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WILLKIE FARR & GALLAGHER

VIA HAND DELIVERY

July 27, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, DC 20554

EX PARTE

Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20036-3384

202 328 8000
Fax: 202 887 8979

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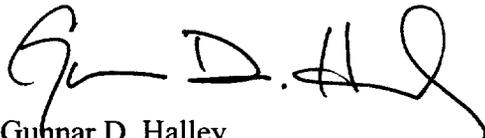
Re: Ex Parte Presentation in WT Docket No. 99-217 and CC Docket No. 96-98

Dear Ms. Salas:

Please find attached a letter from Philip Verveer on behalf of the Smart Buildings Policy Project delivered today to Kathryn Brown, the Chief of Staff in the Office of the Chairman, regarding the above-referenced proceedings.

In accordance with the Commission's rules, for each of the above-mentioned proceedings, I hereby submit to the Secretary of the Commission two copies of this notice of the Smart Buildings Policy Project's written ex parte presentation.

Respectfully submitted,



Gunnar D. Halley

cc: Kathryn Brown

Enclosure

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Ms. Kathryn Brown
Chief of Staff
Office of the Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Competitive Networks and the Origins of New York PSC COCOT Regulation

Dear Ms. Brown:

During the course of our meeting on Friday, July 21st, you inquired as to the origins of the New York Public Service Commission's regulation of Customer-Owned Currency-Operated Telephones ("COCOTs") in an effort to determine whether any parallels exist between COCOT regulation and regulation of the access practices of building owners and managers. Without extensive explanation, the NYPSC declared that entities using COCOTs to provide service are resellers of telephone service and pursued its regulation of such entities under that theory.¹

Four years later, the NYPSC considered regulatory policies for competitive telecommunications markets. It proposed legislation to deregulate resellers, but made exceptions for Alternative Operator Service ("AOS") providers, COCOTs, and Shared Tenant Service ("STS") providers. With respect to most other resellers, the PSC explained that "[t]here are no significant, effective barriers to entry and resellers generally do not have the ability to control prices or exercise market power. . . . However, because of the potential for market failure, the legislation will provide for minimum service, rate, and interconnection requirements for AOS, COCOTs, and STS."² The NYPSC explained in greater detail the need for the AOS/COCOT/STS exception.

The exceptions to these interim arrangements occur where a reseller can constitute a bottleneck. Such bottlenecks can be harmful because they may create market power that can result in non-market based decisions on pricing, quality, and content or user discrimination. COCOTs and alternative operator services are two instances where resellers may wield

¹ Rules and Regulations of the Public Service Commission, 16 NYCRR, Chapter VI, Telephone and Telegraph Corporations, Subchapter D, Records: Reports, Part 648, Applicability of Regulations to Resellers of Telephone Services -- Proceeding On Motion of the Commission as to the Addition of a New 648.2 - Additional Exemption Applicable to Resellers Via COCOTs, Case 27946, Memorandum, Order and Resolution, 1985 WL 303453 at *1 and *9 (NYPSC, rel. Mar. 8, 1985).

² Regulatory Policies for Segments of the Telecommunications Industry Subject to Competition, Case No. 29469, Opinion No. 89-12, 103 P.U.R.4th 1 (NYPSC, rel. May 16, 1989).

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Ms. Kathryn Brown

July 27, 2000

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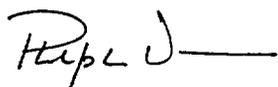
significant market power. We are concerned about the impact on consumers who use these services

Shared tenant services providers may also become bottlenecks. Those providers resell, in effect, both local and toll service, and could prevent or substantially deter a tenant from obtaining service from other providers, such as the local exchange company. Accordingly, our legislative proposal would require STS providers to permit reasonable access to the services of the local exchange company and interexchange carriers for tenants who desire service directly from that company and interexchange carriers. STS providers must permit exchange company access to their intra-building facilities at fair and reasonable rates.³

I have enclosed the relevant decisions for your review.

Incidentally, New York is not alone in recognizing that control over access to customers can impair consumer welfare and consumer choice. States such as California, Florida, Hawaii, Missouri, Nevada, New Hampshire, North Dakota, Utah, and Virginia require that an STS provider grant a tenant access to other carriers in order to preserve tenant choice over the choice of the landlord.⁴

Very truly yours,



Philip L. Verveer
Counsel for the
SMART BUILDINGS POLICY PROJECT

Enclosures

³ Id.

⁴ See, e.g., WHCR 6-76.1-23 (“The provider of shared tenant service and the owner of the premises at which shared tenant service is provided shall allow any authorized telecommunications carrier reasonable access to any end-user who desires telecommunications service directly from that carrier. Reasonable access includes access to the facilities necessary to allow the carrier to provide service directly to the end-user. The access shall be provided to the telecommunications carrier free of charge. Such carrier may elect to utilize any existing wire and cable.”); see also Rule 25-24.575(1), Florida Administrative Code (“All shared tenant service providers shall allow local exchange companies direct access to tenants who desire local service from the local exchange company instead of the shared tenant service provider.”) which implements Fla. Stat. § 364.339(5) (“The offering of shared tenant service shall not interfere with or preclude a residential or commercial tenant’s right to obtain direct access to the lines and services of the telecommunications company or the right of the telecommunications company to serve the residential or commercial tenant directly under the terms and conditions of the commission-approved tariffs.”).

In the Matter of the Rules and Regulations of
the Public Service Commission,
16NYCRP, Chapter VI, Telephone and
Telegraph Corporations, Subchapter D,
Records; Reports, Part 648, Applicability of
Regulations to Resellers of
Telephone Services -- Proceeding On Motion of
The Commission as To The Addition
of a New Section, 648.2 - Additional
Exemption Applicable To Resellers Via
COCOTS.
Case 27946
New York Public Service Commission
March 8, 1985

***1 MEMORANDUM, ORDER AND
RESOLUTION**

Before Gioia, Chairman

On April 3, 1984 we instituted a proceeding (Case 28774) to determine the appropriateness of and the regulations necessary for customer owned coin operated telephones (**COCOTs**) within New York State. At that time we invited, from all interested parties, comments in several areas including regulations and requirements for **COCOTs** operation.

We have received formal comments from 29 parties and informal comments and inquiries from hundreds of people. The comments generally indicate that there would be an overall public benefit by allowing customer owned coin operated telephones to compete with the traditional coin telephone service provided by local exchange telephone companies. The comments clarified the issue of regulation by demonstrating that providers of **COCOTs** will be conducting resale of telephone service which is defined in 16NYCRR Parts 647 and 648 as a regulated service. In order to minimize the regulatory burden on the small businesses and individuals providing **COCOTs**, as described in the comments, we will adopt rules exempting from filing tariffs those resellers which comply with certain specified requirements. Finally, in response to the comments asserting that economic hardship to the general body of telephone ratepayers will result from **COCOT** competition with

traditional coin service, we will permit local exchange telephone companies to establish cost-based **COCOT** access line rates.

Our Staff has analyzed these comments and has presented its recommendations and proposed rules to us in the attached memorandum. We will adopt these recommendations and permit the telephone companies to file tariff revisions establishing monthly exchange access line rates for the connection of **COCOTs**. These rates should be based on the separated or intrastate embedded cost of providing access line service and the filings should be supported by complete cost documentation. Such filings should also include call screening options to minimize the fraudulent use of and billing disputes concerning **COCOT** lines. These options should include some form of **COCOT** call screening on calls originating from the **COCOT** which are completed on a sent-paid basis by an operator and some form of call blocking for "collect" calls terminating at the **COCOT**.

