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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

FCC No. 95-281

Amendment of the Commission's	)	
Rules and Policies to Increase	)	CC Docket No. 95-115
Subscribership and Usage of the	)	
Public Switched Network	)	

Notice of Proposed Rulemaking

Adopted: July 13, 1995; Released: July 20, 1995

Comments Due: September 27, 1995

Replies Due: October 27, 1995

By the Commission:

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I. INTRODUCTION

1. Measured by continued overall growth in subscribership, our universal service policies have met with significant success.[1] Each of the programs initiated to promote these policies, together with demographic, economic and political forces, has contributed to the rise in telephone subscribership. In 1940, 37 percent of American households received telephone service. By 1983, that number had increased to 91 percent. Today, almost 94 percent of households in the United States receive telephone service.[2] Yet subscribership is much lower in certain geographic areas and among certain demographic groups. Three states have less than 90 percent subscribership.[3] Certain segments of the population have non-subscribership levels many times the national average. The problem is particularly acute for some groups; only half of rural American Indian households have telephone service.[4] Telephone subscribership is apparently also lower among African Americans and Hispanics than in other parts of the population, even when

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[1] Our universal service policy is rooted in the Communications Act of 1934, a central tenet of which is "to make available, so far as possible, to all the people of the United States a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges . . . ." Section 1 of the Communications Act of 1934, as amended, 47 U.S.C. § 151.

[2] The 94 percent measure of subscribership levels is derived from data collected by the Bureau of the Census. Specifically, the questions asked are: "is there a telephone in this house/apartment?" and, if the answer is "no," "is there a telephone elsewhere on which people in this household can be called?" FCC, Com. Car. Bur., Industry Analysis Div., *Monitoring Report*, CC Docket No. 87-339, at 12 (May 1995) (*Monitoring Report*). *See also* Section III, *infra*.

[3] Mississippi (88.6 percent), New Mexico (88.3 percent) and South Carolina (89.4 percent). *See Monitoring Report*, Table 1.2 at 27.

[4] Comments of the National Exchange Carrier Association, Inc, in NTIA Docket No. 940955-4255, Universal Service and Open Access Issues, *Notice of Inquiry*, Tables 1 and 2, filed December 14, 1994.

income is held constant.[5] We encourage parties to comment on the reasons for these results.

2. Thus, although our universal service policies have been relatively successful, additional measures may now be necessary to continue to carry out our statutory mandate of making universal service available to all Americans. This Notice presents initiatives aimed at increasing connection and reconnection to, and reducing disconnection from, the public switched telecommunications network. Our review of non-subscribership data, the reasons for non-subscribership, together with the ever-broadening variety of services being offered, indicate a combination of measures may offer the best opportunity to achieve our objective of a universal opportunity to subscribe. We are particularly interested in ways wireless and cable television technologies can now be used and will be available in the future to achieve the goals of universal service. Similarly, we encourage parties to comment on the role of the Internet[6] in achieving universal service.[7]

3. Consistent with our obligation under the Communications Act to promote universal service, we have sought explanations for why those unserved remain so. Our efforts have revealed that many of the households lacking telephone service today either formerly subscribed to telephone service, but have become disconnected because of unpaid toll bills, or are so mobile that existing universal service programs have not reached them. We also recognize that some individuals simply do not want service. This Notice seeks comment on steps that could be taken to help those households in either category interested in receiving telephone service to do so. Our goal is to develop narrow, targeted solutions to meet the needs of this set of consumers.

4. For the individual, telephone connectivity provides access to emergency services, to job opportunities and, through computer connections, to a host of educational opportunities. At the same time, increasing subscribership benefits all Americans by improving the safety, health, education and economic well-being of the nation. Thus, we recognize that our universal service policies may now have greater societal consequences than in the past.

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[5] In 1994, subscribership levels were 85.7 percent for African Americans, 86.0 percent for Hispanics, and 95.1 percent for Whites. *Monitoring Report*, Table 1.4 at 37; *see also* Schement, Belinfante and Povich, *Telephone Penetration 1984-1994*, at 12 (1994).

[6] The "Internet" is a worldwide collection of thousands of interconnected computer networks.

[7] For example, technology will soon permit voice transmission over the Internet. In addition, other technologies, including cable, wireless and video, may soon offer a similar capability.

5. It has not been economically feasible to extend telephone service to some areas of the country. Typically, these areas have extremely low population density and often cover rugged terrain. In this Notice, we ask whether there are newer wireless technologies that would make extending local exchange service to unserved areas more economically feasible.

6. Our objective is to develop methods to enhance subscribership levels in a cost effective manner. We specifically seek ideas about how the market can work even better to reduce obstacles that prevent those who want phone service from being able to afford it and to help those with service to maintain it.

7. We first consider alternatives to help reconnect past subscribers disconnected when they failed to pay interstate long-distance charges and to help new and existing low-income subscribers stay connected. We propose to require carriers' deposit policies to take into account the diminished credit risk involved when new or reconnected customers agree to voluntary toll restrictions. To keep low-income subscribers from being disconnected from local service, the Notice considers requiring all local exchange carriers (LECs) to offer interstate long-distance blocking services at reasonable rates. We seek information on LECs' ability to offer related services, such as limiting interstate long-distance usage to preset monthly charges or minutes of use. Alternatively, we seek comment on prohibiting any common carrier from interrupting or disconnecting local exchange service for failure to pay interstate long-distance charges.

