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PUCO BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's)
Investigation into the Implementation)
of Section 276 of the Telecommunications)
Act of 1996 Regarding Pay Telephone)
Services.)

Case No. 96-1310-TP-COI

***SBC OHIO'S
REPLY POST-HEARING BRIEF
(CONFIDENTIAL VERSION)***

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I. The Wisconsin Order Permits SBC Ohio to Select Any One of the Three Permitted Methods to Determine the Permissible Overhead Loading for the Payphone Services.

The single largest dispute between SBC Ohio and the Payphone Association of Ohio ("PAO") is the determination of the maximum permissible overhead loading for the payphone services at issue in this case. SBC Ohio has determined the maximum overhead loading by using the Physical Collocation Tariff Order methodology permitted by the Federal Communications Commission ("FCC") in *In the Matter of Wisconsin Public Service Commission Order Directing Filings*, Bureau/CPD No. 00-01, Memorandum Opinion and Order, January 31, 2002 ("*Wisconsin Order*"). (*Wisconsin Order* at ¶¶ 54, 58.) Not liking the payphone service rates which result from that permissible methodology, PAO constructs arguments as to why the Public Utilities Commission of Ohio ("Commission") should use an alternate method, the UNE overhead loading method, to set the rates. These arguments are the cornerstone of PAO's case, and they are plain wrong.

A. UNE Overhead Loadings Do Not Serve as a Cap On Overhead Loadings for Payphone Services.

PAO argues that UNE overhead loading constitutes a cap on the total overhead loading permitted by the FCC in the *Wisconsin Order*. (PAO Initial Post-Hearing Brief at 9.) In other words, PAO's position is that the *Wisconsin Order* does not permit the approval of an overhead loading greater than the UNE overhead loading. This is clearly wrong.

The *Wisconsin Order* explicitly provides that UNE overhead loadings are not the cap on the overhead for payphone services. At ¶¶ 52 and 58 of the *Wisconsin Order*, the FCC writes:

We do not agree, however, with the Bureau that UNE overhead loadings must serve as a default ceiling. There are other approaches that are also consistent with our precedent regarding overhead assignments to new services provided to competitors. [*Wisconsin Order* at ¶ 52.]

* * *

States may continue to use UNE loading factors to evaluate BOCs' overhead allocation for payphone services, but we do not require that UNE overhead allocations must serve as the ceiling on payphone service overhead loading. To evaluate such a ceiling, states should use the methodology from either the Commission's *Physical Collocation Tariff Order* or *ONA Tariff Order*. [*Wisconsin Order* at ¶ 58.]

In these paragraphs, the FCC specifically modified the earlier Bureau Order, which did make UNE overhead loadings the cap for payphone services, to include both the Physical Collocation Tariff Order and the ONA Tariff Order methodologies.

This point is so clear that PAO's own witness, Mr. Starkey, agrees with this, and testified that any of the three methods -- Physical Collocation Tariff Order, ONA Tariff Order, or UNE overhead -- is permissible:

Q. Let's turn to overhead. Under the *Wisconsin Order*, there are three permissible methods for calculating overhead loading; is that right?

A. I don't disagree with that. That's right.

Q. The three methods are the Physical Collocation Tariff Order method, the ONA Tariff Order method, and the UNE overhead method; right?

A. Perhaps not stated in order in the FCC's Order, but yes.

Q. The FCC's *Wisconsin Order* does not mandate any one of these three methods; right?

A. That's fair.

Q. That's yes?

A. Yes.

Q. In your view, the two better methods for determining overhead loading are the UNE method and the Physical Collocation Tariff Order method; right?

A. Compared to the third method, yes, that's right.

(Tr. at 174-175.)

SBC Ohio's cost expert witness, Dr. Currie, also made clear that the *Wisconsin Order* provides SBC Ohio with the choice of any of the three overhead loading methods to use. Dr. Currie selected the Physical Collocation Tariff Order method, which Mr. Starkey agreed is one of his two preferred methods of the three. (Currie Direct at 10-11; Tr. at 125, 175.)