Prior to summarizing and analyzing the comments, it is necessary to point out that on June 15, 1984 the FCC determined that instrument implemented coin operated telephones may be registered and connected to the public switched network. Instrument implemented coin telephones contain all the circuitry required for coin acceptance and other coin-related functions within the telephone instrument itself. These telephones can be attached only to regular subscriber service access lines, not to central office implemented coin line service. The FCC added that its... "decision to register instrument implemented coin telephones does not necessarily affect state policies or regulations governing the resale of intrastate toll and local exchange services..." [FNa1] The FCC cautioned, however, that it will review and possibly overturn "any state restriction affecting the use of registered coin telephones that unreasonably infringes upon the right of customers to interconnect with the network in a way that is privately beneficial and not publicly detrimental." Most of the comments received in this proceeding were prepared

after the FCC order was issued.

FN1. Memorandum Opinion and Order, "In the Matter of Registration of Coin Operated Telephones under Part 68 of the Commission's Rules and Regulations," FCC CC 84-270, released June 25, 1984.

*2 The Communications Division has summarized the comments received in response to the Notice issued in April, 1984. A discussion of these issues and Staff's conclusions and recommendations are also contained in this memorandum.

Comments in response to the notice were filed by 29 parties. A list of their names is shown in Attachment I. Attachment II is a list of other interested parties who wish to be kept informed of the development of this proposal or who are otherwise concerned with this proceeding.

ANALYSIS OF COMMENTS

1. WHAT BENEFITS OR DETRIMENTS MIGHT THE GENERAL PUBLIC RECEIVE FROM COCOT TECHNOLOGY?

A. Comments Contending Public Benefits

The majority of comments favoring the adoption of regulations allowing use of customer provided coin telephones indicate that there will be nothing but benefits. Even Rochester Telephone and Continental Telephone agreed that COCOTs would expand and enhance the accessibility of the public to the coin market, especially during the normal business hours of COCOT providers. Many claim that opening up the coin telephone market will increase coin telephone accessibility for the public and spark changes which will improve the technology required to provide this service. They also point out that New York Telephone's recent decision to remove public coin telephones from "unprofitable" locations has created a void in telephone accessibility that can be filled by COCOT equipment.

Many responses contend that competition

will also tend to improve the quality of service as well as lead to services not available today, e.g., self-timing, visual display of timing on long distance calls, etc. Coin Communications, Inc. comments that within 10 years the citizens of New York will be using coin phones which offer functions and features not now available and that these will be the direct result of competition. Southern Merchandising states that modern innovations are already available, namely LED displays on the face of the telephone instrument which verify the dialed number and displaying the minutes and seconds remaining on a call, as well as time of day and date display.

Many commenting parties claim that there will be no economic impact on existing telephone company coin service. National Pay Telephone Corporation (NPTC) contends that competition for coin telephone service will promote price competition, and will eventually lead to newer and more cost efficient technologies, as has the deregulation of customer premises equipment. It is, according to some respondents including DC Interconnect and NPTC, even possible that consumer costs will be reduced through the competitive process because the expenses of small business providers of COCOTs would be less than those of the utilities' coin service. The Village of Dryden and Long Island Independent Pay Phone comment that COCOTs will allow small businesses to retain the coin deposits which will assist in defraying a portion of the cost of the telephone service. It is also the opinion of Southern Merchandising and others that maintenance service on COCOTs will be better than the present coin service because the COCOT providers will have an economic incentive to expedite equipment repair, provide a clean and attractive environment for the facility and encourage usage by ensuring equipment availability and accessibility.

*3 Some of the comments received did not indicate any benefits but simply made a statement in favor of allowing private parties to provide their own coin operated coin telephones.

B. Comments Contending Public Detriment

Some of the respondents who cited benefits also recognized detriments to the public. Others indicated that there were no detriments.

The telephone companies and groups associated with the telephone industry, such as the New York State Telephone Association and the Communications Workers of America, commented that there would be serious detriments associated with the inauguration of COCOTs. The comments made by the telephone industry indicated that the most serious detriment would be an adverse revenue impact caused by the wholesale displacement of the utilities' existing semi-public coin telephone equipment and the erosion of monthly coin service income caused by competitive "cream skimming" at the more lucrative locations. The telephone companies fear that the stranded plant and the erosion of monthly coin revenue will create a deficiency which will need to be offset by rate increases for the general body of ratepayers. ALLTEL New York estimates that if all coin telephones were displaced by CO COTs, the net result would be a stranded investment of approximately \$500,000. If this investment were stranded, ALLTEL contends that its loss would be borne by the company's general body of ratepayers. ALLTEL did not provide an estimate of the net revenue impact if this investment were stranded.

Southern Merchandising, National Payphone and Coin Communications, Inc. included arguments intended to refute the anticipated telephone industry's claim of revenue loss and stranded investment. They argue that CO COTs will generate more access line monthly revenue which in turn will generate more local and toll call revenues. They indicate that the displacement of telephone company coin telephones with CO COTs will also serve to reduce company administration, maintenance and collection expense. Through this process, they say, the telephone companies could file for approval of access line charges which are cost based and totally compensatory. The telephone

companies in their comments state that this would be their objective under a CO COT environment.

The Communications Workers of America comment that the revenue deficiency will result in higher coin rates which will make access to the telephone network even more difficult for the poor who do not now have telephones in their homes. The CWA also concludes that the quality of service will also be diminished because the CO COT provider will opt to purchase the cheapest equipment which will not be capable of providing "full service."

The telephone companies also point out that under present PSC rules they are required to provide public coin telephone service in every exchange and wherever else the Commission feels the public interest will be served. This includes locations which the companies consider to be unprofitable. Opening up the market to competition, they say, would further erode earnings by allowing competition for the profitable locations while forcing the utilities to provide service in the unprofitable public interest locations.

*4 ALLTEL New York, Inc. and Continental Telephone contend that the general public will be confused and irritated if coin service or coin telephone operation is changed from that with which the consumer is now familiar. It is possible that the familiar coin telephones may be replaced by a multiplicity of instrument types which may present a degree of inconvenience to the user. If allowed, there will almost certainly be different rates from those charged at telephone company coin phones for local and long distance calling. Some respondents also point out that there may be a lack of privacy if a CO COT provider installs an extension telephone on the line. Many of the respondents recommended that information regarding operation and ownership be posted on or by the coin telephone instrument; other respondents say this will further confuse the users who, even today, do not read all of the instructions.

Rochester Telephone calls attention in its

comments to the prospects of toll fraud or theft of service under conditions where the user of the CO COT has the ability to access the operator under the guise of placing an operator-assisted call. The detriment here being the loss of control, hence the loss of revenue and the financial risk to the unsuspecting CO COT providers.

C. Staff Conclusions

Communications Division Staff has reviewed the comments of benefits and detriments to the user with other offices and divisions of the Commission and will address these issues as follows.

Staff is of the opinion that permitting resale of telephone service via COCOTs would increase the availability of telephone service to the general public. New York Telephone and other telephone companies have been reducing the availability of public access to telephone service by removing public coin phones which by company measurements are unprofitable. Moreover, many businesses have removed semi-public coin telephones because of the high cost of continuing the service and because they do not share in the revenue produced by the equipment on their premises. It is reasonable to expect that at many locations a private owner of a coin operated telephone could more readily make a profit than could the telephone company because expenses might be lower for the private owner. Such providers might not have the high overheads for maintenance and collection that telephone companies have. Furthermore, because it is part of their regular business and of direct economic benefit, these providers can be expected to place a higher priority on goodwill and service availability from a COCOT than if the set were a telephone company-provided semi-public coin phone.

In addition, COCOTs should open up the market and accelerate the implementation of innovative features and services which the telephone industry has not had the incentive to provide. This is already evidenced by the new models and features of coin telephone instrumentation now advertised and being

marketed across the nation. Similar innovations have occurred in the regular terminal equipment market since competition was allowed. Accordingly, because of the competitive nature of the market, the overall nature of coin telephone service should improve and additional innovative services should become available to the general public.

