

customers need protection from the ability of carriers to revise unilaterally contract-based service arrangements.²¹¹ AT&T made certain transitional voluntary commitments, for a period of twelve months, in order to alleviate those concerns on an interim basis.²¹² Commenters proposed, among other things, that the Commission require carriers to: give customers advance notice of any tariff filing that materially alters negotiated agreements; obtain the consent of all affected customers before making such a filing; treat the lack of consent to a proposed tariff change as prima facie evidence of its unlawfulness; allow any non-consenting customer either to terminate its service arrangement without liability or to enforce the unchanged term; and provide a reasonable period of rate stability to permit service migration if the customer chooses to terminate its service agreement.²¹³ We seek comment on the above proposals. In addition, we tentatively conclude that AT&T should remain subject to its voluntary commitments concerning unilateral changes to contract tariffs, regardless of what action we take in this proceeding with respect to the foregoing proposals.²¹⁴ We seek comment on this tentative conclusion.

99. Parties in the AT&T Reclassification proceeding also argued that the ability of non-dominant carriers to file unilateral tariff modifications on one day's notice effectively precludes customers from challenging such revisions before they become effective.²¹⁵ We seek comment on whether we should require a longer notice period for tariff filings that materially revise long-term service or contract tariffs, and if so, what notice period should be established. We also seek comment on whether a carrier should be required to identify clearly tariff filings that unilaterally alter existing long-term service or contract tariffs.

100. Resellers have also complained that ordering procedures are used to prevent them from subscribing to contract tariffs. Accordingly, we seek comment on whether specific ordering procedures should be allowed to be incorporated in contract tariffs (i.e.,

²¹¹ AT&T Reclassification Order, at ¶¶ 116-28.

²¹² AT&T agreed to continue its practice of grandfathering existing and subscribed customers when it introduces changes to a term plan. In exceptional cases where grandfathering is not appropriate, AT&T committed, for a period of one year, to file tariff revisions to term plans on one day's notice if affected customers consent to the change, six days' notice if affected customers do not consent to the change following five days' meaningful advance notice of the tariff filing, and fourteen days notice for changes involving discontinuance with or without liability, deposits and advance payments, or transfer or assignment of service. Id. at ¶ 134, and Appendix C at ¶ 6.

²¹³ Id. at ¶¶ 116-28.

²¹⁴ As noted, AT&T made these commitments for a period of twelve months. Id. at ¶ 134, and Appendix C at ¶ 6.

²¹⁵ Id. at 119.

when is an order placed, what documents must a customer file, when must a customer identify locations that it will include in the plan). Resellers also complain that carriers use narrowly circumscribed customer descriptions in order to prevent resellers from taking service under contract-based tariffs. We seek comment on what is an appropriate level of specificity for customer descriptions that are used by carriers to determine eligibility under a contract tariff. We also seek comment on whether there are certain terms that should be prohibited as unreasonable (e.g., extremely large upfront deposits from the customer).

101. Finally, in the AT&T Reclassification proceeding, we indicated that we would in the future "initiate a new proceeding to identify specific areas of the interstate, domestic, interexchange market that may raise policy concerns, and if there are any, to seek comment on possible remedies."²¹⁶ Further, we noted that we would monitor closely the areas in which AT&T had made voluntary commitments²¹⁷ in order to protect consumers.²¹⁸ Should parties wish to raise issues in this proceeding with regard to these issues, we encourage parties to comment.

X. PROCEDURAL ISSUES

A. Ex Parte Presentations

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

B. Initial Regulatory Flexibility Analysis

103. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. §§ 601-612, the Commission's Initial Regulatory Flexibility Analysis with respect to the Notice of Proposed Rulemaking is as follows:

104. Reason for Action: The Commission is issuing this Notice of Proposed Rulemaking to review our regulatory regime for interstate, domestic, interexchange telecommunications services, and to implement certain provisions of the 1996 Act.

105. Objectives: The objective of the Notice of Proposed Rulemaking is to provide an opportunity for public comment and to provide a record for a Commission decision on the issues stated above.

²¹⁶ AT&T Reclassification Order, at ¶ 168.

²¹⁷ See id., Appendix C.

²¹⁸ Id. at ¶ 168.

106. Legal basis: The Notice of Proposed Rulemaking is adopted pursuant to Sections 1, 2, 4, 201-205, 215, 218 and 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 201-205, 215, 218 and 220.

107. Description, potential impact, and number of small entities affected: Any rule changes that might occur as a result of this proceeding could impact entities which are small business entities, as defined in Section 601(3) of the Regulatory Flexibility Act. After evaluating the comments in this proceeding, the Commission will further examine the impact of any rule changes on small entities and set forth findings in the Final Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Proposed Rulemaking to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. § 601, et seq. (1981).

