

Despite industry assurances,<sup>14</sup> there continues to be an apparent mismatch between revenues and proxy costs, which is somewhat troublesome.

13. Second, the inclusion of the discretionary and access service revenues would appear to provide incentives that may perpetuate the implicit subsidy that FTA96 clearly intended to remove. By increasing the benchmark through recognition of these revenues, the amount of support per line is decreased. To maintain its current revenue stream, however, a local exchange carrier will have a strong incentive (absent the presence of an effective competitor or regulatory intervention) to retain rates for discretionary and access services at their current level, well above incremental costs.

14. The third concern over the use of discretionary and access service revenues and costs in the establishment of the amount of support is the appearance -- correct or not -- that these services would have become new services to be supported by the high-cost funding program. This is clearly not the intent of the Joint Board and should not be the intent of the FCC, and such an appearance should be avoided.

15. The fourth and final point to be made with regard to the inclusion of these service revenues in the calculation of the benchmark is that the FCC is planning an extensive review of access charges in conjunction with its review of universal service, and it is not clear to the Texas PUC what will happen if access rates are significantly changed through that process. If the FCC reduces access charges, will the nationwide benchmark be based on current revenue streams or projected revenues? The answer to this question will likely have a significant impact on the size of the overall fund as well as payments to individual carriers.

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<sup>14</sup> Recommended Decision, footnote 1003.

16. The Texas PUC supports the use of a nationwide benchmark for the purpose of administering the interstate universal service fund, but urges the FCC to consider the above-mentioned concerns about the manner of the benchmark calculation. The FCC may wish to consider establishing a creative subtrahend benchmark that reflects a reasonable threshold for the purpose of computation, but that is less closely tied to the mathematical average revenue per line for services that may or may not be clearly included in the proxy model, or for services that may or may not be appropriate to include in the calculation of the support.

17. The Joint Board recommends the use of two separate benchmarks; one for residential service and a second for single line business service. The Texas PUC agrees with the development of these separate benchmarks, with the caveats expressed above for benchmarks in general.

18. The Joint Board recommends that the new universal service support mechanism for rural, insular, and high-cost areas take effect on January 1, 1998, with an extended phase-in period for rural telephone companies. The Texas PUC agrees that rural telephone companies should be allowed the option of an extended phase-in period (unless they wish to participate in a proxy-based program more quickly). However, as an alternative to the six-year phase-in plan recommended by the Joint Board, we suggest that the FCC consider an additional option. Instead of mandating the three-year phase-in following the three-year "status quo" period, the FCC might consider allowing rural companies to maintain their current level of support until the state designates another carrier to be eligible within the same serving area under 47 U.S.C. §214(e). While the Texas PUC views the latter option as viable, we are hesitant to fully support the option since we have not formally decided this issue on an intrastate basis.

## **VII. Support for Low-Income Consumers**

19. The Joint Board recommends that the support mechanisms contained in the FCC's universal service program allow low-income consumers to have access to the same services designated for support to rural, insular, and high-cost areas. A secondary effect of this recommendation is that the low-income support program will no longer be funded only by interexchange carriers. The Texas PUC generally supports the revisions recommended by the Joint Board on low-income issues.

20. The Recommended Decision would revise the Lifeline Assistance program for eligible low-income consumers to include voluntary toll limitation and to prohibit carriers from disconnecting Lifeline service for the non-payment of toll charges. The Texas PUC is considering these issues, among others, in a pending project.<sup>15</sup>

## **VIII. Support for Schools and Libraries**

21. The Joint Board has made a number of recommendations with respect to support for services used by schools and libraries. We urge the FCC to review the Texas PUC's earlier Comments<sup>16</sup> in this proceeding, which refer to the Texas Legislature's statutory direction as it relates to Texas' efforts to support services used by educational institutions and libraries. The state statute requires the provision of advanced services (e.g., 45 Mbps broadband) upon request, with discounted rates for these customers set near incremental costs. Based on recent monitoring

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<sup>15</sup> *Petition of the Office of Public Utility Counsel, the Center for Economic Justice, and the Consumers Union Southwest Regional Office to Adopt Rules Which Prohibit Telephone Utilities from Disconnecting or Refusing to Connect Basic Local Telephone Service for Nonpayment of Other Services, Including Long Distance, and Other Reforms, Project No. 16606.*

<sup>16</sup> Comments of the Texas PUC, April 3, 1996.

reports, well over one hundred school districts and universities in Texas are receiving such connections at discounted rates after one year of operation under the 1995 state statute.

