Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Presubscribed Interexchange Carrier Charges	)	CC Docket No. 02-53
	)	
	)	
	)	

FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: April 14, 2004 **Released: April 23, 2004**

Comment Date: 20 days after publication in the Federal Register
Reply Comment Date: 30 days after publication in the Federal Register

By the Commission: Commissioner Copps issuing a statement.

I. INTRODUCTION

1. The Commission currently is examining its policies for regulating presubscribed interexchange carrier (PIC)-change charges.[1] PIC-change charges are federally-tariffed charges imposed by incumbent local exchange carriers (LECs)[2] on end-user subscribers when these subscribers change their presubscribed interexchange carriers (IXCs).[3] These charges currently are subject to a $5 safe harbor within which a PIC-change charge is considered reasonable.[4] In this further notice of proposed rulemaking, we are seeking to refresh the record and specifically

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1 *Presubscribed Interexchange Carrier Charges*, CC Docket No. 02-53, Order and Notice of Proposed Rulemaking, 17 FCC Rcd 5568 (2002) (*Notice*).

2 Competitive LECs also may impose PIC-change charges on their end-user customers. Although the Commission has, in many instances, chosen not to regulate the rates charged by competitive LECs, including the PIC-change charge, we note that competitive LECs may look to the PIC-change charges assessed by incumbent LECs as a benchmark in setting their own PIC-change charges. Therefore, although the instant further notice of proposed rulemaking specifically addresses only incumbent LEC PIC-change charges, the proceeding may affect competitive LEC PIC-change charges as well.

3 In addition to residential and business end users, incumbent LECs may also impose PIC-change charges on end-user payphone subscribers when they change their presubscribed IXCs. *See, e.g.,* Ameritech Operating Companies Tariff F.C.C. No. 2, Sec. 4.2(C). PIC-change charges imposed on payphone end-user subscribers are included in the scope of this further notice of proposed rulemaking.

4 *Annual 1985 Access Tariff Filings*, CC Docket No. 86-125, Memorandum Opinion and Order, 2 FCC Rcd 1416, 1445-46, paras. 272-74 (1987) (*1987 Access Tariff Order*). A carrier may establish that a higher PIC-change charge is warranted by providing the Commission with appropriate cost support data. *Id.*

to seek comment on cost support information recently filed by BellSouth in support of its PIC-change charge increase.

II. BACKGROUND

2. On March 20, 2002, the Commission released the *Notice* seeking comment on the Commission's PIC-change charge policies, and on the $5 PIC-change charge safe harbor.[5] At the time the *Notice* was released, BellSouth charged a PIC-change charge of $1.49, substantially below the $5 safe harbor.[6] BellSouth's $1.49 PIC-change charge was supported by a cost study that had been filed in 1990. In the *Notice*, the Commission sought comment on whether BellSouth's $1.49 charge should be used in establishing a lower or upper bound on any future PIC-change charge safe harbor.[7] Comments on the *Notice* were due on June 14, 2002 and reply comments were due on July 1, 2002. Since the record closed on the *Notice*, BellSouth has filed with the Commission a tariff revision, with the requisite cost support, that increased its PIC-change charge from $1.49 per change to $3.07 per change.[8]

III. DISCUSSION

3. BellSouth's tariff filing highlights the significant disparity in costs for manual and electronic (mechanized) processing of PIC-change charges.[9] BellSouth's analysis submitted in support of its tariff filing reflects that the percentage of manual processing has increased in recent years.[10] This filing raises questions about the incentives that are created by a PIC-change

5 *Notice*, 17 FCC Rcd at 5569, para. 1.

6 *Notice*, 17 FCC Rcd at 5577, para. 20.

7 *Notice*, 17 FCC Rcd at 5577, para. 20.

8 *See* Letter from Jennette C. Fields, Tariff Administrator, BellSouth Telecommunications, Inc., to Secretary, Federal Communications Commission, F.C.C. Tariff No. 1 Transmittal No. 746 (filed Oct. 14, 2003) (Transmittal No. 746); Letter from Jennette C. Fields, Tariff Administrator, BellSouth Telecommunications, Inc., to Secretary, Federal Communications Commission, F.C.C. Tariff No. 1 Application No. 140 (filed Nov. 3, 2003) (Application 140); Letter from Jennette C. Fields, Tariff Administrator, BellSouth Telecommunications, Inc., to Secretary, Federal Communications Commission, F.C.C. Tariff No. 1 Transmittal No. 756 (filed Nov. 4, 2003) (Transmittal No. 756). BellSouth's filings are available on the Commission's Electronic Tariff Filing System (ETFS).

