

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	R.M. 10568
Petition for Rulemaking to Establish Revised	)	
Per-Call Payphone Compensation Rate	)	

**OPPOSITION TO PETITIONS TO REVISE  
THE PER-CALL PAYPHONE COMPENSATION RATE**

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## SUMMARY

Commentors oppose the requests of the American Public Communications Council and the Regional Bell Operating Coalition to more than double the current dial-around payphone compensation rate. Although APCC and the RBOC Coalition consistently cite changes in market conditions to support their request to increase dramatically the per-call rate, APCC and the RBOCs rely solely on a decrease in call volumes and payphone deployment. APCC and the RBOC Coalition make no effort to explain how raising the compensation rate will relieve the decline of payphones or restore those that have been removed. In the current climate, such a rate increase will likely exacerbate "the problem" as defined by APCC and the RBOCs and harm the public interest. Furthermore, the cost proposals presented by APCC and the RBOC Coalition are unsupported and self-serving and should be rejected. Among other things, APCC and the RBOC Coalition did not accurately research the costs incurred by the whole industry, nor did they justify their call count calculations for the average number of calls from marginal phones. Commenters believe the FCC must review the entire industry in depth before making a decision that could so seriously impact all segments of the industry.

The APCC and RBOC petitions should be denied and the current cost methodology should remain in place. If the Commission chooses to consider such claims, however, the Commission should issue a Notice of Inquiry to fully develop the record regarding changes in market conditions and technological advances, the meaning of widespread deployment, locations of payphone removals and the populations affected, increased revenues from coin operations, and fraud.

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ATX Communications, Inc., Business Telecom, Inc. and US LEC Corp. ("Commenters"), by their undersigned counsel and pursuant to the Federal Communications Commission's public notice released on September 30, 2002,<sup>1</sup> respectfully submit comments opposing the requests of the American Public Communications Council ("APCC") and the Regional Bell Operating Coalition ("RBOC Coalition" or "RBOCs") to more than double the current dial-around payphone compensation rate ("dial around rate" or "per-call rate"). Such a dramatic increase will have substantial consequences for all industry participants and the public and may not be adopted based on the scant information produced by APCC and the RBOC Coalition. Moreover, the limited data provided by APCC and the RBOCs is misleading and the analysis of the data defective. Commenters urge the Commission to reject the requests of APCC and the RBOC Coalition or, in the alternative, to issue a Notice of Inquiry to obtain a complete and accurate picture of the payphone industry today to ensure that any Commission action is consistent with section 276 of the Act and serves the public interest.

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on Petitions for Rulemaking Regarding Payphone Dial-Around Compensation Rate*, Public Notice, DA 02-2381, RM No. 10568 (Sept. 30, 2002).

**I. ADEQUATE DOCUMENTATION AND INFORMATION TO ASSESS CURRENT MARKET CONDITIONS AND THE IMPACT OF A RATE INCREASE ON THE MARKET IS VITAL TO MAKING A DECISION IN THE PUBLIC INTEREST**

Although APCC and the RBOC Coalition consistently cite changes in market conditions to support their request to more than double the per-call rate, APCC and the RBOCs rely solely on a decrease in call volumes and payphone deployment. They fail to address or consider obvious factors that may account for decreases in payphone deployment such as the economic downturn and appropriate responses to market conditions for payphones based on changes in the prevalence of wireless services. APCC and the RBOCs also fail to identify the actual location and market forces in the areas of the decommissioned payphones. Without this data, it is impossible to determine whether the removal of the payphones in fact harmed the public interest. For example, the removal of four payphones in a bank of ten payphones at an airport does not prove that the public interest is harmed. Efficient removal of underutilized or unnecessary and redundant facilities might actually be in favor of the public interest.

Moreover, APCC and the RBOC Coalition make no effort to explain how raising the compensation rate will relieve the decline of payphones or restore those that have been removed. In the current climate, such a rate increase will likely exacerbate "the problem" as defined by APCC and the RBOCs and harm the public interest. For example, increasing the per-call rate will increase the price of dial around products, thereby artificially making such products more expensive and cost prohibitive for some consumers and making wireless products more attractive for other consumers. A decrease in the use of dial around products would not only harm the public but also harm the entire payphone industry by further decreasing the use of payphones.

