BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

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EXECUTIVE SECRETARY

IN RE: ALL TELEPHONE COMPANIES TARIFF FILINGS REGARDING RECLASSIFICATION OF PAY TELEPHONE SERVICE AS REQUIRED BY FCC DOCKET 96-128
Docket No. 97-00409

REPLY OF TENNESSEE PAYPHONE OWNERS' ASSOCIATION

The Tennessee Payphone Owners' Association ("TPOA") submits the following reply to the Comments of BellSouth Telecommunications, Inc. ("BellSouth") in opposition to TPOA's "Motion for Interim Relief."

FCC Proceedings

BellSouth's argument in opposition to TPOA's Motion consists primarily of copies of FCC filings made by the "LEC Coalition," of which BellSouth is a member. In the filings, the Coalition objects to an Order released on March 2, 2000, by the FCC's Common Carrier Bureau which describes how state commissions should set "cost-based" rates for pay telephone lines. Repeating the Coalition's arguments, BellSouth contends that the March 2 Order will likely be overturned on appeal, and therefore should be given no weight in this proceeding.[1]

In a series of orders issued in 1997, the FCC declared that payphone line rates must be "cost-based" and consistent with the "new services" test. The March 2 Order from the Common Carrier Bureau clarifies those requirements. First, the March 2 Order states that, "absent justification," incumbent LECs may not allocate more overhead costs to payphone services

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[1] This is not the first time, nor will it be the last, that BellSouth has initially argued that its position is consistent with, or required by, the rules and orders of the FCC, but later, when the FCC issues a decision holding otherwise, BellSouth abruptly declares that the federal regulators do not know what they are talking about.

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than they "recover in rates for comparable services," and that "UNEs appear to be 'comparable services' to payphone line services." March 2 Order, paragraph 11. Therefore, as TPOA pointed out in the Motion for Interim Relief, BellSouth's UNE rates, which already include overhead allocations, provide a useful benchmark for judging the reasonableness of BellSouth's payphone line rates. Second, the March 2 Order specifically explains that, in fixing cost-based payphone rates, the LEC must take into account EUCL and PICC revenues to avoid "double counting."

The LEC Coalition has strongly objected to the March 2 Order, arguing that any rate can be considered "cost based" as long as it at least covers the company's direct cost of providing service and that, in any event, UNE rates are not "comparable" to payphone line rates. The LEC Coalition did not, however, raise any objection to the Bureau's holding on EUCL and PICC charges. [2]

On behalf of TPOA and other state payphone associations, the American Public Communications Council ("APCC") has filed with the FCC a brief in response to the arguments of the LEC Coalition. A copy of that brief is attached. The APCC brief reiterates the basic premise that "cost based" rates means that rates must be "based on costs" and cannot include subsidies for other LEC services. See APCC brief at pp. 11-15. (For a humorous description

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[2] Although the LEC Coalition did not challenge the Bureau's finding that EUCL and PICC payments have to be taken into account in fixing cost-based rates, BellSouth has come up with an argument that defines the issue away. Claiming that any rate is "cost based" as long as it is above direct costs, BellSouth argues that the EUCL and PICC charges should be treated as just more "overhead loadings." BellSouth's Comments, at 7. Therefore, by BellSouth's logic, all of BellSouth's rates are "cost-based," as long as the rates are higher than BellSouth's direct costs. If that were true, there is no reason to have delayed these proceedings for three years and no reason to have any further hearings in this docket, since no one disputes that the current rates cover direct costs.

of how BellSouth now defines "cost-based rates," the APCC reprinted an excerpt from a recent deposition of BellSouth witness Mrs. Caldwell, who has often testified before the TRA. See APCC brief at pp. 13-14.) The APCC brief also lists (at 16-17) those state commissions which have held, even prior to the issuance of the March 2 Order, that payphone line rates should be established in a manner that is consistent with UNE rates.

The TPOA will rely on the APCC brief to address BellSouth's claims that the March 2 Order is erroneous and not entitled to any consideration in this proceeding.

TRA Proceedings

For three years, TPOA members have paid BellSouth's "interim" rate of more than $40 a month. Those rates have never been challenged or examined in light of the FCC's payphone orders and there is no reason to presume that those rates, which were fixed well before the FCC issued its payphone orders, are consistent with federal law. To the contrary, the evidence collected in the TRA's UNE docket and the unchallenged instructions from the Common Carrier Bureau to remove the EUCL and PICC charges demonstrate that BellSouth's current rates are more than twice what federal law allows.

In the meantime, payphone owners have suffered. As the FCC has recognized and the TPOA affidavits make clear, many payphones are operated at or near "the margin." For these payphones, a few dollars difference in a monthly charge is the difference between keeping a payphone in service and removing it. See APCC Brief, at 5. As a result of the unanticipated, three-year delay in resolving this matter, many Tennessee payphones have been taken from service. Some providers have gone out of business altogether.

Why should TPOA continue to bear the entire burden of this delay? BellSouth suggests no reason. Nor does BellSouth claim that it will be harmed by an interim reduction in rates. Even if BellSouth began giving away payphone lines from now until completion of this docket, TPOA members will still be owed substantial refunds based on the rates they have paid over the last forty months.[3]

Finally, BellSouth argues that TPOA's motion is "procedurally defective" in that TPOA asks for interim relief without a full-scale evidentiary hearing. BellSouth cites no statute, case law, or rule in support of its argument. There is none. If there were, BellSouth's current rates, which the parties and the TRA agreed three years ago to accept as "interim" rates, subject to a hearing and a retroactive "true up" would also be illegal. If the TRA had the power to approve "interim" $40 rates in 1997, it has the authority to approve interim $20 rates, whether or not the parties are in agreement.[4]

Here, TPOA has demonstrated a substantial likelihood of prevailing on the merits of this dispute; BellSouth will not be harmed by an interim reduction in rates; and both the members of TPOA and the public interest will suffer if relief is not granted. It is patently unfair

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[3] The removal of the EUCL and PICC charges alone will reduce payphone line rates by more than $10.

