51. We find the current record inadequate for us to make a reasoned decision on whether to exempt inmate telephones from BPP. We seek additional comment on this matter, particularly with respect to the effectiveness and costs of controlling fraud originating on inmate lines with or without BPP. We also seek comment on whether LECs providing LIDB queries should be required to tariff some form of anti-fraud service, e.g., one that would signal OSPs if a suspicious number of collect or third number calls were directed to a particular phone number. Finally, we seek comment on the suggestion offered by some OSPs and CPPs serving prison facilities that prisons be exempted from BPP if they subscribe to an OSP that charges rates below that of the dominant carrier for inter and intraLATA calls.

B. Recovery of BPP Costs

1. Background/Comments of the Parties

52. In the Notice, we stated that BPP would appear to qualify as a "new" service under price caps. Pacific, SW Bell, and Sprint support that position.[77] ATC/LDDS and APCC oppose it, arguing that treating BPP as a new service would permit LECs to recover a windfall.[78] They argue that the new service test does not provide an effective upper limit on the price of new services. Bell Atlantic, NYNEX, and SNET also oppose treating BPP as a new service, but their opposition seems to be based on the cost recovery constraint formerly -- but no longer -- imposed by the net revenue test.[79] Ameritech and Bell Atlantic support treating BPP costs as a mandatory expenditure that justifies exogenous cost treatment. Sprint would also favor this approach if BPP costs could not otherwise be spread over all access code calls.[80] NYNEX opposes exogenous treatment because of its concern that higher access prices would hurt its competitive position with respect to CAPs, but Bell Atlantic states that this would not be a problem if CAPs are required to participate in BPP.[81]

53. On the issue of who should pay the costs of BPP, OSP and aggregator opponents of BPP strongly urge that costs be recovered solely from those OSPs receiving BPP calls. AT&T asserts that charging access code users for BPP would violate the principle of attributing costs

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[77] Notice, 7 FCC Rcd at 3031 n.30; Pacific Reply Comments at 11; SW Bell Comments at 12; Sprint Comments at 21.

[78] APCC Comments at 26; ATC/LDDS Comments at 8.

[79] Bell Atlantic Comments at 5; NYNEX Comments at 16-17; SNET Comments at 5.

[80] Ameritech Comments at 21; Bell Atlantic Comments at 5-6; Sprint Reply Comments at 20.

[81] Bell Atlantic Reply Comments at 2; NYNEX Comments at 18.

to the cost causers. The Michigan PSC, however, asks that LECs bill OSPs for BPP on a flat rate, quarterly basis.[82]

54. Bell Atlantic, BellSouth, NYNEX, and US West, as well as Centel, GTE, and SNET, express concern that if LECs must recover BPP costs solely from BPP calls, then some IXCs may encourage their customers to use access codes to avoid BPP charges. They argue that, in that event, the per-call costs of BPP could increase, which could further increase dial-around calling, ultimately precluding LECs from recovering their full costs. MCI and a few aggregators acknowledge this concern, but Elkhart notes that if callers dial around 0+ to avoid paying the cost of BPP then this would indicate that consumers do not value the benefits of BPP more than its costs. SW Bell states its confidence that consumers would be willing to pay more for the convenience of 0+ calling.[83]

55. NYNEX proposes recovering BPP costs from end user common line charges, while LinkUSA supports a partial recovery of BPP costs in that manner. On the other hand, the New York DPS, Michigan PSC, Bell Atlantic and Elkhart oppose this option. Bell Atlantic and Elkhart state that raising all end user costs would burden those not using BPP and undermine efforts to achieve universal service.[84] MCI supports recovering BPP costs in a bifurcated manner based on the equal access cost recovery model. MCI would favor recovering non-recurring costs as exogenous costs from all access users over a set period of years and recovering recurring costs from calls subject to BPP on a per call basis.[85]

56. Ameritech asks that pricing issues not be resolved definitively until tariffs are filed, and Mastercard/VISA asks only that rates be cost justified. US West and Citizens ask for a supplemental notice on cost issues. US West and the Missouri PSC suggest that BPP should be referred to a Joint Board, given that jurisdictional separations will allocate a large portion of BPP costs to the intrastate jurisdiction. Sprint also suggests that separations rules must be

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[82] See, e.g., Allnet Comments at 2; AT&T ex parte filing July 15, 1993; AMNEX Comments at 18; Michigan PSC Comments at 4; Midwest California Payphone Comments at 5-6; NTCA Reply Comments at 5-6.

[83] Hotel & Motel Reply Comments at 2; Bell Atlantic Comments at 6-7; BellSouth Comments at 12-13; California Payphone Reply Comments at 8; Centel Reply Comments at 5; Elkhart Reply Comments at 9; GTE Comments at 12-14; MCI Reply Comments at 11; NYNEX Comments at 18; SNET Comments at 8; SW Bell Reply Comments at 3; US West Comments at 20.

[84] Bell Atlantic Reply Comments at 2-3; Elkhart Reply Comments at 9; LinkUSA Comments at 8, Reply Comments at 27; Michigan PSC Comments at 4; NYNEX Comments at 19, Reply Comments at 6; New York DPS Reply Comments at 2.

