



Federal Communications Commission  
Washington, D.C. 20554

DA 97-1228

June 11, 1997

The Honorable Thomas B. Getz  
Director and Executive Secretary  
New Hampshire Public Utilities Commission  
8 Old Suncook Road  
Concord, NH 03301-7319

Re: Request for Clarification of Certain Payphone-Related  
Subsidies; CC Docket No. 96-128

Dear Mr. Getz:

In your letter of May 23, 1997, on behalf of the New Hampshire Public Utilities Commission ("NH PUC"), you request staff clarification of a statement in a recent order released by the Common Carrier Bureau ("the Bureau").<sup>1</sup> More specifically, you seek clarification of whether it is appropriate for NH PUC to remove a payphone subsidy from the intra-LATA toll service rates of a local exchange carrier ("LEC").

By way of background, Section 276 of the Communications Act<sup>2</sup> mandated that the Commission take all actions necessary to:

discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on such date of enactment, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan...<sup>3</sup>

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<sup>1</sup> See 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., rel. Apr. 4, 1997) at para. 30 ("subsidies be removed from the intrastate local exchange service and access service rates") ("Bureau Waiver Order").

<sup>2</sup> 47 U.S.C. § 276 (b) (1) (B).

<sup>3</sup> Id.

In paragraph 186 of the Payphone Reclassification Order, the Commission delegated to the states the authority to identify the subsidies that must be terminated pursuant to Section 276 and the Commission's orders:

States must determine the intrastate rate elements that must be removed to eliminate any intrastate subsidies within this time frame.<sup>5</sup>

The Bureau clarifies here, pursuant to your specific request, that a state has the authority to determine the subsidies that exist for a LEC's payphone operations, regardless of where the subsidies may be located, including within intraLATA toll service rates. In accordance with Section 276 and the Commission's orders in the Payphone Reclassification Proceeding, these subsidies must then be terminated.<sup>6</sup> The language from Bureau Waiver Order,<sup>7</sup> as cited in your letter, does not contradict this directive by the Commission.

We trust that this clarification responds sufficiently to your letter request.

Sincerely,

John B. Muleta  
Chief  
Enforcement Division  
Common Carrier Bureau

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1996) ("Order on Reconsideration"), appeal docketed sub nom. Illinois Public Telecommunications Assn. v. FCC and United States, Case No. 96-1394 (D.C. Cir., filed Oct. 17, 1996) .

<sup>5</sup> Payphone Reclassification Order at para. 186.

<sup>6</sup> Id.

<sup>7</sup> Bureau Waiver Order at para. 30.