[4] It is well established that state regulatory agencies have the inherent power to fix interim rates. See *Friends of the Earth v. Wisconsin Public Service Commission*, 254 N.W. 2d 299 (Wisconsin Supreme Court, 1977); *Kansas-Nebraska Natural Gas Company v. State Corporation Commission*, 538 P.2d 702, 710 (Kansas Supreme Court, 1975); *Southern Bell Telephone and Telegraph Co. v. Bevis*, 279 So. 2d 285, 287 (Florida Supreme Court, 1973); *Application of Kauai Electric*, 590 P 2d 524, 535 (Hawaii Supreme Court, 1978); *State v. Department of Transportation of Washington*, 206 P.2d 456, 475 (Washington Supreme Court, 1949); *Chesapeake and Potomac Telephone Co. v. Public Service Commission*, 330 Atl. 2d 236, 240 (D.C. Ct. of Appeals, 1974).

to allow BellSouth to continue charging exorbitant "interim" rates while TPOA members are going out of business waiting for the law to be enforced.

Therefore, TPOA asks the Hearing Officer to grant the Motion for Interim Relief as early as possible so that this matter may be brought before the full TRA.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded, via U.S. Mail, postage prepaid to all parties of record this 7th day of July, 2000.

Henry Walker

ATTACHMENT

STAMP AND RETURN

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of	)	
Wisconsin Public Service Commission	)	CCB/CPD No. 00-1
Order Directing Filings	)	

MAY 12 2000

OPPOSITION OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL TO THE LEC COALITION'S APPLICATION FOR REVIEW AND REQUEST FOR STAY

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May 12, 2000

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Wisconsin Public Service Commission	)	CCB/CPD No. 00-1
Order Directing Filings	)	

OPPOSITION OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL TO THE LEC COALITION'S APPLICATION FOR REVIEW AND REQUEST FOR STAY

The American Public Communications Council ("APCC") hereby opposes the LEC Coalition's application for review and request for stay of the Common Carrier Bureau's Order, DA 00-347, released March 2, 2000 ("*March 2 Order*"), directing four Wisconsin incumbent local exchange carriers ("ILECs") to submit, for FCC review under the *Payphone Order,*[1] copies of their current local payphone line service tariffs.

STATEMENT OF INTEREST

APCC is a national trade association representing about 1,800 primarily independent (non-local exchange carrier) providers of pay telephone equipment, services, and facilities. APCC seeks to promote competitive markets and high standards of service for pay telephones. To this end, APCC actively participates in FCC proceedings affecting payphones. APCC's foremost concern is to ensure full implementation of the federal

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1 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecomm. Act of 1996*, CC Docket No. 96-128, *First Report and Order*, 11 FCC Rcd 20541 (1996) *Order on Reconsideration*, 11 FCC Rcd 21233 (1996) (*Payphone Reconsideration Order*) (collectively "the *Payphone Order*").

Telecommunications Act mandate "to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public." 47 U.S.C. §276(b).

SUMMARY

This case, which has languished unresolved at the Bureau for two years, provides a unique opportunity for the Commission to explicate, at long last, its cost-based rate requirements for payphone line service, ensuring appropriate resolution of numerous pending payphone line rate proceedings throughout the United States.

This proceeding is critical because, for three years, ILECs have stonewalled payphone service providers' ("PSPs") efforts to secure cost-based payphone line service rates. Cost-based rates are critical to the success of payphone competition and the widespread deployment of payphone service.

The Bureau's *March 2 Order* is well within established Commission precedent. The *March 2 Order* does not impose the unbundled network element pricing regime on payphone line services. Rather, it applies basic cost methodology principles that have been applied to ILEC services offered to ILEC competitors in a variety of contexts, of which the *Local Competition Order* is only the most recent.

Specifically, in requiring the Wisconsin ILECs to use forward-looking economic costs to justify their payphone line service rates, the Bureau adhered to established Computer III precedent. The *Local Competition Order's* formulation of that methodology is the Commission's most recent formulation of the same methodological principles that were applied to ILEC services in Computer III tariff proceedings.

In stating that UNEs appear to be a comparable service to payphone lines, the Bureau was likewise adhering to precedent, which requires ILECs to justify overhead allocations in relation to similar or comparable services. UNEs are comparable to payphone lines because both are ILEC offerings to competitors that are subject to cost-based pricing. Business lines, by contrast, are typically priced to "contribute to" or subsidize other LEC services – the antithesis of a "cost-based" rate.

The *March 2 Order*, consistent with Commission precedent, allows the ILECs to attempt to justify their own overhead allocations that depart from UNE allocations. The Bureau has simply stated it will utilize UNE overhead allocations as a benchmark in evaluating an ILEC's proposed overhead allocation and associated justification.

Also meritless is the Coalition's argument that, in stating its intention to review and, if necessary, prescribe the ILECs' payphone line service rates, the Bureau exceeded its authority. The Commission clearly stated in the *Payphone Order* that if state commissions were unable to review the ILECs rates for compliance with the *Payphone Order*, the Commission would do so. Such review, and the power to compel the ILEC to adhere to the results of such review, are fully authorized by Section 276, which has been held to grant the Commission authority over intrastate payphone matters notwithstanding Section 2(b) of the Act. The Coalition's Tenth Amendment argument is likewise without merit.

The LEC Coalition's stay request satisfies none of the requirements for granting a stay. Even if the Coalition's substantive position had merit, it has failed to show any irreparable damage to justify a stay. The likelihood that a state commission will rely on the *March 2 Order* to issue another order prescribing an unlawful payphone line rate, and that the ILEC involved will be unsuccessful in appealing (or staying) such a decision, is far too conjectural and attenuated to possibly justify a stay of *this* order. Further, payphone service providers ("PSPs"), who have waited years for the FCC to provide a more detailed explication of its *Payphone Order*, would be greatly harmed by a stay. In sum, a stay would disserve the public interest and may not be granted.