*5 Some of the detriments mentioned by the commenting parties may also be realized. Many of the assertions made by the parties regarding adverse revenue impact did appear to be strictly speculative in nature. No one accompanied their comments with information to support their conclusions. After a subsequent request by Staff, the four largest telephone companies provided estimates of the revenue effects if COCOTs were to be allowed. These estimates of revenue impact will be discussed later in this memorandum but need not be excessive.

Any adverse revenue impact can be somewhat offset by the revenues from COCOT access line charges and toll revenues generated by the additional telephones. COCOT providers will also absorb the risk of unprofitability which often causes telephone companies to reassess the continuation of a coin telephone location. Staff's recommendation regarding COCOT locations will also tend to minimize revenue losses at high usage locations. In addition, there will also be compensating expense reductions.

Staff also believes that the detriments of customer confusion and lack of privacy will be short-lived and should be tempered by the posting of information at COCOT locations, as well as familiarity through acceptance and on-going use. On the whole, we see sufficient reason to open the coin service market to COCOTs, within the limits discussed below.

2. WHAT POTENTIAL RISK OR BENEFIT WOULD BE POSED TO CUSTOMERS OF LANDLINE TELEPHONE COMPANIES FROM PERMITTING COCOT USE?

A. Comments Contending Benefits to Customers of Telephone Companies.

Many of the comments received in response to this point overlapped with the benefits addressed in I.A. The majority of the respondents wrote that the benefits to the telephone company customers derived from permitting COCOTs were mostly economic in nature. AFX System, GNT Automatic, XCP, and Rome Telecommunications commented that more revenue would be realized by telephone companies through a surge of access line requests. This in turn would spur new usage revenue which would improve the earnings of telephone companies and delay requests for rate increases. The Consumer Protection Board (CPB) believes that approval of the COCOT proposal would lower operating costs for maintenance, collection and commission expense and reduce the telephone companies' need to incur coin station investment. The CPB also indicates that the addition of COCOTs will more efficiently utilize existing network facilities. E.C. Hunter Associates comments that a benefit would be realized by all telephone company semi-public subscribers because they will no longer be billed what he claimed to be an exorbitant monthly rate (\$38.80 in New York Telephone) for this service. National Pay Telephone Corporation says a benefit will be realized because the pricing approach which will result from this case will force telephone companies to price their coin services at cost, thereby eliminating what the companies have claimed is a cross-subsidization of coin service. The claimed benefit would occur as this would tend to delay any further increase in coin rates.

***6 B. Comments Contending Risks to Customers of The Telephone Companies.**

The identified risks posed to customers of telephone companies were highlighted in telephone company and affiliated interests comments. According to this group of interested parties the identified risks posed to consumers of telephone companies included stranded central office coin equipment investment which will result in a revenue shortfall passed on to the ratepayers or to other coin telephone users; more service and maintenance problems caused by inexperienced vendors providing COCOT

equipment; and jeopardizing the low local coin rates in some independent telephone companies (Taconic Telephone has a \$.05 local call rate, but most others are \$.10).

U.S. Payphone in comments recently made before the FCC stated "we hope that some of the states move slowly, so that we can begin to walk before we are forced to run." They conclude that upon gaining experience on the effects of COCOTs on telephone service the Commissions will be able to gauge their success or failure and then act accordingly.

C. Staff Conclusions

The revenue impact of permitting the connection of COCOTs in essentially semi-public locations, on New York Telephone and some of the larger independent companies, does not appear to be as great as was originally suggested. The reality, of course, is that each company will experience revenue loss as a result of the connection of any COCOT unit which corresponds with the disconnection of a company-owned unit, in terms of monthly rental and usage revenues. However, we can expect such losses to be offset somewhat by cost savings such as reduced maintenance costs, lower costs due to a reduced need to collect monies, and some reduced administrative and billing services costs. In addition, competition in this area is expected to increase the numbers of access lines that the local exchange companies will be asked to provide, which will increase monthly service revenues as well as usage charges such as toll and message units. This advantage will occur provided that access line charges are set at compensatory levels as we recommend.

Based on several assumptions unique to the individual company, such as how many of its semi-public units it deems vulnerable to replacement by COCOTs [FN2], and on each company's current semi-public coin rates, the estimated immediate annual net impact for the two largest companies in New York is as follows:

FN2. NYT estimates that, over time,

customers of 74% of its 41,900 semi-public coin stations could experience an economic benefit by switching to COCOTs if current rate levels continue. This equates to 31,000 stations. However, the annual loss anticipated for 1985 is 5,250 stations.

Rochester Telephone -- 294,656

New York Telephone -- 2,730,578

This revenue impact can be characterized for New York Telephone, assuming a loss of 5,250 stations in the first year, as follows:

Loss of Revenues [FNaa1]	- \$10,008,338
Recovered Revenues [FNaaa1]	+ 4,688,565

	- \$ 5,319,773
Cost Savings	+ 2,589,195

	- 2,730,578

FNaa1. Usage and rental lost when a line converts to CO CO T.

FNaaa1. Additional usage plus line revenue from CO CO Ts lines.

*7 As indicated, we do not view these projections which we tend to view as "worst case" as especially threatening to basic exchange rates, particularly in view of the comments from virtually all respondents that competition can only serve to spur usage as well as access line growth and use, a happenstance which will ultimately serve to further reduce semi-public coin revenue deficits.

In addition, it is expected that, over time, the company will experience additional significant cost savings since, with the penetration of CO CO Ts, the company will be required to provide far fewer semi-public coin telephones.

Also to the extent that the company intends to seek recovery of its losses due to CO CO Ts in its current rate case, the Staff intends to examine its projections in meticulous detail.

The expectation is that the majority of CO CO Ts should be connected to regular metered business access lines; however, the question of the proper rate for such lines is extremely important. As the Commission is aware, its past and present policy with regard to pricing basic telephone service (exchange access charges) has resulted in a price-subsidization by other telephone services. For example, New York Telephone has identified the total unseparated monthly, non-traffic sensitive cost of a non-coin business access line to be \$19.09. However, its current monthly rate is \$9.82 per month. [FNa3] This pricing philosophy has been judged by the Commission to be in the public interest.

FNa3. In addition to this monthly charge, if the user is a multi-line customer, there is a \$5.55 per month Federal End User Charge. Single line customers will incur a \$1.00 per month End User Charge effective June 1, 1985.

Staff believes, however, given the fact that CO CO T installations will be essentially for profit in a privately-owned environment, that the local exchange companies should receive sufficient revenues to recover the true cost of providing CO CO T access lines. For most companies, this is the total non-traffic sensitive cost to provide a business access line loop; it appears to range from approximately \$19 to \$25 for the larger telephone companies. We believe that, since competition will, in all probability, eventually make substantial inroads into telephone company semi-public coin markets, the monthly cost to provide such a competitive service should not be subsidized in any way by other exchange company services. Therefore, all companies which currently have metered or message rate business lines could be permitted to file a CO CO T monthly rate equal to at least the separated or intrastate cost of providing a loop, less the proposed Federal End User Charge of \$1.00 due to take effect on June 1, 1985. For NYT, this cost is approximately \$13.00.

However, this could also be construed to be a departure from Commission policy. The operation of a CO CO T does not require any special type of access line as the equipment is designed to be connected to a standard exchange access line. The Commission has previously required that the pricing of exchange lines be independent of the terminal equipment attached to it. Staff's proposal would, in effect, establish a different rate for an access line on the basis of the type of terminal equipment i.e., a CO CO T, to be connected. However, as indicated above, we do not believe that resellers of telecommunications services should be subsidized through below cost access line rates. Moreover, using access line rates based on separated, or intrastate costs, would place the CO CO T loop on the same cost basis, for rating purposes, as company-provided loops to their own coin telephones. [FNa4]

FNa4. NYT prices its semi-public service on the basis of separated costs. The prices charged by other telephone companies vary but are generally below separated costs.