As shown by the explicit language of the *Wisconsin Order*, PAO's own expert testimony, and SBC Ohio's expert testimony, there is absolutely no support for PAO's position that UNE overhead loadings are a cap on the overhead loading that the Commission can assign to the payphone services at issue in this case. The UNE overhead loading methodology¹ is not relevant to this case because SBC Ohio has selected and performed the Physical Collocation Tariff Order methodology. (SBC Ohio Initial Post-Hearing Brief at 18-19).

B. The Commission Cannot Override SBC Ohio's Use of the Physical Collocation Tariff Order Methodology as a Matter of Public Policy.

PAO makes the related argument that the Commission should override SBC Ohio's permissible selection of the Physical Collocation Tariff Order methodology as a matter of public policy. (PAO Initial Post-Hearing Brief at 1-3.) It makes this argument based upon SBC Ohio's witnesses' failure to explicitly list 47 U.S.C. § 276 and § 4927.02, Ohio Revised Code, among the numerous authorities they reviewed in preparing their prefiled direct testimony in this matter. (See Tr. at 34, 49.) PAO reasons that by omitting reference to these statutes, SBC Ohio did not consider the policy objectives contained therein and, thus, that SBC Ohio's pricing proposals in this proceeding should be rejected.

¹ Moreover, the UNE overhead loading mentioned by PAO is the result of Case No. 96-922-TP-UNC which is many years old and outdated as the Commission has most recently recognized in its Finding and Order dated March 11, 2004, in Case No. 02-1280-TP-UNC. There, the Commission increased on an interim basis the rates for two-wire loop UNEs.

The specific policy objectives that PAO cites in 47 U.S.C. § 276(b)(1) are the objectives of “promot[ing] competition among payphone service providers and promot[ing] the widespread deployment of payphone service to the benefit of the general public.” PAO ignores that Congress directed the FCC to implement these policy objectives, and that the FCC did so by promulgating regulations to meet each of the five requirements contained in 47 U.S.C. §§ 276(b)(1)(A) through 276(b)(1)(E). (See *Wisconsin Order* at ¶ 6.)

The FCC’s orders promulgating these specific rules are those that SBC Ohio’s witnesses reviewed in preparing their testimony in this matter. (See McPhee (Watkins) Direct at 5; Currie Direct at 5; *Wisconsin Order* at ¶¶ 9-22.) These orders are replete with references to the policy objectives of 47 U.S.C. § 276(b)(1), and how the FCC chose to implement them.² Thus, PAO’s claim that SBC Ohio did not consider the policy objectives is simply wrong.³ Moreover, even if SBC Ohio’s witnesses had never reviewed the policy objectives in the statute, the positions they propose necessarily would comply with the statutory objectives as long as they comply with the regulations that the FCC promulgated to implement them. At issue in this case is whether SBC Ohio’s proposed payphone rates comply with the FCC’s regulations.

This issue is much narrower than the broad policy objectives outlined by Congress and implemented by the FCC through its numerous orders construing 47 U.S.C. § 276. As the Commission stated in its entry issued in this matter on November 26, 2002, “[t]he core issue remaining in this proceeding will be to determine whether [SBC Ohio] is providing payphone

² See, e.g., *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 20541, 1996 FCC LEXIS 5261, First Report and Order (as corrected 9/27/96) (“*First Payphone Order*”), and the Order on Reconsideration, 11 FCC Rcd 21233, 1996 FCC LEXIS 6257 (released 11/8/96) (“*Payphone Reconsideration Order*”), aff’d in part and remanded in part sub nom. *Ill. Public Telecomm. Ass’n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997), each of which provides an analysis of the policy objectives cited by PAO. (See *First Payphone Order* at ¶¶ 1-2; *Payphone Reconsideration Order* at ¶¶ 1-2.)