DISCUSSION

I. THE LEC COALITION'S APPLICATION FOR REVIEW SHOULD BE DENIED

A. Definitive Commission Guidance on Payphone Order Requirements Is Critical to the Future of Payphone Deployment and Competition

This proceeding is of critical importance to the achievement of federal payphone policy objectives: the promotion of competition in payphone services and the "widespread deployment of payphone services to the benefit of the general public." 47 U.S.C. 276(b). On one level, this case is a simple matter of following through on a four-year-old commitment – specifically, the Commission's commitment to ensure that ILECs' payphone line rates conform to the *Payphone Order* when a state commission is unable to do so. *Payphone Reconsideration Order*, ¶ 163. On another level, however, this case has much broader significance. It provides an opportunity for this Commission to provide the necessary explication in a concrete rate proceeding of the *Payphone Order's* cost-based rate requirement and thereby to speed the resolution of payphone line service rate proceedings throughout the United States. For three years, ILECs have stonewalled PSPs' efforts, in state after state, to secure lower payphone line service rates. Currently, there are payphone line service rate cases pending, either at the Commission level or on appellate review, in a dozen states. Many of these proceedings are stalled, some literally for years, primarily because the FCC has failed to provide detailed guidance from the FCC on the *Payphone*

Order's requirement for "cost-based" payphone line service rates that conform to "Computer III" tariffing guidelines. Some of the state commission decisions that have been issued have required cost-based rate-setting consistent with the approach taken in UNE rate cases. Others have approved ILEC proposals to maintain non-cost-based business line service rate levels for payphone line services.

The stakes are very high. As the Commission noted in the *Third Report and Order*,[1] many payphones are operated at or near "the margin." For these payphones, a few dollars' difference in monthly service charges makes the difference between keeping the payphone in service or removing it, and depriving another neighborhood of the "service of last resort" uniquely offered by payphones. That same few dollars difference can also make the difference between the presence or absence of competition against ILEC payphones in a particular market sector.

Yet, despite the importance of the case, it has languished at the Bureau, without being resolved, *or even begun*, for more than two years. *See* Attachment 1. Obviously the Bureau's delay in commencing proceedings has played into the hands of the ILECs, who have been able to continue charging excessive payphone line service rates in state after state.

In the instant application for review and request for stay, the LEC Coalition attempts to introduce further complications to prolong the delay. However, as discussed below, the LEC Coalition raises no issues that have not been previously decided against the Coalition's interest in prior proceedings and established precedents. The Commission should move quickly to dispose of the Coalition's baseless arguments and proceed to decision in this critically important matter.

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1 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, *Third Report and Order*, 14 FCC Rcd 2545 (1999).

B. In Describing the Principles Applicable to the ILECs' Cost Showings, the Bureau Correctly Interpreted the Payphone Orders and Other Relevant Precedent

The fundamental issue raised by the ILEC Coalition's application for review is whether the Bureau's action is within its delegated authority – in this case, whether the Bureau's discussion of methodological principles to guide the ILEC's submission of cost justification is within the ambit of the requirements set forth in the *Payphone Order*. Despite the LEC Coalition's strident attempt to characterize the *March 2 Order* as overreaching, the *March 2 Order* is a reasoned application of well established precedent.

1. The Cost-Based Pricing Requirements of the Payphone Order

Section 276 required the Commission to adopt regulations to promote competition and "widespread deployment of payphone services". 47 U.S.C. § 276(b). In particular, the Commission was required to adopt safeguards that would prevent ILECs from subsidizing and discriminating in favor of their own payphone services. *Id.,* § 276(a), (b)(1)(C). The statute requires that these safeguards be, "at a minimum," equivalent to the Commission's *Computer III* safeguards. *Id.* While the original Computer III safeguards were limited in their application to intrastate services, due to the restriction of Section 2(b) of the Act, Section 276 specifically directs the Commission to apply its regulations to both interstate and intrastate services (47 U.S.C. § 276(a),(b)), and preempts any state regulations that are inconsistent with the Commission's regulations (*id.*, § 276(c)). The U.S. Court of Appeals has held that, by expressly providing the Commission with authority over intrastate services, Congress made clear that Section 2(b) did not limit the Commission's jurisdiction under Section 276. *Ill. Public Telecom, Ass'n. v. FCC,* 117 F.3d 555 (D.C. Cir. 1997).

One of the Computer III safeguards that Congress required, "at a minimum," to be applied is the requirement that service rates meet the "new services test." While in Computer III this safeguard applied only to interstate ONA services, in the *Payphone Order* the Commission expressly stated that *interstate and intrastate* rates for LEC services to PSPs must meet be cost-based and priced in accordance with Computer III guidelines. In order to prevent ILECs from "charg[ing] their competitors unreasonably high prices for these services" (*Payphone Order*, ¶ 75), the Commission adopted a series of requirements governing LEC pricing of payphone line services[2] (*Payphone Reconsideration Order*, ¶ 163). The Commission required ILEC payphone line services to be:

> (1) cost-based; (2) consistent with the requirements of Section 276 with regard, for example, to the removal of subsidies from exchange and exchange access services; and (3) nondiscriminatory. States must apply these requirements and the Computer III guidelines for tariffing such intrastate services.

Id. (footnote omitted). The Computer III guidelines alluded to are the guidelines developed by the Commission for purposes of federal tariffing of open network architecture ("ONA") services. These guidelines include the "new services test." *Id.*, n.492.

Each of these requirements has significance. "Cost-based" pricing means, among other things, that rates must be justified on a cost basis (not a residual or "contribution" basis). The FCC has specifically held, for example, that rates priced to provide a universal service subsidy are not "cost-based." *Local Competition Order*, ¶ 713.

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[2] Although the *Payphone Order* used the term "payphone services" in describing local exchange services provided by ILECs to PSPs, the *March 2 Order* uses the term "payphone line service(s)." Because Section 276 defines the term "payphone service" to be the service offered to the public by a PSP, 47 U.S.C. § 276(d), it seems clearer to use a different term, such as "payphone line service," for the service provided to PSPs by an ILEC. As the *March 2 Order* also makes clear, "payphone line service" charges subject to the *Payphone Order's* cost-based rates requirement include not only the monthly charges but also any usage-sensitive charges for local service over a payphone line. *March 2 Order*, ¶ 7.