*8 In the case of New York Telephone, a rate set at that level, i.e., approximately \$13.00 per month, would reduce its estimated first year COCOT-induced deficit by an additional \$263,340. We would, of course, expect that each company will provide backup material for any rate it expects to file.

While attachment to a business measured service line would appear to be most desirable, mandating an attachment to only metered lines would preclude the availability of COCOTs in most smaller independent company territories in New York, where measured or message rate services are not available. It would also preclude COCOTs from most of the small, non-metropolitan exchanges of New York Telephone in upstate New York. However, we believe that the Commission could require telephone companies with exchanges offering only flat-rate service to permit the connection of COCOT, at a monthly rate which is compensatory and which reflects the non-traffic sensitive cost of the loops, plus a traffic-sensitive portion perhaps based on average monthly semi-public coin usage.

We believe the foregoing rate methodologies will produce compensatory rates for the local exchange carriers, a situation which we believe is desirable in what, if the comments we have received are correct, will prove to be a highly competitive field. We believe that such competition will, ultimately, serve to benefit monopoly ratepayers, and that the deficits that have been identified in the foregoing paragraphs are not of sufficient magnitude to preclude the provision of COCOTs in non-public locations.

From a revenue standpoint, however, at this time it appears that the extension of COCOTs to include full public coin telephone as well, could have a detrimental impact on monopoly ratepayers. The immediate annual impact on New York Telephone, for example, if its so-called "vulnerable" full public coin stations are replaced by COCOTs could be a revenue reduction of \$34.4 million in the first year.

This significant, immediate impact, we

believe, argues further for a gradual opening up of the coin market in New York by limiting COCOTs, at this time, to the non-public coin market segment.

3. TO WHAT EXTENT SHOULD COCOTS BE REGULATED IF THEIR USE IS PERMITTED.

A. Comments in Favor of Non-Regulation.

Most of the comments in favor of non-regulation embraced the philosophy that the marketplace should supplant regulation and that full competition is the most effective and fair regulatory process available. Coin Communications, D.C. Interconnect, and Peachtree Marketing Service suggest that regulations take the form of prescribing operational requirements which should be designed to protect the public and insure good service. The Consumer Protection Board comments that jurisdiction should be retained in order for the Commission to hear and act upon complaints such as price gouging. The Village of Dryden comments that regulation should follow Commission policies which deregulated station equipment. GNT Automatic wants non-regulation of non-public coin as the competition will be a formidable substitute, but that full regulation should be exercised when public coin service is involved because of the absence of competition. It adds that the only purpose that regulation should serve is to preserve the integrity of the network and insure that operating telephone companies earn sufficiently to cover the cost of providing the necessary access lines. J.H. Sibley, President of Long Island Independent Pay Phone comments "let them (COCOTs) survive or fail based on the quality of their products and the economics of their pricing structure in a free market environment." He goes on to urge that the local calling rate be no higher than that being charged by the Telephone Company in the area in which the COCOT is located. National Payphone comments that competing firms need little or no regulation because dissatisfied customers will turn to other suppliers. This firm chooses to believe that COCOT providers are appropriately viewed as terminal equipment

providers and as such should not be regulated. On the other hand, National Payphone comments that the Commission may maintain regulatory jurisdiction by exercising control over the tariff regulations put into effect by telephone companies throughout the State. The City of New York contends that regulation should be left up to local jurisdiction because local governments are in the best position to determine the needs of its citizens. New York State Telecommunications Association sees little useful purpose being served by certification and rate regulation. The Association contends that hundreds of individuals will install thousands of private payphones and that the resulting paperwork would divert Commission resources from other more necessary work. The Association concluded that precedent for relaxation of regulation could be found in the Commission's treatment of Hotels and Hospitals. Rome Communications and XCP Corporation commented that the only regulation should be a requirement to use an FCC registered telephone instrument.

*9 Southern Merchandising, through its Attorney, Victor Toth, cites Public Service Law, Article 1, Section 2 and 5. Attorney Toth concludes that for it to be subject to the jurisdiction of the "Commission as a 'Telephone Corporation', an entity must meet all of the following elements: (1) own, operate and manage any telephone line, (2) used in the conduct of its business of affording telephonic communication for hire and (3) for profit." Mr. Toth then argues that none of the above is present in a COCOT installation and consequently they should not be regulated. Mr. Toth also mentioned the administrative burdens associated with certification and that adherence to telephone company tariff regulations should suffice.

B. Comments Supporting Full Regulation.

The comments supporting full regulation primarily embraced the area of revenues and service. Most of the comments in favor of full regulation were presented by the telephone companies. ALLTEL New York comments that certification and regulation is necessary

to monitor the service and that the Commission establish a maximum local call rate of \$.25. CWA shares ALLTEL's fear and comments that regulation is necessary to guarantee service levels which are acceptable to the public. Continental Telephone comments that all coin service should continue to be regulated by the Commission but states that if the regulations are relaxed, the operating telephone companies should also be able to operate under the relaxed requirements. The New York State Telephone Association comments that full regulation is necessary to prevent "cream skimming" and service problems. Taconic Telephone comments that COCOTs be regulated for public safety and to protect its \$.05 local call rate.

The operating telephone companies all voiced the same comment - that they be allowed to compete in the marketplace on the same basis as their competitors.

C. Staff Conclusions

Many of the concerns covered above are addressed in Section 4. To the question of regulation, Staff has concluded that COCOT providers would essentially be resellers of intracity and intercity telephone service. As such, under current regulations, they would be bound by the requirements of Title 16, Chapter 1, Part 21 and Chapter VI, Parts 647 and 648 of the Commission rules. Requiring each COCOT provider to file, under the terms of Commission Rules and Regulations, for the required Certificate of Public Convenience and Necessity and the subsequent filing of individual tariffs would, however, present an onerous and restrictive burden on the small businesses installing this equipment. Moreover, if the COCOT market blossoms as anticipated, these filings would produce a mountain of additional paperwork for the Commission which would serve as little more than a mailing list of COCOT locations.

While Staff would prefer to entirely avoid any certification process, we believe that a middle ground is available which would meet both the minimum legal requirements and

would minimize hardship on the vendor of COCOT service.

*10 We recommend that the Commission adopt a procedure that would permit a COCOT provider to certify to the Commission that he or she is in full compliance with the Rules and Regulations established by the Commission for COCOTs service. The certification, which could be as simple as a post card could then be reported to the Commission in order to meet the "hearing" requirement of our certification procedures.

We also believe that if any rate regulation is needed, it should be only to set a maximum rate for local calls equal to \$.25. Toll rates need not be regulated.

4. WHAT REQUIREMENTS REGARDING OPERATING FEATURES, IDENTIFICATION OF THE PROVIDERS OF SERVICE, PRIVACY OF COMMUNICATIONS, RATES, ANE EMERGENCY CALLING CAPABILITIES ARE NECESSARY TO ADEQUATELY PROTECT THE CONSUMER?

A. General Requirements

Most comments received include statements relative to requirements necessary to maintain service quality with the introduction of COCOTs. Many of the comments included operating features that are presently covered by present Public Service Law or by Commission rules. Most of those features and others which Staff has determined to be necessary are listed below.

B. Staff Conclusions

Virtual total agreement was indicated on the connection of only FCC registered COCOT equipment and on the Federal requirements of hearing aid compatibility and mounting height requirements for the disabled. Staff also concurs. In addition, the requirements of dial tone first and coinless 911 or operator access for emergency calls are already required under New York State Law or by Commission regulation.

Based on the comments, Staff favors additional requirements such as limiting COCOTs to non-public locations [FNa5], some form of free local directory information, the restriction of COCOTs to metered or message rate business lines but allowing connection to flat rate lines in those exchanges which do not offer measured service and the posting of clear instructions and ownership identification.

