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August 20, 2007

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: RM# 11354 - Locus Telecommunications, Inc.'s Petition for Declaratory Ruling or,
in the alternative, Rulemaking

Dear Ms. Dortch:

Locus Telecommunications, Inc. ("Locus") files the attached Rules of the Florida Public Service Commission to update the record in the above-captioned proceeding and further demonstrate conflicts between state laws and a declaration by the Federal Communications Commission ("FCC") that dial-around compensation is owed on calls completed to a prepaid calling card provider's toll-free customer service numbers.

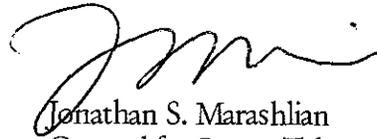
According to Rules enacted by the Florida Public Service Commission, pay telephone providers must "complete calls to the responsible party for repairs or refunds by direct free access." FAC 25-24.515(8). Direct free access is defined as "without requiring the use of a coin, paper money, credit card, or *any other form of payment*..." FAC 25-24.515(1). Pursuant to these Rules, payphone providers will be prohibited from requiring payment of any amount, no matter how assessed, before allowing a caller to reach the party responsible for repairs or refunds.

Dial-around compensation is undeniably a *form of payment*. Therefore, the FCC's declaration that dial-around compensation is owed for calls to a prepaid calling card provider's toll-free customer service number for the purposes of either (1) obtaining a refund or (2) reporting a malfunctioning calling card (the primary reasons for calls to a calling card provider's customer service department), may place payphone providers in violation of FAC 25-24.515.

The FCC should take such state law conflicts into consideration as it works to resolve the controversy and uncertainties identified in Locus' Petition.

Questions regarding this filing should be directed to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JSM', is written over the typed name.

Jonathan S. Marashlian
Counsel for Locus Telecommunications, Inc.

Attachment

25-24.515 Pay Telephone Service.

(1) For the purposes of this section, the term "direct free" shall mean without requiring the use of a coin, paper money, credit card, or any other form of payment, even if the payment will be returned.

(2) Pay telephone stations shall be lighted during the hours of darkness when light from other sources is not adequate to read instructions and use the instrument.

(3) Each pay telephone station shall return any deposited amount if the call is not completed, except messages to a Feature Group A access number.

(4) Each pay telephone station shall permit direct free access to the universal telephone number "911" where operable.

(5) Each pay telephone station shall permit direct free access to dialtone.

(6) Each pay telephone station shall permit direct free access to toll free numbers (e.g., 800, 877, and 888).

(7) Each pay telephone station shall complete calls to local and long distance directory assistance.

(8) Each pay telephone station shall complete calls to the responsible party for repairs or refunds by direct free access.

(9) Each pay telephone station shall be equipped with a legible sign, card, or plate of reasonable permanence which shall identify the following:

(a) The telephone number and location address of the pay telephone station, name and certificate number of the certificate holder, the party responsible for repairs and refunds, address of responsible party, free phone number of responsible party, clear dialing instructions (including notice of the lack of availability of local or toll services), and the local coin rate.

(b) For those pay telephone stations that will terminate conversation after a minimum elapsed time, notice shall be included on the sign card as well as an audible announcement 30 seconds prior to termination of the phone call.

(10) Each pay telephone station that provides access to any interexchange company shall provide coin free access, except for Feature Group A access, to all locally available interexchange companies. The pay telephone station shall provide such access through the forms of access purchased by locally available long distance carriers such as 10XXX+0, 10XXXX+0, 101XXXX+0, 950, toll free (e.g., 800, 877, and 888) access.

(11) No sales solicitation shall be allowed during the interval between the last digit dialed by the end user and connection with the interexchange carrier.

(12) All 0- calls shall be routed to a telecommunications company that is authorized by the Commission to handle 0- calls. All other calls, including operator service calls, may be routed to the pay telephone provider's carrier of choice, unless the end user dials the appropriate access code for their carrier of choice, i.e., 950, 10XXX, 10XXXX, 101XXXX, and toll free access (e.g., 800, 877, and 888).

(13)(a) Each pay telephone station shall allow incoming calls to be received at all times, with the exception of those located at hospitals, schools, and locations specifically exempted by the Commission. There shall be no charge for receiving incoming calls.

(b) A pay telephone provider may petition the Commission for an exemption from the incoming call requirement for a period that shall not exceed two years from the effective date of the Order granting the exemption. Requests for exemption from the requirement that each pay telephone station allow incoming calls shall be accompanied by a completed Form PSC/CMP-2 (02/99), entitled "Request to Block Incoming Calls," which is incorporated into this rule by

reference and may be obtained from the Commission's Division of Competitive Markets and Enforcement. The form requires an attestation from the owner of the pay telephone, the owner of the pay telephone location, and the chief of the responsible law enforcement agency that the request is sought in order to deter criminal activity facilitated by incoming calls being received at the specified pay telephone. A separate form shall be filed for each telephone number for which an exemption is sought. The provider of the pay telephone may request subsequent two-year exemptions by filing another Form PSC/CMP-2 (02/99). Where incoming calls are not received, central-office based intercept shall be provided at no charge to the end user and a written notice shall be prominently displayed on the instrument directly above or below the telephone number which states: "Incoming calls blocked at request of law enforcement."