The "Computer III guidelines" incorporating the "new services test" require ILECs to price services at a level that "*will not recover more than* a just and reasonable portion of the carrier's overhead costs." 47 CFR § 61.49(f)(2) (emphasis added). Prior FCC decisions applying the new services test in the Computer III context, as well as other contexts involving services provided by ILECs to their competitors, have required ILECs to determine direct costs using uniform, forward-looking methodologies. *Open Network Architecture Tariffs of Bell Operating Companies, Order*, 9 FCC Rcd 440, 455 (1993) (*"ONA Tariffs"*). Computer III guidelines also require the ILEC to propose *and justify* an overhead allocation. Prior FCC decisions have required ILECs' overhead allocations to be consistent (or deviations explained) for "comparable" services. *See, e.g. Expanded Interconnection with Local Telephone Company Facilities*, 9 FCC Rcd 5154, 5189 (1994). Cases applying Computer III guidelines have disapproved overhead allocations that exceed the estimated average percentage overhead allocations for the ILEC's services as a whole. *See, e.g., ONA Tariffs*, 9 FCC Rcd at 458. The *March 2 Order* simply explained these principles and precedents, which are only generally referenced in the *Payphone Order.*

2. The *March 2 Order* Applies Established Cost Based Pricing Principles from Both Computer III and the Local Competition Order -- It Does Not Impose the FCC's UNE Regime on Payphone Line Services

The Coalition contends that, when the Bureau provided guidance to Wisconsin ILECs in the *March 2 Order* on how to comply with the *Payphone Order* requirements, the Bureau's guidance conflicted with the *Payphone Order.* According to the Coalition, the Bureau tried to superimpose upon ILEC payphone line rates the entire unbundled network element ("UNE") pricing regime of the Commission's *Local Competition Order.* If the *March 2 Order* had done this, it would have conflicted with the *Payphone Order,* in which the Commission declined to apply "the pricing regime under Sections 251 and 252" of the Act to payphone line services. *First Report and Order*, 11 FCC Rcd at 20615, ¶ 147.

But the *March 2 Order* does no such thing. The order does *not* required Wisconsin ILECs to offer payphone line service elements on an unbundled basis. *Cf.* 47 CFR §§ 51.307-323. Nor does it say anything about dictating the rate structures that ILECs must apply to payphone line services. *Cf. id.*, §§ 51.507-509. Further, the Bureau has not ordered ILECs to exclude retail costs from payphone line services, as is required under Sections 251 and 252. *Cf. id.*, § 51.505(d)(2).

All the Bureau has done is to require the ILECs to adhere to cost-based pricing principles. Principles such as the use of forward-looking cost methodologies and cost-based overhead allocations have been generally applied by the Commission to services offered to competitors, *e.g.*, in *Computer III*, the expanded interconnection proceedings, and elsewhere. In describing these principles, therefore, it was appropriate for the Bureau to cite the *Local Competition Order*, because that order represents the FCC's most recent formulation of these generally applicable principles. The *March 2 Order's* citation of these principles merely underscores its adherence to fundamental standards of cost-based pricing and established Commission precedent.

3. Forward-Looking Economic Costs

The Coalition asserts that the Bureau erred in stating that ILECs must use forward-looking economic cost methodologies. According to the Coalition, to require such methodologies is inconsistent with the *Payphone Order* because the Commission's Computer III tariffing guidelines, incorporated by reference in the *Payphone Order*, did not mandate the use of forward-looking cost methodology. The Coalition is wrong. The

Commission's Computer III tariff decisions specifically mandate forward-looking cost methodology. In *Open Network Architecture Tariffs of Bell Operating Companies*, *Order*, 9 FCC Rcd 440, 455 (1993), the Commission stated:

> We conclude that, for purposes of this proceeding, prospective costs are the economically relevant costs to use to support BSE rates, because they represent the costs a profit maximizing firm would consider in making a business decision to provide a new service. Historical costs associated with plant already in place are essentially irrelevant to the decision to enter a market since these costs are "sunk" and unavoidable and are unaffected by a new product decision. We also believe that use of prospective costs for new BSEs is in the public interest, because the resulting generally lower BSE prices will encourage innovative services.

Furthermore, as the Coalition itself acknowledges, Computer III guidelines require that ILECs "must use the same methodology for all related services." *ONA Order*, 6 FCC Rcd at 4531, ¶ 42. While UNEs are not the same as payphone line service, they are clearly related in that both offerings are provided to the ILECs' competitors, both are provided to serve a market for which Congress has specifically mandated the Commission to promote competition, and both are specifically required to be offered at "cost-based" rates. Therefore, the Bureau appropriately directed ILECs to use a forward-looking cost methodology that is consistent with the principles of the *Local Competition Order* in cost-justifying rates for payphone line services.

Finally, forward-looking economic cost studies that are consistent with the *Local Competition Order* principles are readily available for use in setting payphone line rates. The Bell companies and other ILECs have routinely prepared Total Service Long Run Incremental Cost ("TSLRIC") studies in cost-justifying exchange service rates at the state level, and the cost studies submitted by members of the LEC Coalition to support their payphone line service rates have been almost invariably studies that purport to be TELRIC or TSLRIC studies.[3] TSLRIC, of course, was specifically discussed in the *Local Competition Order*, and it would be a willful misreading of the *March 2 Order* to suggest, as the Coalition seems to, that only a TELRIC study, and not a TSLRIC study would be permitted as "consistent with the principles the Commission set forth in the Local Competition First Report and Order." *March 2 Order*, ¶ 9.

4. Overhead Allocations

a. Overhead Allocations Must Be Affirmatively Justified

The Coalition also contends that, in addressing the issue of overhead allocations, the *March 2 Order* requires ILECs to use UNE overhead allocations for payphone line service rates, and in so doing disregards prior Commission rulings permitting ILECs to justify their own overhead allocations. This argument utterly misrepresents what the *March 2 Order* actually said. In fact, the order specifically noted that the Commission has allowed flexibility, and that the ILEC not only may but *must affirmatively justify* an overhead allocation. *March 2 Order,* ¶¶ 8, 11.[4] The order added that:

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[3] *See e.g., North Carolina Utilities Commission*, Docket No. P-100, SUB 846, *Order Granting NC Telcos' Motion for Reconsideration*, July 10, 1998, p. 7. As explained in the North Carolina Payphone Association's Petition for Declaratory Ruling filed August 13, 1999, at 8, this order required ILECs to compute payphone line service costs by adjusting previously filed forward looking economic costs studies from either the NCUC's FLEC study docket or its UNE pricing docket. Although BellSouth made virtually no adjustments in that case, UNE cost studies can be adjusted as necessary to reflect any significant cost differences an ILEC incurs in providing UNEs and payphone lines. For example, UNE cost studies could be adjusted upward for direct costs of marketing or other services-related that an ILEC can clearly substantiate. Similarly, allocations might need to be reduced to account for costs of unbundling of network elements that the ILEC does not incur in providing payphone lines.