FNa5. The term "non-public locations" is intended to mean those locations where public access is restricted to the secured premises of a residence or business establishment and under direct supervision of the resident establishment. It should not include public areas such as transportation terminals, shopping malls, office building lobbies and government buildings except in secured locations such as correctional institutions.

(1) Non Public Locations

Staff believes that a significant distinction exists between public and non-public coin telephone locations and that COCOTs should, until experience with service quality and consumer acceptance is obtained, be limited to non-public phone locations. This will continue the fully regulated monopoly service that telephone utilities currently provide at full public telephone locations such as street corners and transportation terminals, but will introduce COCOT alternatives and competition at non-public telephone locations.

*11 There are several sound reasons supporting these conclusions. First, we propose that the Commission impose very limited regulatory controls on COCOTs. This, we believe, is both practical and logical in non-public locations where a representative of the business providing the COCOT is available for assistance and support. At full public locations, where no one is in attendance, regulatory oversight may be necessary to assure full public protection for availability of service, reliability of the service, and reasonable rates.

Second, non-public locations are generally limited to the secured premises of a single

establishment. In these locations, the COCOT provider would be solely responsible for the quality of service and call charges. If the quality of service at such locations deteriorates or call charges are excessive, consumers will be discouraged from using that coin telephone, thereby jeopardizing the COCOT provider's investment and encouraging the provider to rectify the problem. Nevertheless, the consumer will still have the option of locating and using, albeit at a less convenient location, a full public telephone to complete coin calls via service that is regulated by this Commission.

Third, public coin telephone service, with the assurances provided by with regulatory oversight, is needed to serve as the last resort for access to the communications network for members of the public in transit, in cases of emergency or when regular telephone service is unavailable or is disrupted by fires, floods, earthquakes or similar calamity. Accordingly, coin service at public locations must be more closely regulated than at non-public locations where a business operator will normally be immediately available for assistance.

Finally, some FCC registered COCOT equipment will not enable a consumer to make collect, person-to-person and other operator assisted calls because the COCOT equipment cannot recognize the special billing instructions given verbally to the operator. [FNa6] Therefore, consumers desiring to place calls having the full range of operator assistance must use the central office controlled public or semi-public coin telephones provided by the telephone utilities. This necessity, coupled with the unavailability of on-site assistance at full public coin phone locations to explain COCOT limitations, serves as another reason to limit COCOTs to the non-public market. This limitation will prohibit the placement of COCOTs in locations such as transportation terminals, shopping malls, government building lobbies and other public places where a business proprietor is not available for assistance.

FNa6. ATTCOM is preparing to offer a special operator service which will enable its

operators to recognize calls from COCOTs and allow COCOTs users to complete "collect", "bill to third number," and credit card calls. These procedures will, however, turn back (refuse) any "sent paid" calls, including operator assisted call completion, person-to-person, and busy verification because of the inability of the operator to control coin collection and coin return in the COCOT equipment. The ATTCOM offering will require administrative participation of the local telephone company in order to provide the needed COCOT calling number identification list in the ATTCOM TSPS operator service equipment.

***12 (2) Directory Assistance**

Coin service customers currently have access to free local and intrastate directory assistance. This practice was instituted, however, because telephone companies found that local directories placed at public phone booths were continually vandalized or stolen. Because, in many such instances, the coin customers had no directory to obtain local numbers, the telephone companies extended free directory assistance calling to all coin service. This practice of free directory assistance calling from coin phones need not be continued for COCOT providers because the phones will be located at non-public locations where the provider can keep a local telephone directory available. Alternatively, the COCOT provider can choose to program the telephone to provide free directory assistance and absorb the DA charges billed by the telephone company.

(3) Message Rate Business Versus Flat Rate Business Rate

Staff believes that COCOTs should be restricted to Measured or Metered business lines. However, if the service offering were restricted to this grade of service, much of the geographical area in the State of New York would be precluded from participating in the COCOTs program. With the exception of Rochester Telephone, a few exchanges in Continental Telephone's area and a few exchanges in ALLTEL's area, most of the

independent telephone companies offer only flat rate service. In addition, many of New York Telephone's smaller Upstate exchanges offer only flat rate service. In order to include the entire state in the COCOTs program, staff believes that connection of COCOTs to flat rate service should be allowed contingent on the telephone company filing tariff rates based on the costs of providing a flat rate COCOT access line. More rationale regarding this tariff was covered in Section 3.

(4) Local and Toll Calling Options.

Some comments suggested the adoption of a requirement that all COCOTs provide full local and toll call completion as is now the case with coin telephones. Because COCOTs will be a competitive service and because traditional public coin telephones will continue to exist for completion of all calls, Staff believes the providers of COCOTs should be free to choose the types of service and complexity of equipment they wish to offer. These choices should include whether or not to offer both local and long distance service.

(5) Posting of Rate and Consumer Information

It should also be required that instructions explaining the operation of the coin telephone be clearly posted at all COCOTs locations. The rate levels for local and long-distance calls should appear on an instruction card in clear view of the telephone user. This is necessary because the COCOT set will operate differently from the conventional telephone company-provided coin operated telephone. The rates may be more or less than the rates charged by the telephone company. It should also be required that the instruction card include a notice of any extension telephones affecting privacy of communications and the name, address and telephone number of the party responsible for the proper operation of the COCOT. This is necessary to inform consumers that the COCOT set is not telephone company property and to advise them of whom to call in case of a problem.

*13 The above requirements can be promulgated in the Commission's order adopting the rule changes discussed below and placed in any telephone company tariff filings which address the connection of COCOTs equipment to the telephone network.

(6) Rates for Local and Long Distance Calls

If the Commission feels that it should control the rates charged by COCOTs, it might conclude that the price of a local call should not exceed the \$.25 charge authorized by the Commission for the majority of coin phones in the state. This would protect the public from price gouging by COCOT providers and would insure more uniformity throughout the state for local call charges. There is no need to determine a charge for long distance service since competition will determine what rates the COCOT provider may charge and because rates for long distance calling vary from carrier to carrier.

5. OTHER CONSIDERATIONS

A. Collection of Taxes

In its comments New York Telephone mentioned that COCOTs providers should be required to pay the appropriate sales taxes on resold telephone service. This is a matter for resolution by the applicable taxing authorities but one which we believe reputable businesses will properly handle in their normal course of doing business. Accordingly, Staff believes it is not an issue needing to be addressed by this Commission.

B. Financial Vulnerability of COCOT Providers

The provision of COCOT service raises concerns about the financial vulnerability of COCOT service providers. For instance, the provider of a COCOT is a basic subscriber to telephone service. As such he is liable for all usage and monthly charges incurred on the telephone line. It is entirely possible that some of the usage charges for calls on a COCOT line could be circumvented by a devious consumer intent on defrauding the

owner of the telephone. For example, the consumer could place a call to a distant city, converse for the minimum period covered by the initial deposit, then instruct the party at the distance end to call back on a "collect" basis, whereupon the consumer could answer the call, accept the charges at the COCOT location and talk for an extended interval without depositing any money. Another method could occur if the user accesses the telephone company operator and asks for assistance in completing a long distance call on a "sent paid" basis. The operator may have no way of identifying the call as COCOT originated. Even if such identification could be made the operator now has no way of recording, collecting or returning coins nor any responsibility to do so, or to block the call. Some COCOTs may be able to deny access to operators by ordinary means, but users will find that there are other ways in certain areas. There are other situations which permit toll calls without proper coin collection at the COCOT. Users will discover ways of defeating the security of the system, or there may be defective equipment or faulty programming. In these cases the COCOT owner will still be liable to pay the telephone company the resulting charges. Since the owner would not be aware of these charges until the monthly bill was received, he may suffer substantial losses, and the telephone company may be unable to collect some bills.

