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Mitchell F. Brecher
(202) 331-3152
BrecherM@gtlaw.com

November 21, 2000

EX PARTE - VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445-12th Street, S.W. TW-A324
The Portals
Washington, D.C. 20554

Re: Access Charge Reform, CC Docket Nos. 96-262, 94-1, 99-249, 96-45 – Operator Communications, Inc. Comments Concerning Coalition for Affordable Local and Long Distance's Ex Parte Letter

Dear Ms. Salas:

On October 30, 2000, the Coalition for Affordable Local and Long Distance Service ("CALLS") submitted an ex parte letter regarding petitions and replies filed by One Call Communications, Inc. and by Operator Communications, Inc. ("OCI") to reconsider the CALLS Order[1] and clarify that payphone lines are to be treated as single-line business lines under the CALLS access reform plan with particular respect to the manner in which the Presubscribed Interexchange Carrier Charge ("PICC charge") is assessed. CALLS states in its letter that it opposes OCI's position that payphone lines should be treated as single line business lines for purposes of the PICC charge. In this letter, OCI responds to certain statements contained in CALLS' October 30, 2000 letter.

First, CALLS' assertion that the Commission has already decided that payphone access lines are multiline business lines is incorrect. OCI acknowledges that Section 69.152 of the Commission's Rules requires that Subscriber Line Charges be assessed at the multiline business line rate.[2] However, in contrast to that provision, Section 69.153, the section of the Commission's rules which governs PICC charges, imposes no such requirement with respect to the imposition of PICC charges on payphone access lines. Neither has the Commission indicated

[1] Access Charge Reform, Sixth Report and Order in CC Docket Nos. 96-262 and 94-45; Report and Order in CC Docket no. 99-249; Eleventh Report and Order in CC Docket No. 96-45, FCC 00-193, 2000 FCC LEXIS 2807 (rel. May 31, 2000).

[2] Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 20541, ¶ 187 (1996).

in any order that PICC charges are to be assessed upon the presubscribed carriers serving payphones at the multiline business line rate. The absence of any reference in its PICC charge rule to assessment of PICC charges on pay telephone access lines at the multiline business line rate is in stark contrast to the rule governing Subscriber Line Charges which does contain a requirement that Subscriber Line Charges at the multiline business line rate are to be assessed on payphone access lines. The Commission's silence about the applicability of PICC charges at the multiline business line rate to payphone lines demonstrates that the Commission affirmatively and deliberately chose not to classify payphone access lines for PICC purposes in the same manner as it classified payphone lines for Subscriber Line Charge purposes. This difference in treatment is logical and appropriate as PICC charges and Subscriber Line Charges were established for different purposes.

Second, CALLS mistakenly claims that OCI's proposal, which would result in the payphone service provider as the subscriber paying the PICC charge associated with a payphone line (as is done under the CALLS plan for residential and all other single line business access lines), is not consistent with recovering costs in a cost-causative manner. In the payphone context, the payphone service provider is the subscriber to payphone service. A payphone provider, by installing payphones on its own initiative, causes the LEC to incur the cost of providing and maintaining the access line to connect the payphone to the public switched network. Similarly, when a premises owner requests a payphone provider to install a payphone, that premises owner, not the presubscribed IXC, causes the LEC to incur the cost of providing an access line.

Third, the fact that the multiline business line PICC charge will decrease over time has no bearing on OCI's proposal to treat payphone lines as single-line business lines for purposes of the PICC charge. The assessment of the PICC charges at the multiline business line rate on presubscribed 0+ carriers at payphones already has reduced the availability of payphone services because the total monthly revenues received by 0+ carriers are often not sufficient to cover the PICC charge. Unless the Commission determines that payphones should be treated as single-line business lines for PICC charge purposes (thus, relieving 0+ carriers from paying the PICC charge), the availability of payphones to customers who rely on payphones as their only means for making long distance calls will continue to decrease. This result is contrary to the statutory and Commission policy of facilitating all consumers' access to telecommunications services.[3] Notwithstanding CALLS' curious assertion that the adverse impact of its plan on presubscibed carriers serving payphones is "transitory," the fact remains that the economic hardship on those carriers providing 0+ service from payphones already has had an adverse impact on the availability of payphones and services at many locations and that such availability will continue to be reduced unless the improper treatment of payphone access lines for PICC charge purposes is promptly rectified.

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[3] See 47 U.S.C. § 254(b).

Fourth, CALLS' arguments as presented in its October 30, 2000 letter, incorrectly assume that the Commission has already determined that payphone lines are multiline business lines. As OCI has explained in this letter and in several previous filings with the Commission, such a determination has not been made. Thus, CALLS' statement that the Commission's rationale for not consolidating the Subscriber Line Charge and the PICC charge for multiline business lines applies to payphone lines is conclusory and misplaced. Moreover, whether or not long distance rates might increase if payphone lines were considered single-line business lines for PICC purposes has no bearing on whether payphone lines actually constitute single-line or multiline business lines.

Finally, the CALLS' view of the applicability of Section 276 of the Communications Act as reflected in its October 30, 200 ex parte letter is incorrect. Section 276(a) of the Act prohibits Bell Operating Companies from doing either of two things with respect to the treatment of payphone services: (1) subsidizing their payphone service directly or indirectly from their telephone exchange operations or their exchange access operations (47 U.S.C. § 276(a)(1)), and (2) preferring or discriminating in favor of their own payphone services (47 U.S.C. § 276(a)(2)). By exempting the BOCs' own payphone operations from the subsidy funds inherent in the PICC charges imposed on payphone access lines, the BOCs effectively receive the benefit of a subsidy to their payphone operations from their access charge revenues received from interexchange carriers providing 0+ service from those payphones, in plain contravention of Section 276(a). See petition for reconsideration and clarification filed July 21, 2000 by One Call Communications, Inc. at pp. 10-11.

The statements contained in CALLS' letter demonstrate a misunderstanding about OCI's proposal that payphone lines be treated as single-line business lines for the assessment of PICC charges. Treatment of payphone access lines as single line business lines for PICC purposes under the CALLS access plan is consistent with the statutory requirements of the Act and with the Commission's rules and policies. Consideration of the appropriate treatment of payphone access lines for PICC charge purposes is long overdue. OCI respectfully urges the Commission to promptly resolve matter by clarifying on reconsideration that payphone access lines are to be treated as single line business lines for PICC purposes under the access reform plan established in the CALLS Order.

Sincerely,

Mitchell F. Brecher
Debra A. McGuire
Counsel for Operator Communications, Inc.

cc: Mr. Rich Lerner, Competitive Pricing Division, Common Carrier Bureau