RECEIVED

JUL 11 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of	)	DOCKET FILE COPY ORIGINAL
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
End User Common Line Charges	)	CC Docket No. 95-72

UNITED STATES TELEPHONE ASSOCIATION
PETITION FOR RECONSIDERATION AND/OR CLARIFICATION

The United States Telephone Association (USTA) respectfully submits a Petition for Reconsideration and/or Clarification (Petition) in the above-referenced proceeding. USTA is the principal trade association of the local exchange carrier industry. Its members provide over 95 percent of the exchange-carrier provided access lines in the U. S. Its price cap members are subject to all of the provisions of the Commission's order in this proceeding.

USTA's Petition is limited in scope and seeks reconsideration and/or clarification of the following specific issues: the application of PICCs on Centrex lines, the timing of the charges for non-primary lines, the application of the "X" factor to universal service fund contributions, the recovery of retail marketing expenses, the application of subscriber line charges (SLCs) on customers with multiple primary lines obtained from multiple carriers, and the reduction of access charges to reflect receipt of universal service support. Each of these issues will be addressed in detail below. Resolution of these issues as recommended by USTA will relieve unnecessary administrative burdens and assist in ensuring sufficient recovery of costs.

I. THE APPLICATION OF PICCS ON CENTREX LINES MUST BE ACCOMPLISHED IN AN EQUITABLE MANNER TO REFLECT TRUNK EQUIVALENCY.

The *Order* requires that a new Presubscribed Interexchange Carrier Charge (PICC) recover common line revenues which are not recovered from the Subscriber Line charge (SLC) and other common line charges. The PICC is subject to ceilings of $.53 for primary residence and single line business lines, $1.50 for non-primary residence lines and $2.75 for multi-line business lines. However, the PICC is to be applied on the same per line basis as the SLC.[1] This will result in a disproportionate assessment on Centrex lines as opposed to competing PBX arrangements and the recovery of significantly more revenues from Centrex than from similarly-sized PBX arrangements. The revenues recovered are unrelated to the costs of providing Centrex service. In order to avoid this result, USTA requests that the Commission modify the application of the PICC on Centrex lines and permit LECs the flexibility to reflect trunk equivalency when calculating and assessing the PICC through the use of a line to trunk equivalency relationship or to assess the PICC on Network Access Registers (NARs) instead of on station lines for Centrex customers.

Centrex customers receive service from the central office switches of incumbent LECs. This service usually requires a loop facility from the central office to the customer's location for each working Centrex telephone number. Little, if any, switching equipment is required at the customer's premises. In contrast, PBX arrangements are not directly supported by the central office switch, but are connected to the central office switch via trunks. This arrangement enables PBX customers to concentrate usage from multiple lines to a few trunks. PBX arrangements require the customer to obtain and provide space for PBX switches at the customer's premises. The customer,

[1]Section 69.153.

not the incumbent LEC, assumes responsibility for maintaining or obtaining maintenance support for this equipment.

As required in the *Order*, the application of the PICC on Centrex lines is not technologically neutral and will have a disproportionate effect on Centrex customers. This will impair the unique economies and efficiencies that are available to customers through Centrex services and will create distortion in the market. Centrex customers currently pay one SLC per line which recovers the full interstate portion of common line costs used to provide Centrex service. The application of the PICC, which also recovers some portion of the transport interconnection charge (TIC), will impose an additional burden on Centrex customers which cannot be sustained in the competitive market. Over time, as the PICC increases, this burden will become even greater.

The following examples illustrate the problem. A Centrex customer with 70 lines is equivalent to a PBX customer with 13 trunks and to a single digital PBX service. However, with a $2.75 monthly PICC, the interexchange carrier (IXC) serving the Centrex customer would be assessed $192.50 per month, while the IXC serving the PBX customer would only be assessed $35.75 per month and the IXC serving the digital PBX customer would be assessed $13.75 per month. Similarly, an IXC serving a 25,000 line Centrex customer would incur a monthly PICC of $6,875, while an IXC serving a similarly-sized PBX customer would incur a PICC of $409.75 per month and an IXC serving a customer with the equivalent digital PBX would only incur a PICC of $96.25 per month. There is no reason to create such an economic distortion for customers who seek Centrex service.

This type of market distortion can be avoided by providing LECs the flexibility to reflect trunk equivalency. This can be accomplished by assessing the PICC on Centrex lines using a line to

trunk equivalency ratio. Such ratios are, in many instances, already set forth in intrastate tariffs. In the absence of an intrastate tariff, the LECs could develop such a ratio. In addition, LECs should be permitted to count NARs for purposes of assessing the PICC on Centrex customers. NARs are equivalent to PBX trunks since one NAR provides one link to the switch. Adoption of USTA's proposal will ensure that IXCs serving Centrex customers are assessed the PICC in an appropriate and equitable manner.

II. THE APPLICATION OF A HIGHER CHARGE FOR NON-PRIMARY LINES SHOULD BE DELAYED UNTIL THE DEFINITION OF NON-PRIMARY LINE IS ADOPTED.

