LECs must make available to PSPs, on a tariffed basis, such coding digits as a part of the ANI for each payphone.” *Id.* In the very next sentence of the order, the Commission stated “[w]e decline to require PSPs to use *COCOT lines*, as suggested by the RBOCs, because we have previously found that *COCOT* service is not available in all jurisdictions.” *Id.* (emphasis added).

Subsequently, when BellSouth petitioned for permission to tariff a charge to payphone service providers for payphone-specific ANI coding digits, APCC requested that the Commission reaffirm that payphone-specific ANI digits be available on any line to which a payphone may be connected, and not just on “COCOT” lines. Comments of APCC, filed February 4, 1998, at 9. BellSouth agreed that the digits should be available on any line. However, in a late filed “ex parte” response, U S West argued that LECs should not be required to provide payphone-specific ANI coding digits when payphones are connected to business, centrex, or PBX service because “implementation costs could ‘skyrocket.’” U S West Ex Parte, February 27, 1998, at 4. Ten days later, the Bureau issued the ruling under review.

## **DISCUSSION**

### **I. THE BUREAU’S RULING CONFLICTS WITH THE PAYPHONE ORDERS**

The Bureau’s ruling contravenes the Commission’s express determination in the Payphone Reconsideration Order that PSPs are not “require[d] to use *COCOT* lines” in

order to obtain payphone-specific ANI digits. Speculations about the possible cost of implementing Flex ANI on non-payphone lines do not justify the Bureau in disregarding this clear Commission ruling.

## **II. THE BUREAU'S RULING CONFLICTS WITH FEDERAL POLICY ON LOCAL SERVICE COMPETITION**

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Moreover, the Bureau's ruling conflicts with the clear federal policy to promote local competition through resale of local service by requiring ILECs to make retail services available to CLECs for resale at wholesale rates. 47 U.S.C. § 251(c)(4). Local service competition is as important and beneficial in the payphone market as in any other local service market. Local service competition could substantially lower the service costs incurred by payphone providers, thereby facilitating "widespread deployment of payphone services" at reasonable end user prices.

Successful resale competition in local service to payphone providers, however, requires that resellers be able to market resold business or centrex services to payphone providers. In U S West's territory, for example, U S West has steadfastly and in large part successfully resisted CLECs' attempts to obtain "payphone lines" for resale at wholesale prices. In Minnesota, U S West has excluded Payphone Access Lines ("PALs") explicitly or implicitly from the wholesale rates provided in its interconnection agreements with resellers. See Exhibits 1 and 2.<sup>2</sup>

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<sup>2</sup> In Exhibit 1, PAL service is expressly excluded from the services offered by U S West at wholesale rates. In Exhibit 2, the services offered at wholesale are limited to those

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As a result of U S West's restrictive approach to resale of PAL service, CLECs seeking to offer a competitive choice to payphone providers have little alternative but to resell other U S West services, such as business or centrex service. The Bureau's ruling, however, effectively eliminates this alternative, by preventing resellers of these services from offering their payphone provider customers the ability to qualify for payphone compensation.

The Bureau's ruling is already having a negative effect on local service competition. After reviewing the Bureau order, for example, a CLEC recently withdrew its proposal to offer resold U S West service to a payphone provider. Exhibit 3. Thus, the direct effect of the Bureau's order is contrary to the federal policy favoring local service competition, and as a result, also contrary to Section 276's policy of fostering "widespread deployment of payphone service."

The reasons given in the Bureau order for not requiring the availability of Flex ANI with ordinary business and centrex service are unpersuasive. The Bureau found that such a requirement would be "unduly burdensome, resulting in increased FLEX ANI implementation costs for translations and delays in the implementation of FLEX ANI."

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offered to "retail customers." U S West interprets this limitation as excluding PAL service. In the original Local Competition Order, the Commission expressly ruled that payphone line service must be available to CLEC resellers at wholesale rates. Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, ¶ 876 (1996), ("Local Competition Order") vacated in part, Iowa Utilities Board v. FCC, 123 F.3d 753 (8<sup>th</sup> Cir. 1997).