9 Transmittal No. 746, Description and Justification at 2-4; Transmittal No. 756, Att. A at 2, Row 23 Column F (showing a total weighted cost of $2.45 for a manual PIC change), and Row 36 Column F (showing a total weighted cost of $0.48 for a mechanized PIC change). These costs multiplied by a common cost factor of 1.0497 yield BellSouth's total PIC change cost of $3.07. Transmittal No. 756, Att. A at 2, Row 41 Column F and Row 43 Column F. BellSouth attributes the increase in the unweighted cost for performing a manual PIC change from $0.36 in 1990 (Transmittal No. 746, Att. L at 1, Row 37 Column B) to $2.45 in 2003 (Transmittal No. 756, Att. A at 2, Row 23 Column F) to increased labor times required by service representatives to complete the manual PIC changes. Transmittal No. 746, Description and Justification at 3-4.

10 BellSouth asserts that in 1990, the percentage of manual PIC changes was 25 percent. According to BellSouth, manual PIC changes increased to 34 percent in 2001, and to 43 percent in 2002, and BellSouth projects that 54 percent of PIC changes will be processed manually in 2003. Transmittal No. 746, Description and Justification at 3, and Att. D at 2, Row 40 Columns C, D, and E (providing percentages of mechanized PIC changes of 66 percent for 2001, 57 percent for 2002, and 46 percent for 2003). BellSouth states that "the increased number of Manual PIC Changes that BellSouth experienced were typically initiated from the end user customer with the Interexchange

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charge that does not differentiate between electronic and manual processing. Therefore, as set forth below, we seek comment on BellSouth's filing, and whether and how we should take account of the information in that filing in analyzing our PIC-change charge policies and safe harbor. We also take this opportunity to refresh the record in this proceeding.

4. BellSouth's recently filed cost study indicates that manually processed PIC changes cost substantially more than mechanized PIC changes.[11] BellSouth's filing indicates that the costs of manual PIC changes are cross-subsidized to some degree by the lower cost mechanized PIC changes because end users pay a single rate regardless of how the PIC-change request is submitted. Such subsidization will reduce carriers' incentives to invest in the equipment necessary to submit mechanized PIC change requests to the LECs. We therefore seek comment on whether there should be a separate PIC-change charge (and associated safe harbor) for orders that require manual processing by a LEC and for orders that are submitted to a LEC in a mechanized format. We also seek comment on whether manual versus mechanized processing of PIC changes is the correct categorization for any multiple safe harbors, or whether other classifications of PIC-change charges should be adopted. We also seek comment on how small entities may be affected by changes to our existing PIC-change charge policies.

5. To date, the PIC-change charge has been assessed on end users. This removes, to some extent, the incentive for IXCs to reduce the costs of PIC changes because the charge is passed on to end users. Should the charge instead be assessed on the entity that submits the order to the LEC, i.e., if an IXC submits the order, the LEC would assess the charge on the IXC, and if an end user submits the order to the LEC directly, the LEC would assess the charge on the end user?

6. If there are separate charges for electronic and manual processing, or if the charge or charges are assessed on the entity placing the order, customers will need to be made aware of their options regarding PIC changes and what they can do to pay a lower PIC-change charge. For example, if an end-user customer calls a LEC requesting a PIC change, the LEC will have to enter the request manually, possibly resulting in a higher charge to the end user. If the end user instead requested the change through an IXC, however, either the lower mechanized PIC-change rate could potentially apply, or the customer could avoid paying a PIC-change charge at all if the charge was instead assessed on the IXC. If different PIC-change charge rates are adopted, how should end-user customers be made aware of the different rates when they request a PIC change? Would different PIC-change charge rates improve or hinder consumers' ability to understand how charges are incurred? Would any benefit from adopting separate charges for electronic and manual processing outweigh potential consumer confusion over the charges to be incurred when switching providers?