[85] MCI Reply Comments at 10-13.

addressed. Bell Atlantic asserts that the Commission must modify parts 32, 36, and 69 of the rules to permit the new rate elements that will be needed for BPP.[86]

2. Discussion

57. We continue to believe that BPP should be treated as a new service for the purposes of price caps. Few parties oppose this conclusion, and most of those opposed in their comments base that opposition on the existence of the new service net revenue test, which has since been eliminated. We believe that BPP fits the definition of a new service because it would "add to the range of options already available to customers" by permitting OSPs to receive a new set of calls: 0+ calls from phones that are not presubscribed to them.[87] At the same time, it would enable them to continue receiving 0+ calls from their presubscribed lines, as well as access code calls from any line.

58. A more difficult call is whether the costs of BPP should be recovered only from BPP calls or all operator services calls. Our policy generally is to attribute costs to cost causers. Moreover, we believe that consumers would value the convenience of 0+ dialing and that many would pay a few cents more per call to enjoy it. On the other hand, OSPs could seek to discourage callers from using BPP, thereby driving down BPP usage and increasing per call costs.[88] Moreover, allowing recovery of BPP costs only from services subject to BPP would ignore that BPP would also reduce OSP costs on many access code calls. Specifically, it would save OSPs the commission they currently pay on 10XXX calls placed from public phones presubscribed to them. OSPs pay commissions on such traffic because they currently cannot distinguish between 10XXX and 0+ calls. Under BPP, the virtual elimination of commissions

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[86] Ameritech Reply Comments at 13; Bell Atlantic Reply Comments at 3; Citizens Reply Comments at 1; Mastercard/Visa Comments at 20; Missouri PSC Comments at 8; Northwest Payphone Reply Comments at 5; Sprint Reply Comments at 21; US West Reply Comments at 3-4.

[87] "As long as the pre-existing service is still offered, and the range of alternatives available to consumers is increased, we will classify the service as new." Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, CC Docket No. 87-313, 5 FCC Rcd 6786, 6824 para. 314 (1990) and Erratum, 5 FCC Rcd 7664 (1990)(LEC Price Cap Order), modified on recon. 6 FCC Rcd 2637 (1991), further modified 6 FCC Rcd 4524 (1991), further modified 7 FCC Rcd 811 (1992), aff'd Nat'l Rural Telecomm. Ass'n. v. FCC, 988 F.2d 174 (D.C. Cir. 1993).

[88] Even if, under BPP, 0+ calls cost OSPs an additional $.15 per call in BPP charges, it is not clear that OSPs would encourage customers to make access code calls by setting their rates to reflect that cost differential. MCI and Sprint currently charge almost the same rates to customers who make 0+ calls from payphones presubscribed to MCI and Sprint as to customers who use 1-800 access codes from those phones, even though the carriers must pay commissions of approximately $.35 per call to receive the former calls and nothing to receive the latter.

would cut the cost of handling these calls. Arguably, therefore, it would be inappropriate to load all of the costs of BPP onto 0+ calls.

59. Given these conflicting considerations, we offer no tentative conclusion at this time on how BPP costs should be recovered. We seek further comment on this issue. Specifically, we seek comment on whether BPP costs should be recovered from only BPP calls, BPP and 10XXX calls, or all operator service calls.

60. With respect to our separations rules, we are not persuaded that separations changes are necessary. Given the position of NARUC and commenting states in this proceeding, we have every confidence that if we affirm our tentative conclusions in this proceeding, BPP will be implemented for both interstate and intrastate interLATA traffic and, in many cases, intraLATA traffic as well. That being the case, the record does not lead us to believe that existing usage factors would not yield a reasonable allocation of costs between the jurisdictions for cost categories affected by BPP. Therefore, we find no need for a joint board to reexamine current separations rules.

C. Selecting 0+ Carriers

1. Background

61. The NPRM also asked for comment on what procedures LECs should use to notify subscribers of BPP and of their right to choose a 0+ carrier. The Commission suggested that LECs might either ballot their subscribers or simply notify them of their right to choose a 0+ carrier and of how to do so. The Commission also suggested that customers who did not respond should be defaulted to their 1+ carrier.

2. Comments of the Parties

62. LECs, MCI, Sprint, Midwest Regulators, and the Missouri PSC argue that balloting similar to equal access balloting would be unnecessarily burdensome and costly, with LEC cost estimates totaling as much as $150 million.[89] BellSouth suggests that balloting costs could be reduced by limiting balloting to LEC calling card customers.[90] Other LECs assert that LECs

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[89] Ameritech Comments at 17; BellSouth Comments at Exhibit 1; GTE Comments at 6; MCI Reply Comments at 24; Midwest Regulators Comments at 14; NYNEX Comments at 20 and Attachment B; Missouri PSC Comments at 7; Pacific Comments at 14; Rock Hill Reply Comments at 4; SNET Comments at 9; SW Bell Comments at 20-21; Sprint Comments at 32-33; USTA Comments at 8; US West Comments at 18 and Appendix.

[90] See, e.g., Ameritech Comments at 17 (several fold increase over $13.1 million); BellSouth Comments at Exhibit 1 ($5.2 million for balloting cardholders); NYNEX Comments at Attachment B ($19.3 million).

should only be required to insert a notification informing each subscriber of its right to choose a 0+ carrier or to default to its 1+ carrier. LEC cost estimates for this type of customer notification are far lower than estimates for an equal access-type balloting procedure.[91]

63. Third-tier OSPs and the Michigan PSC oppose defaulting customers to their 1+ carrier.[92] Third-tier OSPs claim that they would be unable to compete if customers were defaulted to their 1+ carrier. Capital Network predicts that 60% of customers would not take any steps to identify their preferred 0+ carrier. Third-tier OSPs generally favor the equal access approach of allocating default customers in the same proportion as customers who affirmatively chose an OSP.

