(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

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Michael J. Armstrong,

Associate Director for Mitigation.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 98–170; FCC 98–232]

Truth-in-Billing and Billing Format

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted a Notice of Proposed Rulemaking (NPRM) seeking comment on how to make telephone bills more readable and accurate to enable consumers to make informed choices in a competitive telecommunications marketplace. Problems with bill clarity make it difficult for consumers to detect fraud and to compare carrier rates. The NPRM outlines three guidelines to help promote ''truth-in-billing:'' telephone bills should be clearly organized and highlight any new charges or changes to the consumer's service; telephone bills should contain full and non-misleading descriptions of all charges and clear identification of service providers; telephone bills should contain clear and conspicuous disclosure of all information a consumer may need to make inquiries about charges. The NPRM seeks comment on proposals that would follow these guidelines.

DATES: Written comments by the public on the NPRM and the proposed information collections are due on or before November 13, 1998. Reply comments are due on or before November 30, 1998. Written comments by OMB on the proposed information collections are due on or before December 14, 1998.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Suite 222, Washington, DC 20554, with a copy to Anita Cheng, Federal Communications Commission, Common Carrier Bureau, Enforcement Division, Formal Complaints and Investigations Branch, 2025 M Street, NW., Room 6334, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, NW., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Anita Cheng, Federal Communications Commission, Common Carrier Bureau, Enforcement Division, Formal Complaints and Investigations Branch, 2025 M Street, NW., Room 6334, Washington, DC 20554, (202) 418–0960. For additional information concerning the information collections contained in this NPRM contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's NPRM in CC Docket No. 98–170, adopted and released on September 17, 1998. The full text of the NPRM, including separate Commissioners' statements, is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW., Washington, DC The complete text of this decision may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037.

Paperwork Reduction Act

This NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due December 14, 1998. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: None.

Title: Truth-in-Billing and Billing Format.

Form No.: NA.

Type of Review: New collection.

Respondents: Business or other for-profit.

Annual proposed collections	Respondents	Estimated time per response	Total burden
1. Bill organization	1,800	100	180,000
2. Full & non-misleading descriptions	1,800	2	3,600
3. Provision of consumer complaint/inquiry information	1,800	1	1,800

Total Annual Burden: 185,400 hours.

Estimated costs per respondent: $1,000–$5,000.

Needs and Uses: The information will be used by consumers to help them understand their telephone bills. Consumers need this information to protect themselves against fraud and to compare carrier rates to obtain the best value for themselves. The proposals will also enable consumers to resolve billing disputes on their own.

Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on other issues in this NPRM.

1. *Need for and Objectives of the Proposed Rules.* This NPRM seeks comment on whether the Commission should promulgate specific rules

concerning billing disclosures. Comment is requested on proposals regarding: (1) the manner in which carriers organize their telephone bills; (2) descriptions of services and carriers; and (3) the provision of the names and toll-free telephone numbers of service providers for the receipt of consumer inquiries and complaints. This NPRM seeks comment on the extent to which consumers need clearer and more accurate information, and on specific proposals. Based upon the comments received in the NPRM, the Commission may issue new rules regarding billing information.

2. *Legal Basis.* The proposed action is supported by sections 1, 4(i) and (j), 201, 208, 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201, 208, 254, and 303(r).

3. *Description and Estimate of the Number of Small Entities That May Be Affected by this NPRM.* The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

4. The small entities possibly affected by the proposed rules, if adopted, include wireline, wireless, satellite, and other entities, as described below. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities having no more than 1,500 employees. Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term ''small ILECs'' to refer to any ILECs that arguably might be defined by the SBA as ''small business concerns.''

5. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

6. *Total Number of Telephone Companies Affected.* The U.S. Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the proposed rules, if adopted.

7. *Wireline Carriers and Service Providers.* We estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by the proposed rules, if adopted.

8. *Local Exchange Carriers.* We estimate that fewer than 1,371 local exchange carriers or small ILECs may be affected by the proposed rules, if adopted.

9. *Interexchange Carriers.* We estimate that there are fewer than 143 small entity IXCs that may be affected by the proposed rules, if adopted.

10. *Competitive Access Providers.* We estimate that there are fewer than 109 small entity CAPs that may be affected by the proposed rules, if adopted.

11. *Resellers.* (including debit card providers). We estimate that there are fewer than 339 small entity resellers that may be affected by the proposed rules, if adopted.

12. *International Services.* The applicable definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9,999 million. The Census report does not provide more precise data.