³ Indeed, even PAO’s counsel realized in his cross examination of SBC Ohio’s witness that the orders SBC Ohio’s witnesses reviewed in preparing their testimony were those that were issue under 47 U.S.C. § 276 to implement the policy directives. (Tr. at 36.)

services at forward-looking, cost-based rates.” (Entry, November 26, 2002, at ¶ 32.) This core issue involves only Congress’ directive under 47 U.S.C. § 276(b)(1)(C) that the FCC promulgate rules to implement nonstructural safeguards to protect independent payphone providers (“IPPs”) against discrimination, which resulted in the FCC’s requirement that the Bell Operating Companies (“BOCs”) unbundle payphone line services and file intrastate tariffs for the services that comply with the New Services Test (“NST”). (*Wisconsin Order* at ¶¶ 12 and 14.) Thus, the core issue for the Commission’s determination has become whether the rates proposed by SBC Ohio satisfy the NST. (See *Wisconsin Order* at ¶ 15 (The FCC has delegated to the state commissions the obligation to apply the NST to intrastate payphone tariffs).)

The *Wisconsin Order* clarifies how the NST is to be applied and specifically directs how pricing determinations are to be made. For example, as discussed in SBC Ohio’s initial brief and previously in this reply brief, a significant component of the test is the reasonable level of overhead that should be assigned to each payphone service. The *Wisconsin Order* specifically approves the Physical Collocation Tariff Order methodology as a means to prevent the potential for discrimination that was of concern to Congress when it enacted its pro-competitive policy objectives. (*Wisconsin Order* at ¶ 54.)

PAO urges the Commission to reject SBC Ohio’s methodology merely because the alternate UNE methodology produces a lower overhead, and ultimately results in lower rates to IPPs for payphone services. However, this Commission cannot use the policy objectives in 47 U.S.C. § 276(b)(1), as PAO suggests, to reject the Physical Collocation Tariff Order methodology in favor of the UNE methodology. The FCC already has determined that application of the Physical Collocation Tariff Order methodology satisfies the NST, which in turn satisfies the non-structural safeguard requirements of 47 U.S.C. § 276(b)(1)(C), and ultimately satisfies the policy objectives of 47 U.S.C. 276(b)(1) to “promote competition among

payphone service providers and promote the widespread deployment of payphone service to the benefit of the general public.” The Commission’s use of the statutory provisions in 47 U.S.C. § 276(b)(1) to reject the methodology would be inconsistent with the FCC’s regulations and, thus, would be preempted by 47 U.S.C. 276(c). (See, also, *Wisconsin Order* at ¶¶ 7 and 15.)

For these same reasons, the Commission’s use of the state telecommunications policy in § 4927.02, Ohio Revised Code, to somehow reject SBC Ohio’s use of the Physical Collocation Tariff Order methodology, as advocated by PAO, would be preempted by 47 U.S.C. 276(c), as being inconsistent with the FCC’s regulations. This is not to say that use of the Physical Collocation Tariff Order methodology is inconsistent with state telecommunications policy. By satisfying the pro-competitive policy objectives contained in 47 U.S.C. § 276(b)(1), the Physical Collocation Tariff Order methodology necessarily satisfies Ohio’s similar policies. Indeed, PAO does not explain how SBC Ohio’s use of the Physical Collocation Tariff Order methodology violates state or federal policy. Rather, its only objective is for the Commission to adopt the lowest overhead loadings possible to reduce the rates its members must pay for payphone services.

II. SBC Ohio Properly Implemented the New Services Test as Set Forth in the FCC’s Wisconsin Decision.

Having shown that the main thrust of PAO’s case is based on an incorrect interpretation of the law, what remains is unfounded criticism of the permissible methodology SBC Ohio used to perform the NST. As explained in SBC Ohio’s Initial Post-Hearing Brief, the NST has two components, a calculation of direct forward-looking costs using either the LRSIC or TELRIC methods and a calculation of permissible overhead loadings through any one of the three methods previously discussed in this brief. (SBC Ohio Initial Post-Hearing Brief at 9.)

A. PAO's Criticisms of SBC Ohio's 2003 LRSIC Studies Used to Determine Direct Costs of the Payphone Services are Unfounded.