108. Reporting, recordkeeping and other compliance requirement: The proposed rules would require non-dominant interexchange carriers to retain business records containing price and service information regarding their interstate, domestic, interexchange offerings. The proposed rules also would require providers of interexchange services to certify their compliance with their statutory geographic rate averaging obligations, and providers of interstate, interexchange services to certify their compliance with their statutory rate integration obligations.

109. Federal rules which overlap, duplicate or conflict with the Commission's proposal: None.

110. Any significant alternatives minimizing impact on small entities and consistent with stated objectives: The Notice of Proposed Rulemaking solicits comments on alternatives.

111. Comments are solicited: Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues (other than those in Sections IV, V, and VI) in this Notice of Proposed Rulemaking but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. § 601, et seq.

C. Initial Paperwork Reduction Act of 1995 Analysis

112. This Notice contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act

of 1995, Pub. L. No. 104-13. Public and agency comments are due April 19, 1996; OMB comments are due 60 days from date of publication of this Notice in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

D. Comment Filing Procedures

113. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on Sections IV, V, and VI, on or before April 19, 1996, and reply comments on Sections IV, V, and VI on or before May 3, 1996. Interested parties may file comments on all other sections of this Notice on or before April 25, 1996, and reply comments on or before May 24, 1996.

114. To file formally in this proceeding, parties must file an original and six copies of all comments, reply comments, and supporting comments. Parties wanting each Commissioner to receive a personal copy of their comments, must file an original and eleven copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, 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, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

115. In order to facilitate review of comments and reply comments, both by parties and by Commission staff, we require that comments submitted on Sections IV, V, and VI, be no longer than 45 pages and reply comments on those sections be no longer than 25 pages. We require that comments on the remaining sections of this Notice be no longer than 45 pages and reply comments on the remaining sections be no longer than 25 pages.

116. Comments and reply comments on all sections of this Notice must include a short and concise summary of the substantive arguments raised in the pleading.²¹⁹

²¹⁹ Comments and reply comments must also comply with Section 1.49 and all other applicable sections of the Commissions Rules. See 47 C.F.R. § 1.49. However, we require here that a summary be included with all comments and reply comments,

117. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

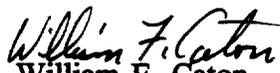
118. Written comments by the public on the proposed and/or modified information collections are due April 19, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

E. Ordering Clauses

119. Accordingly, IT IS ORDERED that pursuant to Sections 1, 4, 10, 201-205, 214(e), 215, 218, 220 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201-205, 214(e), 215, 218 and 220 a NOTICE OF PROPOSED RULEMAKING is hereby ADOPTED.

120. IT IS FURTHER ORDERED that, the Secretary shall send a copy of this NOTICE OF PROPOSED RULEMAKING, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.* (1981).

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

regardless of length. The summary may be paginated separately from the rest of the pleading (e.g., as "i, ii"). See 47 C.F.R. § 1.49.

**SEPARATE STATEMENT
OF
COMMISSIONER JAMES H. QUELLO**

**RE: Policy and Rules Concerning the Interstate
Interexchange Marketplace**

I generally support this item, which begins a review of the regulation of the interstate interexchange marketplace.

We have several reasons for instituting this proceeding. Our recent reclassification of AT&T as nondominant, a change brought about by the continued development of competition in the domestic interstate long distance market, was the original reason we determined to begin this rulemaking. The subsequent enactment of the Telecommunications Act of 1996, however, has provided an additional pro-competitive, deregulatory impetus to this rulemaking effort.

For the most part, I believe the Notice reflects the intent of the 1996 Telecom Act, and it is for this reason I support it. In one apparently minor respect, it does not. It is this concern that impels my brief statement today.

At the conclusion of this generally excellent NPRM, the Commission "encourages" interested parties to raise issues in this proceeding on the voluntary commitments AT&T has made to protect the interests of low-income and low-volume consumers over a three-year period.

With all due respects to my colleagues, I see in this call for comment a Commission that appears to ignore what is right under its administrative nose in terms of any problems as well as their potential solutions. This concern impels my separate statement today.

Let me be brief. The "voluntary commitments" referred to in the call for comment serve two identified interests: those of low-income consumers, and those of low-volume consumers.