13. *Cellular Licensees.* We estimate that there are fewer than 804 small cellular service carriers that may be affected by the proposed rules, if adopted.

14. *220 Mhz Radio Services.* We will consider the approximately 1,500 incumbent licensees in this service as small businesses under the SBA definition.

15. *Private and Common Carrier Paging.* We estimate that there are fewer than 172 small paging carriers that may be affected by the proposed rules, if adopted. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

16. *Mobile Service Carriers.* We estimate that there are fewer than 172 small mobile service carriers that may be affected by the proposed rules, if adopted.

17. *Broadband Personal Communications Service.* We estimate that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

18. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

19. *Rural Radiotelephone Service.* There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

20. *Specialized Mobile Radio (SMR).* The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of the three previous calendar years. In the context of 900 MHz SMR, this regulation defining ''small entity'' has been approved by the SBA; approval concerning 800 MHz SMR is being sought. We do not know how many firms provide 800 MHz or

900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

21. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band, and recently completed an auction for geographic area 800 MHz SMR licenses. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. In the recently concluded 800 MHz SMR auction there were 524 licenses awarded to winning bidders, of which 38 were won by small or very small entities.

22. *Wireless Communications Services.* The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees that may be affected by the proposed rules, if adopted, include eight entities.

23. *Telex.* We estimate that there are fewer than 7 telex providers that may be affected by the proposed rules, if adopted.

24. *Message Telephone Service.* We estimate that there are fewer than 1,092 message telephone service providers that may be affected by the proposed rules, if adopted.

25. The SBA has developed a definition of small entities for cable and other pay television services that includes all such companies generating no more than $11 million in revenue annually. According to the Census Bureau, there were 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue. We note that cable system operators are included in our analysis due to their ability to provide telephony.

26. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* We seek comment on methods to provide complete, accurate, and understandable information to consumers in their telephone bills. Comment is requested on proposals regarding: (1) the manner in which carriers organize their telephone bills; (2) descriptions of services and carriers; and (3) the provision of the names and toll-free telephone numbers of service providers for the receipt of consumer inquiries and complaints.

27. *Steps taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* As noted, we seek comment on proposals regarding: (1) the manner in which carriers organize their telephone bills; (2) descriptions of services and carriers; and (3) the provision of the names and toll-free telephone numbers of service providers for the receipt of consumer inquiries and complaints. Such proposals could provide consumers with the necessary information to enable them to reap the benefits of the competitive telecommunications marketplace while at the same time protecting themselves from unscrupulous competitors. We seek comment on any alternatives that might be especially beneficial to small entities.

28. *Federal Rules that May Duplicate, Overlap, or Conflict With the NPRM:* None.

Summary of Notice of Proposed Rulemaking

I. Introduction

29. One of the primary goals of the Telecommunications Act of 1996 (1996 Act) is to make available to consumers new services and technologies by promoting the development of competition in all aspects of telecommunications services. In today's marketplace, increased competition has generated many new telephone-related services. While the nature of the charges appearing on consumers' telephone bills has changed dramatically due to the proliferation of services and service providers, the bills themselves do not seem to reflect this new era. Increasingly, consumers are concerned about telephone bills that do not provide sufficient information in a user-friendly format to enable them to understand the services being provided and the charges assessed therefor, and to identify the entities providing those services.

30. A review of the bills we have received in conjunction with consumer complaints demonstrates that even the most sophisticated consumer would often be unable, based on the information provided in the bills, to identify the services for which the consumer is being charged or the providers of those services. Similarly, we have received many complaints and inquiries resulting from the practice of some carriers of including in their bills line item charges for universal service or access charges, without adequate explanation of the basis for these charges.

31. The difficulty experienced by consumers in understanding their telephone bills is not simply an inconvenience. Rather, consumers must have adequate information about the services they are receiving, and the alternatives available to them, if they are to reap the benefits of a competitive market. Conversely, the rapid growth of competitive options in the telecommunications market, without an equivalent development in the area of consumer education, clearly has been a significant contributing factor in the growth of telecommunications-related fraud. Complaints filed with the Commission also demonstrate that consumers are frustrated frequently in their efforts to resolve problems with charges on their bills because the bills themselves do not provide the necessary information for identifying and contacting the responsible company.