PAO is critical of the 2003 LRSIC studies SBC prepared to determine the direct costs of the payphone services at issue here. In particular, PAO is critical of the "Loop Cat" model used to generate the direct costs of COCOT Lines and COCOT Coin Lines in the 2003 costs studies. (PAO Initial Post-Hearing Brief at 5.) In its brief, however, PAO does not articulate any particular problem with the "Loop Cat" model, other than it has not undergone a substantive review by the industry. (*Id.*) That criticism is not well founded at this point in the case.

As the Commission is well aware, PAO previously made this very same argument. When it filed an interlocutory appeal on August 19, 2003, PAO argued that it needed additional time to analyze the 2003 LRSIC cost studies which SBC Ohio provided with its direct testimony on August 4, 2003. The Commission granted the appeal and provided PAO with the requested additional time and the ability to supplement its testimony to address the results of its review. By agreement of the parties, PAO's supplemental rebuttal testimony was not filed until January 14, 2004, over five months after the 2003 LRSIC studies first were provided. Apparently taking all the time it needed to review the 2003 studies, PAO filed its supplemental rebuttal testimony and did not articulate any specific criticisms of the "Loop Cat" model or any other aspects of the 2003 LRSIC studies. PAO cannot now maintain the same argument after having received all the time it requested to complete the review. If PAO had any criticisms to the 2003 LRSIC studies, it should have set them forth in PAO's supplemental rebuttal testimony. Because they were not, PAO's argument that more review is needed should not be countenanced.

PAO argues the old 1997 LRSIC studies for COCOT Lines and COCOT Coin Lines should be used because they were based upon some "Loop" model different than "Loop Cat." (PAO Initial Post-Hearing Brief at 4-5.) However, at the hearing, Mr. Starkey knew very little

about the 1997 cost studies. He admitted that he did not know what input assumptions were used in preparing the studies, which he also admitted was important to know before recommending a study. (Tr. at 178.) He speculated that the cost model used to generate the 1997 LRSIC studies was a version of AFAM or LFAM or a predecessor, which he could not remember. (Tr. at 182-183.)

PAO would have the Commission use cost studies with unknown inputs nearly ten years old and with an unknown cost model to determine the forward-looking direct costs of payphone services in 2004. This is not a reasonable position particularly when SBC Ohio has prepared new cost studies. Apparently recognizing this, PAO embraces the 2003 LRSIC studies as PAO's alternate position in this case. (Starkey Rebuttal at 31-32.) The Commission should use the 2003 LRSIC studies to determine the direct cost of all the payphone services, including COCOT Lines and COCOT Coin Lines.

B. PAO's Criticisms of How SBC Ohio Implemented the Physical Collocation Tariff Order Methodology to Determine the Proper Overhead Loading for the Payphone Services Also are Unfounded.

The remaining part of PAO's case turns on its criticisms of the way that Dr. Currie performed the Physical Collocation Tariff Order methodology. Dr. Currie explained that there are four steps involved when performing the Physical Collocation Tariff Order methodology: (1) identify the comparable competitive services for each of the payphone services being studied; (2) compute the direct costs of the comparable competitive services; (3) calculate the overhead loadings for the comparable competitive services as the difference between the direct costs and the lowest rate, including term and volume discounts; (4) divide the overhead loadings by the direct costs to develop the overhead loading factor. (Currie Direct at 14-15.) The developed overhead loading factor becomes the ceiling for the payphone service being studied.

1. SBC Ohio Properly Performed the Physical Collocation Tariff Order Methodology for COCOT Lines and COCOT Coin Lines.

With respect to the analysis done for COCOT Lines and COCOT Coin Lines, PAO argues that Dr. Currie improperly limited his analysis to competitive services when other comparable but noncompetitive services could have been selected. (PAO Initial Post-Hearing Brief at 6.) PAO is mistaken on this point. At ¶ 53 of the *Wisconsin Order*, the FCC described the Physical Collocation Tariff Order methodology as comparing the retail rates of competitive services with the direct costs of those services to compute the contribution to overhead, which then becomes the ceiling for the NST being performed. (*Wisconsin Order* at ¶ 53; Currie Direct at 14.) The FCC makes clear that competitive services are selected to prevent ILECs from disadvantaging competitors. (*Wisconsin Order* at ¶ 53.) Moreover, Dr. Currie has significant expertise and experience in preparing NSTs for use both at the FCC and other state commissions. He has the knowledge of how the FCC actually performs the Physical Collocation Tariff Order methodology from this experience. Thus, PAO's assertion that a competitive criteria not be applied is not supported by the *Wisconsin Order* and should be rejected.