While the *Order* specifies a higher PICC for non-primary lines effective January 1, 1998, the definition of non-primary line will be considered in a Further Notice of Proposed Rulemaking to be issued in the Commission's universal service proceeding. The PICC cannot be applied until non-primary lines are defined. Once the definition has been adopted, LECs will need sufficient time to identify the lines for purposes of applying the PICC. Given that the Further Notice has not been issued and the definition has not yet been considered, USTA requests that the Commission extend the deadline for implementing the higher charges on non-primary lines until one year after the Commission adopts a definition of non-primary lines.

Even if a definition was adopted by the end of 1997, such a change could not be implemented by January 1, 1998. Sufficient time to develop new procedures and to train personnel is necessary. During the year after the definition is adopted, while LECs are making the changes necessary to implement the definition, primary and non-primary lines could continue to be subject to the same charge. This will not result in any net change to overall interstate revenues. It is prudent to avoid customer confusion and potential billing problems by allowing LECs adequate

time to incorporate changes to current systems and procedures. Therefore, the Commission should adopt USTA's recommendation.

III. THE COMMISSION SHOULD CLARIFY THAT THE PRODUCTIVITY FACTOR SHOULD NOT BE APPLIED TO UNIVERSAL SERVICE FUND CONTRIBUTIONS.

The *Order* permits recovery of universal service fund (USF) contributions through exogenous changes in the price cap indices (PCIs) for the Common Line, Trunking and Interexchange baskets in proportion to the end-user revenues contained in each basket.[2] While it would be much less burdensome to exclude USF contributions from price caps, because the contributions are to be recovered from existing rate elements rather than discrete charges, incorporation into the price cap formula is required. However, the application of the productivity offset to USF contributions will reduce any exogenous increase. This will result in the insufficient recovery of USF contributions as the recovery will be subject to a yearly "productivity" reduction.

In fact, productivity growth has no impact on USF contributions. USF contributions are a mandated cost which flow to providers of universal service. Recovery of these costs should not be reduced due to the application of the productivity factor. If this rule is not changed as recommended herein, LECs will not have a legitimate opportunity to obtain full recovery of their USF contributions. Over time, as productivity reductions compound, the impact will be even greater and the under-recovery more dramatic.

In order to avoid such a result, USTA recommends that the PCI for each basket be increased by an amount sufficient to eliminate the impact of the productivity factor on USF contributions. This can be accomplished by reducing the revenues used to calculate PCI changes (the "R" value in

---

[2] *Order* at ¶ 379.

the PCI formula) by the amount paid for USF and treating the USF contribution as a new exogenous change.[3]

Using this formula, where the USF contribution is not included in the "R" value and is treated as a new exogenous change, the recovery of the USF contribution will match the contribution. USTA urges the Commission to ensure that LECs fully recover USF contributions by adopting this formula.

IV. RETAIL MARKETING EXPENSES SHOULD BE RECOVERED FROM ALL LINES.

Retail marketing expenses are currently recovered through all interstate access rate elements and the interexchange category in proportion to the investment originally assigned to these elements

---

[3]For example, currently the PCI formula is as follows:

$$PCI_t = PCI_{t-1}[1 + GDPPI - X + \Delta Z/R].$$

Assuming a PCI in the Trunking basket of 1.00, GDPPI of 2.5%, X of 6.5% and no exogenous changes in the Trunking basket, the formula would be:

$$PCI_t = 1.00 * [1 + .025 - .065 + 0] = .96$$

If the "R" value equaled $1,000,000 before any USF contribution is included in the rates, the new allowed Trunking basket revenue would be:

Allowed Revenues = $1,000,000 * .96 = $960,000

Therefore, the revenues to be collected from customers would be reduced by $40,000 ($1,000,000 - $960,000).

Assume further that the LEC collects $1,000,000 from its customers and must contribute $100,000 to USF. If the USF contribution is included in the "R" value, the allowed revenues would be as follows:

Allowed Revenues = $1,100,000 * .96 = $1,056,000.

As a result, revenues would have to be reduced by $44,000 due to the application of the productivity factor to the USF funding obligation.

To avoid this result, USTA proposes to add a term to the formula to incorporate the funding obligation into the PCI formula and exclude the USF funding obligation from the "R" value as follows:

$$PCI_t = PCI_{t-1}[1 + GDPPI - X + \mathbf{USF/R^*} + \Delta Z/R^*] \text{ and } R^* = R - \text{USF contribution}$$

The PCI would be calculated as follows:

$$PCI_t = 1.00 * [1 + .025 - .065 + \$100{,}000/\$1{,}000{,}000 + 0] = 1.06$$

Allowed Revenues = $1,000,000* 1.06 = 1,060,000

Therefore, the LEC must reduce its revenues by $40,000, not $44,000.

by the Part 69 cost allocation rules. This methodology appropriately reflects the fact that special and switched access and interexchange services are marketed to and purchased by retail customers. In the *Order*, the Commission precludes recovery of marketing expenses from single line residence and business customers. USTA requests that the Commission reconsider its decision and permit recovery of marketing expenses from all lines.