32. We are not alone in our concerns in this area. The National Association of Regulatory Utilities Commissions (NARUC), for example, recently issued a ''White Paper'' emphasizing the increased importance of providing consumers with information in an understandable manner in order to allow them ''to make the most of a competitive marketplace.'' NARUC has also passed a resolution expressing its concern about certain interstate carriers that have passed the costs of their universal service contributions directly on to consumers in the form of line item charges, stating that some of these carriers identify such charges as being mandated by the Commission even though the Commission did not mandate the method of recovery of such charges.

33. Several members of Congress and consumer interest groups have also expressed concern about the failure of telephone bills to provide consumers with important information. Congressional concern over confusing and misleading telephone bills has resulted in pending legislation to regulate telephone bill format, including requirements that carriers make certain disclosures when notifying subscribers of changes in their bills that result from federal regulatory action.

34. Although much attention has been focused on local telephone bills, the issues raised by this proceeding are equally applicable to all bills for telecommunications services that are furnished to consumers, including bills for local service, interexchange service, and commercial mobile radio service (CMRS). We wish to initiate a dialogue with the states, consumer advocacy

groups, and the industry on how to help consumers to understand more readily the services they are receiving and from whom, to make comparisons to determine the best value for themselves, and to determine if they are victims of fraud.

II. Discussion

35. In developing the proposals detailed below, we have looked to other regulatory contexts regarding the content of bills and other disclosure documents sent to consumers. Of particular relevance is the Telephone Disclosure and Dispute Resolution Act (TDDRA), which added Section 228 to the Communications Act of 1934 (Act) requiring the Commission and the Federal Trade Commission (FTC) to adopt rules both to promote the legitimate development of pay-per-call services and to shield telephone subscribers from fraudulent and deceptive practices. Among other things, the Commission's rules require carriers to show, in a portion of the bill separate from ordinary telephone charges, the amount of pay-per-call charges, the type of services for which the consumer is being charged, and the date, time, and duration of pay-per-call calls.

36. We have also looked to required disclosures in the area of credit transactions. The Truth in Lending Act (TILA) and its implementing regulations impose minimum disclosure requirements for credit card bills in order to ''assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and . . . to protect the consumer against inaccurate and unfair credit billing and credit card practices.'' We seek comment generally on whether and to what extent consumers should have similar protections when charges are billed through telephone bills rather than through other means.

37. We have also looked to recent efforts initiated by the industry to address the problem of unclear or unauthorized charges on consumers' bills. At the request of the Commission, a group of LEC providers of billing and collection services recently developed a set of voluntary guidelines that represent best practices to combat cramming. These guidelines primarily address the relationship between LECs and the service providers for whom they provide billing services. It is not the intent of this NPRM to interfere with, nor duplicate, practices addressed by the LEC guidelines. Rather, the focus of this proceeding is on the relationship between the carriers and their end user customers, and, in particular, on improving the clarity of telephone bill formats.

38. This body of ''truth-in-billing'' concepts yields the fundamental principle that consumers should be treated fairly. Fairness in billing mandates that bills be both intelligible and legitimate. To advance this principle of fairness in billing, we consider three guidelines. First, bills should be clearly organized and highlight any new charges or changes to consumers' services. Second, bills should contain full and non-misleading descriptions of all charges that appear therein and clear identification of the service provider responsible for each charge. Third, a bill should contain clear and conspicuous disclosure of any information that the consumer may need to make inquiries about the charges on the bill.

39. The importance of providing an accurate and understandable telephone bill, however, must be balanced against the costs incurred to provide that information. We seek comment generally on the extent to which any carriers already have in place practices similar to, or that have the same effect as the proposals in this NPRM. Commenters should also assess the burdens that would be imposed by the proposals in this NPRM and suggest less burdensome practices that would achieve the same goals. We also seek comment on the extent to which the proposals detailed below might be unduly burdensome to small or rural carriers, and on specific proposals that may be necessary to accommodate the needs of such carriers.

A. Legal Authority

40. Our examination of the issues described above requires us to consider both a billing carrier's relationship with its end user customer, and a billing carrier's relationship with the other entities for whom it provides billing and collection services. With respect to the first type of relationship, the Commission has recognized that a carrier's billing and collection for communications service that it offers is subject to regulation as a common carrier service under Title II of the Act. With respect to the second type of relationship, the Commission has found that although a carrier's provision of billing and collection services for an unaffiliated carrier is not subject to Title II, such third party billing services may be subject to the Commission's ancillary jurisdiction pursuant to Title I of the Act.