Dr. Currie was able to identify only one comparable competitive service to be used in performing the analysis for COCOT Lines and COCOT Coin Lines -- four plus non-residence exchange access lines with TouchTone. PAO does not dispute that this is a comparable competitive service, nor does it identify any other comparable competitive service. Consequently, it is the only evidence of record to use in performing this analysis.

PAO next criticizes Dr. Currie's analysis by arguing that IPPs do not compete with SBC Ohio to provide customers with four plus non-residence exchange access. (PAO Initial Post-Hearing Brief at 7-8.) PAO misses the mark because it is not asking the right question. The right question is whether there is competition for 4 plus non-residence lines in the marketplace which

thereby disciplines the overhead loading on the lines. The answer is that there is strong competition, as the Commission already found when it eliminated tariffing restrictions for four plus business lines. (PUCO Case No. 00-1532-TP-COI, December 6, 2001 Opinion and Order; April 25, 2002 Entry on Rehearing.)

Recognizing that Dr. Currie did select an appropriate service for comparison, PAO then turns its criticism to whether Dr. Currie selected the lowest price. (PAO Initial Post-Hearing Brief at 6-7.) Dr. Currie properly selected the lowest standalone price for non-residence lines. He explained that he needed to select a standalone price for non-residence lines in order to study what the standalone price should be for the COCOT Lines and COCOT Coin Lines, which is necessary to make an "apples to apples" comparison. The lowest prices were \$11.80, \$11.95, and \$13.25, significantly lower than the regular tariff rates of \$15.95, \$17.95, and \$20.45, all in Access Areas B, C and D, respectively. (Currie Direct Confidential Attachment 4, Pages 1 and 2 of 13.)

Dr. Currie explained that he did not analyze any bundled rates, contracts, winbacks or other kinds of package rates (*i.e.*, where non-residence lines are combined with other services), because bundled services consider the overhead of the bundle as opposed to single services within the bundle. Dr. Currie further made clear that residential services were not included because there is not a four plus multi-line competitive rate for residential service. (Tr. at 84, 85-86, 88-89.)

Hence, none of PAO's criticisms have merit and the Commission should find that SBC Ohio's analysis satisfies the Physical Collocation Tariff Order methodology for COCOT Lines and COCOT Coin Lines.

2. *SBC Ohio Properly Performed the Physical Collocation Tariff Order Methodology for Local Usage.*

PAO also is critical of the way Dr. Currie implemented the Physical Collocation Tariff Order methodology for Local Usage. Rather than selecting intraLATA toll as the comparable competitive service to use, PAO argues that Dr. Currie should have considered using interLATA toll. (PAO Initial Post-Hearing Brief at 8.) This argument does not have merit.

As PAO is well aware, SBC Ohio does not offer interLATA toll and is prohibited from doing so by the Telecommunications Act of 1996. (47 U.S.C. § 271). SBC Ohio has a fully separate affiliate, SBC Long Distance, which must provide interLATA service to comply with 47 U.S.C. § 272. SBC Ohio cannot select a service for comparison that it does not, and legally cannot, provide. Moreover, it would also be inappropriate to compare a service provided by another carrier because it would have a dramatically different cost structure than SBC Ohio and would have no relevance to the payphone services provided by SBC Ohio. Consequently, PAO's suggestion to look to the interLATA toll rates offered by SBC Long Distance is not relevant to the analysis of Local Usage offered by SBC Ohio.

PAO mentions that the lowest intraLATA toll rate identified by Dr. Currie to use in his analysis was \$0.08 per minute. (PAO Initial Post-Hearing Brief at 7.) That is a misunderstanding of Dr. Currie's analysis. The lowest standalone rate Dr. Currie identified for intraLATA toll is \$0.072 per minute, which is what he used in his analysis to determine the permissible overhead loading. (Currie Direct Confidential Attachment 4, Pages 12 and 13 of 13.)

