Dear_______: This is an appeal under the Freedom of Information Act.

On (date), I requested documents under the Freedom of Information Act. My request was assigned the following identification number _______. On (date), I received a response to my request in a letter signed by (name of official). I appeal the denial of my request.

[Optional] The documents that were withheld must be disclosed under the FOIA because * * *.

[Optional] *Respond for waiver of fees.* I appeal the decision to deny my request for a waiver of fees. I believe that I am entitled to a waiver of fees. Disclosure of the documents I requested is in the public interest because the information is likely to contribute significantly to public understanding of the operation or activities of government and is not primarily in my commercial interest. (Provide details)

[Optional] I appeal the decision to require me to pay review costs for this request. I am not seeking the documents for a commercial use. (Provide details)

(Optional] I appeal the decision to require me to pay search charges for this request. I am a reporter seeking information as part of news gathering and not for commercial use.

Thank you for your consideration of this appeal.

Sincerely,

Name ________________________________

Address ______________________________

City, State, Zip Code ___________________

Telephone Number [Optional] ___________

Dated: May 8, 1998.

Kenneth L. Klothen,

General Counsel.

[FR Doc. 98–12650 Filed 5–12–98; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket 96–128; DA 98–701]

Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996; AT&T Request for Limited Waiver of the Per-Call Compensation Obligation

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification and waivers.

SUMMARY: The Common Carrier Bureau adopted an Order (''Order''), which clarifies certain requirements set forth in the *Per-phone Compensation Waiver Order.* The *Order* clarifies the following: the data to be used for the payment of payphone compensation for the fourth quarter of 1997 and first quarter of 1998 for payphones that are not capable of providing payphone-specific coding digits; the method for allocating among payors the payphone compensation requirements for payphones served by non-equal access switches; and the eligibility of payphones on automatic number identification (''ANI'') lists.

DATES: Effective April 10, 1998.

FOR FURTHER INFORMATION CONTACT: Rose Crellin, Formal Complaints and Investigations Branch, Enforcement Division, Common Carrier Bureau, (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Order in CC Docket No. 96–128 [DA 98–701], adopted on April 10, 1998, and released on April 10, 1998. The full text of the *Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The complete text of this decision also may be purchased from the Commission's duplicating contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C. 20036.

SUMMARY OF ORDER

Introduction

1. In the *Order,* the Bureau clarifies certain requirements set forth in the *Per-phone Compensation Waiver Order,*[1] published elsewhere in this issue of the **Federal Register**, which was adopted on April 3, 1998, by the Common Carrier Bureau (''Bureau''). The *Per-phone Compensation Waiver Order* granted interexchange carriers (''IXCs'') a limited waiver of the payphone compensation requirements set forth in the *Payphone Orders*[2] to enable IXCs to pay to payphone service providers (''PSPs'') per-phone instead of per-call compensation for subscriber 800 and access code calls originated from payphones when payphone-specific coding digits[3] are not available from those payphones. The Bureau's *Order* clarifies the following: (1) The data to be used for the payment of payphone compensation for the fourth quarter of 1997 and first quarter of 1998 for payphones that are not capable of providing payphone-specific coding digits; (2) the method for allocating among payors the payphone compensation requirements for payphones served by non-equal access switches; and (3) the eligibility of payphones on automatic number identification (''ANI'') lists.

II. Background

2. In the *Per-phone Compensation Waiver Order,* the Bureau concluded that the waiver granted therein to allow IXCs to pay per-phone compensation when payphone-specific coding digits are not available from a payphone is necessary to ensure that PSPs receive fair compensation while local exchange carriers (''LECs''), PSPs, and IXCs transition to providing and receiving payphone-specific coding digits to identify calls from payphones.

3. Previously, the Bureau had adopted the *Bureau Coding Digit Waiver Order* clarifying the payphone-specific coding digit requirements set forth in the *Payphone Orders* and granting limited waivers of the requirement that LECs provide payphone-specific-coding digits to PSPs, and that PSPs provide payphone-specific coding digits from their payphones to IXCs, before PSPs can receive per-call compensation from IXCs for subscriber 800 and access code calls. The Bureau explained in the *Per-phone Compensation Waiver Order* that the order serves as a companion order to the *Bureau Coding Digit Waiver Order,* because in the *Per-phone Compensation Waiver Order,* the Bureau granted IXCs[4] a waiver of the per-call compensation requirement so they may pay per-phone instead of per-call

[1] Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Memorandum Opinion and Order, DA 98–642 (rel. Apr. 3, 1998) (''Per-phone Compensation Waiver Order'').