[4] Thus, in saying that the Commission has "permitted" ILECs to "justify, in the first instance, an appropriate [overhead] factor" (Coalition App. at 11), the Coalition has it only half right. ILECs *must* produce a justification for the overhead allocation they propose.

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> *Absent justification*, LECs may not recover a greater share of overheads in rates for the service under review than they recover in rates for comparable services. Given that the new services test is a cost-based test, overhead allocations must be based on cost, and therefore may not be set artificially high in order to subsidize or contribute to other LEC services. For purposes of justifying overhead allocations, UNEs *appear to be* "comparable services" to payphone line services, because both provide critical network functions to an incumbent LEC's competitors and both are subject to a "cost-based" pricing requirement. Thus, *we expect incumbent LECs to explain* any overhead allocations for their payphone line services that represent a *significant departure* from overhead allocations approved for UNE services.

March 2 Order, para. 11. It is clear that the *March 2 Order* does not force the ILECs to adopt the same overhead allocations as for UNEs. It simply requires the ILECs to provide a legitimate justification for any differences between the overhead allocations proposed and those approved in UNE proceedings.

b. The March 2 Order properly ruled out overhead allocations that force payphone line service subscribers to "subsidize or contribute to" other LEC services

The Coalition's application for review graphically illustrates the need for the very type of guidance on the meaning of the *Payphone Order* that the *March 2 Order* provides. In state after state, in payphone line service rate proceedings, ILECs have failed to provide *any* legitimate justification for the overhead allocations they propose. Rather, the ILECs propose to set the overhead allocation for payphone line service at whatever allocation is necessary to maintain payphone line service rates at the same level as business service rates. In most instances, the ILECs' justification for their overhead allocation is little more than a variant of the Coalition's position that because PSPs "purchase local exchange service out of local business tariffs[,] LECs may justify overhead loading on payphone services by reference to the overhead loading on business services." Coalition App. at 16.

Because business line services have been priced on a "residual" or "contributory" basis, to make up whatever common overhead costs are not recovered in the rates for other ILEC services, the "overhead loading on business service" provides no meaningful assurance of a cost-based price for payphone line service. One example of ILECs lack of any coherent cost-based justification for payphone line service overhead allocations is well illustrated by the following excerpts from the deposition of Ms. Caldwell, a BellSouth witness in the Louisiana Public Service Commission's payphone line service rate proceedings:

> Pages 9-10:
>
> Q. What do you need to know and how do you arrive at the cost based rates?
>
> A. I think I have a problem when we keep talking about cost based rates. I can tell you how I do my cost, and from that standpoint I can answer the question.
>
> Q. Okay.
>
> A. When I'm looking at a service, what I really am trying to do is to determine, first of all, the price floor of my service, in other words, the value for which BellSouth should not price below...And then we should have a contribution over and above that to cover your joint and common cost. And that's how the costs are the foundation in those analyses.
>
> Page 40:
>
> Q. How far from the actual cost, in your opinion, could you differ or increase and still be a cost based rate?
>
> A. I don't think there is any measure for that. As long as the customer is willing to pay and that's what the market will bear and you're covering your direct costs, then you're fine.
>
> Q. So buyer beware?

A. Not necessarily. But as long as the customer is willing to pay, and that's with competitive influences.

Q. Would 100 percent over cost as a rate be a reasonable cost based rate?

A. Based on my previous statement, there is no measure. There is no percentage.

Q. Same answer for 1000 percent?

A. Same Answer.

Pages 50-51:

Q. And the question is: What makes it a reasonable level of contribution? What is meant by a reasonable level of contribution?

A. I believe in terms that as long as you are making some contribution to your joint and common costs. And then the level of that amount is really measured by the market, customer willingness to pay, what the market will bear, the things we've talked about before. There is no miracle dollar amount or percentage that is reasonable.

Q. If a reasonable level is what a willing buyer is willing to pay, is there such a thing as an unreasonable level?

A. I believe in that context there wouldn't be because basically the customer is not going to pay more than the customer is willing to pay. So they would never pay an unreasonable amount.

Q. But the customer wouldn't know what portion they were paying for overhead, would they?

A. They wouldn't know, but that doesn't matter.

Deposition of Ms. Caldwell, excerpted in the testimony of Don Wood on behalf of the Louisiana Public Payphone Association Before the Louisiana Public Service Commission, Docket No. U-22632, April 28, 2000.

In light of the ILECs' persistent refusal to justify their overhead allocations, other than by reference to the business line rate, the *March 2 Order* provides important and valid guidance by making clear that "overhead allocations must be based on cost, and therefore may not be set artificially high in order to subsidize or contribute to other LEC services."

This is clearly correct. The Commission has ruled that payphone line service rates must be "cost-based." *Payphone Reconsideration Order,* ¶ 163. By definition, service pricing that is designed to provide a subsidy for other services cannot be "cost-based." *March 2 Order*, ¶ 11, *citing Local Competition Order*, ¶ 713. Business services are typically priced in order to provide "contribution" to other local exchange services, *e.g.*, residential service. Therefore, business service rates cannot be "cost-based,"[5] and cannot provide an appropriate model for a cost-based overhead allocation. This is not surprising: business rates are not designed to be fair to an ILEC's telecommunications competitors; they are not designed for competitors at all.[6]

The Coalition also argues that in a prior order approving Bell Atlantic's and GTE's rates for federally tariffed payphone functions and features, the Bureau approved rates that incorporated rate-to-direct-cost ratios up to 3.4 times greater than direct costs. Coalition

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5 Thus, the Coalition's argument that a FCC brief defines "cost-based" to mean that "rates should reflect cost causation principles" is completely misplaced and out of context. The *Payphone Order* was not trying to dictate rate structures to ILECs, it was trying to ensure that rates are fair to competitors, *i.e.*, by ensuring that all portions of the rate – direct cost and overhead -- are cost-justified.

6 The Coalition's suggestion that business rates are "comparable" because they are paid by enhanced service providers ("ESPs") who were the beneficiaries of Computer III does not withstand scrutiny. Unlike the situation with payphone services, the Commission lacked a statutory mandate to address the level of intrastate service rates paid by ESPs, and never asserted jurisdiction to review the level of those rates. Therefore, the pro-competitive policies of Computer III, including the new services test, were never applied to intrastate service rates paid by ESPs.