The evidence as to cost consists of a brief discussion in a single ex parte filing by U S West. Those estimates appear to be based on the questionable assumption that every switch in Iowa and Minnesota would have to have a translation performed on every line class code associated with the relevant services. Nowhere did U S West explain the basis for its assumption that payphones are connected to business, centrex and PBX lines at every switch, or its assumption that payphones so connected utilize all the dozens of line class codes apparently associated with business, centrex and PBX service.<sup>3</sup>

The delay rationale is also invalid. The Bureau has already granted U S West a six-month extension of the deadline for providing FLEX ANI. U S West's claimed need for additional time to implement FLEX ANI on business lines is, at most, a rationale for allowing additional time to convert those lines. It is not a reason to eliminate the requirement to offer payphone-specific ANI digits with business lines.

The rationale that "LECs often do not know when a payphone is attached to business lines or PBX lines" is also invalid. It is no more difficult for LECs to determine whether a payphone is actually attached to a business line for which payphone-specific ANI digits are requested, than to determine whether a payphone is actually attached to a PAL line.

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<sup>3</sup> To the extent that the use of business, centrex, and PBX lines for payphones in U S West territory is widespread, it is because U S West charges excessive rates for payphone lines and/or does not make those lines available for resale at wholesale rates. Thus, U S West could easily limit its cost of deploying ANI coding digits with business lines by ensuring that its payphone line rates are at least no higher than business line rates, and by making payphone lines available for resale at wholesale rates.

**CONCLUSION**

The Bureau should reconsider its decision and rule that LECs are required to provide payphone coding digits for payphones connected to business, centrex or PBX service, as well as for payphones connected to "payphone line" service.

Dated: April 8, 1998

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert F. Aldrich", is written over a horizontal line.

Albert H. Kramer  
Robert F. Aldrich  
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& OSHINSKY LLP  
2101 L Street, N.W.  
Washington, D.C. 20037-1526  
(202)828-2226

Attorneys for the American Public  
Communications Council

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# EXHIBIT I

## Agreement to Adopt Arbitrated Interconnection Agreement

This Agreement to Adopt Arbitrated Interconnection Agreement (the "Adoption Agreement") is effective as of the 25th day of June, 1997, by and between InfoTel Communications, a Limited Liability Corporation, ("Interconnector"), a Competitive Local Exchange Carrier and U S WEST Communications, Inc., a Colorado corporation ("USWC") (collectively, "the Parties").

### Recitals:

WHEREAS, Interconnector is a Telecommunications Carrier, as defined in the Telecommunications Act of 1996 (the "Act"), operating or intending to operate within the State of Minnesota (the "Said State"); and

WHEREAS, the Parties desire to establish the terms, conditions, and prices for network interconnection, access to unbundled network elements and the provision of ancillary network services; and

WHEREAS, the Parties desire to supersede the existing Agreement for Service Resale between them that provides for the resale of retail services within the Said State which was signed May 8, 1997 ("Existing Resale Agreement"); and

WHEREAS, the Parties have commenced negotiations for interconnection of their networks, reciprocal compensation, resale of services, sale of unbundled network elements, and sale of ancillary network services, pursuant to the Act; and

WHEREAS, the Act has specific requirements for interconnection, unbundling, and service resale, commonly referred to as the "checklist", and the Parties desire that their arrangements meet those checklist requirements; and

WHEREAS, USWC and AT&T Corp. (the "Other Carrier") have previously reached an impasse in similar negotiations for a similar arrangement in the Said State, and the Other Carrier petitioned the Minnesota Public Utilities Commission (the "Commission") to arbitrate and resolve the disputed issues between it and USWC; and

WHEREAS, the Commission issued its order resolving the disputed matters between USWC and the Other Carrier, and pursuant to that order, a document was filed with the Commission which incorporated the terms of the Commission's resolution of the disputed issues and the terms that USWC and the Other Carrier had agreed upon (the "Interconnection Agreement"); and

WHEREAS, the Commission approved the Interconnection Agreement by its order dated March 17, 1997, and USWC and the Other Carrier filed the effective Interconnection Agreement with the Commission on April 16, 1997. The "Final Order" refers to the Commission's March 17<sup>th</sup> order and the "Interconnection Agreement" refers to the document filed with the Commission on April 16.