[2] Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128, Report and Order, 61 FR 52307 (October 7, 1996) (''Report and Order''); Order on Reconsideration, 61 FR 65341 (December 12, 1996) (''Order on Reconsideration'') (together the ''Payphone Orders''). The Payphone Orders were affirmed in part and vacated in part. See Illinois Public Telecomm. Ass'n v. FCC, 117 F.3d 555 (D.C. Cir. 1997) (''Illinois Public Telecomm.''); see also Second Report and Order, 13 FCC Rcd 1778 (1997) (''Second Report and Order''), pets. for recon. pending, review pending, MCI Telecomm. Corp. v. FCC, D.C. Circuit No. 97–1675 (filed Nov. 7, 1997); Sprint Corp. v. FCC, D.C. Circuit No. 97–1685 (filed Nov. 13, 1997); Personal Communications Industry Association v. FCC, D.C. Circuit No. 97–1709 (filed Dec. 1, 1997); Illinois Public Telecommunications Association v. FCC, D.C. Circuit No. 97–1713 (filed Dec. 3, 1997).

[3] Payphone-specific coding digits provide a method for LECs to transmit, with the automatic number identification (ANI), information (coding number or digits) identifying a call as having been placed specifically from a payphone. Order on Reconsideration, 11 FCC Rcd 21,265–66, para. 64. See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Memorandum Opinion and Order, CC Docket No. 96–128, DA 98–481 (rel. Mar. 9, 1998) 63 FR 20534 (April 27, 1998) (''Bureau Coding Digit Waiver Order'').

[4] For purposes of paying compensation for compensable calls and other associated obligations, such as tracking calls, we note that the term ''IXC'' includes an LEC when it provides interstate, intraLATA toll service. See Report and Order, 61 FR 52307 (October 7, 1996); Order on Reconsideration, 11 FCC Rcd at 21,270, paras. 74–75 & 21,278, para. 92. Carriers required to pay per-call compensation pursuant to the Payphone Orders also are referred to as ''payors'' in this order.

compensation for the payphones for which the Bureau granted waivers in the *Bureau Waiver Order*[5] and the *Bureau Coding Digit Waiver Order.*

III. Discussion

A. Payphone Compensation Payments

4. The *Bureau Coding Digit Waiver Order* required that payments for payphone compensation be remitted at least on a quarterly basis. That order required that the payment for the October 1997 through December 31, 1997 period be paid no later than April 1, 1998. The Bureau stated in the *Per-phone Waiver Order* that because some IXCs will have to obtain additional information and calculate their per-phone compensation amounts, these IXCs may need additional time to make the payments to PSPs for the October 1997 through December 31, 1997 period for payphone compensation. Thus, the order stated that IXCs may make this payment no later than April 30, 1998, but must include additional interest for the period after April 1, 1998, at the rate of 11.25 percent simple interest per year, if the payment was not made by April 1, 1998.

5. In the *Per-phone Waiver Order,* the Bureau required that pursuant to the waiver granted therein, with the exception of the compensation method for those payphones that are able to provide payphone-specific coding digits, IXCs must use call volume information obtained from October 1997 through March 31, 1998 (the ''sample period''), to establish average subscriber 800 and access code call volumes per-phone to compensate PSPs for calls originated from their payphones during the fourth quarter of 1997 and the first quarter of 1998 (from October 7, 1997 through March 31, 1998). In the *Order,* the Bureau clarifies that if calculating the average call volumes using the six-month ''sample period'' of data will delay payment for the fourth quarter of 1997 beyond the deadline set forth in that order, IXCs must compensate PSPs for the fourth quarter of 1997 based on data from the fourth quarter of 1997, and compensate PSPs for the first quarter of 1998 based on data from the first quarter of 1998 using the same methodology specified in the *Per-phone Waiver Order* but revised to accommodate a three-month rather than a six-month period of call volume and payphone information.

B. Payphone Compensation for Payphones Served by Non-Equal Access Switches

6. In the *Per-phone Waiver Order,* the Bureau stated that payphones served by non-equal access switches must be compensated for 16 calls per-phone per month, until payphone-specific coding digits are available for those payphones. Because the number of payphones on non-equal access switches and the number of calls for which such payphones should be compensated is small, the Bureau finds it is appropriate to allocate compensation obligations for these payphones among payors in a different manner than other payphones. Therefore, per-phone compensation for PSP payphones served by non-equal access switches will be based on call distribution data submitted to the Commission by the LEC Coalition. The LEC Coalition provided data from three Bell Operating Companies (''BOCs'') in an aggregated form illustrating the average calls per-phone per month, and the percentage of average calls per month of the total calls received by each payor. The Bureau finds, however, compensation due to PSP payphones served by non-equal access switches should be allocated among the top ten carriers receiving the highest amount of subscriber 800 and access code calls as indicated by the LEC Coalition data, because the number of calls for which compensation is due is so small. Were the Bureau to require all carriers to compensate payphones served by non-equal access switches, many carriers would be forced to compensate PSPs for mere fractions of calls.