App. at 11-12, *citing Local Exchange Carriers' Payphone Functions and Features*, 12 FCC Rcd 17996, 18002, ¶ 13 (1997). The Coalition omits to mention that in the same paragraph cited, the Bureau stated that "[I]n particular, we note that these services are provided either at very low rates or at no charge." *Id.* See also *id.*, n.42 ("The revised rates range from no charge for two of the services to a monthly rate of $0.15 for two other proposed services"). The Coalition also omits to mention that in the same paragraph cited, the Bureau stated that "We do not find that our determination here concerning overhead loadings for Bell Atlantic's provision of payphone features and functions will necessarily be determinative in evaluating overhead loadings for other services." *Id.*, ¶ 13. This case provides no precedent for evaluating overhead allocations for rates that are well over 100 times larger on a monthly basis.

c. UNE Overhead Allocations Are an Appropriate Benchmark for Reviewing the Reasonableness of ILECs Payphone Line Rate Overhead Allocations

As the Coalition does admit, cost-based-pricing precedents require that overhead allocations be consistent (or deviations justified) for comparable services. Coalition App. at 8. See also *Expanded Interconnection with Local Telephone Company Facilities*, 9 FCC Rcd 5154, 5189 (1994), *cited in March 2 Order,* ¶ 11, n. 22 *and in* Coalition App. at 8, n.8. "Comparable" in this context means an ILEC service offering critical network functions to competitors, not a service provided to business subscribers that is priced to provide "contribution." The Bureau correctly found that UNEs offered to CLECs "appear to be" such a "comparable" service to payphone line service, "because both provide critical network functions to an incumbent LEC's competitors and both are subject to a 'cost-based' pricing requirement." *March 2 Order,* ¶ 11. The Bureau's position is also consistent with the findings of a number of state commissions that have reviewed payphone line rates. Pennsylvania Public Utility Commission, *Central Atlantic Payphone Association v. Bell Atlantic-Pennsylvania, Inc.*, Docket No. R-00973867C0001, *Order of Administrative Law Judge Michael S. Schnievle Denying Motion to Dismiss and Motion to Consolidate* (March 4, 1998); Delaware Public Service Commission, *In the Matter of the Tariff Filing of Bell Atlantic-Delaware, Inc. to Make Revisions to P.S.C. – DEL. – NO. 1 to Re-Price the Rates for Line Side Answer Supervision and the Incoming Blocking, Outgoing Blocking, and Incoming/Outgoing Screening COCOT Line Options* (filed May 19, 1997), PSC Docket No. 97-013T (Consolidated), *Findings, Opinion & Order No. 4637* (November 4, 1997); Public Service Commission of South Carolina, *In re Request of BellSouth Telecommunications, Inc. for Approval of Revisions to its General Subscriber Service Tariff and Access Service Tariff to Comply with the FCC's Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Docket No. 97-124-C, *Order Ruling on Requests for Reconsideration and Reclassification*, Order No. 1999-497 (July 19, 1999); Public Service Commission of South Carolina, *In re Request of BellSouth Telecommunications, Inc. for Approval of Revisions to its General Subscriber Service Tariff and Access Service Tariff to Comply with the FCC's Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Docket No. 97-124-C, *Order Setting Rates for Payphone Lines and Associated Features*, Order No. 1999-285 (April 19, 1999); Public Service Commission of West Virginia, *Bell Atlantic-West Virginia, Inc. Tariff Filing to Comply With a Recently Issued FCC Order Granting a Temporary Waiver of the Requirement That Effective Intrastate Tariffs for Payphone Services Be in Compliance With Federal Pricing Guidelines*, Case No. 97-0643-T-T, *Commission Order* (May 22, 1998).

The Coalition argues that payphone lines are not "comparable" to UNEs because PSPs have been categorized as end users for some purposes and because the lines provided to independent PSPs are considered to be "subscriber" lines. Yet, the fact that PSPs must utilize subscriber lines says nothing about the level of overhead allocation that is appropriate for such lines. Under current intrastate service pricing practices, a subscriber service may be allocated no overhead, as may be the case in pricing of residential service, or may be allocated a disproportionate amount of overhead in order to "contribute" to residential service, as is the case in pricing of business line service in many jurisdictions. The most relevant comparison is not with subscriber services, which are subject to a wide variety of non-cost-based pricing practices, but with other services offered to competitors, to the extent that those services are priced in accordance with a specific statutory mandate for "cost-based" pricing.

However, the *March 2 Order* does *not* say that ILECs must automatically apply UNE overhead allocations in reviewing payphone line rates. Rather, the Bureau identifies UNE overhead allocations, which like payphone line service overhead allocations are also designed for establishing cost-based rates for ILEC bottleneck functions used by ILEC competitors, as a benchmark for determining a "reasonable" allocation of overhead costs in setting payphone line rates.

Thus, the Bureau does leave it open to an ILEC to propose and attempt to justify an allocation of overhead for payphone line service rates. However, APCC is unaware of any case where an ILEC has actually attempted to cost-justify its overhead allocation. As noted above, in virtually every case, the ILEC has simply argued that the rate should be equal to the business line rate, and therefore the overhead allocation should be whatever was allocated to business service. This approach is clearly contrary to the *Payphone Order's* requirement for a cost-based rate, and the Bureau has properly ruled it out. The Bureau has stated its view that the benchmark against which the ILECs overhead allocations should be evaluated is not business line allocations but UNE allocations. Thus, in the absence of a persuasive, the Bureau is inclined to use UNE overhead allocation as a benchmark for determining overhead costs for payphone lines. That is consistent with the letter and spirit of the *Payphone Orders.*

5. The March 2 Order will not foreclose CLEC competition

The Coalition also argues that the *March 2 Order* will foreclose competition by CLECs to provide payphone line service to PSPs, because UNE-based pricing of payphone line service will make it impossible for CLECs to underprice ILECs in the provision of payphone line service. At the outset, to APCC's knowledge, CLEC competition to provide payphone line service has yet to emerge to any significant extent outside of highly specialized, high-traffic locations. But even assuming there were prospects for significant CLEC competition in the market for service to PSPs, the *March 2 Order* in no way forecloses such competition.