64. Both the Michigan PSC and the Indiana & Pennsylvania Consumer Advocates argue that consumers should also be permitted to select their secondary carrier, and maybe even a separate carrier for international calls. Phonetel states its concern that primary carriers might pick secondary carriers based on commissions offered by the secondary carrier, rather than service quality.[93] All other parties commenting on this question assert that the primary carrier should select its customers' secondary carrier, although commenters disagree on such issues as whether multiple secondary carriers should be allowed, and whether customers should be notified of their secondary carrier and allowed to change it, or whether these are unnecessarily costly options.[94]

3. Discussion

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[91] See, e.g., NYNEX Comments at Attachment B ($2.1 million v. $19.3 million for balloting); US West Comments at Appendix ($1.1 million identified for "balloting").

[92] AMNEX Comments at 21-22; APCC Reply Comments at 10; Chillicothe Reply Comments at 11-15; Cleartel, et al Reply Comments at 16-17; Capital Network Comments at 18-19; CompTel Comments at 27-29; Intellicall Comments at 24-25; LinkUSA Comments at 11-12; Litel Comments at 5; Michigan PSC Comments at 6.

[93] Indiana & Pennsylvania Consumers Comments at 15; Michigan PSC Comments at 6; Phonetel Comments at 11.

[94] Ameritech Comments at 9-10 (one secondary carrier per region); BellSouth Comments at 19; GTE Comments at 6-7 (but primary carrier must choose a secondary carrier that serves nationwide); Litel Comments at 6 (maybe multiple secondary carriers); MCI Reply Comments at 19 (only one alternate carrier); Missouri PSC Comments at 6; Pacific Comments at 15; Rock Hill Reply Comments at 4 (customers should be able to select a separate international 0+ carrier); SNET Comments at 9-10 (the one alternate must serve nationwide); SW Bell Comments at 21 (customers may be allowed to change the secondary carrier); Sprint Comments at 34-35 (customers should be notified); US West Comments at 19 (customer should be notified and permitted to change the alternate carrier).

65. We now tentatively conclude that if BPP is implemented, each LEC will be required to notify its subscribers of their right to choose a 0+ carrier and to provide all subscribers with a ballot for doing so. While LECs claim generally that a balloting procedure would be unreasonably expensive, they seem to base that claim on the assumption that a balloting process would be similar to equal access balloting. As discussed in more detail below, we do not believe that these kinds of procedures are necessary or appropriate for BPP.

66. In the event that we require LECs to provide notices and ballots to their customers, we will permit them to do so via either a separate mailing or a prominent billing insert. LECs using a billing insert would not have to provide customers with response envelopes if responses could be included with customers' payments. We will not require LECs to provide further notices and ballots to nonresponding customers. Presumably, OSPs would begin advertising campaigns aimed at winning 0+ business well before the balloting process takes place. Therefore, customers inclined to make a 0+ choice would be educated to look for a ballot in the mail or in their phone bill. Moreover, customers would always be free to change their 0+ carrier after the initial balloting period. We do not believe that these procedures would be unduly burdensome or expensive. Therefore, we see no need to adopt BellSouth's suggestion that balloting requirements be limited to LEC calling card customers.

67. We tentatively conclude that customers who do not respond should be defaulted to their 1+ carrier. While some parties urge an allocation mechanism, such as that used in equal access balloting, we do not believe that those kinds of allocation procedures would be appropriate to BPP balloting. Unlike the situation then, most customers have already selected a preferred long-distance carrier. We believe that we should not ignore this choice in assigning customers a 0+ carrier. We seek comment on our tentative conclusion and on the alternative possibility of allocating customers who do not vote in proportion to the selections of customers who do vote. We would particularly welcome comments from consumers and their representatives on the relative benefits and costs of these alternatives.

68. The record does not contain sufficient information for us to decide whether users should be permitted to choose their own secondary carrier or whether they must be notified of the identity of that carrier. If users would be billed directly by their secondary carrier for traffic that carrier handles, then consumers should ideally be able to choose that carrier. Moreover, if calls carried by the secondary carrier would be branded by that carrier, it might be confusing to callers if they were not at least notified that this secondary carrier would be handling some of their calls. On the other hand, if customers were billed only by their primary carrier and at that carrier's rates, it is not apparent that customers need to be afforded the opportunity to choose their own secondary carrier.[95] Rather, it would seem that the choice of secondary carrier

[95] While we have recognized the value of allowing 800 service subscribers to choose multiple carriers for their 800 service needs, many 800 subscribers generate extremely high call volumes, such that designing their own service offers them the opportunity to reap substantial benefits. No one has shown that consumers would seek to manage their operator service traffic

would best be viewed as part of the service offering of the primary carrier. In that situation, competition among primary carriers would likely ensure that they chose secondary carriers that provided quality service and were responsive to customer needs. Moreover, allowing primary carriers to choose their own secondary carrier would enable primary carriers to select secondary carriers that would handle their traffic on the most favorable terms. This would especially help smaller OSPs that lack nationwide originating capabilities. We seek further information and comment on how secondary carrier arrangements should be handled under BPP. We also seek comment on how TOCSIA's call branding requirements should apply in a BPP environment.

69. Smaller OSPs might also benefit if they were permitted to designate different secondary carriers in different geographic areas. This would permit smaller OSPs to use other regional OSPs in lieu of a single nationwide carrier. We believe that would provide for a more competitive secondary carrier market and likely enable smaller OSPs to obtain the services of secondary carriers on more favorable terms. We seek comment on the costs and benefits of allowing an OSP to use different secondary carriers in different geographic areas. Finally, we seek comment on the costs and benefits of allowing customers to designate different OSPs for international and domestic calling.