*14 Because of the risks described above, the telephone company will have sufficient justification for requiring a security deposit in accordance with Public Service Law as the company must be concerned with losses which would otherwise be recovered through the general body of ratepayers.

In addition to the above, Staff recommends two specific methods of ameliorating these concerns. First, the telephone companies should offer, as part of the special COCOT line service, the COCOT "call screening" feature now available from ATTCOM TSPS operator services. This will help protect COCOT providers from fraudulent operator assisted calls being placed and billed to the COCOT provider. Second, the COCOT

provider can request, and the telephone companies should offer an "originating only" line service option on any COCOT access line. This option would result in incoming calls to the COCOT line not being completed. We believe, however, that this option will not be acceptable to many COCOT providers, particularly those who will depend on a single COCOT line as their sole source of telephone service. In such cases the COCOT provider will need to either supervise the phone usage or arrange his equipment to restrict incoming calls.

C. Denomination of Coins

Some comments have suggested that there be a requirement that all COCOTs be equipped to accept 3 denominations of coins - nickels, dimes and quarters. Several phones currently registered by the FCC as COCOTs are arranged for "local only" calling and are equipped to accept only quarters. We believe a COCOT provider should have the freedom to choose the market he or she wishes to serve as well as the type of equipment with which to serve it. Therefore, Staff does not recommend that any restrictions be placed on the denominations of coins accepted at a COCOT.

D. Miscellaneous

GTE Sprint has commented that rules and regulations should be formulated to ensure that all COCOT locations provide the public with equal access to all long distance carriers. Such a requirement could add considerably to the complexity and cost of the COCOT. As before, Staff believes this to be a marketing decision to be made by the COCOT provider.

The operating telephone companies have made comments suggesting that the Commission should allow them to compete in the COCOT market. We see no reason why the telephone companies should not be allowed to compete by operating their own COCOTs.

The telephone companies also raised the issue of the requirements in the current rules and regulations which requires at least one

coin telephone to be available to the public at all hours in each exchange (Commission Rules and Regulations, Part 603.2 b). Staff does not see this requirement as imposing any hardship on any of the state's operating telephone companies and recommends that this provision remain unchanged.

Thomas J. Lauenhaupt commented that with the deregulation of coin phones many other technologies could develop such as the operation of an enhanced videotex display system for hotel reservations, general information, banking and other vending. None of the conclusions reached in this matter should preclude or impede such a natural evolution.

*15 Finally, National Pay Phone recommended that the providers of COCOTs be "taxed" to the degree that the telephone company revenues are deficient to offset any loss that the operating telephone companies may experience. We agree that all costs peculiar to COCOTs should be considered when setting COCOT access line charges, but use of such factors should be based on actual experience.

E. Actions in Other States

For the Commission's information, Attachment III presents a summary of the actions taken to date in other states in the COCOTs issue.

RECOMMENDATION

The Communications Division recommends that customer owned coin operated telephone service be allowed in New York State. With Commission concurrence staff proposes that a rulemaking proceeding be instituted to provide streamlined certification of COCOT providers who adhere to the following basic conditions. The proposed rules (see Attachment IV) would exempt COCOT resellers of telephone service from filing tariffs provided that certain basic conditions are complied with. The recommended conditions are:

1. COCOTs locations will be restricted to locations of the sort generally served by non-public coin telephone locations, i.e., sets located on the secured premises of a residential or single business establishment.

2. COCOTs will be provided only through FCC registered telephone instruments or through registered protective circuitry.

3. The COCOTs access line will be a metered or measured service business line, or a flat rate line in exchanges where measured service is not available pending the filing of appropriate special COCOTs access line rates designed to recover the costs of the access line.

4. COCOT service will include free local directory information, either through the presence of directories or free access to local directory assistance.

5. COCOT service will provide coinless emergency calling to 911 and to the operator.

6. The COCOT location will contain in plain view, clear, specific dialing instructions, rate information for local and long distance calls, name and address of the COCOT owner, bill and service dispute calling information and a notice of the presence of any extension telephone that might affect the privacy of communications.

7. The maximum local calling charge will be limited to the highest local coin call rate authorized by the Commission for regular coin service in the State.

Staff has reviewed the requirements of the FCC order on registration of coin operated telephones with particular emphasis on any conflicts with the recommendations here. We believe that these recommendations are in accord with the FCC directives and that no conflict will exist with the FCC.

Staff further recommends issuance of a Commission order in this proceeding to require that telephone companies file tariffs covering the establishment of rates and conditions including call screening for

customer owned coin operated telephones if the companies can demonstrate that existing business rates are below cost. If the Commission agrees with the recommendations herein, Staff recommends adoption of the rules as proposed in Attachment IV. If the proposals are satisfactory, we recommend that the Commission adopt the attached draft regulations on an emergency basis, pursuant to Section 202(6) of the State Administrative Procedure Act, based on findings that immediate adoption is necessary for the preservation of the general welfare and that compliance with the notice and comment requirements of Section 202(1) of that Act would be contrary to the public interest. The reasons for these findings are that it is desirable to provide a means for small business and individuals to connect FCC authorized coin activated terminal equipment to exchange access telephone lines and resell telephone services to the consuming public through the use of these devices without further delay. The immediate adoption will allow such resellers to start the certificate application process with the Commission which should minimize the potential for fraud being wrought on consumers in New York State by resellers who have avoided the legal requirements of the Public Service Law.

*16 Office of Counsel advises that a hearing is required prior to permanent adoption of the draft regulations. This hearing is required by Section 97.2 of the PSL and can be held at a time and place to be specified at a later date.

Attachment I

List of Parties Commenting on Case 28774

COCOTs

ALLTEL Telephone New York, Inc.

AFX Systems

American Telephone and Telegraph
Communications of New York, Inc.

Capital Telephone Systems

Coin Communications, Inc.
Communications Workers of America
New York State Consumers Protection Board
CPE Communications and Security Systems, Inc.
Continental Telephone Company of New York, Inc.
DC Interconnect, Inc.
Village of Dryden, New York
GNT Automatic, Inc.
GTE Sprint
E.C. Hunter Associates, Inc.
Long Island Independent Pay Phone
Thomas J. Lowenhaupt
National Pay Telephone Corporation
New York City
New York State Telecommunications Association
New York State Telephone Association
New York Telephone Company
Peachtree Financial & Marketing Services, Ltd.
Rochester Telephone Company
Rome Tele-Communications
Smokey's Restaurant
Southern Merchandise Corporation
Taconic Telephone Company
The Telephone Booth

United States Payphone, Inc.
Universal Technology
XCP, Inc.

Attachment II

List of Parties Interested in Case 28774

New Technology
Mr. Robert Losson
Wegman's Food Markets
Cindy Bijold
Atlantic Trans-Telephone Company
Telemex Communications
Partridge Consulting Group
U.S. Antennae
Laura Rice
Teddy Bessen
Data Profile
Public Phone, Inc.
Chester Ray
David Fitzpatrick
Telephones Unlimited
Dick Thompson
Glen Voelker
Family Telephone Network
Dominick Crupi
John Acello, Jr.
Robert Paltz

Carolyn Shellman, Esq.	Grumman Aerospace
State Senator Owen H. Johnson	George Lanza
R. Owen Ricker, Jr., Esq.	American Payphone Co.
Charles Donaldson, Assistant Attorney General	Stohn Associates, Inc.
Valley Vending Service	Stuart J. Young
Kingsbrook Jewish Medical Center	Harbei Communications
Synergetix Ltd.	Donald Reiser
Meg's House of Beauty	Ric Stephan Pro Shop
Cot Communications, Inc.	Bloche; French and Raysa, P.C.
Karlin Electronics Corp.	Staten Island Hospital
PayPhone, Inc.	Russell Wheeler
Ms. Lee Dorsey	Brian Hammill
EDS Communiotions	Dante Melba
Susan Cunski	William A. Conway
International Communications, Inc.	charles Peterson
E. Norris	Samuel Harrison
Bickerstaff, Heath and Smiley	Public Coin Phone Systems, Inc.
Axecrop and Warburgh	Kansas State Corporation Commission
Pat Hanley	Ambassador Group
Charles Kriss	Alan artin
New York State Coin Machine Assoc.	*17 Wood, Luksinger and Epstein
Central Phone Service	Philip Gluckman
Irving Berkowitz	Ira Klein
Bob Merillat	Arnold Castro
Norman Saul	Consumers Communications Group
Lawrence Greci	Fred S. Wood, P.E.