APCC and the RBOCs offer no evidence that their request to increase rates would actually improve the availability of payphones, and do not acknowledge the obvious fact that such an increase may actually result in further decreases in the number of payphones as the price increase drives callers to use payphones even less. Moreover, if the allegations of APCC and the RBOCs are taken at face value, the per-call rate would require frequent modification for technological changes and increased wireless use. Such constant increases will cause the per-call rate to exceed the cost of the dial around product. In other words, allowing a change in the rate based on such scant evidentiary information may set a precedent for future requests to increase compensation without requiring petitioners to provide evidence illustrating the specific market harm, the remedy that will prevent such harm and the impact on the industry as a whole.

In its *Third Report and Order*,<sup>2</sup> the Commission stated that

“[i]f, by January 31, 2001, parties have not invested the time, capital, and effort necessary to remove these technological impediments (negotiating fair compensation for dial-around calls), or we determine that other impediments to a market-based resolution continue to exist, the parties may petition the Commission regarding the default compensation amount, related issues pursuant to the technological advances, *and* the expected resultant market changes.”<sup>3</sup>

The Commission clearly provided that any request for modifications to the compensation rate be based on a complete review of all factors, developments and outcomes, for the marketplace as a whole, not simply a request for a rate change by individual parties. Despite this, APCC and the RBOC Coalition have sought a per-call rate increase based solely on unsupported anecdotes ignoring that such a policy change will have major and far reaching impacts on all marketplace

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<sup>2</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Third Report and Order, and Order on Reconsideration of the Second Report and Order, 14 FCC Rcd 2545 (1999) ("*Third Report and Order*").

participants. Commenters believe the FCC must review the entire industry in depth before making a decision that could so seriously impact all segments of the industry.

To obtain a more accurate picture of the payphone market and to ensure that any modifications to the payphone compensation regime are in keeping with the goals underlying section 276 and in the public interest, Commenters urge the Commission to initiate a Notice of Inquiry ("NOI") before considering any changes in the per-call rate.<sup>4</sup> The Commission should have accurate, detailed information to assess the current market conditions to determine first whether a problem truly exists, and, if one does, the proper remedy. An NOI will allow the Commission to proceed judiciously and create the necessary record with a full and clear understanding of the situation and environment, and the ramifications that any actions it may ultimately take will have on all market participants and the public as a whole.

**A. Widespread Deployment Should Benefit the Public**

Congress enacted legislation in order to “promote the widespread deployment of payphone service to the benefit of the public.”<sup>5</sup> However, it did not define its interpretation of “widespread deployment” except by stipulating it should benefit the public. Should “widespread deployment” be interpreted as requiring access to an ever-increasing number of payphones? The obvious answer is no. Rather, it means payphones should be deployed in a way to benefit the public, whether or not there are as many payphones as there were during the peak in 1998.<sup>6</sup>

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<sup>3</sup> *Third Report and Order* at ¶ 18 (1999) (emphasis added).

<sup>4</sup> 47 CFR § 1.407.

<sup>5</sup> 47 U.S.C. § 276(b)(1).

<sup>6</sup> In 1998, the total number of payphones was 2.15 million. See *Third Report and Order* at ¶ 184, n. 390. Nationwide totals were 2.12 million in 1999, 2 million in 2000, and 1.9 million in 2001. *Trends in Telephone Service*, released August 2001, at <http://www.fcc.gov/wcb/iatd/trends.html>.

By citing the decline in payphones since 1998 as a reason to increase the default rate, APCC and the RBOCs imply that Congress and the Commission meant to increase payphone deployment in perpetuity.<sup>7</sup> Clearly this assumption is wrong. Obviously, the Commission should view “widespread deployment” in the context of the changes in technology and in market conditions, as requiring a reasonable level of payphone service so as to actually render a benefit to the public as required in the statutory language of §276. As the Commission noted, a market-based resolution would be the most favorable outcome to compensate payphone service.<sup>8</sup> According to that philosophy, market forces should allow for a decrease in the number of payphones when they do not provide a public benefit.

**B. More Information is Needed Regarding the Decommissioned Payphones**

Not only did the Commission favor a market-based approach, but it requested that it be provided details regarding the current market situation when deciding whether to adjust the default compensation rate.<sup>9</sup> Yet APCC and the RBOC Coalition have provided no real information regarding current market conditions on the locations where they claim payphones have been removed. Although each has provided statistics showing a decline in the total number of payphones, neither has demonstrated that such removal has actually harmed the public, particularly the populations most in need of access to payphones.<sup>10</sup> Moreover, they fail to refute other, more obvious potential “causes” for the removal of particular payphones. It is clearly

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<sup>7</sup> APCC Petition at 8, RBOC Petition at 4.