#### **IX. Support for Health Care Providers**

22. Section 254(h) requires consideration of certain health care providers within the structure of the interstate universal service fund. The Joint Board has recommended, for a number of reasons, that the FCC seek additional information on the telecommunications needs of rural health care providers and on the most cost effective ways to provide these services to rural America. As is the case with most state utility regulators, the Texas PUC's jurisdictional authority is primarily limited to the services provided by utilities, and not to the applications for which the services are used. However, as described in our earlier Comments in this proceeding, the Texas Legislature has established a regime of specialized treatment for nonprofit telemedicine centers of academic health centers, public or not-for-profit hospitals, or state-licensed health care practitioners.<sup>17</sup> This regime consists of the provision of advanced services at discounted rates in a manner similar to that described above for educational institutions. Based on monitoring reports, dozens of hospitals and health care providers in Texas are receiving such connections at discounted rates after one year of operation under the 1995 state statute.

#### **X. Interstate Subscriber Line Charges and Carrier Common Line Charges**

23. The Joint Board recommends that there be no increase in the current \$3.50 subscriber line charge (SLC) cap for primary residential and single-line business lines. The Joint Board further recommends that the SLC cap be adjusted downward in the event that the FCC

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<sup>17</sup> Comments of the Texas PUC, April 3, 1996, Attachment I; see also PURA95 §3.359.

decides to use combined inter- and intrastate revenues as the basis for assessing carrier contributions to the new USF program. The Texas PUC supports the retention of -- or decrease in -- the current \$3.50 cap on the SLC, pending further review in the FCC's anticipated access charge proceeding.

#### **XI. Basis for Assessing Contributions**

24. The Joint Board recommends that contributions to the new universal service fund be based on a carrier's gross telecommunications revenues net of payments to other carriers. The Texas PUC agrees with this recommendation, as it is a fair allocation of responsibility and avoids the concern of double payments.

25. The Joint Board recommends that universal service support mechanisms for schools and libraries and rural health care providers be funded by assessing both the intrastate and interstate revenues of providers of interstate telecommunications services. The Joint Board makes no recommendation of the revenue base to be used for the modified high cost and low-income support portions of the universal service program, but urges the FCC to seek further comment, particularly from the states, on the appropriate funding mechanism to be used.

26. The Texas PUC is continuing its investigation into universal service issues including consideration of funding mechanisms; therefore, we have not yet formulated our position on this issue. However, the Texas PUC believes that there are certain policy issues that the FCC should consider and that, if the FCC assesses both interstate and intrastate revenues, it is appropriate for the states to adopt a similar funding base.

27. In considering whether to assess both interstate and intrastate revenues, the Texas PUC believes that the FCC should consider certain policy issues. For example, if the FCC assesses both interstate and intrastate revenues and the state assesses both, the incentives for carriers to arbitrage revenues between the jurisdictions may be reduced. The existence of a significant disparity between assessments on interstate and intrastate revenues may create pressure for a customer to mis-report jurisdictional usage. In addition, we believe that the FCC must consider whether the assessment is competitively neutral.

28. The Texas PUC is convinced that the states have the ability to assess the interstate revenues of providers of intrastate telecommunications services to fund state universal service programs. Pursuant to the Texas Public Utility Regulatory Act of 1995 (PURA95), the Texas PUC may exercise its regulatory authority and assess both interstate and intrastate revenues of providers of intrastate telecommunications services as a means of funding Texas' Universal Service Fund (USF).

29. Section 3.608 of PURA95 grants the Texas PUC broad authority to determine the appropriate basis for funding the state's USF. Consistent with its statutory directive to adopt rules for the implementation and administration of a state USF and to approve procedures for collection of universal service fund revenues, the Texas PUC has initiated Project No. 14929, Investigation of Universal Service Issues. As the Texas PUC examines the funding issues surrounding universal service support, we may determine that the state USF should be funded by assessments on intrastate and interstate revenues of intrastate telecommunications carriers.<sup>18</sup> The

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<sup>18</sup> Section 254(f) of the FTA96 expressly recognizes the States' authority to adopt regulations to preserve and advance universal service. Consistent with that section, funding for the Texas Universal Service Fund, whether by intrastate and/or interstate revenues, would come from every telecommunications carrier that provides intrastate telecommunications services, and not from carriers that solely provide interstate services.

Texas PUC may establish a universal service funding mechanism which would limit the assessment of interstate revenues to calls originating or terminating within Texas and charged to a service address or are billed or paid within Texas. Alternatively, the Texas PUC may consider a more general apportionment formula based on measures of a telecommunications carrier's income or gross receipts.