8. To encourage connection of or reconnection of low-income populations that are highly mobile, we seek comment on making services like prepaid long-distance cards, voice mailboxes, or high-volume, low-cost central calling facilities available.

9. Finally, the Notice addresses some more general issues related to increasing subscribership. We invite the parties to provide further commentary about the reasons for telephone non-subscription, and further steps that could be taken to increase subscribership among under-served areas or population segments. We seek consideration of different methods for defining and measuring subscribership levels. We also discuss and seek information on measures that might enhance consumers' awareness of their subscription alternatives.

II. PROPOSALS TO INCREASE SUBSCRIBERSHIP

A. Disconnection Related to Failure to Pay Interstate Long-distance Charges

10. Several recent studies demonstrate a widespread phenomenon of disconnection of certain populations from the telephone network, hampering further increases in the overall level of subscribership. A large percentage -- a majority according

to some studies -- of those households without telephone service once received it. Many of these former subscribers were disconnected, either involuntarily or voluntarily, because they did not pay their long-distance charges.[8] These studies confirm the findings of special disconnect studies, conducted by the seven Regional Bell Holding Companies and the GTE Telephone Operating Companies, Inc., at the request of the CC Docket No. 80-286 Joint Board and released in the late 1980s, that showed that inability to control long-distance usage was a major cause of disconnection of telephone service.[9]

11. The Commonwealth of Pennsylvania has been the most successful of the States in addressing this problem. Since 1985, Pennsylvania has prohibited disconnection of local service for nonpayment of long-distance charges. This program contributes to Pennsylvania's leading all other States in overall subscribership.[10] Even more telling, among those households with annual incomes less than $10,000 in Pennsylvania, subscribership was 92.3 percent in March 1993, compared to only 87.4 percent nationwide in the same period.[11] At least ten additional States currently prohibit disconnection of local service for nonpayment of interstate long-distance charges.[12] These ten States and Pennsylvania have an average subscribership level of 95.0 percent, which is approximately 1.2 percent higher than the national average. This success of these State programs

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[8] "Affordability of Telephone Service - A Survey of Customers and Non-Customers," conducted by Field Research Corporation, 1993, vol. 1, at S-7 (*California Affordability Study*). This study was funded by the GTE-California and Pacific Bell, and mandated by the California Public Utilities Commission. *See also,* Mueller and Schement, *Universal Service From the Bottom Up: A Profile of Telecommunications Access in Camden, New Jersey*, Rutgers University Project on Information Policy (1995) (*Mueller and Schement*); "The Chesapeake and Potomac Telephone Company's Submission of Telephone Penetration Studies," Formal Case No. 850, at 2, (filed Oct. 4, 1993) and attached survey reports (*C & P Telephone Penetration Study*).

[9] MTS and WATS Market Structure; Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board; Establishment of a Program to Monitor the Impact of Joint Board Decision, CC Docket Nos. 78-72, 80-286, 87-339, FCC 89J-3 (1989) *(Second Study and Report)*, at 15, para. 24.

[10] In 1984, the year before its "no disconnect" rule was implemented, Pennsylvania had a subscribership level of 94.9 percent. *Monitoring Report*, Table 1.2 at 22. In 1994, Pennsylvania subscribership level was 97 percent. *Id.* at 27. Subscribership in Pennsylvania is also promoted by a telecommunications education fund that was established with monies from settlement of a fraudulent sales practice case.

[11] Schement, Belinfante and Povich, *Telephone Penetration 1984-1994*, Table 1, at 13, 18, 1994.

[12] Colorado, Delaware, Hawaii, Idaho, Massachusetts, Montana, Nevada, New York, North Dakota, and Wyoming. *Utility Regulatory Policy in the United States and Canada, Compilation 1993-1994*, National Association of Regulatory Utility Commissioners, Table 131 at 306 (1994).

supports our conclusion that it may be possible to increase telephone subscribership by targeting regulatory initiatives closely to respond to the specific reasons why subscribers drop off the network and tend to stay off.

12. We seek comments related to initiatives aimed specifically at reducing the number of subscribers who are disconnected because of their use of interstate calling services. For example, we seek comment on requiring telephone companies to provide low-cost voluntary toll restriction services. We also ask whether there are ways to increase the effectiveness of the Link Up program, especially with respect to encouraging subscription to long-distance restricted services. We strive to give consumers the ability to select offerings that would enable them to better control their long-distance use. We also seek comment on whether we should alternatively consider prohibiting telephone companies from disconnecting customers' local services if they fail to pay interstate charges. Intrastate calling would not be subject to this prohibition. We also ask more general questions on how we might extend Lifeline services to enhance customer access to the network. We particularly seek the guidance of the various States that have had extensive experience studying these issues related to subscribership. We are particularly interested in the experience of States that have implemented measures to help increase subscribership.[13]