With regard to low-income consumers, in the short term AT&T has voluntarily agreed to a three-year plan that should protect the interests of these consumers until the Commission gets its regulatory ducks in a row and determines how, in the long term, the legitimate concerns of low-volume users should be recognized and subsidized. With respect to this long-term solution, the Commission has already asked how the needs of low-income consumers can best be defined and served in our outstanding proceeding on implementing the universal service provisions of the 1996 Act. I supported issuance of this NPRM without reservation, because I believed then, as I do now, that the universal service rulemaking proceeding is the appropriate venue for addressing these concerns. Thus, to the extent the Notice in this docket asks commenters to reiteratively address these same concerns in this proceeding, I question its utility.

Now, with regard to a different issue: the low-volume consumers who are also the beneficiaries of AT&T's voluntary three-year plan. This problem is, in a sense, more complex, because I am not aware of any data that ties the fact that some individuals make fewer long distance calls with the price of these calls. Thus, to the extent that low-volume use does not correlate with low income, the fact that there is, indeed, a "problem," much less a "problem" that demands our attention in the context of this proceeding, seems relatively debatable.

Moreover, even were I to assume *arguendo* that this Commission ought now to inquire about the causes, and potential cures, of low-volume use, I could not say that we are bereft of any record guidance on this score. The comment already received in response to last year's Notice on universal service certainly suggests that, to the extent that less price competition for low-volume users currently exists, it results from the fact that our rules currently allocate certain subsidy payments to interexchange carriers based on their number of presubscribed lines rather than on the basis of their revenues. In my judgment, the record already compiled in this pending proceeding would enable decisionmakers to reasonably determine whether or not the current allocation scheme unduly burdens AT&T on the one hand while at the same time allowing competing carriers to "game" the process of competing for low-volume callers. Solving this relatively straightforward problem in the short run, while at the same time implementing the 1996 Telecom Act to increase competition in the long run, should solve any perceived "problem" with lack of price competition for low-volume users.

Simply put, we have before us a record that gives both a plausible explanation for, as well as a solution for, any "problem" that is perceived to exist with regard to whether low-volume long distance users would benefit from more competition in the offering of discount rates, and why, if they would, that competition does not exist today. We have before us not only a credible description of why the phenomenon exists, but, more importantly, how we can, if we wish, bring about increased price competition for this segment of the market. For this reason, I fail to see what the Commission intends to achieve in any practical sense in calling for more comment on this issue in the context of this docket.

Is this a major point? In the normal scheme of things, perhaps not. But I raise it here because I believe that the workload we have been given under the 1996 Act, coupled with what should be our natural instinct to avoid unnecessary work and/or the imposition of unnecessary burdens on the industries we regulate, combine to suggest that it is inconsistent with the deregulatory tenor of the 1996 Act to ask questions in this proceeding that are, at best, reiterative.

This having been said, I would state for the record that I too am willing to "monitor closely the areas in which AT&T has made voluntary commitments in order to protect consumers," as the Commission says is the reason for its decision to call for further comment on these issues in this proceeding. But, under the circumstances, I believe that the sacrifice of more trees in the interests of added comment in this proceeding is not the best way of doing this monitoring. For this reason, and because I would be concerned if the Commission's

approach to these issues in this Notice were a harbinger of its approach to larger issues in future Telecom Act implementation proceedings, I feel compelled to raise these concerns here.

SEPARATE STATEMENT
OF
COMMISSIONER ANDREW C. BARRETT

RE: *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace and Implementation of Section 254(g) of the Communications Act of 1934, as amended*

By this Notice of Proposed Rulemaking ("Notice"), the Commission takes another significant step towards implementing the provisions of the Telecommunications Act of 1996 ("1996 Act").¹ The 1996 Act provides a "pro-competitive, de-regulatory national policy framework"² for telecommunications and provides the Commission with the tools to achieve the goals of deregulation and competition in telecommunications. For example, new Section 10(a) of the Communications Act of 1934, as amended, requires the Commission to forbear from applying any provision of the Communications Act or our regulations to a telecommunications carrier or telecommunications service, or class thereof, if we make certain specified findings with respect to such provisions or regulations.³ Pursuant to this grant of authority, we propose in this Notice to adopt a mandatory detariffing policy for domestic services of non-dominant, interexchange carriers. We also propose rules to implement new Section 254(g), which generally requires geographic rate averaging and rate integration.

In addition, in light of the passage of the 1996 Act, important changes in the interexchange market, and the reclassification of AT&T as a non-dominant carrier,⁴ we propose to review the regulatory regime for interstate, domestic, interexchange telecommunications services. In this regard, we consider whether to reduce or eliminate the separation requirements for non-dominant treatment of local exchange carriers in their provision of certain interstate, interexchange services. We also propose to eliminate the prohibition against bundling customer premises equipment with the provision of interstate, interexchange services by non-dominant interexchange carriers. Finally, we consider whether we should more narrowly focus our definitions of relevant product and geographic markets for interexchange services to reflect current and future market conditions.