41. The Commission's focus in this proceeding is on the relationship between carriers and their end user customers, and in particular on the provision of necessary information, in a clear and understandable manner, in a telephone bill. We believe that we have jurisdiction to begin this proceeding to address what has become a problem of national proportions. Carriers have the obligation to have charges, practices, and classifications that are just and reasonable, pursuant to section 201(b). We believe that the telephone bill is an integral part of the relationship between a carrier and its customer. The manner in which charges are identified and articulated on the bills is essential to the consumer's understanding of the services that have been rendered, such that a carrier's provision of misleading or deceptive billing information may be an unjust and unreasonable practice in violation of section 201(b) of the Act. We seek comment on whether the Commission has jurisdiction to adopt each of the proposals in this NPRM and ask commenters to address the jurisdictional basis of any additional proposals raised on the record of this proceeding.

42. We seek comment particularly on how our jurisdiction should complement that of the states and other agencies. We recognize that many states and their public utility commissions have in place or are considering requirements designed to protect their consumers from abuses associated with questionable billing practices. Furthermore, other agencies such as the Federal Trade Commission may have overlapping or concurrent jurisdiction with regard to these issues. We intend to work closely with such entities in order to ensure that consumers are protected in all billing contexts. The proposals that we set forth in this NPRM are a starting point for what we hope will be an open exchange with the states, federal agencies, consumer advocacy groups, and industry members on how best to provide consumers with information necessary to allow them to obtain the benefits of an increasingly competitive telecommunications marketplace.

43. We are also cognizant of the First Amendment considerations that must inform our efforts to ensure that customers are truthfully informed of the significance of entries on their bills. The Supreme Court has held that, consistent with the First Amendment, the government may require a commercial message to ''appear in such a form, or include such additional information, warnings, and disclaimers, as are necessary to prevent its being deceptive.'' On the other hand, restrictions on speech that ban truthful,

non-misleading commercial speech about a lawful product cannot withstand scrutiny under the First Amendment.

B. Organization of the Bill

44. Telephone bills should be organized to be readable and to present important information clearly and conspicuously. One manner in which telephone bills may be better organized is to present separate categories of services (such as charges for local, long distance, and miscellaneous services) in clearly separate sections within the telephone phone bill, and, if possible, on separate pages. We alternatively seek comment on whether bills should be organized by provider with a description of the services furnished by each provider, since distinctions between categories of service may blur over time when providers begin to offer multiple services (e.g., local exchange companies offering interstate interexchange service). We seek comment on these proposals and on any other proposals that organize information in a clear fashion.

45. It may also be helpful for bills to include a single page or section summarizing the current status of the customer's services, including applicable information regarding: (1) The consumer's presubscribed interstate toll carrier; (2) the consumer's presubscribed intrastate toll carrier, if such carrier is not the same as the consumer's presubscribed interstate toll carrier; (3) the consumer's presubscribed local exchange carrier; (4) any other service providers, including those providing telecommunications and non-telecommunications related services, for whom charges are being billed; (5) whether carrier or preferred carrier (PC) freezes or other blocking mechanisms have been implemented for any presubscribed telecommunications services. We seek comment on this proposal and on any other information that would appropriately be included in the summary of the current status of the consumer's services.

46. We seek comment on the benefits of having each telephone bill include, near the front of the bill, a separate page or section that highlights any changes in the consumer's service status information or new charges since the consumer's last bill. This ''Status Changes'' page could include applicable information on: (1) Changes in presubscribed carriers; (2) any new service providers for whom charges are being billed for the first time or whose charges did not appear on the last telephone bill; (3) changes in any carrier or PC freeze status or blocking mechanism status; (4) explanations of any new types of line item charges appearing on the bill for the first time. We seek comment on whether this proposal would help consumers defend themselves against cramming, slamming, and other types of fraud. We also seek comment on any other proposals that would serve to highlight to consumers any changes that have occurred on their telephone bills.

C. Full and Non-Misleading Descriptions

47. Carriers should provide consumers with full and non-misleading descriptions of all charges contained in their telephone bills, as well as clear identification of the service providers associated with those charges. Vague or inaccurate descriptions of charges make it difficult for consumers to determine exactly what they are paying for and whether they received the services that correspond to such charges. In addition, we find that in many of the calls and complaints the Commission receives, consumers have been unable to determine from reading their bills the names of service providers or the nature of the services being billed to them. Furthermore, the Commission has received numerous consumer complaints and inquiries concerning the practice of some carriers of implementing new charges that reflect—or are at least related to—federally-mandated changes to the structure of IXC costs of obtaining access services from LECs and of supporting universal service mechanisms. Some of these carriers also have apparently identified such charges as being required by the Commission, even though the Commission has not mandated such specific recovery of access and universal service costs.