1. Call Control Services

13. In a recent California study of communities with relatively high non-subscribership rates, 65 percent of the non-subscribers had previously had telephone service.[14] Moreover, the study found that the leading cause of disconnection was extensive

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[13] For example, we found that in 1991, the Illinois Commerce Commission (ICC) repealed a 15-cent monthly surcharge levied on all telephone subscribers to fund the State's participation in the federal Lifeline Assistance program. It did so in response to a lawsuit challenging the surcharge as a discriminatory preference. Although the State legislature barred reinstitution of the surcharge, a year later, in 1992, the ICC established a voluntary contribution program for funding telephone assistance. In 1994, customers contributed over $1 million, which is used to fund up to $10 in installation assistance as part of the State's participation in the Link Up program. In the District of Columbia, subscribership dropped approximately three percent over a five-year period. To promote subscribership in the Districtiion, two new services are now available. District residents may order a two-tiered service, with unlimited calling within the District for a low, flat, monthly rate, and with calls to the extended local calling area charged on a per-unit basis. In addition, a special restricted local calling service is available to customers that have been disconnected or may soon be disconnected.

[14] *California Affordability Study* at S-7.

use of the long-distance network and inability to pay the resulting charges.[15] This study found that long-distance charges, including interstate charges, constituted a far larger portion of the bills of those dropping off the network than did charges for basic rates.[16] This study's authors and sponsors concluded:

> Finding ways to help people control their calling charges (call control) will do more than any other single thing to keep people on the network and thus, over time, increase penetration.[17]

Subscriber penetration rates, they found, are not likely to increase absent increased attention to improving customer retention rates.[18]

14. These findings tend to confirm earlier studies showing that most involuntarily disconnected customers were frequent users of telephone service, particularly of long-distance service, who could not afford, or otherwise failed to pay for their level of usage.[19] Another recent study suggests that the problem of call control is particularly significant in low-income households.[20] Additionally, we note that long-distance services differ from most consumer products in that one does not know how much one has spent until the end of the month when a bill arrives. Thus controlling one's usage is more difficult than for most other expenditures.

15. Based on these studies, we may find that universal service programs promoting subscribership must be more sharply focused and directed at the specific causes of disconnection. We invite comment on this possible finding, as well as information and other studies that might shed further light on the accuracy or validity of the above findings. We also invite comment on specific call control services, as set forth below.

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[15] Of the previous subscribers, 46 percent had been involuntarily disconnected and 45 percent had stopped service voluntarily (the majority of this latter group for reasons unrelated to long-distance charges). A substantial number of the voluntary disconnects, however, occurred because of the subscriber's inability to control usage. *Id.* at S-7, 38.

[16] *Affordability of Telephone Service, A Survey of Customers and Non-Customers*, conducted by Field Research Corporation, jointly funded by GTE and Pacific Bell, mandated by California Public Utilities Commission, Presentation Pamphlet, at 5 (1995).

[17] *Id.* at 6.

[18] *Id.* at 5.

[19] *Second Study and Report, supra.*

[20] *Mueller and Schement, supra* at 9-10.

Finally, we invite comment on whether we should require carriers to offer call control services if we adopt rules prohibiting disconnection of local service for nonpayment of long-distance charges.

a. Voluntary Long-Distance Blocking Services

16. Voluntary restriction of toll calling services has long been available to customers. Until recently, however, the price of such services has been too high for the average residential customer to afford. For example, before 1993, Bell Atlantic-Maryland charged residential customers $25.72 per month to block origination of long-distance calls and access to operator dialing. Under a state tariff approved in 1993, however, Maryland residential customers can purchase this service for a one-time charge of $10 per residence.[21] In Pennsylvania, voluntary toll restriction is free if a customer selects this service when initiating telephone service or if, after toll service is suspended for non-payment, a customer pays all outstanding charges and requests the service. When a Pennsylvania customer selects voluntary toll restriction, he or she can also prevent collect and calling card calls from being billed to the restricted line.[22]

17. We find the study conclusions above and the high subscribership rates in Pennsylvania persuasive evidence that voluntary toll restriction may be essential to maintaining and promoting subscribership to the telephone network. We recognize that there are costs associated with blocking, such as switching and software costs. We envision a long-distance blocking service that would block only those interstate calls for which the subscriber would be charged. This still would allow telephone subscribers ordering the blocking feature to place telephone calls that were local, collect long-distance calls, 800 calls and 911 emergency or other special service calls and to be able to receive interstate long-distance telephone calls for which they would not be charged. This would not affect intrastate services, which fall under State jurisdiction. We seek comment on the steps LECs would have to take to provide this blocking service, the specific costs LECs would incur in providing it, and the rates LECs would need to charge to recover those costs. Commenters should address any technical or cost differences that would be dependent upon whether blocking is applied to a new, rather than an existing, subscriber.

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[21] Public Service Commission of Maryland, Case. No. 8462, Order 70324, January 22, 1993. Voluntary toll restriction is available in two other jurisdictions served by Bell Atlantic, in Pennsylvania for a one-time $15 charge, and in the District of Columbia for a one-time $10 charge with a $3 monthly fee.