(14) Each pay telephone station must be connected to an individual access line.

(15)(a) Each pay telephone service company shall permit outgoing calls to be placed from its pay telephone stations at all times.

(b) Each pay telephone service company shall make all reasonable efforts to minimize the extent and duration of interruptions of service. Service repair programs should have as their objective the restoration of service on the same day that the interruption is reported to the company. (Sundays and holidays excepted.)

(16)(a) Where there is a single pay telephone station, a directory shall be maintained at each station. Where there are two or more pay telephone stations located in a group, a directory for the entire local calling area shall be maintained at every other station. However, where telephone pay stations are fully enclosed, a directory shall be maintained at each pay telephone station. For purposes of this rule, the term "directory" shall mean both a current white page

directory for the local calling area and a reasonably current yellow page directory that is appropriate for the calling area of the pay telephone station.

(b) Pay telephone stations that provide local directory assistance at no charge are exempt from the provisions in paragraph (16)(a). A notice must appear on the placard if local directory assistance at no charge is being provided.

(17) Normal maintenance and coin collection activity shall include a review of the cleanliness of each pay telephone station.

(18)(a) Except as provided in paragraph (18)(b) below, each pay telephone station shall conform to sections 4.1.3(17), 4.2.4, 4.2.5, 4.2.6, 4.5.1., 4.31.2, 4.31.3, and 4.31.5 of the ADA Accessibility Guidelines for Buildings and Facilities, Appendix A to 28 CFR Part 36, (July 1, 2003 Edition), which sections are incorporated by reference into this rule. This rule does not apply to public text telephone and closed circuit telephones.

(b) Pay telephones shall not be installed where the required "clear floor or ground space" provided for in ADA Accessibility Guidelines for Buildings and Facilities sections 4.2.4.1, 4.2.4.2, and 4.31.2 would be reduced by a vehicle parked in a designated parking space.

(19) Each pay telephone station shall permit end users to input unlimited digits for the duration of the call.

(20) Toll Fraud Liability.

(a) A company providing interexchange telecommunications services or local exchange telecommunications services shall not collect from a pay telephone provider for charges billed to a line for calls that originated from that line through the use of access codes such as 10XXX, 10XXXX, 101XXXX, 950, and toll free (e.g., 800, 877, 888) access codes, or when the call originating from that line otherwise reached an operator position, if the originating line is

subscribed to outgoing call screening and the call was placed after the effective date of the outgoing call screening order.

(b) A company providing interexchange telecommunications services or local exchange telecommunications services shall not collect from a pay telephone provider for charges for collect or third number billed calls, if the line to which the call was billed was subscribed to incoming call screening and the call was placed after the effective date of the incoming call screening order.

(c) Any calls billed through the provider of local exchange telecommunications services or directly by an interexchange company, or through a billing agent, which have been identified as not collectible as described in paragraphs (20)(a) and (b) above, must be removed from any pay telephone provider's bill after the pay telephone provider gives notice of the fraudulent charges to the billing party. Pay telephone providers shall give such notice to the provider of local exchange telecommunications services and the interexchange company in writing no later than the due date of the bill.

(d) The provider of local exchange telecommunications services is responsible for charges described in paragraph (20)(c) that are associated with the failure of the provider of local exchange telecommunications services' screening services.

(e) The interexchange company is responsible for charges described in paragraph (20)(c) that are associated with the failure to properly validate calls via the appropriate provider of local exchange telecommunications services' data base.

(f) Definitions: For purposes of subsection (20) the term "Effective Date" shall mean the date after the call screening order was placed and associated charges apply.

(g) Any charges accrued to a line when the subscriber has subscribed to the provider of local exchange telecommunications services to screen calls described in paragraphs (20)(a) and (b) above shall not be the basis for discontinuance of local and intrastate service.

(21) Providers serving confinement facilities shall provide for completion of all inmate calls allowed by the confinement facility.

(22) Pay telephone stations located in confinement facilities shall be exempt from the requirements of subsections (2), (4), (6), (7), (8), (10), (12), (13), (15), (16), and (19) of this rule. Such pay telephone stations shall also be exempt from the requirements of subsection (9), except that outgoing local and long distance calls may not be terminated until after a minimum elapsed time of ten minutes. Audible and written disconnect notifications shall apply, and one access line shall not be connected to more than three pay telephone stations.

(23) Pay telephone facilities shall be designed, constructed, installed, maintained and operated in accordance with provisions of the National Electrical Safety Code (IEEE C2-2002 2007) and the National Electrical Code (NEPA 70-2005), which are incorporated by reference. Specific Authority 350.127(2) FS.

Law Implemented 364.03, 364.035, 364.063, 364.337, 364.3375, 364.345, 364.15 FS.

History—New 1-5-87, Amended 4-14-92, 12-21-92, 2-3-93, 10-10-94, 12-27-94, 9-5-95, 2-1-99, 12-23-02, 4-5-05, 12-29-05.