<sup>8</sup> *Third Report and Order* at ¶ 16.

<sup>9</sup> *Id.* at ¶ 18.

<sup>10</sup> APCC Petition at 8, RBOC Petition at 1. Populations most requiring access include low income users and rural, small-town, and Tribal Land users. APCC Petition at 6.

possible that payphones have been removed in locations with high traffic because not enough demand exists to sustain the payphones at one site. Moreover, as the Commission would surely want to consider, it is entirely likely that, in these financially difficult times, payphones in abandoned dot.com and other high tech office buildings may have been removed for lack of traffic. APCC and the RBOCs fail to account for these and other obvious possible alternative reasons for the reduction in the number of payphones.

Instead of merely relying on unsupported and self-serving claims, research should be conducted using zip codes or automatic number identifications (“ANIs”) to determine where payphones have been removed. This research can then be interpreted to determine whether populations have actually been negatively affected by the removal of a particular payphone, and, if so, which population (*i.e.* high income, rural or low income groups) was most affected by the removal. Such research may demonstrate that payphone removals actually reflect market demand and removal benefits the public by eliminating unnecessary payphones in areas where an excess of payphones existed. Such a reduction may in fact reduce APCC and the RBOCs' costs by lowering maintenance and other costs for such phones.

**C. The Commission Should Examine the Impact of Fraud**

In the *First Report and Order*,<sup>11</sup> the Commission stated that aggressive action would be taken against those involved in payphone fraud, specifically those who use autodialers to increase the amount of compensation received by a payphone service provider (“PSP”).<sup>12</sup> Later it affirmed its decision following petitions from Sprint, MCI, and PageNet to take additional

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<sup>11</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 20541 (1996). (“*First Order*”)

steps to reduce fraud.<sup>13</sup> However, the Commission declined to take further steps without specific factual circumstances, but it did agree to monitor and respond as necessary to specific requests.<sup>14</sup>

Recently the Northern District of California indicted two men for fraudulently using 24 leased payphone lines from Pacific Bell.<sup>15</sup> The men used autodialers to make calls, which induced AT&T to pay higher compensation amounts.<sup>16</sup> AT&T is vigorously pursuing litigation; however, as AT&T stated there is “no precedence of previously successful prosecutions on this type of fraud”<sup>17</sup> and the two men are being brought up on a variety of charges including tax fraud and money laundering.<sup>18</sup>

Unfortunately, many carriers have experienced fraud in the payphone compensation process, including duplicate claims for the same payphone ANI and claims for inoperable payphones. Furthermore, some payphones block dial around calls, which represents an opportunity cost to competitive carriers and devalues dial around products by making them less useful to the consumer. An NOI will permit the Commission to examine the impact of fraud and dial around blocking on the industry, including the likelihood that such practices also contribute to a decline in payphone use and payphone removal.

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<sup>12</sup> First Order at ¶ 65.

<sup>13</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Reconsideration, 11 FCC Rcd 21233 at ¶ 63 (1996). (“*First Reconsideration*”)

<sup>14</sup> *Id.*

<sup>15</sup> David and Nisbet, United States Attorney’s Office, Northern District of California, at [http://www.usdoj.gov/usao/can/press/html/2002\\_03\\_08\\_david\\_nisbet.html](http://www.usdoj.gov/usao/can/press/html/2002_03_08_david_nisbet.html), released March 8, 2002. (“David and Nisbet”)

<sup>16</sup> *Id.*

<sup>17</sup> *A Warning: Don’t Play with Payphone Dough*, AT&T Labs Research, at <http://www.research.att.com/news/2002/May/Payphone.html>.

<sup>18</sup> *See* David and Nisbet.

## II. THE COST PROPOSALS ARE FLAWED AND SHOULD BE REJECTED

APCC and the RBOC Coalition cost proposals are unsupported and self-serving and should be rejected. Among other things, APCC and the RBOC Coalition did not accurately research the costs incurred by the whole industry, nor did they justify their call count calculations for the average number of calls from marginal phones. The Commission should collect information from all payphones before determining the average number of calls from marginal payphones, utilizing a midpoint between marginal and average payphones. Furthermore, collection costs should continue to be considered joint and common throughout the industry and addressed as overhead under SG&A rather than separately, and further data is needed following the changes to collection rules. Likewise, bad debt or uncollectibles should continue to be excluded as a factor in the cost methodology because such factors are unreliable predictors of future costs.