D. The Costs & Benefits of 14-Digit Screening in LIDB

1. Background

70. As noted above, LECs state that they would identify the presubscribed OSP for line number cards by screening only the first ten digits of such cards, i.e., the ten-digit telephone line number. The customer's four-digit personal identification number (PIN) would not be considered. Thus, the proposed LEC BPP design only permits one line-number based calling card number per line in LIDB. In the Notice, we observed that if LECs performed LIDB screening on 14 digits instead of ten, customers could maintain line number cards issued by multiple carriers, with a different PIN for each card.[96] We sought comment on the feasibility and desirability of fourteen-digit screening.

2. Comments of the Parties

71. LECs argue that permitting multiple line number cards in LIDB would substantially increase BPP costs without offering any significant benefit.[97] Pacific and SW Bell estimate that coordinating the assignment of and maintaining PINs for multiple line number cards would add

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in this manner.

[96] 7 FCC Rcd at 3029 n.19.

[97] Ameritech Comments at 12-13, ex parte filing, Sept. 3, 1993; Bell Atlantic Comments at 9-10; BellSouth Comments at 7-8; GTE Comments at 8-9; Pacific ex parte filing Dec. 3, 1993; SNET Comments at 6-7; SW Bell Reply Comments at 14, ex parte filing, Dec. 8, 1993.

between three and fifteen million dollars in BPP costs per BOC.[98] They also claim that it would increase the danger of fraud. They argue that customers do not need or want multiple line number cards. Indeed, Ameritech argues that 14-digit screening would be harmful to consumers, because OSPs would likely issue proprietary line number cards that would not permit customers to choose an alternate OSP via access codes, as would a LEC line number card.[99] In response to concerns that ten-digit screening would confer on LECs a monopoly over line number cards, Pacific states that OSPs would have the same opportunity as LECs to issue a line number card in a 10-digit screening environment.[100]

72. OSPs argue that multiple line number cards would maximize customer choice by enabling customers to vary OSPs without sacrificing the advantages of a line number card.[101] They note, for example, that consumers might wish to retain different cards for personal and business usage. In addition, citing market research showing a consumer preference for line number cards, MCI, Sprint, and AMNEX assert that LECs should not be the only carriers that are able to issue such cards.[102] Sprint also claims that if it cannot retain its existing line number cards, it would need to spend about $20 million to issue new cards.[103] Sprint also disputes Ameritech's assumption that OSP line number cards would likely be proprietary and thereby not eligible for use with access code calling.[104]

3. Discussion

73. We do not believe that it would be in the public interest to adopt a BPP design that gives LECs, but not OSPs, the ability to offer line number calling cards. In the Notice, we assumed that without fourteen-digit LIDB screening, OSPs would be unable to issue their own line number calling cards. Some LECs, however, now dispute this assumption. They maintain

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[98] Pacific ex parte filing, Dec. 3, 1993; SW Bell ex parte filing, Dec. 8, 1993.

[99] Ameritech assumes that OSPs would be able to issue proprietary line number cards under BPP, although the Commission could preclude this.

[100] Pacific ex parte filing, Dec. 3, 1993.

[101] AT&T ex parte filing, July 15, 1993; Sprint Comments at 11-13, ex partes, Oct. 5, 1993, Oct. 20, 1993.

[102] AMNEX Comments at 10-11; LinkUSA Comments at 18-19; MCI Comments at 8; Sprint Reply Comments at 27. GTE challenges that assessment, however, stating that AT&T abandoned line number cards with no apparent negative effect. GTE Reply Comments at 5.

[103] Advanced Technologies Comments at 3, citing Sprint Comments in Docket 92-77, Part I, at 10.

[104] Sprint ex parte filing, Oct. 20, 1993.

that even if customers were permitted only one line-number based calling card, there is no reason why a LEC would need to have exclusive rights to that card number. They maintain that the customer's chosen OSP could issue its own line number calling card with the same PIN or, upon customer authorization, substitute its own line-number card (with a different PIN) for the LEC card.[105] They maintain, finally, that OSPs could also do their own billing for line number card calls made by their customers (whose billing name and address the OSP would have in their records).

74. We harbor some concerns about the administrative implications of this proposal. Nevertheless, we believe this proposal is worthy of further comment as a possible alternative to fourteen-digit screening. As noted, we will not adopt any BPP design that gives either LECs or OSPs the exclusive ability to issue line number cards. If, however, the costs of fourteen-digit screening are substantial, and our goals can be achieved within the context of ten-digit screening, we would accord serious consideration to this ten-digit alternative. We therefore seek further comment on the relative costs and benefits of fourteen digit screening versus the ten-digit screening solution described above.

E. Commercial and Foreign Credit Cards

1. Background/Comments of the Parties

75. In the Notice, we sought comment on how commercial credit cards and foreign-issued calling cards should be handled in a BPP environment.[106]

76. Mastercard/VISA, American Express, Sprint, and the Michigan PSC argue that BPP should be designed in a way that permits callers to use commercial credit cards on BPP calls. They argue that commercial credit cards give customers the opportunity to secure extended credit and offer other advantages, such as liability limitations, that are valued by consumers.[107] Mastercard/ VISA also asserts that the popularity of AT&T's universal card and experiences in numerous other retail and service industries confirm that consumers value the ability to make purchases using a single, general purpose credit card. It states that market research indicates that more than forty percent of existing cardholders would likely use their VISA or Mastercard to make 0+ calls if given that option.[108]

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[105] In the latter case, the OSP would have to notify the LIDB administrator to adjust the PIN in LIDB to match the PIN on its card.