As noted above, the *March 2 Order* does not at all require ILECs to equate payphone line service rates with UNE rates. For example, in calculating TSLRIC (as opposed to TELRIC) costs, ILECs may include "retail" costs such as marketing that are required to be excluded from TELRIC calculations. It is entirely consistent with the *March 2 Order* for ILECs to adjust their UNE cost studies to reflect demonstrated differences (e.g., retail vs. wholesale costs) in the costs that an ILEC incurs in providing UNEs and payphone lines.

C. The Commission Has Section 276 Authority to Review, and If Necessary, Prescribe Intrastate Payphone Line Rates Where a State Commission Fails to Do So

The LEC Coalition's claim that the Commission did not assert, or does not have, authority to correct non-cost-based intrastate payphone line service rate's is utterly without merit.

1. The LEC Coalition's Argument Is an Untimely Request for Reconsideration of the Payphone Order

To begin with, the Coalition's argument comes three years too late. The LEC Coalition had an opportunity to challenge the Commission's authority to ensure cost-based intrastate payphone line service rates – and the Commission's express ruling that it would review such rates when the state commission is unable to do so – when the Commission made the relevant rulings in the *Payphone Reconsideration Order,* ¶ 163. Instead, the Coalition vigorously *defended* the Commission's Section 276 authority over intrastate matters against a challenge launched by state commissions. *See* discussion in Response of the Wisconsin Pay Telephone Association, Inc., in Opposition to the LEC Coalition's Application for Review And Request for Stay, dated May 11, 2000.

And when the Bureau clarified that the FCC's cost-based rate requirements applied to both "smart" and "dumb" payphone line services (*Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Order, DA 97-678 Com. Car. Bur., released April 4, 1997), the Coalition did not contest that the FCC had the authority to impose such requirements. Instead, the Coalition sought a waiver to allow them more time to comply with the requirements without losing their entitlement to payphone compensation. In granting that waiver, the Bureau reiterated that the Commission had ultimate authority to ensure that

Payphone Order requirements, including the cost-based payphone line rate requirement, are met. *Implementation of the Payphone Reclassification and Compensation Provisions of the Telecommunications act of 1996*, CC Docket No. 96-128, *Order*, 12 FCC Rcd 21370, 21379, n.60 (Com. Car. Bur. 1997).

Now that the Coalition has reaped the benefit of its waiver and collected payphone compensation for three years, it wants to revisit the matters decided in the Bureau's earlier orders and in the *Order on Reconsideration*. The Coalition's argument should be dismissed as an untimely request for reconsideration of the *Payphone Order*.[7]

2. Section 276 Authorizes the Commission to Address Both Interstate and Intrastate Payphone Matters, Including Payphone Line Service Rates

The Coalition's contention that the Commission lacks statutory authority to prescribe intrastate payphone line service rates is also wrong as a matter of law. As discussed in Section I.B.1. above, Section 276 required the Commission to adopt regulations to promote competition and payphone deployment, to prevent subsidies and discrimination in favor of an ILEC's own payphone services, and to adopt safeguards that are, "at a minimum," equivalent to the Commission's *Computer III* safeguards. One of the Computer III safeguards adopted by the Commission was the requirement that payphone

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[7] The Coalition also argues that the requirements of Section 276 are satisfied as long as a state commission ensures "that all intrastate subsidies for payphone services have been eliminated." Coalition App. at 21-22. That is simply incorrect. Section 276 also requires the Commission to adopt regulations that eliminate discrimination, promote competition, and ensure widespread deployment of payphone services. To achieve those objectives, the Commission was required to adopt safeguards that are, "at a minimum," equivalent to the Commission's Computer III safeguards. One of the Computer III safeguards adopted by the Commission was the requirement that payphone line rates meet the new services test.

line service rates meet the "new services test." While the original Computer III "new services test" safeguard applied only to interstate services, Section 276 specifically directs the Commission to apply its regulations to both interstate and intrastate services (47 U.S.C. § 276(a), (b)), and preempts any state regulations that are inconsistent with the Commission's regulations (*id.*, § 276(c)). The U.S. Court of Appeals has held that, by expressly providing the Commission with authority over intrastate services, Congress made clear that Section 2(b) did not limit the Commission's jurisdiction under Section 276. *Ill. Public Telecom, Ass'n. v. FCC*, 117 F.3d 555 (D.C. Cir. 1997).[8]

3. The Bureau May Review, and If Necessary Prescribe, Payphone Line Service Rates Without the Filing of a Federal Tariff

The Coalition also seems to argue that, if the Commission has authority to review intrastate payphone line service rates (a point that the Coalition now disputes but that is established above), the Bureau must exercise that authority by requiring the rates to be filed as a "federal tariff," not as a "state tariff." Coalition App. at 19. In fact, the *March 2 Order* clearly set forth that the required submission is not to be considered an official tariff filing at all – whether "state" or "federal" – but rather an informational filing for the sole purpose of enabling the Bureau to determine whether the rates are in compliance with FCC orders. *March 2 Order, ¶6.* While the Coalition contends that the Commission never authorized the Bureau to review intrastate rates, nothing could be plainer in the *Payphone Reconsideration Order, ¶163.*

[8] To the extent that Bureau review of a state-tariffed rate is a "novel arrangement" (Coalition App. at 19) it is because, historically, the FCC's Title II authority was restricted by Section 2(b). As explained above, Section 276 is not so restricted.

Obviously, if the Commission is going to review a rate, a document describing the rate, as well as the associated costs, must be filed with the Commission. The Bureau's requirement for the ILECs to file copies of their state tariffs, along with the underlying costs, so that the Commission can review the rate's compliance with the *Payphone Order* is exactly what was contemplated by the Commission. As past decisions have repeatedly stressed, the Commission retains jurisdiction under Section 276 to ensure that all Section 276 and *Payphone Order* requirements are met. *Implementation of the Payphone Reclassification and Compensation Provisions of the Telecommunications act of 1996*, CC Docket No. 96-128, *Order*, 12 FCC Rcd 21370, 21379, n.60 (1997); *North Carolina Utilities Commission Order Dismissing and Directing Filings*, *Order*, DA 98-830, released April 30, 1998. Given the Commission's broad authority under Section 276, there is no valid reason why the Commission must first reclassify the rate as a "federally tariffed" rate in order to conduct its Section 276 review.