### A. APCC's and the RBOCs' Dial-Around Cost Studies are Flawed in their Cost Adjustments to the Compensation Calculation

The Commission adopted a dial-around compensation methodology in its *Third Report and Order* to fairly compensate PSPs. This methodology was used to calculate a dial-around rate of \$0.24 per call after investigating the costs associated with operating a payphone and the number of calls required to make a payphone viable.<sup>19</sup> However, contrary to claims that they only seek to update the cost model, the FCC's payphone compensation methodology has now come under attack by APCC and the RBOCs because each hopes to increase the compensation rate by means of cost adjustments that utilize a different sampling and analysis process and the

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<sup>19</sup> *Third Report and Order* at ¶ 14.

addition of new rate elements. Each group has developed nonrepresentative cost studies based on isolated samplings, and each seeks to decrease the number of calls from marginal payphones without ample justification.

***1. APCC and the RBOC Coalition Used Samples that Do Not Represent the Whole Payphone Industry***

Studies sponsored by APCC and the RBOCs only use samples representative of their own group. For instance, APCC's cost study surveyed 940 payphone service providers ("PSPs"), all of which are independent.<sup>20</sup> Similarly, the RBOCs' cost study only used information from members of the RBOC Coalition and Qwest Communications International, Inc.<sup>21</sup> Consequently, these cost studies do not represent the whole payphone industry.

In its *Third Report and Order*, the Commission examined the costs of *all* payphones when determining the compensation rate to be \$0.24.<sup>22</sup> All payphones included Bell Operating Companies, PSPs associated with BOCs, and independent PSPs. Thus, the Commission considered a variety of payphones' capital costs before settling on AT&T's 11A-type payphone as the cost measurement.<sup>23</sup> Similarly, the Commission considered data from several sources before determining the Sales, General, and Administrative (SG&A) cost as a weighted average between the RBOCs and Peoples Telephone calculations.<sup>24</sup>

All segments of the payphone industry, not just independent PSPs or the RBOCs, should be included in determining any updates to the dial-around compensation calculation, as the

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<sup>20</sup> APCC Petition at 12.

<sup>21</sup> RBOC Petition at 6.

<sup>22</sup> *Third Report and Order* at ¶ 147.

<sup>23</sup> *Id.* at ¶¶ 159, 169.

Commission did in its *Third Report and Order*. Considering all segments ensures that the whole industry is represented, and that individual parties do not unduly influence or dictate rate changes for the entire industry.

2. ***No Legitimate Reason Has Been Offered to Justify Deviating from the Commission's Marginal Payphone Method***

Previously, the Commission determined the average number of calls from a marginal payphone by requesting two figures from the RBOCs.<sup>25</sup> The first was the number of calls placed at a payphone that does not pay rent, and the second was the number of calls placed at a payphone that does pay rent.<sup>26</sup> The Commission asked for this data because of the wide variances in the average number of calls submitted by several sources and because of the dispute over its 542 call average calculation in the *Second Order and Report*.<sup>27</sup>

Taking into account numbers submitted by several PSPs, the Commission decided to use the RBOC submitted numbers of 414 and 464. The Commission then applied the midpoint of 439 as the average number of calls from a marginal payphone.<sup>28</sup> The Commission accepted the RBOC's figures even though the numbers were calculated by categorizing payphones based on daily revenues and estimating the call counts based on the category of the payphone.<sup>29</sup> Although not explained fully, it appears that the RBOCs used the daily revenues in the earlier

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<sup>24</sup> *Id.* at ¶ 179.

<sup>25</sup> *Id.* at ¶ 147.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at ¶ 144-145. MCI's average was 700 calls; APCC's average was 588 calls; RBOCs' average was 478 calls; and the national average was 517 calls. *Id.* at ¶ 144.

<sup>28</sup> *Id.* A marginal payphone was defined as one where a payphone operator is able to only recoup its costs and not to make payments to the location owner. *Id.* at ¶ 15, n. 20.