[106] 7 FCC Rcd at 3033.

[107] See, e.g., American Express Reply Comments at 3-11; Mastercard/VISA Comments at 13-16, Reply Comments at 5-7; Michigan PSC Comments at 6; Sprint Reply Comments at 28.

[108] Mastercard/VISA Reply Comments at 5-7; VISA ex parte filing, Sept. 9, 1993.

77. Mastercard/VISA asserts that BPP could readily accommodate commercial credit cards. It notes that under current plans, LECs would query an OSP data base for routing instructions when presented with a CIID or 891 calling card. It states that LECs could similarly query a commercial credit card data base when presented with a commercial credit card number.[109]

78. Mastercard/VISA and Sprint maintain that LECs should be able to handle commercial credit cards that conform to ISO/ANSI standards.[110] In fact, Mastercard/VISA reports that Northern Telecom has already developed software that would permit use of commercial credit cards under BPP. Mastercard/VISA claims that this software will be released by the end of 1994 and that Ameritech and GTE estimate that it will cost them only about $3 million each to install.[111]

79. Many LECs question the feasibility of incorporating commercial credit cards into BPP and suggest that this issue be addressed at a later date, after initial implementation of BPP is achieved.[112] BellSouth, MCI, and Pacific also question whether the small demand for using commercial and foreign credit cards justifies the costs of accommodating them, although MCI and Pacific state that they would not object to including commercial credit cards in BPP if commercial credit card companies were responsible for maintaining the data bases to which queries would be sent for carrier identification.[113] The Missouri PSC asks that BPP not be delayed or burdened by the need to handle commercial credit cards.[114]

2. Discussion

80. We now tentatively conclude that if BPP is implemented, it should accommodate commercial credit cards that conform to ISO/ANSI standards on the same basis as 891 and CIID calling cards. The record indicates that consumers value commercial credit cards and that some

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[109] Mastercard/VISA Comments at 8.

[110] The International Organization for Standardization (ISO) develops international standards for information systems. The American National Standards Institute (ANSI) represents the United States in ISO forums.

[111] Ameritech Reply Comments at 7; GTE ex parte filing, July 2, 1993; Mastercard/VISA Comments at 19-20; Sprint Reply Comments at 28; VISA ex parte filing, Sept. 9, 1993.

[112] Ameritech Comments at 10-11; BellSouth Comments at 18-19; Centel Reply Comments at 7; GTE Comments at 10; Pacific Comments at 16; SW Bell Comments at 21, Reply Comments at 9-10; USTA Comments at 9.

[113] BellSouth Comments at 18-19; MCI Reply Comments at 22; Pacific Comments at 16.

[114] Missouri PSC Comments at 4.

of them would seek to use such cards for billing long-distance calls. No party has presented any compelling reason why consumers should be denied this option, nor has any party shown that it would be unreasonably burdensome for LECs to incorporate it into BPP.

F. Restrictions on Dialing Around BPP

81. Almost all commenters addressing the issue agree with our tentative conclusion that if we adopt BPP, we should amend our rules to prohibit aggregators from programming their phones to dial around BPP, e.g., by translating 0+ calls into access code or 1+ calls.[115] USTA goes further, asking us to prohibit access code dialing altogether, but other parties argue that this would unreasonably deny consumers a potentially valuable option.[116] The APCC and NATA take the opposite position. They assert that prohibiting payphones from being programmed to dial around BPP would be contrary to the Commission's policies promoting competition in CPE, enhanced services, long distance, and local exchange markets.[117] Furthermore, NATA states that even if the Commission does impose a prohibition against dialing around, such a restriction should not be incorporated into Part 68. NATA argues that Part 68 has always been limited to rules directed at ensuring the technical integrity of the network, and that the proposed restriction does not concern a technical matter.

82. We now propose that if we adopt BPP, we will amend our rules to prohibit aggregators from programming their phones to convert consumer 0+ calls into calls that bypass the BPP system. We have emphasized in this Further Notice of Proposed Rulemaking that a principal benefit of BPP -- simplified dialing requirements -- depends upon the ubiquitous availability of this service. If aggregators were permitted to bypass BPP, for example, through the use of a simple automatic dialer, this benefit would be severely curtailed, if not eliminated altogether. While we initially proposed to incorporate restrictions on bypassing BPP in Part 68, we agree with NATA that these provisions would not fit well within Part 68, which addresses issues of technical integrity of the network. We would therefore, instead, amend 47 CFR §64.704(a), which governs call blocking, to prohibit aggregators from preventing calls dialed 0+ from reaching the preferred carrier of the billed party. We also reject USTA's request that

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[115] Ameritech Comments at 9; Bell Atlantic Comments at 2; Centel Reply Comments at 3; Citizens Reply Comments at 1; Florida PSC Comments at 5 GTE Comments at 7-8; Litel Comments at 5; Midwest Regulators Comments at 10; Missouri PSC Comments at 6-7; NYNEX Comments at 21-22; Pacific Comments at 12; Rock Hill Reply Comments at 3; SNET Comments at 8; SW Bell Comments at 16; Sprint Comments at 29; Texas PUC Comments at 7; USTA Comments at 8; US West Comments at 16-17.

