EXHIBIT 5

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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February 28, 2003

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COMMENTS OF
AMERICAN PUBLIC COMMUNICATIONS COUNCIL

The American Public Communications Council ("APCC") hereby submits these comments in response to the Commission's December 13, 2002 Second Further Notice of Proposed Rulemaking ("*Second Further Notice*") in the above-referenced proceedings.[1]

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[1] *Federal-State Joint Board on Universal Service*, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002) ("*Second Further Notice*"), 67 Fed. Reg. 79543 (Dec. 30, 2002).

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. . . .

The Commission's connection-based proposal properly recognizes that payphone lines should not be assessed at rates as high as those contemplated for multi-line business lines. The *Second Further Notice* states that although payphone lines are classified as multi-line business lines for purposes of the subscriber line charge (" SLC"), the "SLC designation would not be used for purposes of determining assessments for payphone connections."[2] The Commission appears to have agreed with APCC's argument that payphone lines were fundamentally different from typical multi-line business lines (e.g., PBX and Centrex lines) and that to assess payphone lines as multi-line business lines for universal service purposes would result in the levy on PSPs of unfair and grossly excessive fees (i.e., fees near $4.00 per line per month under the formerly proposed assessments).

The Commission now proposes to assess payphone line connections at the same rate as residential, single line business and mobile wireless connections. The initial assessment would be $1.00 per month for each connection.[3] But, just as the Commission has carved out a lower rate for pagers of $.10 per month for one way connections and $.20 per month for two way connections [4] (compared with the $.25 proposal in the *First Further Notice*[5]), so too should the Commission establish a lower rate for payphone lines . . . [6]

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2 *Second Further Notice at* n.174.

3 *Id.* ¶ 75.

4 In the proceedings on the *First Further Notice*, APCC explained why payphones were more like pagers than single business lines. APCC April 2002 Comments at 21-23.

5 *First Further Notice* ¶ 31.

6 Many of the same characteristics that apply to pagers also apply to payphones – e.g., minimal interstate end users revenues, predominantly one-way calling, shared facilities (lines in the case of payphones and frequencies in the case of pagers).