[22] Bell Atlantic-Pennsylvania, Inc., Tariff Pa. PUC - No. 1, Sec. 22, Seventh Revised Sheet 3A, issued Nov. 30, 1984.

18. We seek comment on whether the costs associated with interstate long-distance blocking would be sufficiently low to permit offering blocking as a service at a price reasonable even for the low-income subscriber. We will consider, based on the record developed in this proceeding, whether this option's potential for increasing retention rates is real and substantial. If so, we will consider whether we should require that all LECs subject to Title II of the Communications Act provide, at reasonable cost, interstate long-distance restriction services as described above. We are also interested in information concerning the demand for long-distance restriction services from jurisdictions in which such service is offered.

19. In addition to technical feasibility and cost issues raised above, we seek comment on our authority to require LECs to offer subscribers blocking of interstate long-distance services. We ask the commenters to address whether our requiring LECs to offer this blocking service would affect competition among competitive local service providers for local exchange customers. We also seek comment on the availability of alternatives.

b. Other Long-Distance Restriction Services

20. In addition to blocking certain long-distance calls, LECs may restrict long-distance usage as measured by minutes of use or by dollar amount. Although we do not now propose to require introduction of these services, we believe that there are likely to be numerous viable and cost-effective ways to enable telephone customers to control use of their telephones to make long-distance calls. For instance, customers may desire services that establish a pre-set monthly dollar limit on long-distance service, per-minute use limitations or voluntary time-of-day restrictions. Customers may also be interested in using debit cards or personal access codes to limit use to certain individuals with access to specific telephones.

21. We invite comment on the cost and feasibility of these alternatives. We are also interested in comments on the use of one or more forms of toll restriction in connection with assisted subscriber rates, such as under the Lifeline and Link Up programs. We are particularly interested in comments addressing any potential impact of these measures on competition for local service markets.

2. Assistance with Connection Charges and Deposits

22. Once subscribers have been disconnected, installation charges may create a significant barrier to reconnection.[23] The combination of delinquent bills and high up-front

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[23] Belinfante, *A Dynamic Analysis of Telephone Penetration*, Industry Analysis Division, FCC, at 7 (1990).

deposits keeps involuntarily disconnected low-income persons off the network.[24]

23. The Link Up program helps low-income subscribers begin telephone service by paying half of the first $60 of connection charges.[25] Where a LEC has a deferred payment plan, Link Up will also pay the interest on any balance up to $200, for up to one year.[26] To be eligible, subscribers must meet a state-established means test, and may not, unless over 60 years old, be a dependent for federal income tax purposes.[27] Link Up is available in all but two states (California and Delaware) and in the District of Columbia.[28] Roughly 840,000 households received $18.5 million in Link Up assistance in 1994.[29] Studies on the impact of Link Up assistance on subscribership rates disagree, some finding positive correlations between Link Up and subscribership levels, others finding no statistically significant effect.[30]

24. On average, customers receiving Link Up assistance in participating states have their connection charges reduced by about $25.[31] Increasing the percentage of connection costs covered by this program might be expected to raise the percentage of non-subscribers applying for such assistance because it would further reduce their costs to initiate telephone service. Increasing the benefit is not the same as increasing

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[24] *Mueller and Schement, supra.*, at 12.

[25] MTS and WATS Market Structure; Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, *Report and Order*, 2 FCC Rcd 2953, 2955, para. 17 (1987) (*1987 Report and Order*); *amended, MTS and WATS Market Structure, Link-Up America, and Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, CC Docket No. 88-341, *Decision and Order*, 4 FCC Rcd 3634 (1989)(*Decision and Order*).

[26] *Id.*

[27] *Id.* at para. 20.

[28] *Monitoring Report*,Table 2.2, at 57-58.

[29] *Id.*, Table 2.2 at 58.

[30] *Compare, e.g.*, Walter, "Assessing the Residential Rate Assistance Programs in Furthering the Goal of Universal Service," *Proceedings of the Eighth Biennial Regulatory Information Conference* (June 1992), *with* Garbacz, *Assessing the Impact of FCC Lifeline and Link Up Programs on Telephone Penetration*, Paper, Rutgers Advanced Workshop in Regulation and Public Utility Economics, Eighth Annual Western Conference, at 2 (July 1995)(advance copy).

[31] Lande, *Reference Book: Rates, Price Indexes, and Household Expenditures for Telephone Service*, Industry Analysis Division, FCC, at 5 (July 1994). Link Up assistance pays one half of the connection charges, up to a maximum of $30 in benefits. The average reduction of $25 also reflects supplemental connection assistance provided in some jurisdictions.

subscribership, however. Even if the benefit were increased to 100 percent of connection charges, this would not necessarily increase subscribership rates if the assistance were not targeted to households that otherwise would not connect or reconnect. Additionally, there would be no net increase in penetration if subscribers, after being connected, were disconnected for failing to pay long-distance charges. Accordingly, we seek comment on ways to increase the program's effectiveness, perhaps by providing greater assistance to subscribers taking long-distance blocking options. We also seek comment on ways in which market forces may work with our current Link Up program to assure that those who receive assistance are able to remain on the network.