The LEC Coalition also argues that for the Commission to complete its review of an ILEC's payphone line service rate by prescribing a maximum rate would violate the Tenth Amendment to the Constitution. This argument is so unimpressive that it verges on the trivial. Obviously, if the Bureau finds the rate unlawful it must prescribe a rate. But such a prescription only compels the *ILEC*; it does not compel a state commission to do anything. All that the *March 2 Order* proposes is to prescribe a rate, if necessary, that the *ILEC* must observe. What the Wisconsin Commission does or requires regarding that rate is a matter between the ILEC and the Wisconsin Commission.

II. THE COMMISSION SHOULD DENY THE LEC COALITION'S REQUEST FOR STAY

The LEC Coalition's request for stay is without merit. None of the guidelines for granting a stay have been satisfied. The LEC Coalition has totally failed to demonstrate (1) that it is likely to prevail on the merits; (2) that the petitioner would be irreparably harmed in the absence of a stay; (3) that the issuance of a stay will not substantially harm other parties; or (4) that a stay is in the public interest. *Wisconsin Gas Co. v. FERC*, 758 F.2d 669, 673-74 (D.C. Cir. 1985).

A. The LEC Coalition Is Unlikely to Prevail on the Merits

For all the reasons stated in the preceding sections of this Opposition, the LEC Coalition is unlikely to prevail on the merits of its arguments.

B. No Irreparable Injury Has Been Shown

Even if the LEC Coalition had shown a likelihood of prevailing on the merits, no stay could be granted because the Coalition failed to show any likelihood of irreparable injury. A stay may not be granted unless harm is imminent. As its "irreparable injury," the Coalition alleges that harm would result, not directly from the *March 2 Order*, but from *other* orders in *other* proceedings that allegedly would be made in reliance on the *March 2 Order*. Specifically, state payphone associations outside Wisconsin have made filings bringing the *March 2 Order* to the attention of their state public service commissions. In response to these state association filings, the Coalition alleges, the state commissions "*may* wrongly require that LECs offer retail payphone services at UNE rates." Request at 5 (emphasis added).[9] And if so, the Coalition alleges, the LECs "*may* have significant

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[9] The Coalition does state that the expenses incurred by Wisconsin ILECs in complying with the *Bureau Order* to file cost studies "cannot be recovered." Id. This is clearly makeweight: if costs of providing information to the agency constituted "irreparable

difficulty" restoring the appropriate rate, and would lose the amounts not charged in the interim. Id. (emphasis added).

First, the "irreparable harm" that is alleged would not follow directly from the *March 2 Order*. Rather it would follow *other* orders in *other* proceedings that allegedly would be made in reliance on the *March 2 Order*. The potential for another forum to rely on a precedent cannot be grounds for staying the potential precedent.

Second, the Coalition's irreparable injury claim is wholly speculative and based on a dubious chain of events that the Coalition admits "may" or may not occur. First, as explained above, the Wisconsin Order does *not* "require . . . UNE rates." It requires payphone line service to be cost-justified based on a forward-looking economic cost methodology such as TSLRIC, which is routinely used in calculating the costs of retail services. And it requires overhead allocations to be consistent with the overhead allocations approved for UNEs absent justification. It is purely speculative to assert that the Bureau's issuance of these appropriately conditioned guidelines would cause state commissions to force ILECs to adopt UNE rates despite a persuasive cost justification for a different rate.

Third, the LEC Coalition's "irreparable injury" argument assumes that, in the event that the Bureau's guidance does somehow "cause" a state commission to adopt an unlawful order, the ILEC would necessarily be unsuccessful in staying *that* order. There is no justification provided for such an assumption. A stay may not be granted unless harm is imminent.

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harm," every FCC order requiring a filing would be stayed, and no Commission investigation could ever be concluded.

Finally, there is no basis for the LEC Coalition's assertion that an ILEC would be unsuccessful in recouping amounts lost as a result of a state commission setting payphone line rates too low.

C. Independent PSPs Would Be Harmed

PSPs would be severely harmed by a stay of the *March 2 Order*. For the past three years, in the absence of explicit guidance from the Commission on the requirements for state commission review of payphone line rates, the cost-based pricing requirements of the *Payphone Order* have been routinely circumvented by ILECs. PSPs have had to suffer the consequences of inconsistent, non-uniform state commission decisions resulting in high payphone line rates that discourage payphone deployment and prevent PSPs from being able to compete fairly. Other state commission proceedings have been held up indefinitely by ILEC stonewalling. The *March 2 Order* has provided, at long last, some badly needed explication of the *Payphone Order* requirements. To stay the Wisconsin Order would cause continued uncertainty and delay, forcing PSPs to continue to pay excessive payphone line rates.

D. A Stay Would Disserve the Public Interest

As explained in detail above, the *March 2 Order* in this proceeding is faithful to the letter and purpose of the *Payphone Order's* payphone line service pricing requirements.

Dated: May 12, 2000

Respectfully submitted,

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ATTACHMENT 1

Payphone Line Service/Cost-Based Rates Requirement Implementation Timeline

PAYPHONE LINE SERVICE/COST-BASED RATES REQUIREMENT IMPLEMENTATION TIMELINE

January 15, 1997	*Payphone Order's* deadline for ILECs to file cost-based payphone line service tariffs
May 19, 1997	Extended deadline for all ILECs per Common Carrier Bureau order
July 17, 1997	WPTA requests Wisconsin PSC to review Wisconsin ILECs' compliance with cost-based requirement
November 6, 1997	Wisconsin PSC rules it lacks jurisdiction to review ILECs' payphone line service rates
February 4, 1998	WPTA requests FCC to review Wisconsin ILECs' payphone line service rates
October 28, 1998	Common Carrier Bureau sends letter to Wisconsin PSC stating Bureau will review Wisconsin ILECs' rates
March 2, 2000	Bureau issues order requiring ILECs to submit tariffs by May 12, 2000
April 3, 2000	RBOCs/GTE file request for stay and application for review of March 2 order
April 10, 2000	APCC and WPTA file opposition to request for stay
April 12, 2000	Bureau requests comments on RBOCs/GTE request for stay and application for review
April 12, 2000	Bureau defers filing deadline for 92 days, until August 12, 2000

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2000, I caused a copy of the foregoing Opposition to the LEC Coalition's Request For Stay to be sent by U.S. mail, first class, postage pre-paid to the following:

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