7. Therefore, to compensate PSPs for payphones served by non-equal access switches, each IXC listed in the *Order* will multiply its percentage of average calls per month total as stated in the LEC Coalition data by 16 calls per-phone per month.[6] That number is the average number of calls for which that carrier must compensate the PSP for payphones served by non-equal access switches. That number will then be multiplied by three, to determine the quarterly call volume, and then by $0.284 to determine the amount owed.

8. The Bureau finds that the LEC Coalition data is an appropriate basis upon which to allocate compensation for payphones served by non-equal access switches because the compensation due is small. Notwithstanding the Bureau's decision in the *Per-phone Waiver Order* that this data is not appropriate to assess compensation obligations for all payphones, here this data is representative of the number of compensable calls made from payphones on non-equal access switches and is appropriate for allocating each carrier's share of compensation obligations. Therefore, the concerns raised in reference to using this data as a compensation method for all payphones are not present here.

C. Payphones on the ANI List

9. In the *Per-phone Waiver Order,* the Bureau stated that payphones can receive compensation only for those months that they were in service. The *Bureau Waiver Order* stated that payphones appearing on the LEC-provided lists of payphones are eligible for per-call compensation even if they do not transmit payphone-specific coding digits. The Bureau clarifies that as stated in the *Bureau Waiver Order,* for payphones that do not provide payphone-specific coding digits, payors must look to the ANI lists to determine which payphones[7] are eligible for compensation. Prior to the *Bureau Coding Digit Waiver Order,* LECs were required to provide ANI lists on a quarterly basis. That order required that LECs make available on request monthly ANI lists. Thus, for the fourth quarter of 1997 and the first quarter of 1998, payors must use quarterly ANI lists. Thereafter, payors must use the monthly ANI lists that payors can obtain from LECs. If there are disputes between IXCs and PSPs regarding whether certain payphones were in service during a specific period even if they are on the ANI lists, such disputes should not be a basis for delay of payphone compensation payments.

IV. Conclusion and Ordering Clauses

10. The Bureau concluded in the *Order* that the clarifications to the *Per-phone Compensation Waiver Order* are in the public interest, because they will further the goals of Section 276 of the Act, and that PSPs should be compensated for each and every completed call and will ease the transition to per-call compensation.

11. Accordingly, pursuant to authority contained in Sections 1, 4, 201–205, 218, 226, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 218, 226, and 276, and the authority delegated by §§ 0.91 and 0.291 of the

[5] Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, 62 FR 58659, (October 30, 1997) (''Bureau Waiver Order'').

[6] The LEC Coalition data indicates the following percentage allocation: (1) AT&T: 37.08%; (2) MCI: 25.33%; (3) WorldCom: 12.17%; (4) Sprint: 10.76%; (5) LCI: 2.83%; (6) Frontier: 2.75%; (7) BOC weighted average: 2.19%; (8) Allnet Dial 1 Service: 1.14%; (9) Cable & Wireless: 0.95%; (10) Switched Services: 0.63%. *Id.*

[7] Bureau Waiver Order, 12 FCC Rcd at 16,390–91, paras. 9–14.

Commission's rules, 47 C.F.R. 0.91, 0.291, the policies and requirements set forth in the payphone proceeding and the *Per-phone Compensation Waiver Order* are clarified.

Federal Communications Commission.

Robert W. Spangler,

Acting Chief, Enforcement Division, Common Carrier Bureau.

[FR Doc. 98–12346 Filed 5–12–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket 96–128; DA 98–642]

Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996; AT&T Request for Limited Waiver of the Per-Call Compensation Obligation

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification and waivers

SUMMARY: The Common Carrier Bureau adopted a Memorandum Opinion and Order (''Order''), which grants interexchange carriers (''IXCs'') a waiver of the payphone compensation requirements of the *Payphone Orders* to enable them to pay to payphone service providers (''PSPs'') per-phone instead of per-call compensation for subscriber 800 and access code calls from payphones when payphone-specific coding digits are not available from those payphones. The Order also serves as a companion to the *Bureau Coding Digit Waiver Order,* because in the Order the Bureau grants IXCs a waiver of the per-call compensation requirement so they may pay per-phone instead of per-call compensation for the payphones for which the Bureau granted waivers in the *Bureau Waiver Order* and the *Bureau Coding Digit Waiver Order.*

DATES: Effective April 3, 1998.

FOR FURTHER INFORMATION CONTACT: Rose Crellin, Formal Complaints and Investigations Branch, Enforcement Division, Common Carrier Bureau, (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Memorandum Opinion and Order in CC Docket No. 96–128 [DA 98–642], adopted on April 3, 1998, and released on April 3, 1998. The full text of the Memorandum Opinion and Order (''Order'') is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The complete text of this decision also may be purchased from the Commission's duplicating contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C. 20036.

