EXHIBIT 6

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

In the Matter of	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated With Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms	)	CC Docket No. 98-171
Telecommunications Services for Individuals With Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990	)	CC Docket No. 90-571
Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size	)	CC Docket No. 92-237 NSD File No. L-00-72
Number Resource Optimization	)	CC Docket No. 99-200
Telephone Number Portability	)	CC Docket No. 95-116
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

COMMENTS OF
AMERICAN PUBLIC COMMUNICATIONS COUNCIL

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COMMENTS OF
AMERICAN PUBLIC COMMUNICATIONS COUNCIL

The American Public Communications Council ("APCC") hereby submits initial comments in response to the Commission's February 26, 2002 Further Notice of Proposed Rulemaking ("*Further Notice*") in the above-referenced proceeding.[1]

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[1] *Federal-State Joint Board on Universal Service*, Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd 3752 (2002) ("*Further Notice*").

IF PAYPHONE SERVICE IS NOT EXEMPT, PAYPHONE CONNECTIONS SHOULD BE PLACED IN A SEPARATE CATEGORY

If the Commission decides, despite the strong public policy considerations set forth above, not to exempt PSPs from universal service payments, payphone connections should be placed in a separate category reflecting the unique characteristics of payphone service. The Commission has recognized certain categories of service – paging, wireless, residential/single-line business and multi-line business – for universal service assessment purposes. Each category seemingly includes services with common characteristics.

Payphone connections do not fit neatly within any of the Commission's proposed categories for connection-based assessments. Payphones are unique in that they are the *only* provider group required to provide free emergency and TRS calling to the general public. This characteristic alone supports a separate category. Moreover, payphones are distinguishable as a result of their more generalized usage patterns, the manner in which their lines are provisioned, and their general availability to the public for all types of calling. PSPs, by the very nature of the service they provide the public, already "contribute" to universal service. The Commission has also recognized in other proceedings that specific policy concerns apply to payphones. These concerns require a separate category for payphones in which the rate of assessment is zero.

Commission policy recognizes that payphone service is a special category, requiring its own regulatory treatment. In Section 276 of the Act, Congress mandated that the Commission ensure the "widespread deployment of payphone services."[2] In the *First Payphone Order*, the Commission concluded that LECs must offer PSPs specific services, such as payphone lines for "smart" and "dumb" payphones, and set policies to implement those

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2 47 U.S.C. § 276(b)(1).

services.[3] A particular concern in the *First Payphone Order* was limiting the rates paid by PSPs to LECs for payphone line service.[4]

In the *New Services Test Order*, the Commission found that the BOCs may not equate payphone lines with business lines for rate-setting purposes.[5] In addition, the Commission found that the price of BOC payphone lines must be cost-based.[6] Beyond its specific ruling on the pricing of BOC payphone lines, the Commission stated that "the federal regulatory program implemented in section 276 would surely benefit if all LECs were required to use cost-based rates for their payphone line services."[7] Thus, the Commission, in accordance with Congress' mandate, has shown a particular policy interest in ensuring cost-based payphone line rates.

In the *Further Notice*, the Commission indicated that it is willing to make exceptions where a telecommunications service does not fit easily within the Commission's proposed universal service assessment methodology. The Commission specifically sought comment on how to apply the connection based methodology to Centrex systems, which are used by large businesses and government agencies and which fall into the Commission's category for multi-line business connections.[8] LECs that offer Centrex services typically serve very large entities that may have thousands of lines. At the Commission's illustrative monthly $4.00 per connection charge for multi-line business connections, LECs offering Centrex service would be subject to far higher assessments than they would incur for serving customers that were equally large but were equipped with PBXs. In a related context, the Commission established PICC

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3 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 20541, ¶¶ 146-149 (1996) ("*First Payphone Order*").

4 *Id.* ¶ 146.

5 *New Services Test Order* ¶¶ 55-56.

6 *Id.* ¶ 42.

7 *Id.* ¶ 42.