1. Descriptions of Services and Identification of Providers

48. Both NARUC and the National Consumers League have proposed that each charge on a consumer's telephone bill be accompanied by a brief, clear, plain language description of the services rendered. We seek comment on whether such itemization would help consumers determine the precise nature of the services for which they are being billed. We also seek comment on the types of information that would assist consumers in understanding the charges on the bill.

49. We propose that the name of the service provider be clearly and conspicuously identified in association with that entity's charges. We propose that the name of the service provider itself must be included, and that listing the name of the billing aggregator or clearinghouse alone will not be sufficient, even if the aggregator or clearinghouse has full legal responsibility for the charges. We also propose that, in the case of an entity reselling the service of a facilities-based carrier, the name of the reseller must appear on the telephone bill. We seek comment on whether these proposals would help consumers determine the actual identity of the carrier that is providing service and also enable them to detect quickly if they have been slammed by another carrier. We also seek comment on whether these proposals would decrease consumer frustration by enabling the consumer to identify the correct carrier in the first instance, rather than being told by one entity after another that it is not the consumer's service provider.

50. We seek comment on whether telephone bills should differentiate between ''deniable'' and ''non-deniable'' charges. Deniable charges are those charges that, if unpaid, could result in the termination of local exchange or long distance telephone service. Non-deniable charges are those charges for which basic communications services would not be terminated for non-payment. Based on our experience with consumer complaints, we believe that many consumers pay charges that they did not authorize solely because they erroneously perceive a risk of having their service disconnected. We seek comment on methods for differentiating between deniable and non-deniable charges, such as including a prominent disclosure at the top of the page or section stating that non-payment of certain charges would not result in the termination of the customer's local exchange or long distance service. We note that the pay-per-call rules require bills to contain a statement that carriers may not disconnect local or long distance service for non-payment of charges for information services.

2. Descriptions of Charges Resulting from Federal Regulatory Action

51. We have also seen consumer concern and confusion with respect to line item charges that are related to the implementation of universal service support mechanisms and to access charges. Pursuant to the 1996 Act, the Commission undertook a fundamental overhaul of the manner in which long distance carriers pay for access to the networks of local carriers and for supporting the universal availability of telecommunications services at just, reasonable, and affordable rates. Following this restructuring, some long distance carriers began including on

their customers' bills line item charges purportedly intended to recover the costs incurred in obtaining access and in meeting their universal service obligations. While the Commission did not dictate the manner in which long distance carriers must recover these costs, both the Commission and the states have received numerous complaints and inquiries from consumers suggesting that many consumers are confused about the nature of these charges. These charges are often inaccurately identified, and the descriptions for some charges even imply that such charges have been imposed directly on consumers by federal law. Moreover, the amount of these charges for a particular customer may not correspond to the actual costs to the carrier of universal service support and access charges attributable to that customer.

52. We seek comment on the extent to which carriers that pass on to their customers all or part of the costs of their universal service contributions or access charge obligations are also providing complete, accurate, and understandable information regarding the basis for these new charges and their amounts. This inquiry applies to all providers that include universal service contributions as a separate line item on customer bills.

53. Commenters should address whether the Commission should prescribe ''safe harbor'' language that carriers, or some subset of carriers, could use to ensure that they are meeting their obligations to provide truthful and accurate information to subscribers with respect to the recovery of universal service, access, and similar charges, and how such language could be distributed most effectively. Commenters are asked to propose specific safe harbor language for inclusion in bills of service providers that choose to include charges for recovering universal service contributions as separate line items on their bills.

54. To the extent we decide to adopt safe harbor language for carriers that include a line item for universal service charges, we seek comment on the types of information that such language should include to ensure that consumers understand fully the nature and purpose of such line item charges. We seek comment on whether any safe harbor language should include a description of the scope and purpose of universal service support mechanisms. These programs help keep local telephone service affordable in rural and high-cost areas of the United States, support low-income consumers, and also provide certain discounted services to schools, libraries, and rural health care providers. With respect to long distance carriers, we note that since the 1996 Act, the annual costs incurred by the long distance telephone companies as a result of government-mandated obligations have been lowered by over two billion dollars, even as support for universal service has been maintained and expanded. We thus seek comment on whether long distance carriers that include a separate line item for the recovery of universal service contributions should be required to explain the net reduction in their costs of providing long distance service since enactment of the 1996 Act.