While I generally agree that changed circumstances in the domestic, interstate, interexchange telecommunications market warrant examination of our oversight of this market, I question the timeliness of the proposed consideration of certain pricing issues

1 Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

2 S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 1 (1996).

3 47 U.S.C. § 160(a).

4 Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, FCC 95-427 (rel. Oct. 23, 1995).

raised in the Notice.⁵ Specifically, the Notice raises the issue of tacit pricing coordination in the domestic, interstate, interexchange market, which surfaced in our consideration of AT&T's motion to be reclassified as a non-dominant interexchange carrier. In our consideration of that issue, we noted that, while the allegation of tacit pricing coordination did not preclude a determination that AT&T did not possess market power in the domestic, interstate, interexchange market, the evidence in the record concerning tacit pricing coordination was inconclusive and conflicting.⁶ We stated that, to the extent this problem actually exists, it would be better addressed by removing regulatory requirements that facilitated such conduct.⁷ The reclassification of AT&T as a non-dominant carrier removed one such regulatory requirement – the longer advance notice period applicable only to AT&T tariff filings. In addition, the 1996 Act removes other regulatory barriers by permitting competitive entry in the interstate, interexchange market by the facilities-based Bell Operating Companies.

While we indicated in the AT&T reclassification proceeding that allegations of coordinated pricing in the interexchange market would apply generically to that industry and, therefore, would be more appropriately addressed in a proceeding that would consider "global" market issues,⁸ I contend that it is premature for the Commission to now raise this unsubstantiated problem and the alleged effects it may cause for several reasons. First, it was only in October that we reclassified AT&T as non-dominant and released it from advanced notice tariff filing requirements. Second, in this Notice, pursuant to the regulatory forbearance authority provided in the 1996 Act, we propose a mandatory detariffing policy for non-dominant interexchange carriers. Such a policy would make any alleged pricing coordination more difficult. Finally, the 1996 Act allows the Bell Operating Companies, after satisfying several preconditions, to enter the interstate, interexchange market. In short, we have yet to see the competitive effects of these significant actions. While I have not pre-judged these issues, I believe that it would be a better use of scarce Commission resources to raise and consider these issues after allowing a sufficient time for market forces and regulatory reforms to take effect.

5 See Notice at Section VII and para. 101.

6 Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, FCC 95-427, at paras. 81-83.

7 Id.

8 Id. at para. 83.

SEPARATE STATEMENT
OF
COMMISSIONER SUSAN NESS

Re: Policy and Rules Concerning the Interstate, Interexchange Marketplace

This Notice offers persuasive evidence that the Commission and the Congress are "in sync" regarding the goals of increasing competition and reducing regulation.

Contrary to the claims of some critics, this Commission has long recognized the need to deregulate where market conditions permit. During the 1980s, the Commission repeatedly tried to forbear from tariff regulation of nondominant interexchange carriers, but we were struck down by the courts.¹ More recently, we requested -- and Congress granted -- forbearance authority.² Now, we are ready to use it.

The interexchange market is not yet perfectly competitive, but it is substantially and increasingly so. As a legal matter, I believe interexchange services meet the statutory criteria for forbearance. As a practical matter, it is essential that we focus our limited resources on promoting competition where it does not yet exist rather than on policing competition where it does.

The information and analysis I have evaluated to date shows that tariff filing requirements for nondominant interexchange carriers do more harm than good. For this reason, I not only support forbearance but also believe that our detariffing regime should be mandatory, not permissive.

Consumers will continue to be protected even after mandatory forbearance is implemented. We trust in competitive market forces to deliver interexchange services at just, reasonable, and nondiscriminatory rates.³ To the extent that unanticipated problems arise,

¹ Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, CC Docket No. 79-252, Fourth Report and Order, 95 FCC 2d 554 (1983), vacated AT&T v. FCC, 978 F.2d 727 (D.C. Cir. 1992), cert. denied MCI Telecommunications Corp. v. AT&T, 113 S.Ct. 3020 (1993); Sixth Report and Order, 99 FCC 2d 1020, vacated MCI Telecommunications Corp. v. FCC, 765 F.2d 1186 (D.C. Cir. 1985).

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996)(1996 Act) at Sec. 401 (adding Section 10(a) to the Communications Act of 1934).