25. LECs generally require deposits before connecting subscribers. For many low-income subscribers, these deposits present a formidable obstacle to initiating service. The required deposit may be particularly high if the subscriber was previously disconnected for nonpayment of long-distance charges. In Section II.A.1 of this Notice, we discuss ways to enable subscribers to control usage. We believe that the measures we consider here would provide carriers with alternative forms of security that would diminish the need for deposits, even for customers who were previously disconnected.

26. Therefore, we propose to require carriers to adjust deposit requirements for low-income subscribers that agree to accept voluntary toll restriction service.[32] The amount of deposit could be graduated to correlate with the monthly dollar amount of long-distance service authorized by the terms and conditions of the account. We also seek comment on whether this flexibility should be discontinued once subscribers decide to remove the long-distance blocking. We also seek comment on what changes or additional efforts might attract additional eligible persons to take advantage of the Link Up program. We note that any proposal to extend Link Up assistance to include deposit requirements will require the participation of a Federal/State Joint Board pursuant to Section 410(c) of the Communications Act.[33]

3. Disconnection Restrictions

27. Studies show that disconnection from the public switched network is the primary reason households do not subscribe to telephone service; and the most common reason for disconnection is inability or failure to pay for long-distance usage.[34] In most jurisdictions, nonpayment of toll charges leads to total disconnection of telephone service. This is true whether the unpaid charges are interstate charges of an unaffiliated long-

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[32] *See* Section II.A.1.b., *infra*.

[33] 47 U.S.C. § 410(c).

[34] *See* Section II.A., *supra*.

distance carrier, or the local or intrastate charges of the billing LEC. The interstate long-distance market and the local exchange markets have been legally separated for over a decade, and interstate billing and collection activities have been deregulated since 1986.[35] Nevertheless, in many jurisdictions, telephone billing systems do not segregate these services; thus, a customer cannot pay local and State rates, but not the charges for interstate calls.

28. In 1986, when we deregulated interstate billing and collection, we decided to defer to state regulatory authorities with respect to the practice of disconnecting local service for non-payment of interstate charges. We did so primarily for practical considerations. We observed that "we do not intend, by this action [of deferring to the states] to give tacit approval to this activity [cutting off local service], [but] we are inclined to agree with commenters that the practicalities weigh in favor of state resolution."[36] We recognized that, at that time, states were in a better position to analyze issues such as access to emergency services and the technical ability of individual LECs selectively to limit access to the interexchange carriers' facilities, and to develop procedures to protect ratepayers from arbitrary disconnection. We also recognized limits on the ability of the then-current generation of switches to distinguish between interLATA and intraLATA[37] traffic and among carriers, and selectively to deny access.[38]

29. Nearly a decade later, switching technology has advanced to a point where there may be, for all practical purposes, no technical barrier to selective blocking of long distance calls, or the provision of local, but not interstate long-distance services. This new technological capability has accompanied increased service options, greater competition in all markets, as well as greater consumer sophistication in the purchase and use of telecommunications services. It is now feasible to offer telephone service as a menu of unbundled elements. More importantly, there appears to be no legal or practical requirement to disconnect local service if interstate long-distance service is voluntarily or involuntarily disconnected, and there are sound public policy reasons for preventing disconnection of local service. As a result, we believe it reasonable to unbundle access

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[35] Detariffing of Billing and Collection Services, CC Docket No. 85-88, *Report and Order*, 102 FCC 2d 1150 (1986)(*Detariffing Order*), *recon. denied*, 1 FCC Rcd 445 (1986).

[36] *Detariffing Order*, 102 FCC 2d at 1176.

[37] "LATA" refers to local access transport area. *See United States v. AT&T*, 569 F. Supp. 990, 993-94 (D.D.C. 1983).

[38] *Detariffing Order*, 102 FCC 2d at 1165-66.

to these services to allow local service to be purchased even when long-distance service is not.[39]

30. There also is empirical evidence that prohibiting disconnection of local service for nonpayment of toll charges increases telephone subscribership. The Commonwealth of Pennsylvania,[40] one of the first jurisdictions to take such action, has the highest subscribership rate among the 50 States and the District of Columbia, up from eighth a decade ago. This statistic, along with the strong survey evidence that the single most significant cause of nonsubscribership is disconnection of subscribers because of inability to control toll call usage,[41] leads us to consider prohibiting local exchange carriers from disconnecting subscribers for failure to pay outstanding interstate long-distance charges because we expect that such action may increase subscribership nationwide.

31. Accordingly, we seek comment on prohibiting any common carrier from interrupting or disconnecting a telephone subscriber's primary local exchange service for failure to pay interstate long-distance charges. We note that in so doing, we would not prohibit carriers from interrupting interstate long-distance service for nonpayment of interstate long-distance charges. Prohibiting disconnection of other services for nonpayment of interstate long-distance charges, as described herein, would fall well within our authority over "interstate communication . . . by wire or radio. . ." and services "incidental" to the transmission of information by such means, for the purpose of making telephone service available to all of the people.[42]

32. Basic telephone service, including a dialtone capability, has both interstate and intrastate components. Indeed, the two are inseparable.[43] Disconnection of local telephone service and dialtone by a LEC prevents both the initiation of interstate calls and the receipt of

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[39] Action by eleven States to bar disconnection of local service for nonpayment of interstate long-distance charges provides additional evidence of the feasibility of our proposal. *See* note 11, *supra*, and accompanying text.