MEMORANDUM OPINION AND ORDER

I. Introduction

1. In the *Order,* the Common Carrier Bureau (''Bureau'') grants interexchange carriers (''IXCs'') a waiver of the payphone compensation requirements of the *Payphone Orders* [1] to enable them to pay to payphone service providers (''PSPs'') per-phone instead of per-call compensation for subscriber 800 and access code calls from payphones when payphone-specific coding digits are not available from those payphones. On March 9, 1998, the Bureau adopted a Memorandum Opinion and Order clarifying the payphone-specific coding digit requirements set forth in the *Payphone Orders* and granting limited waivers of the requirement that local exchange carriers (''LECs'') provide payphone-specific-coding digits to PSPs, and that PSPs provide coding digits from their payphones to IXCs, before PSPs can receive per-call compensation from IXCs for subscriber 800 and access code calls.[2] The *Order* serves as a companion to the *Bureau Coding Digit Waiver Order,* because in the order the Bureau grants IXCs a waiver of the per-call compensation requirement so they may pay per-phone instead of per-call compensation for the payphones for which the Bureau granted waivers in the *Bureau Waiver Order* [3] and the *Bureau Coding Digit Waiver Order*.[4]

2. Moreover, in the *Order,* the Bureau addresses a letter filed by AT&T Corporation (''AT&T'') requesting that AT&T, and other similarly situated IXCs, receive a waiver to pay per-phone rather than per-call compensation when payphone-specific coding digits are not available for a payphone. The *Order* grants in part AT&T's request that AT&T and other similarly situated IXCs be permitted to compensate PSPs on a per-phone basis, where payphone-specific coding digits are not available. The *Order* concludes that the waiver granted therein, which allows IXCs to pay per-phone compensation when payphone-specific coding digits are not available from a payphone, is necessary to ensure that PSPs receive fair compensation while LECs, PSPs, and IXCs transition to providing and receiving payphone-specific coding digits to identify calls from payphones. In the *Order,* the Bureau also concludes that granting the waiver and allowing IXCs to pay per-phone instead of per-call compensation where payphone-specific coding digits are not available is in the public interest.

3. The *Bureau Coding Digit Waiver Order* required that payments be remitted at least on a quarterly basis. That order required that the payment for the October 1997 through December 31, 1997 period must be paid no later than April 1, 1998. In the *Order,* however, the Bureau notes that the waiver granted therein will require some IXCs to obtain additional information and calculate their per-phone compensation amounts, and that these IXCs may need additional time to make the payments to PSPs for the October 1997 through December 31, 1997 period for payphone compensation. Thus, the Bureau stated that IXCs may make this payment no later than April 30, 1998, but must include additional interest for the period after April 1, 1998, at the rate of 11.25 percent per year, if the payment is not made by April 1, 1998.

4. The waiver granted in the *Order* is effective on April 3, 1998, to ensure that all PSPs continue to receive compensation, as required by the *Payphone Orders* and the *Second Report and Order.* Without this waiver, many

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[1] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996,* CC Docket No. 96–128, Report and Order, 61 FR 52307 (October 7, 1996) (''*Report and Order*''); Order on Reconsideration, 61 FR 65341 (December 12, 1996), (''*Order on Reconsideration*'') (together the ''*Payphone Orders*''). The *Payphone Orders* were affirmed in part and vacated in part. See *Illinois Public Telecomm. Ass'n* v. *FCC,* 117 F.3d 555 (D.C. Cir. 1997) (''*Illinois Public Telecomm.*''). *See also* Second Report and Order, 13 FCC Rcd 1778 (1997) (''*Second Report and Order*''), pets. for recon. pending, review pending, *MCI Telecomm. Corp.* v. *FCC,* D.C. Circuit No. 97–1675 (filed November 7, 1997); *Sprint Corp.* v. *FCC,* D.C. Circuit No. 97–1685 (filed November 13, 1997); *Personal Communications Industry Association* v. *FCC,* D.C. Circuit No. 97–1709 (filed December 1, 1997); *Illinois Public Telecommunications Association* v. *FCC,* D.C. Circuit No. 97–1713 (filed December 3, 1997).

[2] *See Bureau Coding Digit Waiver Order,* Memorandum Opinion and Order, CC Docket No. 96–128, DA 98–481 at paras. 19–20 (rel. March 9, 1998), 63 FR 20534 (April 27, 1998).

[3] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996,* 62 FR 58659 (October 30, 1997), (*Bureau Waiver Order*).

[4] This waiver order relies on the record established for the *Bureau Coding Digit Waiver Order* 63 FR 20534 (April 27, 1998), and ex partes received subsequent to the release of that order. *Pleading Cycle Established for Petitions to Waive Payphone Coding Digits,* Public Notice, 12 FCC Rcd 17,340 (1997) (*Public Notice*).