Retail marketing expenses represent real costs that are incurred in the provision of service to all markets and customer segments, including the costs LECs incur in marketing access directly to the IXCs. Marketing expenses are analogous to other common line costs, the interstate portion of which the Commission has determined are appropriately recovered through a per line charge to all customers with a back-up charge to the IXCs. The marketing activities of the LECs directly benefit the IXCs by stimulating demand and facilitating the completion of calls which result in increased toll calling. The costs are assigned to the interstate jurisdiction through the operation of the Part 36 separation rules.

There is no factual basis for limiting recovery to only multi-line business and non-primary residence lines. The Commission makes a vague reference to universal service concerns to justify its decision. Yet, there is no evidence on the record that recovery of marketing expenses from all lines will jeopardize universal service. In fact, the evidence is to the contrary: there has been no adverse impact on universal service while the current rules have been in effect which require the recovery of marketing expenses from all lines.

Indeed, recovery of marketing expenses from all lines supports universal service. The Act requires telecommunications carriers to advertise the availability of universal service and the charges for those services throughout their serving areas in order to be eligible to receive universal

service support. It is therefore clear that at least a portion of retail marketing expenses will directly benefit single line residential and business customers and that these costs should continue to be recovered from these lines. This is not a new charge. Such customers should continue to support costs which they previously have supported.

USTA proposes that the appropriate Account 6610 marketing expense be divided by the total SLC line count, including all residence and business lines, to determine the per line charge to end users. This amount would be subject to the applicable SLC cap. Any marketing expenses which are not recovered through this charge would be recovered through the PICCs and then through originating and finally through terminating per minute charges in accordance with the Commission's *Order* and subject to the appropriate caps. This proposal is consistent with the current method of recovering marketing expense and reflects the principle of cost causation. If the Commission seeks to alter the allocation of these expenses among the jurisdictions, the Commission should consider this issue within the context of a comprehensive review of separations reform based on the recommendation of a Joint Board.

V. THE PART 69 RULES SHOULD BE CLARIFIED TO PREVENT CUSTOMERS FROM AVOIDING THE APPLICATION OF THE MULTI-LINE BUSINESS SLC.

The Part 69 rules should be clarified to prevent customers from avoiding the application of the multi-line business SLC. Section 69.152(d)(3) ensures that when a LEC provides a residential line to a reseller which is sold to a residence which already has a primary line, the LEC may collect the non-primary residential charge from the reseller. This rule appropriately eliminates the incentive for a customer to purchase additional lines from a reseller to avoid payment of the non-primary charge. However, the rules do not ensure the same outcome for business lines. Section

69.152(I) states that a line shall be deemed to be a single line business line if the customer does not pay a residential rate and does not obtain more than one line from a particular telephone company. The Commission should clarify that the multi-line business SLC applies when a reseller provides an additional line to a single-line business customer.

In order to ensure the proper application of SLCs, the Commission should incorporate the following language in Section 69.152(I) (changes are in italics):

> "A line shall be deemed to be a single line business subscriber line if the subscriber pays a rate that is not described as a residential rate in the local exchange tariff or public rate schedule and does not obtain more than one such line from a particular telephone company. *When an incumbent local exchange carrier provides a business line to another carrier so that the other carrier may resell that business line to a business that already receives a single business line, the incumbent local exchange carrier may collect the Multi-line business charge described in (b)(3) from the reseller carrier. When such resale takes place, all lines provided to the business customer shall be considered Multi-line business lines for purposes of application of the SLC.*

VI. RECOVERY OF INTRASTATE LOOP COSTS SHOULD BE PERMITTED FOR A LIMITED PERIOD OF TIME.

In the *Order*, the Commission directs non-rural carriers to use any universal service support received from the new universal service mechanisms to reduce or satisfy the interstate revenue requirement otherwise collected through interstate access charges.[4] In its Order in CC Docket No. 96-45, *Federal-State Joint Board on Universal Service*, the Commission eliminated Section 36.601(c), the universal service expense adjustment, for non-rural LECs beginning January 1, 1999. This will result in unrecovered intrastate loop costs for non-rural LECs which will have a detrimental impact on universal service. USTA proposes that the Commission permit non-rural

[4] *Order* at ¶ 381.

LECs to continue to recover intrastate loop costs for a limited period of time to avoid a detrimental impact on universal service. USTA recommends that, as of January 1, 1999, non-rural LECs be permitted to reduce interstate access charges by an amount equal to the interstate support received from the new federal fund less the amount of Part 36 interstate high cost support received as of December 31, 1998. This procedure should be permitted for a period not to exceed five years to ensure that universal service is preserved.

VII. CONCLUSION.

The changes recommended in this Petition are limited in scope. However, if adopted, they will assist the Commission in eliminating administrative burdens, ensuring that costs are fully recovered and avoiding anomalous results which could have detrimental impacts on universal service and the marketplace. USTA urges the Commission to adopt these changes.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By: Linda Kent

Its Attorneys:

Mary McDermott
Linda Kent
Keith Townsend
Hance Haney

1401 H Street, NW, Suite 600
Washington, D.C. 20005
(202) 326-7248

July 11, 1997