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Carrier or a Telemarketing firm representing the Interexchange Carrier on the call as well. The end users express the need for the PIC Change to be implemented as soon as possible and that is why they initiated the call to one of [] BellSouth's Business Offices." Transmittal No. 746, Description and Justification at 2.

[11] Transmittal No. 746, Description and Justification at 2-4; Transmittal No. 756, Att. A at 2, Row 23 Column F (showing a total weighted cost of $2.45 for a manual PIC change), and Row 36 Column F (showing a total weighted cost of $0.48 for a mechanized PIC change).

7. Consideration of separate charges raises the question of whether all entities placing PIC-change orders will be able to submit orders using a mechanized process. Can an end-user customer currently change its PIC electronically through the LECs' websites, or must a PIC change be processed by a LEC (manually) or through an IXC (manually or mechanized)? Should carriers that do not make available to end-user customers an option to submit PIC changes directly through a mechanized system be precluded from assessing a higher manual charge on its end-user customers?

8. Do separate charges for manual and electronic processing raise anti-competitive issues that should be addressed if the LEC is also providing long distance service? How much, if any, of the increase in the manual-to-electronic processing ratio as set out in the BellSouth filing[12] may be attributed to the entrance of incumbent LECs in the long distance market? How do incumbent LEC long distance entities handle PIC-change requests? Are the requests processed by the long distance entities, or are customers referred to the local exchange entities to make the change? Will these processes change when incumbent LEC local and long distance operations are integrated after the sunset of the separate affiliate requirements of section 272 of the Act?[13]

9. BellSouth's recent PIC-change charge tariff filing reflects weighted costs of $2.45 for a manual PIC change and $0.48 for a mechanized PIC change.[14] These costs, multiplied by a common cost factor of 1.0497, yield BellSouth's total PIC change cost of $3.07.[15] Should we adopt a PIC-change charge safe harbor (or harbors) based on the BellSouth cost study? Is the cost information submitted by BellSouth in its tariff filing typical for similarly situated carriers? If the BellSouth cost study is used as a basis for setting a PIC-change charge safe harbor (or harbors), should the study be revised in any way? For example, customers are entitled to one initial free PIC preselection.[16] Therefore, is it appropriate to recover costs for new installations in the PIC-change charge?[17]

10. Some customers request a "PIC freeze" from their LEC. A PIC freeze "prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express written or oral consent."[18] Should the

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[12] Transmittal No. 746, Description and Justification at 3, and Att. D at 2, Row 40 Columns C, D, and E (providing percentages of mechanized PIC changes of 66 percent for 2001, 57 percent for 2002, and 46 percent for 2003).

[13] 47 U.S.C. § 272.

[14] Transmittal No. 756, Att. A at 2, Row 23 Column F, and Row 36 Column F.

[15] Transmittal No. 756, Att. A at 2, Row 41 Column F and Row 43 Column F.

[16] *Investigation of Access and Divestiture Related Tariffs*, CC Docket No. 83-1145, Phase I, Memorandum Opinion and Order, 55 Rad. Reg. 2d (P&F) 1422, App. B at 13-5 (Apr. 27, 1984) (*1984 Access Tariff Order*).

[17] Transmittal No. 746, Att. M at 3.

[18] *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508, 1575, para. 112 n.348 (1998).

additional costs of processing PIC changes to customers with PIC freezes be recovered through the PIC-change charge, or through a separate PIC-freeze charge?[19] What entity should be responsible for paying any additional charges associated with changing PIC-freeze customers' PICs?

11. Finally, given the passage of time since the record in this proceeding closed, parties may refresh the record with any new information or arguments that they believe to be relevant to deciding the issues raised in this proceeding.

IV. PROCEDURAL MATTERS

A. *Ex Parte* Requirements

12. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[20] 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 generally is required.[21] Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.[22]

B. Initial Regulatory Flexibility Analysis

13. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[23] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this FNPRM.[24] 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 the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[25] In addition, the FNPRM and IRFA (or summaries thereof) will be published in the Federal Register.

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[19] BellSouth included in its PIC-change costs the additional time and labor required for its customer service representatives to handle PIC changes for customers with PIC freezes in place. Transmittal No. 746, Att. M at 2-3.

[20] 47 C.F.R. § 1.1200 *et seq.*

[21] *See* 47 C.F.R. § 1.1206(b)(2).

