



PUBLIC NOTICE

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS TO REFRESH THE RECORD ON TRUTH-IN-BILLING RULES TO ENSURE PROTECTIONS FOR ALL CONSUMERS OF VOICE SERVICES

CC Docket No. 98-170
WC Docket No. 04-36

Comment Date: (30 days after date of publication in the Federal Register)
Reply Comment Date: (60 days after date of publication in the Federal Register)

With this Public Notice, we seek to refresh the record on possible ways to modernize and strengthen the Commission's truth-in-billing rules, with the goal of ensuring that all consumers are provided with the basic information they need to make informed choices in a competitive communications marketplace. The Commission previously sought comment on proposals to extend the truth-in-billing rules to providers of interconnected Voice over Internet Protocol (VoIP) services and to require carriers to separate government-mandated charges from other charges on consumers' telephone bills.¹ To ensure that the Commission addresses new developments since the release of the underlying NPRMs, we aim to refresh the record on these two issues.² Our goal in doing so is to identify concrete and cost-effective rules that will ensure that all voice service consumers fully understand the charges on their bills, including whether line items recover a service provider's own costs or those related to government programs.³ We encourage commenters to address these general goals when commenting on the issues below.

First, should the Commission extend its existing truth-in-billing rules, which currently apply only to wireline and wireless common carriers, to interconnected VoIP service providers?⁴ The Commission previously sought comment on this issue to ensure that consumers of interconnected VoIP services can

¹ See *IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4910-11, para. 72 (2004) (*IP-Enabled Services NPRM*); *Truth-in-Billing and Billing Format*, CC Docket No. 98-170, CG Docket No. 04-208, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, 20 FCC Rcd 6448, 6468-73, paras. 38-47 (2005) (*Truth-in-Billing FNPRM*), *vacated in part sub nom. Nat'l Ass'n of State Util. Consumer Advocates v. FCC*, 457 F.3d 1238 (11th Cir. 2006).

² In 2018, for example, the Commission received more than 19,000 billing-related complaints about telephone service (approximately 38% of all telephone service complaints, excluding those about unwanted calls).

³ *Truth-in-Billing FNPRM*, 20 FCC Rcd at 6468, para. 39 (noting that consumers continued to express confusion regarding their bills years after the Commission adopted truth-in-billing rules and tentatively concluding that requiring providers to separate government-mandated from non-mandated charges would alleviate such confusion and enhance consumers' ability to compare service and price offerings); see also *id.* at 6470, para. 42 (asking commenters to assess the ease or difficulty of administering distinctions between government-mandated and non-mandated charges).

⁴ To date, the Commission has not classified interconnected VoIP service as either a telecommunications service or an information service.

make the same informed choices as consumers of other voice services.⁵ We seek to refresh the record in light of the increasing numbers of consumers who have replaced their traditional circuit-switched phone service with interconnected VoIP service.⁶ Would consumers of interconnected VoIP service benefit from the truth-in-billing rules? For example, would such rules aid consumers both in determining whether to subscribe to an interconnected VoIP service in the first place and, thereafter, in assessing a provider's ongoing fees and conditions vis-à-vis those of other providers? Would rules requiring that charges be clear and conspicuous enhance interconnected VoIP consumers' ability to detect erroneous charges and unauthorized changes in their service arrangements?

The Commission previously found certain of the truth-in-billing rules inapplicable to wireless service providers. For example, the Commission concluded that wireless service providers will seldom need to indicate a new long distance service provider on the bill. Similarly, the Commission questioned whether wireless service providers need to differentiate between what are commonly referred to as "deniable" and "non-deniable" charges given that they may not provide a "basic, local service" offering.⁷ If the Commission were to extend the truth-in-billing rules to interconnected VoIP services, what rules should it extend, i.e., those that currently are designed to apply to legacy wireline carriers or the more recent rules that apply to wireless carriers? In other words, what rules are appropriate for interconnected VoIP and how should they apply? And should the Commission take the opportunity to revisit the need for any possibly outdated rules? Commenters urging the Commission to eliminate any rules should specifically describe why they no longer benefit consumers.

Second, we seek to refresh the record on whether the Commission should require all voice service providers to separate on consumer bills those line-item fees that are government-mandated from those that are not to the extent they include separate line items on a consumer's bill.⁸ Would such an approach serve the Commission's historical truth-in-billing goal "to aid customers in understanding their telecommunications bills, and to provide them with the tools they need to make informed choices in the market for telecommunications services?"⁹ If the Commission were to require such separation, what would be the most consumer-beneficial way to do so while minimizing regulatory burdens on voice service providers? Should the Commission consider steps beyond simple separation and require that different charges appear in a distinct section of the consumer's bill, one clearly labeled to show that it contains government-mandated charges?¹⁰ Some service providers promote all-inclusive prices, with no

⁵ See *IP-Enabled Services NPRM*, 19 FCC Rcd at 4910-11, para. 72. In the *IP-Enabled Services NPRM*, the Commission noted that some IP-enabled services, to the extent they are viewed as "replacements for traditional, voice telephony[.]" raise "social policy concerns" relating to emergency services, law enforcement, disabilities access, consumer protection, and universal service. *Id.* at 4886-87, para. 36. The Commission specifically sought comment on whether billing-related requirements should apply to providers of interconnected VoIP services. *Id.* at 4910-11, para. 72.