55. We also seek comment on what language might be appropriate in the case of long distance carriers that include separate line items for the recovery of access charges. The impact from access charge changes on a consumer's total bill may vary depending on that consumer's usage and how his or her carrier has decided to revise its rates to reflect these changes. Commenters should propose specific additional safe harbor language as appropriate.

56. We also seek comment on the frequency of publication of safe harbor language. For example, should a carrier using the safe harbor language approach print such language in each monthly telephone bill? Or should carriers send safe harbor language on a one-time basis, annually, or using some other interval? Furthermore, if the safe harbor approach is inappropriate, we ask commenters to suggest alternative approaches.

57. We seek to determine whether it is misleading or unreasonable, under Section 201(b) of the Act, for a carrier to bill a consumer for an amount identified as attributable to a particular cost while charging more than the actual cost incurred. We note that in a competitive market, consumers may react to price increases by exploring their options with alternative companies. Consumers may be less likely to compare among service providers if they are led to believe that certain rates are fixed by the government, not the carrier or the market. This highlights the need for truthful billing by carriers with respect to their assessments and descriptions of universal service charges. We seek comment on whether it would be helpful to consumers if carriers were required to explain in customer bills their reasons for assessing a flat fee or percentage charge that exceeds the costs the carrier incurs. Should carriers attributing line items to new government action be required to disclose exact cost reductions, such as a reduction in access charge costs, or other related benefits arising from government action? Also, should carriers who assess a presubscribed interexchange carrier charge (PICC) be required to show whether the corresponding reduction in the per-minute rate was actually passed on to that individual consumer? Should carriers include the exact cost of PICC and universal service obligations incurred as a result of serving that customer? We also seek comment on the benefits to consumers of identifying PICC and universal services charges by a standard name throughout the industry.

58. Finally, we seek comment as to whether these proposals with regard to line item charges for universal service and access charges would be too regulatory and burdensome to carriers or possibly confusing to consumers.

D. Provision of Consumer Inquiry/Complaint Information

59. Each telephone bill should contain all the necessary information to enable a consumer to take action on his or her own behalf to dispute the charges contained in the bill. We find that, particularly with slamming and cramming, consumers often experience considerable difficulty in contacting the entity whose charges appear on the telephone bill. This results in delayed resolution and oftentimes in the consumer's inability to correct even straightforward billing problems without the intervention of other parties such as the LEC, the state public service commission, or the Commission.

60. The LECs, NARUC, and the National Consumers League have made proposals that would require each telephone bill to include, in addition to the name of each service provider, a business address and toll-free telephone number for the receipt of consumer inquiries and complaints. We seek comment on whether these requirements would enable consumers to initiate action to resolve any billing questions or inquiries. We also seek comment on how to ensure that carriers provide consumers with correct information when consumers call with complaints or inquiries, and on any other proposals to ensure that consumers receive all information necessary to resolve billing disputes.

III. Procedural Matters

A. Ex Parte Presentations

61. This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex

parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.

B. Deadlines and Instructions for Filing Comments

62. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments 30 days after **Federal Register** publication, and reply comments on or before 45 days after **Federal Register** publication. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

63. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

64. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M St. NW, Room 222, Washington, DC 20554.

65. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Anita Cheng, Federal Communications Commission, Common Carrier Bureau, 2025 M Street, NW., Sixth Floor, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labelled with the commenter's name, proceeding (including the lead docket number in this case, CC Docket No. 98–170); type of pleading (comment or reply comment); date of submission; and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20037.

66. Written comments by the public on the proposed information collections are due on or before November 13, 1998. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before December 14, 1998. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

IV. Conclusion

67. The problem of inaccurate, deceptive, or unclear charges and information on telephone bills is a growing concern for consumers, the states, the Commission, Congress, and all other entities that deal with consumer protection. The telecommunications market of today requires a telephone bill that reflects the profusion of services that are available from a multitude of providers. We initiate this proceeding to evaluate how telephone bills can provide necessary information in a manner that allows consumers to take full advantage of the benefits of this robust competition while also empowering them to protect themselves from unscrupulous providers. We seek comment on guidelines and proposals that will provide consumers with the necessary information to protect themselves from fraudulent or deceptive practices and to make comparisons to determine the best value for themselves.

V. Ordering Clauses

68. Accordingly, it is ordered, pursuant to sections 1, 4(i) and (j), 201–209, 254, and 403 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–209, 254, and 403 that this Notice of Proposed Rulemaking is hereby adopted and comments are requested as described above.

69. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification and Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications Common Carriers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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