[40] Under Chapter 64 of the Pennsylvania Public Utilities Code, charges for basic local exchange service, non-basic services (such as call-waiting), and inter-exchange service must be billed separately. A customer's failure to pay charges for either non-basic service or inter-exchange service may not be a basis for temporary suspension or termination of local exchange service. As long as a customer keeps current on charges for basic local exchange service, that service may not be cut-off. 52 Pa. Code §§ 64.1 *et seq.*

[41] *See* Section II.A., *supra*.

[42] 47 U.S.C. §§ 151, 152(a), 153(a).

[43] *See Louisiana Public Service Commission v. FCC*, 476 U.S. 355 (1986); *Maryland PSC v. FCC*, 909 F.2d 1510, 1516 (D.C. Cir. 1990).

interstate calls. In *Public Service Commission of Maryland,*[44] we concluded that we have statutory authority to regulate disconnection of local service for non-payment of interstate charges. We did so based on the finding that interstate telephone service cannot take place without a telephone line being connected to the network.[45] We continue to believe that our broad jurisdiction over all "interstate communication . . . by wire or radio . . . "[46] which includes "all instrumentalities, facilities, apparatus and services . . . incidental to such transmission,"[47] covers the terms and conditions on which interstate service is disconnected. In addition, LEC disconnection of service directly implicates our ability to carry out the universal service objective of making telephone service available to all the people of the United States.[48]

33. We request comment on this proposed disconnection policy. We ask that commenters address our authority to bar local disconnection, any technical issues that may be related to selective disconnection and other issues that may arise concerning the procedures and the costs and other impacts of implementation. We also invite comment on the experience in the States that currently have a selective disconnect policy.

4. Lifeline Assistance

34. States may choose to participate in either of two Lifeline Assistance plans. Plan 1 provides for a reduction in a subscriber's monthly telephone bill equal to the $3.50 federal subscriber line charge ("SLC").[49] Half of the reduction comes from a 50 percent waiver of the charge; the other half comes from the participating state, which matches the federal contribution by an equal reduction in the local rate. Under this plan, subscribers who satisfy a state-determined means test may receive assistance for a single telephone line in their principal residence. Of the 38 states and territories participating in Lifeline, only California still offers a Lifeline program under Plan 1.[50]

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[44] *Public Service Commission of Maryland,* Memorandum Opinion and Order, 4 FCC Rcd 4000 (1989).

[45] *Id.* at 4006.

[46] 47 U.S.C. §152(a).

[47] 47 U.S.C. § 153(a).

[48] 47 U.S.C. § 151.

[49] MTS and WATS Market Structure; Amendment of Parts 67 and 69 of the Commission's Rules and Establishment of a Joint Board, *Decision and Order*, 50 Fed. Reg. 939, para. 6 (1985) (*Lifeline Order*).

[50] *Monitoring Report* at 49.

35. Under Plan 2, which expands Plan 1 to provide for waiver of the *entire* SLC (up to the amount matched by the state), a subscriber's bill may be reduced by *twice* the SLC (or more, if the state more than matches the value of the federal waiver).[51] The state contribution may come from any intrastate source, including state assistance for basic local telephone service, connection charges, or customer deposit requirements. Companies in 37 states or territories reported subscribers receiving Plan 2 Lifeline assistance as of April 1995.[52] In 1994, about 4.4 million households received $123 million in federal Lifeline assistance through full or partial waiver of the SLC.[53] Under both plans, the interstate portion of Lifeline Assistance is billed to interexchange carriers by the National Exchange Carrier Association, Inc. (NECA).

36. We seek comment on ways we might modify the Lifeline program to bring more subscribers to the network. For example, some states use non-means tests, covering factors such as age and disability. We also seek comment on whether the Lifeline program should be extended to certain multi-line entities such as schools and libraries.

B. Services Targeted for Low-Income Populations that are Highly Mobile

37. Impermanent living situations, e.g., short-term renting as opposed to home ownership, also correlate with non-subscribership. A variety of studies confirm the common sense notion that a person in transit is less likely to have a telephone than a long-term resident.[54] One recent study comparing telephone subscribers with non-subscribers showed that despite similarities in education, income, age and marital status, non-subscribers are twice as likely to have lived at their current address for less than one year.[55] Thus, these studies suggest that a critical characteristic determining whether many persons receive phone service is mobility. Highly mobile persons, however, may often have as much, if not greater, need for telephone service to reach emergency services quickly or to pursue employment opportunities.

38. Low-cost services targeted to meet the needs of those with low incomes or non-permanent living arrangements, such as prepaid long-distance cards (debit cards), voice

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[51] MTS and WATS Market Structure; Amendment of Part 69 of the Commission's Rules and Establishment of a Joint Board, *Decision and Order*, 51 Fed. Reg. 1371, paras. 4-6 (Dec. 1986) (*Second Lifeline Decision*).