WHEREAS, the Parties believe that the Act permits the Interconnector to select, as the terms, conditions, and prices for network interconnection, access to unbundled

Attachment 2

TABLE OF CONTENTS  
SERVICES DESCRIPTION: TOTAL SERVICES RESALE

<u>Section</u>	<u>Page</u>
1. Telecommunications Services Provided for Resale	1
2. General Terms and Conditions for Resale	1
3. Directories	3
4. Basic Service Requirements	3
5. Features Requirements	4
6. Requirements for Specific Services	5
7. Advanced Intelligent Network	9
8. Support Functions	9
9. Service Functions	11
10. Security and Law	18
11. Billing for Local Resale	19

Appendix A

Resale Services

## Attachment 2

**SERVICES DESCRIPTION: TOTAL SERVICES RESALE****1. Telecommunications Services Provided for Resale**

1.1 At the request of InfoTel, and pursuant to the requirements of the Act and FCC Rules and state regulations, USWC will make available to InfoTel for resale any Telecommunications Service USWC currently provides, or may offer hereafter including, but not limited to, contract service arrangements, special arrangements, discount plans and promotions. USWC shall also provide Support Functions and Service Functions, as set forth in Sections 8 and 9 of this Attachment 2. The Telecommunications Services, Service Functions and Support Functions provided by USWC pursuant to this Agreement are collectively referred to as "Local Service".

1.2 This Attachment describes several services USWC shall make available to InfoTel for resale pursuant to this Agreement. Services to be made available for resale are listed in Appendix A of this Attachment 2. This description of services is neither all inclusive nor exclusive. Except as may be noted elsewhere in this Agreement, all services or offerings of USWC to be offered for resale pursuant to the Act are subject to the terms herein, even though they are not specifically enumerated or described herein.

**2. General Terms and Conditions for Resale****2.1 Primary Local Exchange Carrier Selection**

USWC shall apply the principles set forth in Section 64.1100 of the FCC Rules, 47 C.F.R. §64.1100 as effective, to the process for end-user selection of a primary local exchange carrier. In accordance with the customer authorization process described elsewhere in this Agreement, USWC shall not require notification from the customer, another carrier, or another entity, in order to process an InfoTel order for Local Service for a customer.

**2.2 Pricing**

Language moved to Part A Section V

## Attachment 2

Information Distribution Service  
Special Routing of Channels  
Switching Arrangement

Advanced Communications Services Price List

Switched Multi-Megabit Data Service

Wholesale Services

Available For Resale At Current Tariffed Rates

These services are sold to other telecommunications companies rather than retail customers. See 47 U.S.C. § 251(c)(4)(A); FCC Order at ¶¶872, 873, 874, and 875.

Switched Access Service

All

Special Access/Private Line Transport Services

All

Exchange and Network Services Tariff

Directory Assistance Service (intraLATA toll and local)  
Operator Assisted Directory Assistance  
Local person-to-person operator service  
Local station-to-station operator service  
Public Access Line (PAL) Service (See FCC Order ¶876)

Non-Tariffed and Deregulated Services

There are telecommunications services,  
and therefore are available for resale at the avoided cost discount.

\*Deregulated

Conferencing Service  
CPE  
Enhanced Fax  
Inside Wiring  
Linebacker/Linebacker Plus  
Protocol Conversion

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# EXHIBIT 2



**AGREEMENT  
FOR SERVICE RESALE  
Between  
CHOICETEL, INC.  
and  
U S WEST COMMUNICATIONS, INC.**

**TABLE OF CONTENTS**

	Page
<b>I. RECITALS &amp; PRINCIPLES</b>	3
<b>II. SCOPE OF AGREEMENT</b>	4
<b>III. DEFINITIONS</b>	5
<b>IV. RESALE SERVICES</b>	6
<b>A. Description</b>	6
<b>B. Scope</b>	6
<b>C. Ordering and Maintenance</b>	6
<b>D. Reseller Responsibilities</b>	9
<b>E. Rates and Charges</b>	10
<b>F. Collateral and Training</b>	12
<b>G. Cooperation</b>	12
<b>V. ACCESS TO OPERATIONAL SUPPORT (OSS)</b>	12
<b>VI. DIRECTORY LISTINGS</b>	13
<b>VII. GENERAL PROVISIONS</b>	13
<b>A. Term</b>	13
<b>B. Billing</b>	13
<b>C. Payment</b>	14
<b>D. Deposit</b>	15
<b>E. Taxes</b>	16

**APPENDIX A  
LOCAL EXCHANGE SERVICES  
RESALE OF SERVICES**

The Parties agree the following charges apply to the Resale of Local Services:

1. Nonrecurring Charges.

a. Customer Transfer Charge (CTC): The following nonrecurring charges apply when converting a USWC account to a Reseller account or when changing an end user from one reseller to another.