## **XII. Administration**

30. The Joint Board recommends that the FCC appoint a universal service advisory board to designate a neutral, third party to administer the revised universal service support program. The selection of the fund administrator would be based on a competitive bidding process no later than six months after the advisory board is created. The Texas PUC agrees with the Joint Board's recommendation in this regard, particularly the use of an advisory board -- including both state and federal regulatory representatives -- to oversee the activities of the administrator.

## **XIII. Conclusions**

31. The Federal-State Joint Board convened in this proceeding has done a tremendous job of examining the incredibly complex issues surrounding universal telecommunications service, and has offered significant recommendations to the FCC within the stringent schedule mandated by Congress. The Texas PUC is committed to working with the FCC to create solutions and implement programs that will achieve the universal service principles set forth in the FTA96. Through our comments, we have attempted to outline the Texas PUC's position on

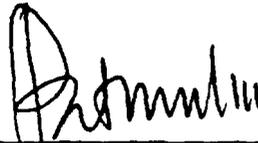
various aspects of the Joint Board recommendation. As the FCC and states work toward achieving the goals of universal service, we encourage the FCC to remain sensitive to the unique circumstances facing individual states. Texas, in particular, has many geographic and demographic properties that cause our telecommunications carriers to be faced with complex universal service challenges. The challenges facing Texas illustrate the need for states to have the freedom to craft a system of universal service support mechanisms in a manner that is responsive to the needs of their citizens. Subsection 254(f) of the FTA96 makes clear that a State is free to adopt its own universal service regulations so long as they are not inconsistent with FCC rules. Subsection 254(f) ensures that the states retain control to formulate their own position on universal service issues and we strongly believe any decisions at the federal level should not hinder the ability of the states to develop their own workable and viable state programs.

32. We appreciate the opportunity to provide further comments in this proceeding, and look forward to continuing our involvement in the universal service process in the months and years ahead.

Respectfully submitted,

Public Utility Commission of Texas  
1701 N. Congress Avenue  
P. O. Box 13326  
Austin, Texas 78711-3326

December 12, 1996



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Pat Wood, III  
Chairman



---

Robert W. Gee  
Commissioner



---

Judy Walsh  
Commissioner

**COMMENTS OF  
THE PUBLIC UTILITY COMMISSION OF TEXAS**

**ATTACHMENT 2:**

*Comments of the Public Utility Commission Of Texas, CC Docket No. 96-262*



## Public Utility Commission of Texas

1701 N. Congress Avenue  
P. O. Box 13326  
Austin, Texas 78711-3326  
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Pat Wood, III  
Chairman

Robert W. Gee  
Commissioner

Judy Walsh  
Commissioner

January 22, 1997

Office of the Secretary  
Federal Communications Commission  
1919 M. Street, N.W.  
Washington, D.C. 20554

RE: Notice of Proposed Rulemaking, *In the Matter of Access Charge Reform*,  
CC Docket No. 96-262

Dear Secretary:

Enclosed for filing are an original and twelve copies of the Comments of the Public Utility Commission of Texas in response to the Notice of Proposed Rulemaking *In the Matter of Access Charge Reform*, CC Docket No. 96-262. Also enclosed is a diskette containing a copy of the comments in Word Perfect format.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Vicki Oswald".

Vicki Oswald

Director

Office of Policy Development

Enclosures

cc: Competitive Pricing Division, Common Carrier Bureau (2 copies)



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

<b>In the Matter of</b>	)	
	)	
<b>Access Charge Reform</b>	)	<b>CC Docket No. 96-262</b>
	)	
<b>Price Cap Performance Review for Local Exchange Carriers</b>	)	<b>CC Docket No. 94-1</b>
	)	
<b>Transport Rate Structure and Pricing</b>	)	<b>CC Docket No. 91-213</b>
	)	
<b>Usage of the Public Switched Network by Information Service and Internet Access Providers</b>	)	<b>CC Docket No. 96-263</b>
	)	

**COMMENTS OF THE  
PUBLIC UTILITY COMMISSION OF TEXAS**

**Pat Wood, III, Chairman  
Robert W. Gee, Commissioner  
Judy Walsh, Commissioner**

**January 22, 1996**

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

<b>In the Matter of</b>	)	
	)	
<b>Access Charge Reform</b>	)	<b>CC Docket No. 96-262</b>
	)	
<b>Price Cap Performance Review for Local Exchange Carriers</b>	)	<b>CC Docket No. 94-1</b>
	)	
<b>Transport Rate Structure and Pricing</b>	)	<b>CC Docket No. 91-213</b>
	)	
<b>Usage of the Public Switched Network by Information Service and Internet Access Providers</b>	)	<b>CC Docket No. 96-263</b>
	)	