[52] *Monitoring Report*, Table 2.3, at 59-60.

[53] *Id.*

[54] *See, e.g., California Affordability Study, supra; Second Study and Report, supra.*

[55] *California Affordability Study, supra.* at S-2.

mailboxes,[56] personal identification numbers (PINs),[57] or high-volume, low-cost central calling facilities,[58] could help keep these populations connected to the public switched telephone network when typical basic service connections are impracticable or unaffordable. For those moving frequently, current policies discounting installation charges may be inadequate to ensure reconnection to the network. For example, in California, LECs offer installation to eligible customers for a reduced charge of $10; but eligible customers may receive this discounted service only once during a year. We seek comment on how the marketplace can operate to make these service available to highly-mobile low-income users. We also seek comment on whether Link Up assistance should be extended to some or all of these services to individuals that are not already telephone subscribers.

39. We also invite the commenters to suggest other ways of addressing the telephone service needs of low-income, mobile Americans and of increasing their level of connection to the telephone network. We request that any such proposals identify the populations intended to be served, whether and where the service is currently available, its costs, and how we might inform potential recipients of its availability. We invite the commenters to address why subsidization would facilitate increased linkage to the network. We also request proposals for developing new methods to track and measure the success of innovative service offerings. Current methods of measuring subscriber penetration do not take such services into account.

C. Extending Telephone Service to Unserved Areas

40. We have also monitored the "availability" of telephone service since the early 1980s. "Availability" measures or determines whether a telephone company can physically provide telephone service. Generally, availability is applied to households. An example of lack of availability is unserved geographic areas. For example, those living in remote locations, geographically rugged terrain or areas of low population density may not receive telephone service because of the high cost of constructing wire facilities to customer premises. In some cases, populations are so small that it may not be economically feasible to provide switched service to them.

41. In one proceeding, we found that approximately 900,000 households do not have standard telephone service because the cost of bringing wire or cable to their remote locations

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[56] Voice mailboxes may be an effective tool to enable highly mobile individuals to take advantage of employment opportunities. For example, during a job search a voice mailbox could provide the subscriber with many of the benefits of telephone service, *i.e.*, a phone number and the ability to receive messages.

[57] PINs allow users to access certain services or private accounts on an individual basis.

[58] "Haven for Ship Workers Offers Comforts of Home," *Miami Herald, Broward Edition*, Feb. 20, 1995; "Sailors' Support of Call," *Sun Sentinel (Fort Lauderdale, Fla.)*, Feb. 17, 1995.

is prohibitive.[59] To some extent, wireless technology may offer a less costly means of extending service to these areas. In this spirit, the Commission created Basic Exchange Telecommunications Radio Service (BETRS) in 1988 so that LECs could offer service by way of wireless technology, thus supplementing the existing rural radio service.[60] Commenters should address whether BETRS has provided assistance to companies in extending service areas. We ask commenters to describe any newer wireless technologies that may also serve as reasonable surrogates for traditional wire loops. In particular, we are interested in the extent to which fixed cellular service is being used for this purpose.

III. SUBSCRIBERSHIP BARRIERS AND MEASUREMENTS

42. The most widely used measure of telephone subscribership is the percentage of households with telephone service -- sometimes called a measure of telephone "penetration." Prior to the 1980s, precise measurements of telephone subscribership received little attention. Traditionally, we measured telephone penetration by dividing the number of residential telephone lines by the number of households. With some households adding second telephone lines and with an increasing number of second homes, this approach became subject to a large margin of error. By 1980, the traditional penetration measure (residential lines divided by the number of households) reached 96 percent while the number of households reporting that they had telephones in the 1980 census was 92.9 percent.[61]

43. Since 1983, the Commission has analyzed telephone penetration statistics. The Commission issues quarterly reports of comprehensive data on telephone penetration statistics collected by the Bureau of the Census under contract with the Commission. These data permit us to examine the aggregate effects of Commission actions on households' decisions to maintain, acquire or drop telephone service. According to penetration measurements since November of 1983, household telephone subscribership in the United States has increased from approximately 91.4 percent to almost 94 percent.

44. We begin with the assumption that a 100 percent penetration level is not possible. There are individuals who make an informed choice not to be connected to the network, at least in a manner detectable by the methods we now use to track subscribership levels. For example, some may determine that all of their telecommunications needs may be met from their places of employment. We seek comment on these perceived "barriers" (or limitations) to increasing subscribership levels. We also ask commenters to address other barriers to increasing subscribership levels.

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[59] *See* Basic Exchange Telecommunications Radio Service, CC Docket No. 86-495, *Report and Order*, 3 FCC Rcd 214 (1988).

[60] *Id.*

[61] *Monitoring Report*, at 12.

45. We invite comment on how to better measure subscribership. We seek comment on whether there are other factors we should consider, such as whether individuals use cellular or wireless paging services in lieu of basic telephone service. We ask the commenters to specify alternative methods for measuring subscribership. While we presently rely on data gathered by the Bureau of the Census, we invite commenters to describe any other readily available data we might use to track a broader measure of subscribership.