[22] 47 C.F.R. § 1.1206(b).

[23] 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq*., has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[24] The Initial Regulatory Flexibility Act analysis (IRFA) for the *Notice* in this proceeding is found at paragraphs 23-34 of the *Notice*. *Notice*, 17 FCC Rcd at 5578-82, paras. 23-34.

[25] *See* 5 U.S.C. § 603(a).

1. Need for, and Objectives of, the Proposed Rules

14. In this FNPRM, the Commission seeks additional comment on its policies for regulating presubscribed interexchange carrier (PIC)-change charges. Specifically, we seek comment on whether there should be separate PIC-change charges for manual and electronic processing of change requests, and on whether the charge should be assessed on the entity that places the order. We also seek comment on recent PIC-change charge cost information filed by BellSouth. We seek comment on these issues, as well as any alternative means of ensuring the reasonableness of PIC-change charges.

2. Legal Basis

15. This FNPRM is adopted pursuant to sections 1, 4(i), 4(j), 201-205, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), (j), 201-205, and 303.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules will Apply

16. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted.[26] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[27] For the purposes of this NPRM, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[28] Under the Small Business Act, a "small business concern" is one that: 1) is independently owned and operated; 2) is not dominant in its field of operation; and 3) meets any additional criteria established by the SBA.[29]

17. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a wired telecommunications carrier having 1,500 or fewer employees), and "is not dominant in its field of operation."[30] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.[31] We have therefore included

[26] 5 U.S.C. §§ 603(b)(3).

[27] 5 U.S.C. § 601(6).

[28] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632).

[29] 15 U.S.C. § 632.

[30] 5 U.S.C. § 601(3).

[31] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. § 632(a); 5 U.S.C. § 601(3). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b).

small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

18. *Wired Telecommunications Carriers*. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[32] According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year.[33] Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more.[34] Thus, under this size standard, the majority of firms can be considered small.

19. *Local Exchange Carriers*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[35] According to Commission data, 1,337 carriers reported that they were incumbent local exchange service providers.[36] Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees.[37] In addition, according to Commission data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services.[38] Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees.[39] In addition, 35 carriers reported that they were "Other Local Exchange Carriers."[40] Of the 35 "Other Local Exchange Carriers," an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees.[41] Consequently, the Commission estimates that most providers of local exchange service, competitive local exchange service, competitive access providers, and "Other Local Exchange Carriers" are small entities that may be affected by the rules and policies adopted herein.

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32 13 C.F.R. § 121.201, NAICS code 513310 (changed to 517110 in October 2002).

33 U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 513310 (issued October 2000).

34 *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more."

35 13 C.F.R. § 121.201, NAICS code 513310 (changed to 517110 in October 2002).

36 *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, Table 5.3 (Aug. 2003) (*Trends in Telephone Service*).

37 *Trends in Telephone Service*, Table 5.3.

38 *Trends in Telephone Service*, Table 5.3.

39 *Trends in Telephone Service*, Table 5.3.

40 *Trends in Telephone Service*, Table 5.3.

41 *Trends in Telephone Service*, Table 5.3.

20. *Interexchange Carriers*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[42] According to Commission data, 261 companies reported that they were interexchange carriers.[43] Of these 261 companies, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees.[44] Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules and policies adopted herein.

4. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

21. As described in the previous Initial Regulatory Flexibility Analysis in this proceeding,[45] we are seeking comment on whether we can rely on market forces to set reasonable PIC-change charges, or whether these charges must be regulated. If we find that the market reasonably sets these charges, there will be no additional reporting or recordkeeping burden on incumbent LECs with respect to these charges. If we determine that the market will not successfully constrain PIC-change charges, we must determine whether to establish a safe harbor below which PIC-change charges are to be deemed reasonable, or whether these charges should be cost-based. If we adopt a safe harbor, incumbent LECs will be in the same situation as under the current rules, i.e., PIC-change charges tariffed at rates below the safe harbor are deemed reasonable, and LECs have the option of charging more if they can demonstrate that their costs for PIC changes exceed that rate. If we decide not to adopt a safe harbor and require incumbent LECs to set PIC-change charges at cost, incumbent LECs will be required to file information demonstrating the costs of providing PIC changes.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

22. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): 1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; 2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; 3) the use of performance, rather than design standards; and 4) an exemption from coverage of the rule, or any part thereof, for small entities.[46]

23. We are seeking comment on alternative methods of setting a PIC-change charge,

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[42] 13 C.F.R. § 121.201, NAICS code 513310 (changed to 517110 in October 2002).