**COMMENTS OF THE  
PUBLIC UTILITY COMMISSION OF TEXAS**

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## Executive Summary

The Public Utility Commission of Texas (Texas PUC) herein provides its Comments to the Federal Communications Commission (FCC) on the issue of access charge reform. The Texas PUC has chosen to provide comments that can be divided into three major topics: rate structure modifications, the market-based versus prescriptive approach to access reform, and transition issues.

In Section II, Rate Structure Modifications, we offer observations and findings that we believe are pertinent to the rule changes proposed in the Notice. Our observations are based on extensive costing experience that we have attained in the work performed by the Texas PUC in implementation of its Long Run Incremental Cost rule, Substantive Rule §23.91, as well as in recent arbitration proceedings held by the Texas PUC pursuant to §252 of the Telecommunications Act of 1996.

Section III of these comments addresses the various approaches to access charge reform discussed in the Notice. The Texas PUC advocates a prescriptive approach to access reform, with a transition to the market-based approach in the long term. In general, although the Texas PUC strongly favors market-based solutions when possible, we are concerned that the market-based approach as outlined in the Notice is insufficient to eliminate implicit subsidies and bring about access rates based on economic cost as quickly as desired. We do not suggest, however, that the prescriptive approach, by itself, is the appropriate solution for the long run.

Section IV of these comments address transition issues relating to universal service and the treatment of any remaining embedded costs allocated to the interstate jurisdiction. The Texas PUC agrees with the notion that any access charge reform must be carefully reviewed along with universal service. We are concerned that the use of universal service funds to reduce interstate access charges has the potential to divert funds traditionally used to support intrastate high costs, and note that such a shift in jurisdictional support must only be accomplished through a recommendation of a federal-state joint board. The Texas PUC urges the Commission to proceed with the referral of all issues related to jurisdictional separations arising from the implementation of FTA96 to the "main" federal-state joint board in CC Docket No. 80-286. In the event that the FCC determines that all or a portion of the remaining embedded costs should be recovered, we recommend, in order to avoid the continuation of implicit subsidies, that the recovery be made through a separately earmarked fund.

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

<b>In the Matter of</b>	)	
	)	
<b>Access Charge Reform</b>	)	<b>CC Docket No. 96-262</b>
	)	
<b>Price Cap Performance Review for Local Exchange Carriers</b>	)	<b>CC Docket No. 94-1</b>
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	)	
<b>Usage of the Public Switched Network by Information Service and Internet Access Providers</b>	)	<b>CC Docket No. 96-263</b>
	)	

**COMMENTS OF THE  
PUBLIC UTILITY COMMISSION OF TEXAS**

**L. Introduction**

1. In its Notice of Proposed Rulemaking (Notice), Third Report and Order, and Notice of Inquiry adopted on December 23, 1996,<sup>1</sup> the Federal Communications Commission (FCC or Commission) initiated a rulemaking to consider and implement regulatory changes to reform its system of interstate access charges to make them compatible with the competitive framework of the federal Telecommunications Act of 1996 (FTA96)<sup>2</sup> and with state actions to open local exchange networks to competition. The Public Utility Commission of Texas (Texas PUC), having

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<sup>1</sup> *In the Matter of Access Charge Reform*, CC Docket No. 96-262, *In the Matter of Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, *In the Matter of Transport Rate Structure and Pricing*, CC Docket No. 91-213, and *In the Matter of Usage of the Public Switched Network by Information Service and Internet Access Providers*, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, FCC 96-488 (December 23, 1996).

<sup>2</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. §§ 151 et seq.).

been given general regulatory authority over public utilities within our jurisdiction in Texas, hereby submits these Comments on access charge reform issues most directly related to state regulatory policy.

