

**STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN  
Approving in part, dissenting in part**

*Re: Truth-In-Billing Format, National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-In-Billing, Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, CC Docket No. 98-170, CG Docket No. 04-208 (Mar. 10, 2005).*

In March of last year, a national coalition of consumer advocates, the National Association of State Utility Consumer Advocates (NASUCA), petitioned the Commission, asking the Commission to strengthen its "Truth-in-Billing" rules, which apply to the "line item" charges that are listed separately on consumer telephone bills. NASUCA asked the Commission to address the proliferation of line item charges and to ensure that consumers get accurate information about the total cost of the telecommunications services. In this Order, the Commission largely rejects NASUCA's petition, missing a golden opportunity to provide clarity for consumers. I dissent in part from this item because I am concerned that the Commission turns the consumer advocates' petition on its head and strips away existing consumer protections without putting in place adequate alternative measures.

While the Commission has previously acknowledged the benefits of certain clear and non-misleading line items on consumer bills, many consumer advocates suggest, and the Commission's data seems to confirm, growing levels of consumer complaints about billing for the telecommunications services. Consumer groups, like AARP, have argued that a proliferation of line item charges makes it difficult for consumers to determine the actual price for their telecommunications service and that this price confusion is a costly issue for consumers. These concerns are at the heart of NASUCA's petition.

Unfortunately, from the consumer's perspective, the most tangible result of this Order will likely be less oversight of consumers' bills, not more. By preempting States, our historic partners in consumer protection, this Order curtails States' ability to moderate line items on consumers' wireless phone bills. The merits and timing of this preemption are questionable, and I cannot support this portion of the Order. The result for consumers, who routinely turn to state public utility commissions for help with billing issues, is very likely less oversight and more confusion, which is hardly the result sought by consumer advocates.

By removing the States' role here, the FCC has set itself up as the sole arbiter of line item charges. This result is not compelled by the Act, which removes States' ability to set rates for wireless service, but preserves States' ability to address "other terms and conditions," which include billing issues. State commissions offered evidence in this record that they are confronted regularly with a myriad of new line item surcharges and new names for existing line items. Similarly, the Commission's existing Truth-in-Billing rules preserved States' ability to adopt consistent requirements, until now. Yet, the Commission reverses course here without even putting this proposal out for comment.

The one measured step in this Order for consumers is the decision to explicitly apply the Commission's Truth-in-Billing rules to wireless carriers. I support this effort to clarify that wireless service bills must be clearly organized and must provide full and non-misleading descriptions of charges. But clarifying that these rules apply to wireless bills alone is unlikely to be a panacea for consumers. The FCC's current Truth-in-Billing rules have not been the basis for a single Notice of Apparent Liability in the six plus years that they have been in effect.

I am sympathetic to carriers' desire to advertise national rate plans and believe that goal is not irreconcilable with the desire to make consumer bills accurate and clear. Carriers have raised legitimate questions about which government-related charges should be separated out through line items and about the practical difficulties they face in fashioning national rate plans. Yet, this Order does not address which line items should be permitted and whether there are any practical limits to the amount of charges that can be added on above the advertised price. The item leaves for a Further Notice most of the hard questions for carriers and consumers: what costs should carriers be able to separate out through line items? When are line items helpful for consumers, and when do they simply add "noise" that distracts consumers from the ultimate cost of service? Since we are leaving these issues unanswered, it strikes me as premature at best to take away resources available to consumers by preempting State laws and regulations that might moderate the proliferation of line item charges.

I am also troubled by the majorities' tentative conclusions in the attached Further Notice to impose far greater preemption of State oversight of consumer protection and carrier billing practices for both wireless and traditional landline telephone service. The consumer advocates' petition calls for additional clarification about our rules, not a reduction in the resources available to consumers. Particularly when it comes to consumer protection, this Commission should be looking for partners in our efforts, not looking for ways to eliminate them. For these reasons, I approve in part and dissent in part.