At hearing, Mr. Starkey suggested that a competitive intraLATA toll rate would be \$0.029 per minute, rather than the rate used. (Tr. at 216.) Mr. Starkey's suggestion of this aggressively low rate is an obvious attempt to manipulate the results of the analysis to produce the lowest

possible Local Usage rate for his client's benefit. Such a rate is not reflective of the cost structure of SBC Ohio. The Commission should reject this obvious manipulation.

However, if the Commission should decide that \$0.072 per minute is not a competitive rate for intraLATA toll, even though that is the lowest standalone rate offered by SBC Ohio for this competitive service and the proper rate to use in the Physical Collocation Tariff Order methodology, then it should not adopt the \$0.029 rate suggested by Mr. Starkey. That is much too low and does not reflect the cost structure of a local exchange carrier like SBC Ohio. If the Commission, for example, were to select a rate of \$0.05, which is the midpoint of a range between the \$0.072 rate used by Dr. Currie and the \$0.029 rate mentioned by Mr. Starkey, the resulting price for Local Usage service using the Physical Collocation Tariff Order methodology would be a 73 call package rate of \$2.78 and an additional message rate of \$0.038.⁴

3. *SBC Ohio Properly Performed the Physical Collocation Tariff Order Methodology for Answer Supervision and Restricted Coin Access.*

PAO also is critical of the default overhead loading analysis that Dr. Currie undertook for Answer Supervision and Restricted Coin Access using SBC's payphone business as a comparable competitive service. (PAO Initial Post-Hearing Brief at 8.) PAO is critical not only of the selection of the payphone business as a comparable competitive service, but also of the methodology Dr. Currie used to implement that selection. As explained in the SBC Ohio Initial Post-Hearing Brief (at pages 27-29), Dr. Currie believed that selection of the payphone business

⁴ The calculation of these rates is the result of multiplying the rate per minute (\$0.05) times the average minutes per message of 3.53 (Currie Direct Confidential Attachment 4, Page 9 of 13, Line 2) to get average revenue per message of \$0.1765. This result is divided by the intraLATA toll LRSIC per message of \$0.051213 (Currie Direct Confidential Attachment 4, Page 13 of 13, Line 101) to get the average revenue per cost ratio of 3.446. This produces an overhead loading of 244.6%. This overhead loading becomes the overhead cap on Local Usage service. In order to get the corresponding Local Usage rate, the overhead loading is applied to the direct cost of Local Usage per message of \$0.011049 (Currie Direct Confidential Attachment 1, Page 5 of 5, Line 9) which results in a maximum permissible Local Usage rate of \$0.0381 per message. This corresponds to a maximum 73 call package rate of \$2.78.

was an appropriate way to produce an overhead loading under the Physical Collocation Tariff Order methodology when specific comparable competitive services could not be identified.

Dr. Currie fully justified his methodology in his direct testimony and at the hearing. (Currie Direct at 21-22; Tr. at 121-122.) He explained why he used the LRSIC costs for network services, instead of the tariff prices to prepare the LRSIC study for the payphone business. He also made clear that PAO's position produces a circularity in the analysis by counting the overhead contribution coming from retail rates in the determination of a LRSIC cost. This approach overstates the LRSIC cost of the payphone business and understates the otherwise resulting overhead loading.⁵

While PAO inappropriately questions Dr. Currie's analysis, it does not challenge the resulting rates. PAO does not express any interest in the rates for Restrict Coin Access or Answer Supervision because neither service is used by members of PAO. Consequently, the Commission should not make any modifications to the prices proposed for these services.