## **II. Rate Structure Modifications**

2. The FCC tentatively concludes that several provisions in Part 69 of their rules compel incumbent LECs to impose charges for access services in a manner that does not accurately reflect the way those ILECs incur the costs of providing those services. For example, the costs associated with the local loop are generally non-traffic-sensitive (NTS), but the rules require incumbent LECs to recover a portion of those costs through per-minute CCL charges. Similarly, at least some portion of the costs of local switching is NTS, but the rules require incumbent LECs to recover all local switching costs through per-minute charges. In these and other cases, the rate structure rules do not send accurate pricing signals to customers, and consequently, encourage inefficient use of telecommunications services.<sup>3</sup>

3. The FCC proposes to revise their rate structure requirements for switched access service and have determined that establishing more economically rational rate structure rules is a necessary first step in the new procompetitive era. The FCC seeks through these changes to establish rate structures for interstate access services that send more accurate pricing signals to both consumers and competitors. The FCC invites comment on proposals for rate structure rule changes to be applicable to all price cap incumbent LECs. Specifically, the Notice invites comment on rate structure rule changes for common line, local switching, and transport; a number

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<sup>3</sup> Notice, ¶55.

of proposals for phasing out the transport interconnection charge, and on establishing rate structure rules for SS7 signaling services.<sup>4</sup>

4. The Texas PUC has gained extensive costing expertise through implementation of its Long Run Incremental Costing rule, Substantive Rule §23.91 (Texas costing rule or PUC Subst. R. §23.91)<sup>5</sup>, and through arbitration hearings held pursuant to §252 of the FTA96. In the following paragraphs we offer observations and findings that we believe are pertinent to the rate restructuring rule changes addressed in the Notice.

#### A. Common Line

5. Common line costs are the costs associated with the line connecting the end user's premises with the local switch that have been assigned to the interstate jurisdiction through the jurisdictional separations process. These costs are not traffic-sensitive. A portion of the incumbent LEC's common line costs are recovered through subscriber line charges (SLCs). These charges currently are limited to the actual cost of the interstate portion of the local loop or \$3.50 per month for residential and single line business users, and \$6.00 per month for multi-line business users. The remaining common line costs, if any, are recovered through carrier common line (CCL) charges, which are per-minute rates imposed on access customers.<sup>6</sup>

6. The current common line rate structure, in which only a portion of common line costs are recovered through flat monthly rates, does not reflect the manner in which loop costs are incurred. As a result, the common line rate structure forces incumbent LECs to recover costs in an economically inefficient manner, and so may cause inefficient use of the network and

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<sup>4</sup> Notice, ¶56.

<sup>5</sup> Public Utility Commission of Texas, Substantive Rule 23.91, *Long Run Incremental Cost Methodology for LEC Services*, effective September 10, 1993. (Included herein as Attachment A.)

<sup>6</sup> Notice, ¶57.

uneconomic bypass. The current CCL charge has been uniformly criticized by both incumbent LECs and IXC's because it discourages efficient use of the network and encourages uneconomic bypass.<sup>7</sup>

7. The Notice requests comment on alternative methods of recovery of both the CCL and SLC portions of subscriber loop costs. The Texas PUC favors adoption of a flat-rated recovery method for the CCL. In addition, the Texas PUC opposes increasing or eliminating the cap on SLCs, and is concerned with the administrative difficulties of having different charges assigned to primary and secondary lines. These positions are outlined in greater detail in the following paragraphs.

1. **Carrier Common Line (CCL)**

8. The FCC invited comment on six alternative methods for recovering common line costs.<sup>8</sup> The Texas PUC supports the selection of an alternative method for recovering CCL costs because the current access rate structure, i.e. access rates applied on a minute-of-use basis, does not reflect the non-traffic sensitive nature of the local loop. If interstate access rates are restructured, the Texas PUC supports adoption of a flat-rated alternative for recovering costs associated with the common line. Specifically, the trunk port charge and line port charge alternative merits further evaluation.

9. In selecting an alternative rate structure, the Texas PUC recommends the FCC consider whether application of the rate structure is competitively neutral, i.e. fair and equitable, among access customers; whether the rate structure is applied to a customer base which includes all access customers and excludes end-user customers; whether application of the rate structure is

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<sup>7</sup> Notice, ¶58.

<sup>8</sup> Notice, ¶¶59-63.

auditable; whether the rate structure avoids reliance upon self-reporting mechanisms for determining application of the rates; and whether the rate structure is administratively simple.

10. Of the six alternatives presented, our preliminary analysis indicates that trunk port charges and line port charge alternative<sup>9</sup> appears to meet each listed consideration. The trunk port charge and line port charge rate structure is competitively neutral, is applied to the appropriate customer base, is auditable, avoids self-reporting and is administratively simple. The other five alternatives appear to have significant flaws, discussed below.