[43] *Trends in Telephone Service*, Table 5.3.

[44] *Trends in Telephone Service*, Table 5.3.

[45] *Notice*, 17 FCC Rcd at 5581, para. 31.

[46] 5 U.S.C. § 603(c)(1)-(c)(4).

including whether market forces will successfully constrain these charges, and whether to adopt a safe harbor below which rates are presumed reasonable.[47] These proposals would reduce the reporting and recordkeeping burden on all incumbent LECs, including small LECs. We also are seeking comment on whether to assess the PIC-change charge on the entity making the change request, which could be the IXC. We also are seeking comment on whether to create separate PIC-change charges for manual and electronic processing of PIC changes. This would allow IXCs to control whether they paid a higher manual processing charge or a lower electronic processing charge based on how they submit the order to the LEC. We also are seeking comment on how small entities may be affected by changes to our existing PIC-change charge policies.

6. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

24. None.

C. Filing of Comments and Reply Comments

25. Pursuant to sections 1.415 and 1.419 of the Commission's rules,[48] interested parties may file comments on or before 20 days from publication of this Public Notice in the Federal Register, and reply comments on or before 30 days from the publication of this Public Notice in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[49]

26. Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/cgb/ecfs/. Generally, only one copy of an electronic submission must be filed.[50] In completing the transmittal screen, commenters should include their full name, U.S. 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." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing.[51]

27. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

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[47] *See Notice*, 17 FCC Rcd at 5575, 5577-78, paras. 15 and 20.

[48] 47 C.F.R. §§ 1.415, 1.419.

[49] *See Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11,322 (1998).

[50] If multiple docket or rulemaking numbers appear in the caption of a proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption.

[51] If more than one docket or rulemaking number appear in the caption of a proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

28. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002.

-The filing hours at this location are 8:00 a.m. to 7:00 p.m.

-All hand deliveries must be held together with rubber bands or fasteners.

-Any envelopes 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 9300 East Hampton Drive, Capitol Heights, MD 20743.

-U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

-All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

29. Parties shall also serve one copy with Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 863-2893, or via email to <qualexint@aol.com>.

30. **Parties are strongly encouraged to file comments electronically using the Commission's Electronic Comment Filing System (ECFS). Parties are also requested to send a courtesy copy of their comments via email to** jennifer.mckee@fcc.gov. If parties file paper copies, parties are requested to send two (2) copies of the comments and reply comments to Chief, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Room 5-A221, Washington, D.C. 20554.

31. Documents in CC Docket No. 02-53 are available for public inspection and copying during business hours at the Federal Communications Commission Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, DC 20554. The documents may also be purchased from Qualex International, telephone (202) 863-2893, facsimile (202) 863-2898.

V. ORDERING CLAUSES

32. IT IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 4(j), 201-205, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), (j), 201-205, and 303, the Further Notice of Proposed Rulemaking IS ADOPTED.

33. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

STATEMENT OF
COMMISSIONER MICHAEL J. COPPS

Re: Presubscribed Interexchange Carrier Charges (CC Docket No. 02-53)

The PIC-change charge grew out of the framework developed by the Commission to open the interstate telecommunications market to competition. This charge involves fees that can be passed on to consumers whenever they change long distance carriers. But the safe harbor the Commission established for permissible PIC-change charges is now two decades old. It was developed when interexchange carrier competition was new and local exchange competition was just a pipe dream. The telecommunications landscape has changed tremendously over the last twenty years, but the safe harbor has held steady at five dollars. There is ample evidence this amount is too high. It does not reflect the real cost of carrier changes and can act as a costly barrier to consumer choice.

I support today's Further Notice of Proposed Rulemaking because the Commission needs to ensure its record reflects recent tariff filings. But I urge the Commission to move ahead and bring its PIC-change charge policies up to date as soon as possible. Consumers rightfully expect us to adjust our policies as markets change. In this case, we are long overdue for an update.