[116] AT&T Reply Comments at 6; LinkUSA Comments at 6-7; Sharenet Comments at 2; USTA Comments at 8?.

[117] APCC Comments at 5-9; NATA Comments at 2.

we prohibit access code dialing altogether. USTA has not presented any good reason why consumers should be denied the option of dialing around their presubscribed 0+ carrier.

G. Timing

83. If we conclude that BPP is in the public interest, we believe it should be implemented as soon as possible. Most comments indicate that BPP could be implemented one year after the necessary software is available from vendors or within three years of a Commission order mandating it. We understand, however, that manufacturers have been working on the development of BPP software over the past year and, thus, Pacific estimates that BPP could be operational within two and a half years or less of a Commission mandate.[118] We seek further comment on how soon BPP could be implemented given that we intend to issue a final decision in this proceeding at the earliest possible date.

V. CONCLUSION

84. In this Further Notice of Proposed Rulemaking, we review and analyze the data in the record and find that BPP appears to be in the public interest. We find that BPP would facilitate access to the telephone network by eliminating the need to use access codes on operator service calls. We believe that BPP would stimulate competition in operator services both by eliminating AT&T advantages in the operator services market and by redirecting operator services competition more towards consumers. We also believe that more consumer-oriented competition should result in lower prices and better services, which, coupled with easier access, should stimulate network usage. Moreover, the technology required for BPP would enrich the nation's telecommunications infrastructure, paving the way for future network innovation. Nevertheless, given the estimated cost of BPP and the age of the record on which we base our tentative conclusion that BPP would serve the public interest, we conclude that we should proceed cautiously. Therefore, before issuing a final decision on this matter, we invite comment on our tentative conclusions and the data and analysis underlying them.

VI. PROCEDURAL MATTERS

85. Ex parte. This is a non-restricted notice and comment rulemaking. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally, 47 C.F.R. Sections 1.1202, 1.1203, and 1.1206(a).

86. Initial Regulatory Flexibility Analysis: Our initial regulatory flexibility analysis was included in the Notice, 7 FCC Rcd at 3034, 57 FR 21038 (1992).

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[118] See, e.g., Ameritech Comments at 2; Bell Atlantic Comments at 2; BellSouth Comments at 17; Pacific ex parte filing, Jan. 4, 1994; Sprint Comments at 31.

87. Notice and Comment Provisions. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules; 47 C.F.R. Sections 1.415 and 1.419, interested parties may file comments on or before July 8, 1994, and reply comments on or before July 29, 1994. To file formally in this proceeding, persons must file an original and four copies of all comments and reply comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition, parties should file two copies of any such pleadings with the Policy and Program Planning Division, Common Carrier Bureau, Room 544, 1919 M Street, NW, Washington, D.C.. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, ITS, Inc. 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. For further information regarding this Further Notice of Proposed Rulemaking contact Mark S. Nadel (202) 632-1301, Common Carrier Bureau, Policy and Program Planning Division.

VII. ORDERING CLAUSES

88. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4, 201-205, 218, and 403 of the Communications Act as amended, 47 U.S.C. §§ 151, 154, 201-205, 220, and 403, a FURTHER NOTICE OF PROPOSED RULEMAKING IS HEREBY PROVIDED as explained herein.

89. IT IS FURTHER ORDERED that, pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, comments on this proposal SHALL BE FILED with the Secretary, Federal Communications Commission, Washington, D.C. 20554 on or before July 8, 1994 and reply comments SHALL BE FILED with the Secretary on or before July 29, 1994.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

APPENDIX A

List of Commenters

Advanced Payphone Systems, Inc.
Advanced Technologies Cellular Telecommunications, Inc. (Advanced Technologies)
Advanced Telecommunications Corp. and LDDS Communications (ATC/LDDS)
Airport Assoc. Council International (Airport ACI)*
Alleghany County Dept of Aviation (Alleghany)
Allnet Communication Services (Allnet)
Alltel Service Corp. (Alltel)**
Alternate Communications Technology, Inc. (ACTI)
American Association of Airport Executives
American Express (AmEx)**
American Hotel & Motel Assoc. (Hotel & Motel)*
American Public Communications Council (APCC)*
American Telemanagement
American Telephone & Telegraph (AT&T)*
Americom
Ameritech*
American Network Exchange & NYCOM Information Services (AMNEX)
Arizona Dept. of Corrections (Arizona DOC)
Bell Atlantic*
BellSouth*
California Payphone Assoc. (California Payphone)*
Capital Network System (Capital Network)*
Central Atlantic Payphone Association (Central Payphone)**
Central Telephone**
Chase Manhattan Bank**
Chillicothe Telephone (Chillicothe)**
Citizens Utilities Company (Citizens)**
Cleartel Communications, COM Systems, International Pacific, Teltrust Communications Services (Cleartel, et al)*
Columbia (So. Carolina) Metropolitan Airport
Competitive Telecommunications Assoc. (CompTel)*
ComTel Computer Corp. (ComTel)
Consolidated Communications Operator Services, Illinois
Consolidated Telephone, Consolidated Network, and Consolidated Communications Public Services
Dallas/Fort Worth International Airport Board (Dallas Airport)
Elcotel
Elkhart Telephone (Elkhart)**