11. The two flat-rate per line alternatives<sup>10</sup> are unappealing. The first flat-rate per line alternative, designed to be assessed against each retail customer's primary interexchange carrier (PIC), does not address situations in which no PIC is selected. The second flat-rate per line alternative, the same as the first alternative plus direct billing to retail customers in which no PIC is selected, is unappealing because it could result in direct billing of access customer costs to non-access customers and because it appears to be administratively cumbersome. Access customers may or may not pass common line costs through to end user customers in the form of higher prices. We prefer to continue to let the level of competition in the market determine whether common line costs are passed through rather than to recommend adoption of an access rate structure which assures that access costs are passed through to end user customers.

12. The bulk-billing alternative<sup>11</sup> is objectionable because it would likely rely upon percent interstate usage ratios (PIUs) reported by access customers, an area of past and continuing concern<sup>12</sup> where significant differences exist between interstate and intrastate access

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<sup>9</sup> Notice, ¶61.

<sup>10</sup> Notice, ¶60.

<sup>11</sup> Notice, ¶61.

<sup>12</sup> The FCC and Texas PUC have expended significant resources over the last decade in various proceedings to investigate PIU reporting and to establish ways in which PIU accuracy might be improved.

rate levels. Any alternative that is reliant upon self-reporting by an access customer to determine the amount billed to the access customer should not be considered.

13. The capacity charge alternative and trunk port alternative<sup>13</sup> are somewhat acceptable; however, the capacity charge alternative may exclude situations where trunks are procured from an alternative access provider not subject to the revised access rate structure. Thus, an access customer could obtain access from one source and trunks from another and not be assessed a charge for access. The trunk port charge alternative appears to exclude line side connections.

14. The Texas PUC notes, however, that because there was a limited description of the six alternatives for recovering common line costs in the Notice, we cannot wholeheartedly recommend adoption of a rate structure of port charges and line charges at this time. Instead, we offer the general recommendation that a flat-rate alternative be adopted.

## 2. Subscriber Line Charge (SLC)

15. The FCC seeks comment on its proposal to increase the cap on the SLC for the second and additional lines for residential customers, and for all lines for multi-line business customers, to the per-line loop costs assigned to the interstate jurisdiction.<sup>14</sup> The Notice further requests comment on whether ILECs should be permitted or required to deaverage SLCs as a part of the baseline rate structure that would be imposed on all price-cap ILECs. The Texas PUC opposes a plan that would increase or eliminate the cap on the SLC, consistent with our many past objections to the imposition and increases in this charge since its inception. We continue to oppose the recovery of common line costs assigned to the interstate jurisdiction through the imposition of flat rate charges to captive subscribers who may or may not use interstate services.

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<sup>13</sup> Notice, ¶61.

<sup>14</sup> Notice, ¶65.

16. Further, we reemphasize the concerns we expressed in the Universal Service proceeding<sup>15</sup> regarding the administrative difficulty in applying one charge for the primary residential connection and a different charge for additional lines or for a location other than the principal residence. We believe the FCC's proposal to allow one SLC for the primary residential connection and a different charge for additional lines would unnecessarily create the same real possibility of consumer confusion and frustration as described on our previous comments.

17. The FCC seeks comment on the number of SLCs that should be applied to Integrated Services Digital Network (ISDN) services.<sup>16</sup> As discussed in paragraph 69 of the Notice, this topic has been addressed previously in the Notice of Proposed Rulemaking in CC Docket No. 95-72, *In the Matter of End User Common Line Charges*. The Texas PUC maintains the position on which it filed comments in this previous FCC rulemaking, which is that SLCs should be charged based on a ratio of the average ILEC cost of providing a derived channel service, including line or trunk cards, to the average ILEC cost of providing an ordinary local loop or T-1 facility. A copy of the comments filed by the Texas PUC in CC Docket No. 95-72 are included as Attachment B to this document, and are hereby incorporated by reference.

#### **B. Local Switching Costs**

18. The local switch connects a call coming in on one line or trunk to another line or trunk connected to the switch. A local switch consists of line and trunk cards, and an analog or digital switching system. Line cards provide interfaces between subscriber lines and the switch. Trunk cards or "ports" provide interfaces between the switch and interoffice trunks. Because line cards, as well as trunk cards, are deployed within the central office, they are accounted for in the

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<sup>15</sup> *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Further Comments by the Public Utility Commission of Texas, December 12, 1996.