IV. CONSUMER AWARENESS ISSUES

46. It appears that many non-subscribers may be unaware of the availability of assistance or may have misconceptions about the costs of obtaining telephone service.[62] Studies indicate that lack of knowledge or misconceptions may contribute to non-subscription even where the availability of services is not an issue.[63] We believe that, to assist users in managing their telephone usage and expenses, there could be a greater effort toward educating consumers. Such educational programs may make non-subscribers aware of options (such as flat rate basic service with call blocking capabilities) and how these options can be used most effectively.

47. We seek comment on whether this type of education should be the responsibility of the local telephone companies either working alone or in conjunction with state or local governments. We note that the local telephone company is a primary beneficiary of expanded subscribership. Increased subscribership gives local telephone company new sources of revenue. In addition, the value of the local network to subscribers is increased as subscribership grows, and thus, is more valuable to the carrier. Moreover, because of its presence in the community, the local telephone company may be better positioned to respond to the specific educational needs of its subscribers and potential subscribers. For example, local telephone service representatives may be able to participate in community programs that make potential telephone subscribers aware of the options available to make telephone service more affordable. Some of these consumer educational initiatives fall within the scope of the local telephone companies' normal marketing activities. These programs might also be coordinated with long distance providers to help reduce rates to subscribers. The coordinated efforts might in turn lead to an increase in subscribership as the consumers benefit from lower overall local and long distance rates.

48. State and local government may also want to participate in this educational process. These governments understand the needs of their local communities. State and local governments are more effective if they can easily communicate with their constituency and if their constituents can easily reach them.

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[62] *Id.* at S-14, S-16, 70 and 93.

[63] *Id.* at S-16, S-17, 106 and 117.

49. State and local governments could also establish joint programs with telecommunications firms to give service providers incentives to reconnect subscribers. In turn, the telecommunications providers might develop marketing programs to make the potential subscribers aware of special reconnection programs and programs geared to make local service as affordable as possible to those with low income. The coordinated efforts might in turn lead to an increase in subscribership.

50. Education could play an important role in assisting subscribers to both control their long-distance usage and to take full advantage of available discount plans and promotional offerings. We seek comment on what steps can be taken by the various players to effectively assist users in obtaining this information.

51. We seek comment regarding educational and marketing efforts needed to achieve the goal of expanded telephone subscribership. Parties that support some funding or involvement other than that already discussed above for educational or marketing efforts should provide full details of their proposals. We also ask commenters what specifically the Commission might do to facilitate this educational process.

52. Streamlined certification procedures to determine eligibility for assistance may encourage eligible persons to avail themselves of existing programs. The California Public Utilities Commission has approved such a procedure. The California program appears to be very successful in attracting eligible households to the Lifeline program.[64] We seek comment on "streamlined" certification programs and whether and how they may be applied to programs directed at low-income persons not connected to the network. We also invite commenters to suggest other methods that may reduce this barrier to obtaining telephone services.

V. LEGAL AUTHORITY

53. As discussed, we are considering whether we should take additional steps to increase the level of telephone subscribership in the United States. We seek comment on our authority to implement the particular proposals contained herein.

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[64] A recent study commissioned by the California PUC estimated that only 20 percent of eligible households are not currently receiving Lifeline service. The same study found that 9.2 percent of those receiving assistance failed to meet one or more of the eligibility criteria. SRI International, *A Study to Assess Customer Eligibility and Recommend Outreach Activities for the Universal Lifeline Telephone Service, Final Report*, Executive Summary at ES-1, ES-2 (November 1993).

VI. PROCEDURAL MATTERS

A. Ex Parte

54. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

B. Regulatory Flexibility

55. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because, if the proposals in this proceeding are adopted, there will not be a significant impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. These proposals concern methods that can be implemented by LECs and interexchange carriers to increase telephone subscribership. These entities are generally large corporations or affiliates of large corporations, are dominant in their fields of operation, and are not "small entities" as defined by the Act. The Secretary shall send a copy of this Notice of Proposed Rulemaking, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 605(b) of the Act.

C. Comment Dates

56. We invite comment on the proposals and tentative conclusions set forth above. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules,[65] interested parties may file comments on or before September 27, 1995, and reply comments on or before October 27, 1995. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting 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 Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. A courtesy copy should also be sent to Ernestine Creech, Accounting and Audits Division, 2000 L Street, N.W., Washington, D.C. 20554. Parties should also provide one copy of any documents filed in this proceeding to the Commission's copy contractor, International Transcription Service (ITS), 2100 M Street, N.W., Suite 140, Washington, D.C., 20037. Comments and reply comments will be available for inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

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[65] 47 C.F.R. §§ 1.415 and 1.419.

VII. ORDERING CLAUSE

57. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 2, 4(i), 201-205, 218-220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 201-205, 218-220, and 403, NOTICE IS HEREBY GIVEN of the proposals in this Notice of Proposed Rulemaking.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

APPENDIX -- BIBLIOGRAPHY

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