Florida Public Service Commission (Florida PSC)
Gateway Technologies (Gateway)**
Georgia Depart. of Admin. Services
Greater Orlando Aviation Authority (Orlando Aviation)
GTE*
Harvard University (Harvard)
Illinois Commerce Commission, Indiana Utility Regulatory Commission, Public Utilities Commission of Ohio, and Public Service Commission of Wisconsin (Midwest Regulators)
Illinois Dept of Central Management Services (Illinois CMS)
Indiana Office of Utility Consumer Counselor & Pennsylvania Office of Consumer Advocate (Indiana & Pennsylvania Consumers)* (Indiana only for reply)
Independent Payphone Assoc. of New York (NY Payphone)
Independent Telecommunications Network
Inmate Calling Service Providers Task Force of the APCC (Inmate Calling Service)*
Intellicall*
Intera Communications Corp.
International Telecharge, Inc. (ITI)*
LinkUSA*
Litel Telecommunications Corp. dba LCI International (Litel)*
Maryland Division of Correction
Mastercard International & VISA USA (Mastercard/VISA)*
MCI Telecommunications Corp. (MCI)*
MessagePhone*
Metropolitan Fiber Systems (MFS)**
Michigan Public Service Commission (Michigan PSC)
Midwest Independent Coin Payphone Assoc. (Midwest Payphone)*
Missouri Public Service Commission (Missouri PSC)
National Assoc. of Convenience Stores (Convenience Stores)
National Telephone Cooperative Assoc. (NTCA)**
New York City Dept. of Telecommunications & Energy (NYC)
New York Depart. of Public Service (New York DPS)**
North American Telecommunications Assoc. (NATA)
New York Telephone & New England Telephone (NYNEX)*
Northwest Pay Phone Assoc. (Northwest Payphone)*
Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO)
One Call Communications dba Opticom (Opticom)*
Operator Service Company (Operator Service) & US Osiris Corp (reply only)*
Pacific Bell & Nevada Bell (Pacific)*
Pennsylvania's Governor

Pennsylvania Public Utility Commission (Pennsylvania PUC)*
Petroleum Marketers Association of America
Phonetel Technologies (PhoneTel)*
Pilgrim Telephone (Pilgrim)
Polar Communications (Polar)
Public Communications Assoc. Ltd (PCA)
RCI Long Distance
Rock Hill Telephone (Rock Hill)**
Sharenet Communications (Sharenet)
South Carolina Division of Information Resource Management
(S. Carolina DIRM)
South Carolina Jail Administrators Assoc. (S. Carolina Jailers)
South Carolina Sheriff's Assoc.
Southern New England Telephone (SNET)
The Southland Corp. (Southland)**
Southwestern Bell Telephone (SW Bell)*
Sprint*
Tennesse Dept of Finance & Admin Office
Texas General Services Commission (Texas GSC)**
Public Utilities Commission of Texas (Texas PUC)
Travis, TX**
US Intelco Network
US Long Distance*
United States Telephone Assoc. (USTA)*
US West Communications (US West)*
Utah Dept. of Corrections (Utah DOC)
Value Added Communications (VAC)
Airport Authority of Washoe County (Washoe)
Wisconsin Dept. of Corrections (Wisconsin DOC)

* filed comments and reply comments
** only filed reply comments

APPENDIX B

We derive the figure of $340 million for estimated savings on commissions from BPP as follows: TOCSIA Table 4 estimates 1991 operator service revenues from aggregator phones at $6.1 billion, approximately $1.2 billion of which was third-tier OSP revenue. To estimate 1997 0+ revenues, we make the following adjustments. We first adjust 1991 revenues to account for overall growth in operator service revenues between 1991 and 1997. We assume a 4.3% annual growth rate, see note 25, supra, and thereby derive a revenue figure of $7.9 billion in 1997, $1.5 billion of which would be third-tier OSP revenues.

We next adjust these numbers to account for our predicted shift in traffic from higher-priced OSPs to lower-priced OSPs between 1991 and 1997. As discussed earlier, we anticipate that the market share of third-tier OSPs will decline by about one third during this period as customers increasingly dial around the highest priced OSPs. Therefore, we assume that one third of anticipated third-tier OSP revenues in 1997 would be priced at the AT&T/MCI/Sprint average rate, rather than higher third-tier rates. Thus, 1/3 × $1.5 billion, or $.5 billion, would be priced at approximately a 36% discount, for a savings of $18 million. Hence, we calculate that actual 1997 operator service revenues will decline by $.18 billion to approximately $7.7 billion.

We then assume that 18.1% of these revenues are from intraLATA calls, id., and that the dial-around rate will increase to 50% by 1997, see note 25, supra, leaving $3.2 billion in interLATA 0+ revenues. We next calculate from TOCSIA Table 4 that 1991 0+ commission payments averaged about 12% ($500 million/$4.1 billion) of 0+ revenues from aggregator phones. We apply this rate to anticipated 1997 0+ interLATA revenues to arrive at $380 million in estimated commission payments.

We then make two additional adjustments. First, we assume for the purposes of this analysis that we would raise the compensation paid by OSPs to competitive payphone providers (CPPs). In our Payphone Compensation Order we noted there that $6 per month per phone was reasonable compensation for the approximately half of the interstate access calls likely to use access codes. Here we estimate that an additional $6 per month per phone would compensate for the loss of commissions on the other half of those calls. This would reduce 0+ commission savings by about $22 million per year (300,000 CPP phones × $6 × 12 months) to about $360 million.

Second, we must subtract commissions that would otherwise be paid on the $280 million in third-tier OSP revenues that we estimated would disappear due to BPP, see note 24, supra. This would reduce 0+ commission savings by an additional $17 ($280 million × 50% non-dial-around × 12% commission rate) to about $340 million.