<sup>16</sup> Notice, ¶70.

switching accounts of the Uniform System of Accounts (USOA). These costs are therefore included in the switching category for separations and cost allocation purposes. The central processing portion of the switch performs the routing function based on the telephone numbers dialed by the end user placing the call.<sup>17</sup>

19. The Texas PUC has gained extensive costing expertise through implementation of its Long Run Incremental Costing rule, Substantive Rule §23.91, and through arbitration hearings held pursuant to §252 of the FTA96. The following paragraphs describe the Texas PUC's observations regarding the appropriate costing structure for local switching.

20. Currently, Section 69.106 of the FCC rules requires incumbent LECs to charge per-minute rates for local switching. The FCC asks for comment on establishing a flat-rate element for non-traffic sensitive (NTS) local switching.<sup>18</sup> Certain parts of the switch, most notably the switch line ports, are generally dedicated to one particular customer. Because of this dedication, there is no loss of available line port capacity to other users when a customer is using the port. This usage does not tie up capacity otherwise usable by other customers. Therefore, the cost of the port should be recovered on a flat-rate, rather than on a usage-sensitive basis.<sup>19</sup> The Texas PUC has considered flat rates for such NTS switch equipment in cases conducted pursuant to both the state's Public Utility Regulatory Act of 1995 (PURA95) and the FTA96. In Texas

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<sup>17</sup> Notice, ¶72.

<sup>18</sup> Notice, ¶72. The term "local switching" is used in this report to coincide with the FCC's use of the same term. However, in the numerous cost studies analyzed for the Texas PUC's Substantive Rule 23.91 and the FTA96 §252 arbitrations, it has become apparent that the functions and costs of switching local calls are the same as those of switching non-local calls (on a per-switch basis).

<sup>19</sup> The method used by the Texas PUC to determine the switch port (line card) costs has been rather simple, as the LRIC studies filed by ILECs in Texas are detailed enough to allow analysis of different parts of a switch to determine which parts are NTS and which are not. In cost studies filed pursuant to PUC Substantive Rule (Subst. R.) 23.91, ILECs have used Bellcore's Switching Cost Information System (SCIS) to develop capacity costs for different switch functions using vendor pricing information and engineering parameters. In most cases the switch port costs are the only volume-sensitive costs that are considered NTS in the cost studies performed for Texas.

PUC Docket No. 14943,<sup>20</sup> the Texas PUC staff argued that the costs for switch line ports used for interim number portability (INP) should be recovered on a flat-rate, not a usage-sensitive, basis.<sup>21</sup> In addition, in the Texas arbitration dockets<sup>22</sup> recently held to comply with §252 of FTA96, the Texas PUC approved flat-rated switch line port rates for both analog and ISDN switch line ports. The Texas PUC believes that flat-rated charges are most appropriate for pricing dedicated equipment such as switch line ports.

21. The FCC asks for comment on the appropriate rate structure for the switch, including whether a combination of flat-rate and usage-sensitive charges may best reflect cost causation principles.<sup>23</sup> The Texas PUC believes that, to the extent possible, rates should be set to reflect the manner in which costs are incurred so that appropriate price signals are sent to access customers. Accurate price signals are necessary to ensure the most efficient utilization of the network.

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<sup>20</sup> *Application of GTE Southwest, Inc. to Provide Interim Measures for Telecommunications Number Portability Pursuant to P.U.R.A. 1995, Section 3.455.*

<sup>21</sup> Although the administrative law judge (ALJ) agreed with the Texas PUC staff that switch line port costs should be recovered on a flat-rate basis, there were other issues concerning cost recovery that caused the Texas PUC to remand the case to the ALJ for further hearing. The Texas PUC never approved the rate structure in this case, and the remand schedule for Docket No. 14943 has not been set.

<sup>22</sup> The term "arbitration dockets" in this context refers to five dockets involving petitioners seeking arbitration with the same ILEC. Arguments for all five dockets were heard by the Texas PUC at the same time. These arbitration dockets include Docket 16189, *Petition of MFS Communications Company, Inc. for Arbitration of Pricing of Unbundled Loops Agreement Between MFS Communications Company Inc. and Southwestern Bell Telephone Company*; Docket 16196, *Petition of Teleport Communications Group, Inc. for Arbitration to Establish an Interconnection Agreement Between Teleport Communications Group, Inc. and Southwestern Bell Telephone Company*; Docket 16226, *Application of AT&T Communications of the Southwest, Inc. for Compulsory Arbitration to Establish an Interconnection Agreement Between AT&T and Southwestern Bell Telephone Company*; Docket 16285, *Petition of MCI Telecommunication Corporation and Its Affiliate MCI Metro Access Transmission Services, Inc., for Arbitration and Request for Mediation Under the Federal Telecommunications Act of 1996 of Unresolved Interconnection Issues with Southwestern Bell Telephone Company*; and Docket 16290, *Petition of American Communications Services, Inc. and Its Local Exchange Operating Subsidiaries for Arbitration with Southwestern Bell Telephone Company Pursuant to the Telecommunications Act of 1996.*

<sup>23</sup> Notice, ¶73.