8 *Further Notice* ¶¶ 55-56. Customers with Centrex systems have, for each telephone on their premises, a separate loop to the Centrex switch, which is maintained by the service provider and may be located either at the customer's premises or at the service provider's central office. *Id.* ¶ 56. Customers with PBX systems, on the other hand, maintain their own facilities for internal communications and may have only a single facility maintained by the service provider that provides access to a public network. *Id.*

assessments on Centrex service by using a Centrex line to PBX trunk equivalency ratio of 9:1.[9] In setting the equivalency ratio, the Commission cited the public interest benefits derived from reducing the assessment on Centrex, since many Centrex users are "government, education, and health care facilities."[10]

For all the reasons discussed in Section III above and to further the policies articulated by the Commission in the *First Payphone Order* and the *New Services Test Order*, the Commission should assess payphones at the rate of zero. Payphones provide a unique and valuable public service. Unlike paging services, residential lines, business lines, and wireless handsets, which all generally serve private interests, payphones typically are situated at locations available to the entire public. In one day, a single payphone can provide numerous members of the public with access to telecommunications for routine or important personal or business calls as well as for emergency communications. With services such as Community Voice Mail – a service providing individual voice mail boxes to people without home phones – payphones provide the homeless, unemployed, and others in distress with a primary means to meet their telecommunications needs. Literally hundreds of social service, law enforcement and other community groups have gone on record with the Commission about the need for ready access to payphone service.[11]

Comparatively, payphone service places far less of a burden on the public switched telephone network than Centrex service. Since the Commission appears to have placed Centrex in a special category for regulatory assessment purposes, the Commission should place payphones in a special category for universal service assessments, reflecting established Commission policy regarding payphones, the numerous benefits to the public of payphones and

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[9] *Access Charge Reform*, Second Order on Reconsideration, 12 FCC Rcd 16606, ¶ 31 (1997) ("*Access Charge Reform Order*").

[10] *Access Charge Reform Order* ¶ 34.

[11] *See supra* note 14.

the fact that payphones, as discussed below, are distinguishable from all of the categories of service established in the *Further Notice*. Because PSPs, by the nature of the service they provide, already "contribute" to universal service, payphone connections should be assessed in a separate category at a rate of zero.

IF PAYPHONE CONNECTIONS ARE ASSESSED AT A RATE GREATER THAN ZERO, PAYPHONE CONNECTIONS SHOULD BE ASSESSED AT NO MORE THAN THE RATE FOR PAGERS

If the Commission assesses payphone connections at a rate above zero, it should assess payphone connections in a similar manner to paging connections, priced at a rate of no more than $0.25 per connection. Among the various categories of connections the Commission has established, the characteristics of payphone usage most closely resemble those of pagers.

In the *Further Notice*, the Commission proposed to assess providers of interstate paging services at $0.25 per connection.[12] Pagers provide limited functionality, since pagers only provide customers with access to one way communication.[13] Furthermore, in proposing the $0.25 assessment for pagers, the Commission recognized that paging providers currently contribute to universal service under an interim safe harbor provision that allows them to assume that interstate end-user telecommunications revenues comprise 12 percent of their total revenues.[14] As a result of the safe harbor, a significant number of paging providers are not required to contribute directly to universal service because they are within the *de minimis* exception.[15]

Like pagers, payphones are generally used for a more limited connection to a public network than residential or business connections: namely, the vast majority of payphone calls are outgoing. Many payphones cannot even receive incoming calls. Additionally, just as one paging

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12 *Further Notice* ¶ 39.
13 *Id.*
14 *Id.*
15 *Id.*

frequency can serve numerous subscribers receiving messages, one payphone can serve many different people making outgoing calls. Also, as with pagers, the assessment adopted for payphone lines should reflect PSPs' comparatively small interstate revenues. As the Commission has set the current safe harbor for paging connections at 12 percent of interstate revenue and PSPs' interstate coin revenues are typically less than 12 percent of PSPs' total revenues, the Commission should assess PSPs' universal service contributions at a low rate, reflecting their minimal interstate revenues. As is the case with paging providers, most PSPs currently qualify for the *de minimis* exception.

Assessment of payphone connections as residential/single-line business connections would not reflect the actual usage of payphone lines. First, payphones are more analogous to a partyline – a single line shared by multiple customers, than they are to a typical residential line. A single payphone serves the telecommunications needs of numerous different people on any given day. Unlike residential lines, which are normally located in a house or apartment, a person is not likely to receive an incoming call at a payphone.

Nor are payphone connections used in the same manner as single-line business connections. First, a typical single-line business connection is used by one business. In most cases, the only persons able to access such a business line are the proprietor and employees of the business. A payphone may serve the business needs of numerous individuals who either do not have wireless phones or, as is often the case, whose wireless phones cannot receive a signal. Second, even though payphones are used for some business calling in a manner analogous to "business-to-business" calls, payphones are just as important for making personal calls, such as calls to friends and family from a shopping mall or airport. Personal calls from payphones may be somewhat similar in length to personal calls from residential phones, but business calls from payphones tend to be short.[16] Payphones do not fit as either residential or single-line business connections.

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[16] In some specialized situations, such as at airports or truck stops, payphones may be used for longer business calls.