⁶ See *Voice Telephone Services: Status as of June 30, 2017*, Industry Analysis and Technology Division, Wireline Competition Bureau, at 2 (WCB Nov. 20, 2018) (reporting that as of June 2017, there were approximately 64 million interconnected VoIP subscriptions in the United States and approximately 55 million wireline retail switched access lines and that interconnected VoIP subscriptions increased at a compound annual growth rate of 8% from 2014 to 2017, while the other category of wireline retail switched access lines declined at a compound annual growth rate of 11%).

⁷ See *Truth-in-Billing and Billing Format*, CC Docket No. 98-170, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492, 7502, 7521, paras. 16, 46 (1999) (*First Truth-in-Billing Order*).

⁸ We use "voice service providers" in this Public Notice to include wireline, wireless, and interconnected VoIP service providers.

⁹ 47 CFR § 64.2400(a).

¹⁰ See *Truth-in-Billing FNPRM*, 20 FCC Rcd at 6470-71, para. 43 (seeking comment on the placement of government-mandated charges in a section of the bill separate from all other charges).

added line-item charges, for certain offerings.¹¹ How should the Commission address government-mandated charges in this context?

We seek additional comment on how to define “government-mandated charge” for these purposes. In the *Truth-in-Billing FNPRM*, the Commission noted that mandated charges could be defined as those that providers are required by law to collect from consumers and remit directly to federal, state, or local governments, or could also include charges that providers are not required to collect from consumers but choose to do so through separate line items, to reimburse themselves for their own payments toward government programs.¹² Under this definition, charges for universal service, state and local taxes, 911/E911, and other line-item fees should be considered government-mandated.¹³ We seek further comment on how we should define government-mandated charges.

In contrast, most other line-item charges would not be considered government-mandated. For example, charges historically associated with network access, such as the Subscriber Line Charge and Access Recovery Charge; charges designed to recover the administrative or other costs for complying with federal and state law, such as a “Regulatory Fee” or “Regulatory Cost Recovery Charge;” and charges to reimburse providers for more general operating costs, such as permit fees, application fees, or licensing fees, are not charges remitted to the government but are line items collected by carriers of their own volition. Should such fees be separated from government-mandated charges?¹⁴

Legal Authority. The Commission’s authority to adopt truth-in-billing rules for common carriers derives in large part from section 201(b) of the Act to deter carriers from engaging in unjust and unreasonable practices.¹⁵ We seek to refresh the record on the Commission’s authority to extend the truth-in-billing rules to interconnected VoIP service providers, including both two-way and one-way interconnected VoIP services.¹⁶

¹¹ See, e.g., T-Mobile News Release, *T-Mobile ONE Now Includes Monthly Taxes & Fees* (Jan. 22, 2017), <https://www.t-mobile.com/news/t-mobile-one-now-available>; Cricket, Charges and Fees, at <https://www.cricketwireless.com/support/billing-and-payments/charges-and-fees.html>.

¹² See *Truth-in-Billing FNPRM*, 20 FCC Rcd at 6469-70, paras. 40-41. The Commission previously noted that a common source of consumer confusion derives from myriad charges that are assessed by carriers to recover costs incurred as a result of specific government action. See *id.* at 6461, para. 26 (noting that regulatory charges generally can be characterized as mandated fees or taxes that the carrier is required to collect from the consumer (e.g., federal excise tax), authorized fees that the carrier has the discretion to pass on to the consumer (e.g., universal service), and administrative or other costs that may be associated with the cost of compliance with regulatory requirements).

¹³ See *id.* at 6469-70, para. 40.

¹⁴ See *id.*; see also *Federal-State Joint Board On Universal Service et al.*, CC Docket Nos. 90-571, 92-237, 95-116, 96-45, 98-170, 98-171, and 99-200, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 24979, para. 54 (2002) (acknowledging that providers may incur some administrative costs associated with the collection of universal service charges from end users but that it was inappropriate for them to characterize such costs as regulatory fees or universal service charges).

¹⁵ See *First Truth-in-Billing Order*, 14 FCC Rcd at 7506, para. 24 (concluding that truth-in-billing requirements were necessary to deter carriers from engaging in unjust and unreasonable practices in violation of section 201(b)).

¹⁶ Interconnected VoIP service enables users, over their broadband connections, to receive calls that originate on the public switched telephone network (PSTN) and to terminate calls to the PSTN. See 47 CFR § 9.3 (defining “interconnected VoIP service” as “a service that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user’s location; (3) requires Internet protocol-compatible customer premises equipment (CPE); and (4) permits users generally to receive calls that originate on the public switched telephone

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Pursuant to sections 1.415 and 1.419 of the Commission's rules,¹⁷ interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Ex Parte Rules. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁸ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation.

If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or

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network and to terminate calls to the public switched telephone network"). "One-way" VoIP services enable users either to terminate calls to the PSTN but not receive calls that originate on the PSTN; or receive calls from the PSTN but not make calls terminating to the PSTN. On several occasions, the Commission has extended certain Title II obligations to interconnected VoIP providers. *See, e.g., Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, Report and Order, 22 FCC Rcd 11275, 11291-97, paras. 32-43 (2007) (extending section 225's TRS requirements to interconnected VoIP service providers, including the requirement to contribute to the TRS Fund).

¹⁷ 47 CFR §§ 1.415, 1.419.

¹⁸ *See id.* §§ 1.1200 *et seq.*

other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules.¹⁹ In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf).²⁰ Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Additional Information. For further information, contact Erica H. McMahon of the Consumer and Governmental Affairs Bureau at (202) 418-0346 or Erica.McMahon@fcc.gov.

¹⁹ *Id.* § 1.1206(b).

²⁰ *Id.* § 1.49(f).