22 In the Texas arbitration dockets, the rate structure for switches recently has been divided into two elements: an NTS element and a traffic-sensitive (TS) element. As mentioned above, the NTS element generally relates to the switch line port, while the TS element relates to parts of the switch such as the central processor and the trunk ports. However, the TS portions of the switch have been treated differently in cases considered by the Texas PUC. In the LRIC studies performed pursuant to PUC Subst. R. §23.91, ILECs are required to separate the costs of local switching from the costs of different switch features (e.g., custom calling features). In such cost studies, local switching costs were developed and reported on a usage-sensitive basis (e.g., per minute), but the costs for most of the TS features were developed assuming an average usage level and reported on a flat-rate (per month) basis. In cases such as Texas PUC Docket Nos. 15042<sup>24</sup> and 14943, ILECs attempted to use the per-minute local switching costs developed in their PUC Subst. R. §23.91 LRIC-type studies to develop flat-rate local switching costs. In some cases, these flat-rates were merged with other LRIC-based flat rates to derive a monthly flat rate for a service. These attempts were met with varying degrees of resistance, but a few were approved by the Texas PUC (e.g., in Docket No. 14943). In the arbitration dockets, the Texas PUC approved local switching rates that encompassed the whole switch matrix (processor), largely due to the fact that neither the ILEC nor most of the petitioners believed it necessary, possible, or desirable to separate the costs of the local switching function from the costs of other usage-sensitive switch features. Thus, from a service-based perspective it makes sense to separate out the individual features provided by the switch as different functions and/or services with separate costs. From an element-based perspective, it is more appropriate to cost the switch as a single unbundled element.

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<sup>24</sup> *Application to Revise General Exchange Tariff to Incorporate All CentraNet and Integrated Services Digital Network (ISDN) Services Pursuant to Subst. R. 23.69.*

23. There has been much controversy in Texas regarding the treatment of shared switch facilities in the Subst. R. §23.91 LRIC studies and in cases using similar studies. Both ILECs (Southwestern Bell Telephone Company, or SWBT, and General Telephone of the Southwest, or GTE-SW) filing cost studies pursuant to the Texas costing rule have, using different methodologies, tried to allocate portions of excess<sup>25</sup> TS switch costs to units of output, thereby calculating costs that are closer to average costs rather than capacity costs. In cases considered by the Texas PUC in which Subst. R. §23.91 has been the standard (such as Docket No. 14943), the Texas PUC has rejected the ILECs' arguments for allocation of the excess capacity costs to units of output. Texas PUC staff has taken the position (in such proceedings as Project No. 14918<sup>26</sup>) that the majority of the shared switch costs (e.g., the excess capacity portions) are not incremental to any particular switching function or service and should be considered group costs common to switching. Using the Texas Subst. R. §23.91 LRIC methodology, the excess capacity costs that the ILECs associate with the TS portion of the switch should not be considered traffic-sensitive as the lump of unused capacity would not vary by usage.

24. Through the cost studies filed in Texas pursuant to Subst. R. §23.91, it has become apparent that the costs of what the FCC refers to as the "shared" portion of the switch central processor<sup>27</sup> are caused by usage rather than actual numbers of dedicated lines or trunks. While growth in the numbers of dedicated lines or trunks generally does cause the switch central

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<sup>25</sup> In this document, the term "excess capacity" is used when referring to capacity (over and above that needed to serve current demand) that is incurred due to the modularity or "lumpiness" of the investment required in switching equipment. The term "spare capacity" will be used to designate capacity (over and above that needed to serve current demand) that is necessary in providing the maintenance or technical backup associated with providing a function or service. Allowance for spare capacity may be reflected in the use of an objective or engineering fill factor, whereas allowance for excess capacity may be reflected in a lower fill factor reflecting average or actual usage.

<sup>26</sup> *Southwestern Bell Telephone Company's Application for Approval of Automatic Number Identification, Coin Central Office Equipment, et al., Pursuant to P.U.C. Subst. R. §23.91.*

<sup>27</sup> Notice, ¶73.