<sup>29</sup> *Id.* at ¶ 147.

compensation analysis due to internal practices to pay location rents based on payphone revenues, not just monthly call volume.<sup>30</sup>

Nevertheless, the RBOC Coalition now proposes a recalculation using only call counts rather than daily revenues,<sup>31</sup> and it proposes using only the figure associated with average calls from a marginal payphone rather than employing a midpoint between marginal and average payphones.<sup>32</sup> Similarly, APCC wants to alter its numbers by using a call count from marginal payphones as the sole determination of the average number of calls.<sup>33</sup> However, the RBOC Coalition's average of 219 calls from marginal payphones and its overall call average of 253 shows how calculations can deviate.<sup>34</sup> In addition, APCC's average of 234 calls shows another variance.<sup>35</sup> It is possible and, in fact, likely that other segments of the payphone industry would also have various average numbers that would impact recalculation. The Commission must therefore examine more than the RBOCs and APCC numbers.

Furthermore, the RBOC Coalition's calculation of 219 calls is misleading because it is only based on calls from August 2001. It does not provide any statistics to confirm that figure even though it asserts that this calculation is representative and consistent with its average over time.<sup>36</sup> In addition, APCC's calculation is based on 108 surveys out of 410 responses in a

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<sup>30</sup> *Id.*

<sup>31</sup> RBOC Petition at 5.

<sup>32</sup> *Id.* at 4, n. 9.

<sup>33</sup> APCC Petition at 13.

<sup>34</sup> RBOC Petition at 12.

<sup>35</sup> APCC Petition at 13.

<sup>36</sup> RBOC Petition at 12.

sample of 940 PSPs surveyed.<sup>37</sup> Only 108 surveys were counted because those were considered to be the marginal payphones.<sup>38</sup> But no proof was provided as to how using a sample of only 108 calls is statistically reliable.

In sum, without **substantial evidence** from the industry to the contrary, the Commission should maintain its **current methodology**, including the number of calls to be factored. The RBOC and APCC figures simply cannot be relied upon since evidence to justify their calculations has not been provided.

**B. The Commission Should Deny APCC's and the RBOCs' Additional Elements For Collection Costs and Bad Debt**

The Commission did not include collection costs or bad debt in its calculation of the current payphone compensation rate.<sup>39</sup> Although it mentioned that it had insufficient information concerning such factors, this was not the only reason the Commission excluded them, despite what both APCC and the RBOC Coalition imply. Such costs are correctly excluded as separate factors from the compensation rate calculation, and should continue to be so excluded.

**1. Collection Costs Should Continue to Be Considered a Joint and Common Cost**

In its *Third Order*, the Commission determined that collection costs for billing and uncollectibles were joint and common to all payphone calls.<sup>40</sup> In particular, coin and coinless calls both contribute to Sales, General, and Administrative (“SG&A”) expenses, which include

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<sup>37</sup> APCC Petition at 12.

<sup>38</sup> *Id.*

<sup>39</sup> *Third Report and Order* at ¶¶ 164, 162.

<sup>40</sup> *Id.* at ¶ 164.

“overhead” costs like legal fees and administrative costs, and SG&A expenses were included in the compensation rate calculation.<sup>41</sup> Thus, the Commission’s decision determined collection costs were to be included in SG&A. Although the Commission noted that it did not have adequate information on collection issues, the insufficiency of information clearly was not the only reason collection costs were not a separate element in the compensation rate calculation.

Nevertheless, APCC requests two new elements for coinless collection costs.<sup>42</sup> One is based on purported costs to bill, collect, and process, and the other is based on purported costs to litigate uncollectibles.<sup>43</sup> APCC requests both elements because it has documented data during the last three and a half years.<sup>44</sup> Likewise, the RBOC Coalition includes a dial-around identification cost in its compensation calculation for validating, collecting, and billing calls and for identifying what carrier may be liable for a charge.<sup>45</sup>

These collection costs should not be included as a separate factor because, as the United States Court of Appeals for the District of Columbia Circuit pointed out, ““overhead presupposes that some details of costs will be submerged in the greater item of calculation.”<sup>46</sup> The Court found that the “FCC reasonably did not go down that detailed a path”<sup>47</sup> so as to include a separate element for collection costs. Therefore, the Commission was correct and reasonable in

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<sup>41</sup> *Id.* at ¶ 178.