³ See Communications Act of 1934 at Sec. 201(b)(just, reasonable, and nondiscriminatory), 202(a)(same); 1996 Act at 101(a)(adding new Sec. 254(b)(1))(quality services also should be

our complaint process can serve as a backstop. Moreover, in this Notice, we are reaffirming the policies of geographic rate averaging and rate integration, as has now been explicitly required by Congress.⁴ And, in the universal service proceeding, we are addressing the special needs of low-income consumers, as has also been explicitly required by Congress.⁵

Regarding customer-premises equipment, I am not ready to conclude that the CPE unbundling rule⁶ has outlived its usefulness and should be discarded. I may well favor eliminating this rule after I review the comments, but I am not yet aware of evidence that warrants the tentative conclusion presented in the Notice.

This rule has worked well for consumers and for industry. While in antitrust terms bundling is a problem only where there is market power in the underlying service, an unbundling requirement may be justified more as a "rule of the road" that should apply (as it has for 15 years) to all carriers. We must not reduce the ability of consumers to choose from among a wide array of equipment options.

Although there are many issues to be addressed regarding bundling, the central issue as I see it is whether the bundling prohibition promotes or hinders the continued growth of competition in both the interexchange and CPE markets. I encourage commenting parties to be as detailed as possible in describing the costs and benefits of maintaining, eliminating, or modifying the existing rule.⁷

As we formulate domestic policies in this area, we must also be mindful of the international ramifications of our actions. We need to be careful not to undermine U.S. trade negotiators -- who are encouraging other countries to unbundle equipment from transmission services, so as to create export opportunities for high-tech U.S. manufacturers. More important still, we must not violate any international trade agreements to which we already are a party. I will look with particular interest on comments addressing these issues.

"affordable").

⁴ 1996 Act at Sec. 101 (adding Sec. 254(g)).

⁵ 1996 Act at Sec. 101 (adding Sec. 254(b)(3)); see Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Notice of Proposed Rulemaking and Order Establishing Joint Board, at 25-35 (rel. Mar. 8, 1996).

⁶ 47 C.F.R. Sec. 64.702(e) ("carrier provision of customer-premises equipment . . . shall be separate and distinct from provision of common carrier communications services").

⁷ I especially encourage commenting parties to address the consequences of permitting nondominant interexchange carriers, but not exchange carriers, to bundle CPE with transmission services, and to take into account the extent to which carriers which today are viewed as "interexchange carriers" may also function as exchange carriers as well.

Putting aside the one reservation just expressed, I regard today's proposals as 100 percent consistent with the objectives Congress has established. Our job is to promote competition, first and foremost, and then to streamline and deregulate whenever competitive circumstances allow. Our proposal for mandatory forbearance of tariff regulation for nondominant carriers comports fully with these procompetitive and deregulatory objectives.

**SEPARATE STATEMENT OF
COMMISSIONER RACHELLE B. CHONG**

*Re: Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended.
CC Docket No. 96-61*

By this Notice of Proposed Rulemaking, we embark at last on a process to implement a mandatory detariffing policy for domestic non-dominant interexchange carriers. Although the Commission has long recognized numerous public interest benefits associated with forbearing from tariff filing requirement, we have been prevented from executing such a policy because of statutory constraints imposed by the 1934 Communications Act.

Passage of the Telecommunications Act of 1996 ("1996 Act") on February 8, 1996, signalled a new era for telecommunications policy and regulation based on a "pro-competitive, deregulatory national policy framework."¹ In the 1996 Act, Congress granted us long sought authority to further these goals by allowing us to forbear from applying our regulations. In this Notice, we propose to exercise our new forbearance authority for the first time in a market subject to competition.

Looking into the future, the competitive benefits of this new forbearance policy appear self-evident. Interexchange carriers no longer burdened with a tariff filing requirement would be free to market their services to meet changing demand without first stopping at a regulatory "checkpoint." Absent the delays that our prior regulatory scheme imposed, more vigorous competition should result. As competition thrives, regulators should get out of the business of price regulation. Market forces will generally determine fair pricing levels. Therefore, if regulators no longer need to regulate prices, we will not need to engage in the resource intensive exercise of allocating costs among various services. I believe that as we continue to strip away unnecessary and burdensome regulations, the market forces we unleash will most assuredly take the place of most regulatory "solutions."

Furthermore, the eventual entry of the Bell Operating Companies and other competition into the interstate, interexchange market should provide consumers with a plethora of competitive choices as envisioned by Congress in the 1996 Act. I commend my colleagues and the staff for preparing this Notice expeditiously so that we may take advantage of the new law to quickly enter this era of competition.

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); S. Conf. Rep. No. 230, 104th Cong., 2nd Sess. 1 (1996).