APPENDIX C: LEC BPP COST SUMMARY

LEC	TOTAL COSTS: Non-Recurring	Recurring	OPERATOR COSTS (gross)[1] Non-recurring: AABS +Operator Facilities	Recurring: Operator Salaries
Ameritech	48.8	14.1		14.1
Bell Atlantic	125.5	8.6	26.3	6.3
BellSouth	145.6	6.8	27.2	6.5
GTE	112.4	25.4	18.5	11.3
NYNEX[2]	129.4	13.7	3.1	13.7
Pacific	144.4	26.1	41.8	21.8
SW Bell	160.9	9.0	3.9	9.0
US West	149.9	27.8	25.3	23.6
USTA[3] (for independents)	197.8	17.5	32.6	17.5
TOTAL	1215.7	149.0	178.7	123.8

Note: These figures are LEC cost estimates in millions of dollars. With only one exception (see note 2, below) we do not decide whether these costs are reasonable or fully attributable to BPP.

Sources: Ameritech *ex parte*, July 8, 1993; Bell Atlantic *ex partes*, May 28, 1993, Oct. 19, 1993; BellSouth comments at exhibit 1; GTE *ex parte*, Aug. 24, 1993; NYNEX comments at attachments A&B; *ex partes*, Aug. 4, 1993, Apr. 28, 1994; Pacific *ex parte*, July 6, 1993; SW Bell *ex parte*, Jun. 3, 1993; US West *ex parte*, Aug. 16, 1993; USTA *ex parte*, July 20, 1993.

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[1]A large portion of these costs would likely be offset by reductions in operators costs for OSPs since the operator services that would be provided by the LECs are now provided by OSPs.

[2]This excludes certain NYNEX estimated costs noted in NYNEX *ex parte* filings, Aug. 4, 1993 and Apr. 28, 1994, which appear to be facially invalid.

[3]For independents other than GTE.

Separate Statement
of
Commissioner James H. Quello

Re: Billed Party Preference 0+ InterLATA Calls,
CC Docket No. 92-77

The Commission is acting prudently by issuing a Further Notice of Proposed Rulemaking in this proceeding regarding Billed Party Preference (BPP). I agree that a further notice of proposed rulemaking is needed principally because of the state of the record. I do not believe that the record is sufficiently complete, accurate, or current for the Commission to make a finding that BPP is in the public interest.

In particular, my concerns about the state of the record cause me to question the reliability of the cost data and the potential impact on the network. Even the most conservative financial data estimate that BPP will cost over one billion dollars to implement and millions more annually to maintain. It is unclear what effect this massive expenditure would have on the on-going deployment of the "intelligent network". Because the record does not suggest other uses for the BPP software, I am concerned that other more useful network upgrades could be delayed or not developed and deployed at all if we mandate BPP.

Before we mandate BPP, we must determine the extent of the "problem" that it is supposed to fix and whether there are less costly alternatives. Several parties have suggested that the TOCSIA framework of mandated unblocking, call branding, and signage, is working to address consumer complaints. Indeed, the FCC said so in our 1992 report to Congress. Additionally, the growth of dial-around services suggests that consumers are aware of and able to reach their carrier of choice. The record, however, is generally bereft of current information on user demand for and alternatives to BPP. In light of these factors, the Commission needs new evidence to assure itself that BPP is not an idea whose time has come -- and gone.

Although this proposal for BPP has been around since 1988, the record consists heavily of ex parte statements that reflect deep division and changing alliances among the affected parties. Indeed, the original proponent of BPP, Bell Atlantic, now strongly opposes it. Because BPP would result in a costly network reconfiguration that would affect every provider and increase the cost of every interLATA call, the Commission must base its decision on the most current hard data available.

Accordingly, I do not believe that we can make a public interest finding regarding Billed Party Preference at this time and on this record. So that we may receive more useful data, I support the issuance of this Further Notice of Proposed Rulemaking.

SEPARATE STATEMENT

OF

COMMISSIONER ANDREW C. BARRETT

RE: Billed Party Preference for 0+ InterLATA Calls, Further Notice of Proposed Rulemaking (CC Docket No. 92-77)

In this Further Notice of Proposed Rulemaking, the Commission states as a tentative conclusion that review of the evidence in the record and other publicly available data indicates that billed party preference, if implemented within certain parameters, would serve the public interest. Due to the technology required for billed party preference, as well as the range of the cost data submitted over a broad period of time in this proceeding, we have determined before issuing a final decision to invite parties to comment on our analysis of the benefits and costs of billed party preference. In doing so, the Commission should mandate billed party preference if, as indicated in the current record, its benefits outweigh the costs of implementing the technology, and that these benefits cannot be achieved through alternative, less costly measures.

Based on the existing record in this proceeding, I write separately to emphasize my support for the conclusions in the Further Notice, especially to the extent that billed party preference could focus competition for operator services on consumers, thereby fostering lower rates and improved services for consumers. I believe, however that the record should be updated on the relative costs and benefits of moving forward to implement the technology. I am particularly interested in public comment to provide updated cost data that will enable the Commission to determine whether the potential benefits require the significant -- and widely varying -- estimated expenses identified in this proceeding's record. Accordingly, I also am interested in comment regarding the types of benefits to the marketplace and consumers that are likely to occur as a result of implementing billed party preference.

In addition, the Further Notice states that the Commission intends to proceed expeditiously with the review of the record. Given that this proceeding has been before us for a considerable period of time, I look forward to working with my colleagues and Commission staff to make a final determination regarding billed party preference at the earliest possible date.