<sup>42</sup> APCC Petition at 13-15.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> RBOC Petition at 10-11.

<sup>46</sup> *APCC v. FCC*, 215 F.3d 51, 57 (D.C. Cir. 2000).

<sup>47</sup> *Id.*

deciding that collection costs were joint and common costs that may be accounted for by including them in the SG&A portion of the cost calculation.

Additionally, the FCC's new collection rules, implemented on Nov. 23, 2001, nullifies the data relied on by APCC and the RBOCs.<sup>48</sup> The Commission's modified rules applicable to common carriers provide that the first facilities-based interexchange carrier ("IXC") must compensate the PSP for completed coinless calls, track or arrange to track all compensable calls, and send call completion data to the PSP for billing.<sup>49</sup> Because of this change, the actual collection costs are as indefinite now as when the Commission declined to include them. Accordingly, collection costs should not be included as a separate element because they are joint and common costs, and there is still insufficient information because of the implementation of new rules to suggest otherwise.

**2. *Excluding Bad Debt from the Payphone Compensation Calculation is Reasonable and Prudent***

The Commission did not include bad debt in its cost calculation for two reasons: (1) it could not calculate the percentage of uncollectibles resulting from billing errors as opposed to the actions of "unscrupulous carriers" and (2) PSPs could ultimately recover twice—from the debtor IXC and from the consumer through the cost element included in the compensation amount.<sup>50</sup> The Commission also ensured PSPs that they will receive interest on late payments

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<sup>48</sup> *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Third Order on Reconsideration, 16 FCC Rcd 20922 (2001) ("*Third Order on Reconsideration*").

<sup>49</sup> *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Second Order on Reconsideration, 16 FCC Rcd 8098 (2001) ("*Second Order on Reconsideration*"). See also, 47 CFR §§ 64.1300(a), 64.1310(a).

<sup>50</sup> *Third Report and Order* at ¶ 162.

for as long as payments were overdue.<sup>51</sup> Once again, the rationale for excluding bad debt as a separate factor in the default rate calculation went far beyond "insufficient information."

In addition, the D.C. Circuit upheld the Commission's decision to exclude bad debt as reasonable and prudent.<sup>52</sup> Specifically, the Court stated that the Commission could not be expected to guess reliably as to future bad debt percentages.<sup>53</sup> The Court also recognized that failing to pay required compensation would result in fines and penalties by the FCC.<sup>54</sup>

Even though the Commission and the D.C. Circuit gave ample reasons to exclude bad debt, APCC's proposed methodology would add an element for bad debt resulting from carrier bankruptcies and similar events that increase the rate of non-payment.<sup>55</sup> Similarly, the RBOC Coalition includes a bad debt cost in its calculation.<sup>56</sup> The Commission correctly rejected efforts to include such additional elements in its decision in the *Third Report and Order*, and should likewise reject both APCC's and the RBOC Coalition's current requests for the same reasons. Such estimates are ultimately unsupportable and do not predict reliably future bad debt, and therefore, should not be included in the Commission's cost methodology.

### III. CONCLUSION

APCC and the RBOC Coalition have not identified a "problem" for which altering the current costing methodology and drastically increasing payphone compensation rates would be the appropriate solution. The APCC and RBOC Petitions should be denied and the current cost

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<sup>51</sup> *Id.*

<sup>52</sup> *APCC v. FCC*, 215 F.3d at 57.

<sup>53</sup> *Id.*

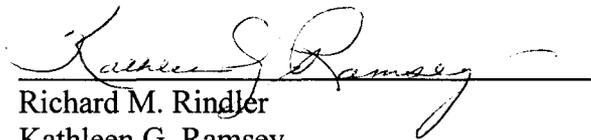
<sup>54</sup> *Id.*

<sup>55</sup> APCC Petition at 15.

methodology should remain in place. If the Commission chooses to consider such claims, however, the Commission should issue a Notice of Inquiry to fully develop the record regarding changes in market conditions and technological advances, the meaning of widespread deployment, locations of payphone removals and the populations affected, increased revenues from coin operations, and fraud.

Commenters urge the Commission to reject the APCC and RBOC requests to more than double the payphone compensation rate; however, if the Commission wishes to consider changes in the marketplace and their impact on payphone deployment, the Commission should issue a Notice of Inquiry.

Respectfully submitted,



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<sup>56</sup> RBOC Petition at 10.