Mediated access	USOC	Nonrecurring Charge
• Residence		
First Line		\$12.64
Each Additional Line		\$11.16
• Business		
First Line		\$16.80
Each Additional Line		\$13.93
<b>Non-Mediated Access</b>		
<b>(Manual)</b>		
• Residence and Business		
First Line		\$22.20
Each Additional Line		\$16.38

b. Product Specific Nonrecurring Charge: As set forth in USWC tariffs, the product specific nonrecurring charges, without discount, will apply when additional lines or trunks are added or when the end user adds features or services to existing lines or trunks.

c. IntraLATA Toll Charges: IntraLATA toll resale at the below uniform rate.

<u>State:</u>	<u>Rate Per Minute of Use</u>
Minnesota	.135

2. The Parties agree the following charges apply to the Resale of Local Services in Minnesota:

a. Except as expressly listed in Paragraphs 2b. and 2c. of this Appendix, all USWC telecommunications tariffed services and rate elements offered now or in the future to retail customers shall be available for resale at a 21.5% discount.

b. Promotions of less than 90 days and enhanced services are not available for resale. Grandparented services are only available for resale to customers currently receiving such services.

**APPENDIX A - CONTINUED**

c. The following services are available at the 21.5% discount only to the same class of customers eligible to purchase that service from USWC:

- Residential Service
- Contract Services
- Special Arrangements
- Packaged and Discount Services
- Promotional offerings of greater than 90 days
- Grandfathered services

d. USWC provides Lifeline-type services to resellers as residential basic exchange lines. Reseller is responsible for obtaining certification for Reseller's end users from the qualifying and funding organizations for these programs.

# EXHIBIT 3

04/06/1998 17:30 3037591675  
04/02/98 THU 17:41 FAX 1 701 281 2580

GREG LUDVIGSEN  
GERLACH COMM INC

PAGE 04  
GREG LUDVIGSEN 001

March 31, 1998

Ruth Jaeger  
Vice President  
Gerlach Communications Inc.  
2220 Main Avenue East  
West Fargo, ND 58078-0189

Dear Ruth:

We appreciate your responsiveness in reviewing our contract. Listed below are the responses to each of your concerns individually.

a.) Regarding the FCC's Common Carrier Bureau's Order DA98-461. As stated in the order, FLEX ANI will be the only means acceptable in transmitting payphone-specific coding digits (III.C.32). Although, USWest has allowed PSP's to purchase lines other than specifically identified payphone lines, such as Business Lines or Centrex Lines, they are only "required" to provide payphone-specific coding digits (FLEX ANI) on tariffed payphone lines. As stated in the order it appears that McLeodUSA will NOT be able to provide Gerlach Communications with Local Line services today. We will continue to work with USWest to convince them to provide FLEX ANI on our centrex lines and we will notify you if this changes. This order necessitates that McLeodUSA withdraws the proposal for local line service, but we would like to for Gerlach to still consider our offer of long distance service at the same rates proposed in the original document.

b.) Regarding Item G. \_\_\_\_\_

c.) Regarding Item H. \_\_\_\_\_

We appreciate the opportunity and look forward to a mutually beneficial working relationship. Thank you again for your consideration.

Sincerely,

Stacey D. Stewart

**CERTIFICATE OF SERVICE**

I hereby certify that on April 8, 1998, a copy of the foregoing Petition for Reconsideration was delivered by first-class U.S. Mail, postage pre-paid to the following parties:

James T. Hannon  
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Chief Enforcement Division  
Common Carrier Bureau  
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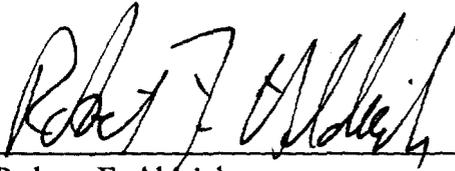
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