James Nastasi
Rand of Phoenix, Inc.
Eadco Marketing
Kevin Griffin
Brownie Pienta
ITST Telecom
Assemblyman Richard S. Ruggiero
Independent Communications Systems
Drew Grigg
National Payphone, Inc.
William Conway
Telestrategy
William Fried
Intrastate Telecommunications, Inc.
Richard Bogнар
New York City Business
Mario Spano
John Terpening

ATTACHMENT III

COCOTS IN OTHER STATES

The following nine states currently allow customer owned coin operated telephones. The salient conditions which must be met are included below the listing of the State:

A. Arizona

1. Non-regulated, non-public use of COCOTs is under standard resale and shared use access line tariffs.

2. COCOT instruments must be FCC

registered.

3. COCOTs may not be placed at locations presently served by public coin phones or at locations which advertise such private service as available to the general public.

4. Public use would require certification and a finding that competition is in the public interest.

5. Monthly Access Charge \$93.70.

B. Illinois

1. COCOT user must be able to dial operator and 911 without coin deposit.

2. COCOT instruments must accept any combination of nickels, dimes and quarters for local and long distance calling charge.

3. COCOT must be accessible to disabled and hearing impaired.

4. COCOT locations must display the owners name, along with the procedure for reporting service difficulties and obtaining refunds.

5. COCOT owners pay for the line charge and standard charge for local and long distance calls.

6. Monthly Access Charge \$7.03 to \$14.03.

C. Minnesota

1. Maximum charge of \$.25 per local call.

2. No limit on charges for toll calls.

3. Free Directory Assistance required to users, but owners of COCOTs pays telephone company for D.A. charges.

4. Connection only to metered access lines.

5. Access Line Charge - \$31.00 to \$38.00 depending on zone local calls -- \$.12 per minute for first 200 minutes.

6. Registered instruments only. If not

registered must be connected with a registered coupler.

7. Coinless 911 and Operator Access required.

8. Must comply with Federal requirements for hearing aid compatibility and mounting height.

9. Must be capable of completing both local and long distance calls.

10. Must accommodate Equal Access.

11. No restrictions on locations of phones.

12. Subscriber of line responsible to pay telephone utility for all billing.

13. Provider must post operational instructions, the name of owners, methods of making complaints and methods of obtaining refunds.

14. Provider must have a certificate of convenience and necessity. (Simplified form provided by Commission.)

D. Missouri

1. FCC registered COCOT equipment is required.

2. COCOT must be able to access the operator without a coin.

*18 3. Free 911 emergency calling is required.

4. COCOT must be able to access directory assistance.

5. Local and long distance calling from each COCOT is required.

6. COCOT location must contain instructions on refunds and complaints, long distance access, identity of the provider of the service and notification of operational procedures.

7. COCOT equipment must comply with all federal, state and local laws.

8. COCOT providers must comply with all Missouri PSC rules and regulations regarding coin telephones.

9. No certification of providers is required and providers are not under the jurisdiction of the Commission.

10. Monthly Access Charge \$26.50.

E. Montana

1. COCOT connection restricted to timed measured service where available (Billings and Bozeman).

2. All other locations require COCOT connection to untimed message rate service with charges at \$.62 per call.

3. Call screening features for operator assistance must be made available to COCOT providers on an optional basis.

F. New Jersey - (Interim Order)

1. Free Directory Assistance required to users, but owners pay telephone company for D.A. charges.

2. Free emergency service and dial tone first required.

3. COCOT must have ability to complete all credit card, collect and bill to third party calls without depositing payment.

4. Full compliance with all FCC regulations.

5. Provider must post clear operational instructions, ownership and billing dispute information.

6. Must be able to complete both local and long distance calls.

7. Must accommodate Equal Access.

8. COCOTs can be connected only to

measured service access lines.

9. Initial Period rates and intrastate rate steps shall be no higher than those charged by the carrier in the area where coin phone is located.

10. Coin phones can only be located where current semi-public phones are located and in other locations that are used by customers of a singular business nature and not in public access areas.

11. Owners must apply for service on an application form designated by and filed with the local exchange company.

12. A surcharge may be included in monthly rate to coin instrument owner to cover the telephone company cost for blocking collect calls and person-to-person calls to another private coin telephone.

13. Monthly Access Charge \$17.50.

G. Ohio

1. All COCOTs requirements:

a) Hearing aid compatible.

b) Mounted in accordance with Federal and State height requirements for disabled persons.

c) Free directory assistance, emergency and 911 service.

2. Public Requirements:

a) Accept and return unused coins.

b) Accept coins of various denominations.

c) Must be able to receive incoming calls.

d) Have same "essential service status as telephone company public phones."

e) Both local and long distance shall be provided.

f) Provide access to all locally certified long distance carriers.

3. Semi-Public Requirements:

a) Local only or local and long distance at the option of provider.

*19 b) If local, only a notice to this effect must be prominently displayed.

c) If long distance is provided, notice must be made when rates vary from Commission approved rates (Commission permits higher than Commission authorized).

4. Other Requirements For All COCOTs:

a) Posting of information on name and address of owner, operating instructions, pricing methodology, methods for reporting complaints, out of order COCOTs and notice if incoming calls cannot be reviewed.

b) Maximum rate for local calls may not exceed rate of local telephone company.

c) Owner responsible for all charges emanating from the line terminal.

d) User of COCOT will not be charged for incompleting calls.

H. Oregon

1. Free 911 or free emergency access to operators is required.

2. COCOT must be registered with FCC and meet handicap hearing aid and mounting requirements.

3. COCOT location must carry labels which show the price of local calls, local or long distance calling restrictions, and identity of person to call to report problems.

4. When a COCOT and Telephone Company coin telephone is at the same approximate location, the company charge for a local call shall not exceed \$.25 unless a showing can be made that competition for the customer coin

operated telephone business is present. The charge may then exceed \$.25 if the other privately owned coin phone exceeds \$.25.

5. Telephone companies may compete equally with their own instrument-implemented equipment.

6. COCOT service to be provided on a special measured rate access line where available, otherwise on a flat rate special access basis.

7. COCOT access line charges are to be based on costs.

8. Special operator options shall be provided at special tariff rates.

9. Monthly Access Charge \$33.50 metered, \$54.50 nonmetered.

I. South Dakota

1. COCOT must be FCC registered.

2. Maximum \$.25 charge to COCOT user for local calls.

3. Free 911 calling and Free operator access required for credit card calls.

4. COCOT must be able to make outgoing collect and third party billed calls.

5. COCOT may limit calling to local only or toll only if toll-equal access.

6. COCOT may charge for directory assistance.

7. COCOT must comply with hearing aid and disabled compatability regulations.

8. COCOT units prohibited in airports, government buildings and on public property.

9. COCOT access line charges ranging from \$33.00 to \$38.85 for measured service plus \$.10 per call for first 300, \$.08 for next 300, and \$.06 for over 600.

10. Where measured service is not available,

flat rate charges of \$57.00 are imposed for a COCOT access line.