With regard to the price proposed by SBC Ohio for Restricted Coin Access, PAO repeatedly mentions the **1,653.94%** overhead loading that this rate produces. (PAO Initial Post-Hearing Brief at 2, 6, 7, and 10.) PAO's argument with reference to this overhead loading is misleading. The loading is not the result of the Physical Collocation Tariff Order methodology done by Dr. Currie; rather, it is the result of the trivial cost exception recognized by the FCC. As mentioned in SBC Ohio's Initial Post-Hearing Brief (at pages 29-30), the FCC has permitted unusually high overhead loadings for services that have a trivial cost like here. However, if the Commission disagrees that the trivial cost exception is applicable to Restricted Coin Access, then

⁵ The issue of PAO's criticism of Dr. Currie's default overhead loading using the SBC payphone business is a completely different issue than discrimination/non-subsidization issues that are before the Commission. (SBC Ohio Initial Post-Hearing Brief at 32-34.) The SBC Payphone Unit is charged tariff rates just like IPPs. (Tr. at 120-121.) SBC's payphone business is a separate structure from SBC Ohio, and there is an arm's-length relationship between the two. (McPhee (Watkins) Direct at 11-13.)

it should order that the price be reduced to **\$0.95**, which is under the ceiling developed by the Physical Collocation Tariff Order methodology.

III. The Commission Should Maintain SBC Ohio's Existing Local Usage Billing Structure.

PAO does not present any compelling reasons to modify SBC Ohio's Local Usage billing structure from a message rate to a minute of use rate because there are none. The Commission should reject any efforts to require SBC to modify its billing structure, because the expensive and time-consuming changes are not needed to implement changes to the Local Usage rates.

The main dispute with respect to the Local Usage billing structure is whether the minute to message cost conversion factor should be based on SBC Ohio's state-wide average calculated from all local messages and all local minutes of use in SBC Ohio's service territory for an entire twelve-month period, or different information presented by PAO. Dr. Currie made clear that SBC Ohio's best current estimate of the average holding time for local calls is based on the statewide average. (Currie Rebuttal at 19-20.)

PAO takes the position that payphone-specific call duration numbers are more relevant in determining the average length of a payphone call and submits some information suggesting an average holding time of 1.96 minutes per message. This information developed by Mr. Starkey, however, is not reliable. Indeed, upon cross-examination at the hearing, Mr. Starkey conceded that the information was "not overly statistically valid." (Tr. at 198.) The infirmities of the data include that it does not have twelve (12) months of total data; it does not even include the same payphone lines for the months of data that are provided; and it represents less than **5.0%** of the total payphone lines in service in SBC Ohio service territory. (SBC Ohio Initial Post-Hearing Brief at 30-32.)

Mr. Starkey is correct in his statement that his information is not overly statistically valid. It does not represent a reliable basis on which to set a Local Usage message rate. Because there is no reliable information on payphone-specific call duration, the Commission should use the average message duration found in SBC's Local Usage LRSIC study.

IV. Conclusion

As stated in SBC Ohio's Initial Post-Hearing Brief, the Commission should approve the following permanent rates in this case as being in compliance with the FCC's *Wisconsin Order*:

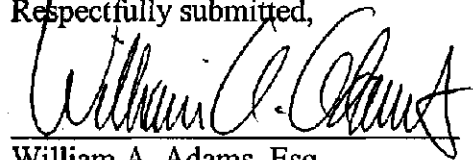
	Access Area B	Access Area C	Access Area D
COCOT Line Network Access Line	\$12.25	\$13.25	\$15.00
COCOT Line Central Office Termination	\$2.30	\$2.30	\$2.30
COCOT COIN Line	\$17.66	\$17.83	\$19.54

Local Usage 73 Message Package	\$3.95
Local Usage Additional Message	\$0.0540
Answer Supervision	\$1.90
Restricted Coin Access	\$10.75

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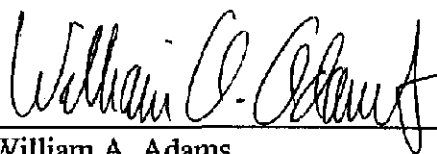
CERTIFICATE OF SERVICE

I certify that a copy of SBC Ohio's Reply Post-Hearing Brief (Confidential Version) has been served via hand-delivery and a copy of SBC Ohio's Reply Post-Hearing Brief (Public Version) has been served by hand-delivery and electronic mail upon the following persons this 18th day of March, 2004:

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