

ORIGINAL

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

RECEIVED

MAY 11 1998

In the Matter of)
)
Implementation of the)
Pay Telephone Reclassification)
and Compensation Provisions of the)
Telecommunications Act of 1996)
)
AT&T Request for Limited Waiver)
of the Per-call Compensation Obligation)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 96-128

RECEIVED W7C
THIS DATE
CANCELLED
MAY 11 1998
F.C.C.
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR RECONSIDERATION

MCI Telecommunications Corporation (MCI) hereby seeks reconsideration of the Bureau's April 10, 1998 Order¹ in the above-captioned proceeding, to the extent that it allocates compensation for payphones served by non-equal access switches among the top ten carriers receiving the highest amount of subscriber 800 and access code calls as indicated by the Local Exchange Carrier (LEC) Coalition data.

In the Order, the Bureau finds that compensation for payphones served by non-equal access switches should be limited to the top ten carriers because the number of calls from these payphones for which compensation is due is so small. According to the Bureau, "[w]ere we to

¹ Order, DA 98-701, released April 10, 1998.

No. of Copies rec'd
A B C D E

O+Y

require all carriers to compensate payphones served by non-equal access switches, many carriers would be forced to compensate PSPs for mere fractions of calls.”²

MCI requests that the Bureau reconsider its decision and allocate compensation for payphones in non-equal access areas to all carriers receiving subscriber 800 and access code calls. As an initial matter, carriers should not be required to pay the compensation obligation of their competitors. In addition, the Bureau’s justification for this approach is essentially the same as the Commission’s justification for limiting interim compensation to interexchange carriers with toll revenues over \$100 million -- namely, administrative convenience-- which the Court reversed in *Illinois Public Telecommunications Ass’n. v. FCC*.³ In that case, the Court found that it is not clear that the administrative burdens are significant because each carrier would merely be required to write a check based on its percentage of annual toll revenues. The same is true here. Moreover, even if a carrier ends up paying compensation for a fraction of a call, since compensation is paid for many phones and for every month of every year, the amount of total compensation owed by the carrier could be significant, even based on the Bureau’s current compensable call count of 16 calls per month. Of course, if the Bureau ultimately finds that the number of compensable calls from payphones in non-equal access areas is greater than 16, its rationale for limiting compensation to the top ten carriers is even more suspect.

² Order at para. 6.

³ 117 F.3d 555 (D.C. Cir. 1997).

Based on the foregoing, MCI requests that the Bureau reconsider its Order as specified herein.

Respectfully submitted,

MCI Telecommunications Corporation



Mary J. Sisak

Mary L. Brown

1801 Pennsylvania Avenue, N.W.

Washington, D.C. 20006

(202) 887-2605

Dated: May 11, 1998

CERTIFICATE OF SERVICE

I, John E. Ferguson III, do hereby certify that copies of the foregoing Petition for Reconsideration of MCI in the Matter of Implementation of the Pay Telephone Reclassification Provisions of the Telecommunications Act of 1996 were sent, on this 11th day of May, 1998, via first-class mail, postage pre-paid, to the following:

Richard Metzger, Chief**
Common Carrier Bureau
Federal Communications Commission
1919 M. Street, N.W.
Washington, DC 20554

International Transcriptions Service**
1919 M. Street, N.W.
Washington, DC 20554

Larry Strickling, Deputy Chief**
Common Carrier Bureau
Federal Communications Commission
1919 M. Street, N.W.
Washington, DC 20554

Robert Spangler, Acting Chief**
Enforcement Division
Federal Communications Commission
2025 M. Street, N.W.
Washington, DC 20554

Leon M. Kestenbaum
Jay C. Keithley
H. Richard Juhnke
Sprint Corporation
1850 M. Street, N.W., 11th Floor
Washington, DC 20036

Albert H. Kramer
Robert F. Aldrich
Dickstein Shapiro Morin & Oshinsky LLP
for American Public Comm. Council
2101 I. Street, N.W.
Washington, DC 20037

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

Michael Kellogg
Kellogg, Huber, Hansen, Todd and Evans
for RBOC/GTE/SNET Payphone Coalition
1301 K. Street, N.W., Suite 1000 West
Washington, DC 20005

Richard Rubin
Mark Rosenblum
AT&T Corporation
295 N. Maple Avenue, Room 3252I3
Basking Ridge, NJ 07920

Thomas J. Gutierrez
J. Justin McClure
Lukas, McGowan, Nace & Gutierrez
for Mobile Telecomm. Technologies Corp.
1111 19th Street, N.W., Suite 1200
Washington, DC 20036

Bruce W. Renard, General Counsel
Peoples Telephone Company, Inc.
2300 N.W. 98th Place
Miami, FL 33172

Judith St. Ledger-Roty
Kelley Dye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, DC 20036

Ian D. Volner
Heather L. McDowell
Venable, Baetjer, Howard & Civiletti, LLP
for Direct Marketing Association
1201 New York Avenue, N.W., Suite 1000
Washington, DC 20005

Daniel K. Barney
Robert Digges, Jr.
ATA Litigation Center
2200 Mill Road
Alexandria, VA 22314

Eric L. Bernthal
Michael S. Wroblewski
Latham & Watkins
for Peoples Telephone Company, Inc.
1001 Pennsylvania Ave., N.W., Suite 1300
Washington, DC 20004

David L. Hilll
Audrey Rasmussen
O'Connor & Hannan, LLP
for Source One Wireless II, LLC
1919 Pennsylvania Ave., N.W., Suite 800
Washington, DC 20006

Alan S. Tilles
Meyer, Faller, Weisman & Rosenberg, P.C.
For Dispatching Parties
4400 Jenifer Street, N.W., Suite 380
Washington, DC 20015

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

Frederick M. Joyce
Joyce & Jacobs, Attys. At Law, LLP
for Metrocall, Inc.
1019 19th Street, N.W., 14th Floor, PH-2
Washington, DC 20036

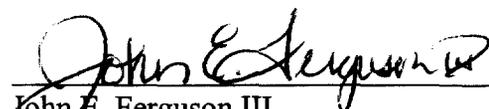
Barry E. Selvidge
Vice President-Regulatory
Affairs and General Counsel
Communications Central, Inc.
1150 Northmeadow Parkway, Suite 118
Roswell, GA 30076

Mark A. Stachiw
Vice President & Gen. Counsel
AirTouch Paging
12221 Merit Drive, Suite 800
Dallas, TX 75251

Carl W. Northrop
E. Ashton Johnston
Paul, Hastings, Janofsky & Walker, LLP
for AirTouch Paging
1229 Pennsylvania Ave., N.W., 10th Floor
Washington, DC 20004-2400

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

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
for Telecommunications Resellers Assoc.
1620 I. Street, N.W., Suite 701
Washington, DC 20006


John E. Ferguson III

HAND DELIVERED