ATTACHMENT IV

CHAPTER VI TELEPHONE AND TELEGRAPH

§ 648.1

PART 647

RESELLERS OF TELEPHONE SERVICES

(Statutory authority: Public Service Law, art. 5)

Sec.

647.1 Definition

Historical Note

Part (§ 647.1) filed Dec. 7, 1962 eff. Dec. 7, 1962.

Section 647.1 Definition. The following term, when used in these regulations shall have the meaning indicated: a reseller of telephone services is a telephone corporation as defined in the Public Service Law, which shall subscribe to communications services and facilities from a telephone corporation, and which shall reoffer communications services to the public for profit. The term reseller shall not include landline telephone companies other than subsidiaries of landline companies which maintain separate books of account, and shall not include motels, hotels or hospitals insofar as they are providing service only to their transient guests or patients within the confines of their own institutions.

*20 Historical Note

Sec. filed Dec. 7, 1962 eff. Dec. 7, 1962.

PART 648

APPLICABILITY OF REGULATIONS TO RESELLERS OF TELEPHONE SERVICES

(Statutory authority: Public Service Law, art.

5)

Sec.

648.1 Regulations applicable

Historical Note

Part (§ 648.1) filed Dec. 7, 1962 eff. Dec. 7, 1962.

Section 648.1 Regulations applicable. In Parts 600-648 of this Chapter, resellers of telephone service are subject only to the following provisions: Parts 620, 630, 647, 648 and sections 644.1 and 644.2 of this Chapter.

Historical Note

Sec. filed Dec. 7, 1962 eff. Dec. 7, 1962.

Add new Section 648.2 as follows:

Section 648.2 **ADDITIONAL EXEMPTION APPLICABLE TO RESELLERS VIA COCOTS**. A reseller of telephone service which resells such service via customer owned coin operated telephones (**COCOTs**) located on the secured premises of a residential or single business establishment shall be exempt from the tariff requirements of Part 630 of this Chapter, if the application for a certificate of public convenience and necessity contains a sworn statement that, for the duration of the resale offering, the reseller agrees to:

(a) Provide service:

(1) Only through FCC registered telephone instruments or through FCC registered protective circuitry;

(2) Via a metered or measured service business access line, or a specially rated flat rate line in exchanges where measured service is not available;

(3) Which includes free local directory information, either through the presence of directories or free access to local directory assistance; and

(4) Which includes coinless emergency calling to 911 and to the operator.

(b) Post in plain view at each **COCOT** location:

(1) Clear, specific dialing instructions;

(2) Rate information for local calls;

(3) The name and address of the reseller;

(4) Bill and service dispute calling information; and

(5) A notice of the presence of any extension telephone that might affect the privacy of communications.

(c) Limit the maximum charge for local calls to the highest local call rate authorized by the Commission for regular coin service in the state.

COCOTS POLICY IN OTHER STATES

[Note: The following TABLE/FORM is too wide to be displayed on one screen. You must print it for a meaningful review of its contents. The table has been divided into multiple pieces with each piece containing information to help you assemble a printout of the table. The information for each piece includes: (1) a three line message preceding the tabular data showing by line # and character # the position of the upper left-hand corner of the piece and the position of the piece within the entire table; and (2) a numeric scale following the tabular data displaying the character positions.]

 ***** This is piece 1. -- It begins at character 1 of table line 1. *****

	Y = Yes N = No	Arizona	Illinois	Minnesota	Missouri	Montana	Ohio
1 FCC Registered	Y			Y	Y		Y
2 Handicapped Requirements [FNa1]		Y		Y	Y		Y
3 Free 911 or Emergency Calls		Y		Y	Y		Y
4 Free Directory Assistance				Y [FNaa1]	N		Y
5 Commission Controls Rates to COCOTs		Y		Y		Y	Y
6 Commission Controls Rates by COCOTs				N-L Dist Y-Local		Y	N-L Dist Y-L-ocal
7 Under Commission Jurisdiction	Y	Y		Y	N		Y
8 Certification Required	Y			Y	N		N
9 Location Limited	Y	N		N	N	N	N
10 Operating Instructions Required		Y		Y	Y		Y
11 Access Line Charges	\$93.70	\$ 7.03-	\$30.00		\$26.50		
		\$14.03	Metered				

\$56.90
Non-Metered

1...+...10...+...20...+...30...+...40...+...50...+...60...+...70...+

***** This is piece 2. -- It begins at character 76 of table line 1. *****

New Jersey	Oregon	S. Dakota
Y	Y	Y
Y	Y	Y
Y	Y	Y
Y [FNaa-1]		N
Y	Y	Y
Y	Y	Y
Y	Y	Y
N		
Y	N	Y
Y	Y	
\$17.50	\$33.50	\$33.00
	Metered	Metered
	\$54.50	\$57.00
	Non-Metered	Non-Metered
76.....+	90.....+	0.....

***** This is piece 3. -- It begins at character 1 of table line 52. *****

FNa1. Mounting Height is 54 Inches From Floor -- 44 Inches in Federally
FNaal. User is Free; Owner Pays Telephone Company.

1...+...10....+...20....+...30....+...40....+...50....+...60....+...70...

***** This is piece 4. -- It begins at character 74 of table line 52. *****

Funded Buildings.

74...80....+...90....+....0....

***21 STATE OF NEW YORK**
PUBLIC SERVICE COMMISSION

RESOLUTION BY THE COMMISSION

CASE 27946 - In the Matter of the Rules and Regulations of the Public Service Commission, 16NYCRR, Chapter VI, Telephone and Telegraph Corporations, Subchapter D, Records; Reports, Part 648, Applicability of Regulations to Resellers of Telephone Services -- PROCEEDING ON MOTION OF THE COMMISSION AS TO THE ADDITION OF A NEW SECTION, 648.2 - ADDITIONAL EXEMPTION APPLICABLE TO RESELLERS VIA COCOTS.

At a session of the Public Service Commission held in the City of Albany on March 8, 1985, the Commission by unanimous vote of its members present,

R E S O L V E D:

1. That the emergency provisions of Section 202(6) of the State Administrative Procedure Act and Section 101-a(3) of the Executive Law having been invoked, Title 16, Chapter VI, Telephone and Telegraph Corporations, Subchapter D, Records; Reports, Part 648 - Applicability of Regulations to Resellers of Telephone Services is amended, effective 21 days after the filing of this Resolution with the Secretary of State, by the addition of a new Section 648.2, to read as follows:

Section 648.2 ADDITIONAL EXEMPTION APPLICABLE TO RESELLERS VIA COCOTS. A reseller of telephone service which resells such service via customer owned coin operated telephones (COCOTs) located on the secured premises of a residential or single business establishment shall be exempt from the tariff requirements of Part 630 of this Chapter, if the application for a certificate of public convenience and necessity contains a sworn statement that, for the duration of the resale offering, the reseller agrees to:

(a) Provide service:

(1) Only through FCC registered telephone instruments or through FCC registered protective circuitry;

(2) Via a metered or measured service business access line, or a specially rated flat rate line in exchanges where measured service is not available;

(3) Which includes free local directory information, either through the presence of directories or free access to local directory assistance; and

(4) Which includes coinless emergency calling to 911 and to the operator.

(b) Post in plain view at each COCOT location:

(1) Clear, specific dialing instructions;

(2) Rate information for local calls;

(3) The name and address of the reseller;

(4) Bill and service dispute calling information; and

(5) A notice of the presence of any extension telephone that, might affect the privacy of communications.

(c) Limit the maximum charge for local calls to the highest local call rate authorized by the Commission for regular coin service in the state.

2. That the hearing pursuant to Section 97(2) of the Public Service Law will be held at a time and place to be specified in a Notice of Hearing to be issued subsequently.

3. That the Secretary of the Commission is directed to file a copy of this Resolution with the Secretary of State.

1985 WL 303453 (N.Y.P.S.C.)

END OF DOCUMENT