



DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS
DoITT

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DOCKET FILE COPY ORIGINAL

RALPH A. BALZANO
Commissioner
NYC Chief Information Officer

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August 27, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M. Street, N.W.
Washington, D.C. 20554

cc 94-1

RECEIVED
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Re: Access Charge Reform, FCC CC Docket No. 96-262

Dear Mr. Caton:

Enclosed for submission please find an original plus four (4) copies of the Motion to File Late Comments of the City of New York Department of Information Technology and Telecommunications (the "City"), and the attached Comments of the City, in support of the Petition for Reconsideration of the County of Los Angeles, filed July 11, 1997, in FCC CC Docket No. 96-262.

Sincerely,


Benjamin Lipschitz

c: The Honorable Reed E. Hundt, Chairman
The Honorable Susan Ness, Commissioner
The Honorable Rachelle B. Chong, Commissioner
The Honorable James H. Quello, Commissioner
Mr. James D. Schlichting, Division Chief, CPD
International Transcription Service

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

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In the Matter of)	
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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
)	

To: The Commission

**MOTION TO FILE LATE COMMENTS OF THE CITY OF NEW YORK DEPARTMENT OF
INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS**

Pursuant to § 1.3 of the Federal Communications Commission's (the "Commission") rules, the City of New York Department of Information Technology and Telecommunications, on behalf of the City of New York, (the "City") respectfully moves to file the attached late comments in support of the Petition for Reconsideration of the County of Los Angeles, California, filed with the Commission on July 11, 1997 (the "Petition"), in the above-referenced proceedings. Public notice of the Petition was published in the Federal Register on August 1, 1997 and initial comments were due August 18, 1997.

The basis for the City's motion is that several City personnel that have been necessary to correlate information to show the dramatic effect of the charges that are the subject of the Petition, have been on leave of absence due to summer vacation schedules and reduced staffing at

the City. While the City recognizes that the Commission may not routinely grant permission to file late comments, the City appreciates this opportunity to comment on issues raised by the Petition that are of great importance to the City and its citizens.

Respectfully Submitted,
CITY OF NEW YORK DEPARTMENT OF
INFORMATION TECHNOLOGY
AND TELECOMMUNICATIONS

By: 
Elaine Reiss
General Counsel

Benjamin Lipschitz
Agency Attorney

11 MetroTech Center, 3rd Floor
Brooklyn, New York 11201
(718)-403-8500

Dated: August 27, 1997

CERTIFICATE OF SERVICE

I, Benjamin Lipschitz, hereby certify that a true and correct copy of the attached Motion to File Late Comments of the City of New York Department of Information Technology and Telecommunications (the "City"), and the attached Comments of the City, in response to the Petition for Reconsideration of the County of Los Angeles, California, filed July 11, 1997, have been served by Federal Express overnight delivery (except as noted below), to each of the following persons in the matter of the Federal Communications Commission's CC Docket Nos. 96-262, 94-1, 91-213 and 95-72.

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Hon. James H. Quello
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20054

Hon. Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20054

James D. Schlichting
Division Chief
Competitive Pricing Division
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Hon. Susan Ness
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20054

*International Transcription Service (ITS)
1231 20th Street, N.W., Room 102
Washington, D.C. 20037

Hon. Rachelle B. Chong
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20054

Garret G. Mayer
Chief, Regulatory Affairs
Internal Services Department
County of Los Angeles
9150 East Imperial Blvd.
Downey, CA 90242

Dated at Brooklyn, New York, this 27th day of August, 1997.


Benjamin Lipschitz

*Service on ITS has been made by by first class mail, postage prepaid.



**DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS
DoITT**

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RALPH A. BALZANO
Commissioner
NYC Chief Information Officer

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

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Transport Rate Structure and Pricing)
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End User Common Line Charges)
_____)

CC Docket No. 96-262
CC Docket No. 94-1
CC Docket No. 91-213
CC Docket No. 95-72

To: The Commission

**COMMENTS OF THE CITY OF NEW YORK DEPARTMENT OF INFORMATION
TECHNOLOGY AND TELECOMMUNICATIONS**

Elaine Reiss
General Counsel

Benjamin Lipschitz
Agency Attorney

City of New York Department
of Information Technology
and Telecommunications
(DoITT)

11 MetroTech Center
3rd Floor
Brooklyn, NY 11201
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_____)	

REC'D
FCC
AUG 23 1997

To: The Commission

COMMENTS OF THE CITY OF NEW YORK DEPARTMENT OF INFORMATION
TECHNOLOGY AND TELECOMMUNICATIONS

The City of New York Department of Information Technology and Telecommunications ("DoITT"), on behalf of the City of New York (the "City"), respectfully submits these Comments in support of the Petition for Reconsideration of the County of Los Angeles¹ ("Recon Petition") of the Federal Communications Commission's First Report and Order in CC Docket No. 96-262 ("Access Charge Reform Order"). DoITT is the New York City agency that is charged with, among other things, planning, formulating, coordinating and advancing telecommunications policies for the City of New York.

¹ Petition for Reconsideration of the County of Los Angeles, California, in the Matter of Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158 (rel. May 16, 1997) ("Access Charge Reform Order"), filed by the County of Los Angeles, California, on July 11, 1997 ("Recon Petition") at 1.

I. INTRODUCTION AND SUMMARY

The PICC, developed under the Access Charge Reform Order, and as described in § 69.153 of the Federal Communications Commission's (the "Commission") rules that will enact the PICC², conflicts with the stated intent of the Commission to phase in a mechanism of cost-causative access charges without affecting the universal service mandate to ensure the continued availability of affordable local rates.³ At the same time, the PICC "would impose a dramatic and unwarranted rate shock"⁴ upon the City of New York because § 69.153 would undoubtedly result in the City passing along the PICC to the City's residential and business consumers while such consumers are already required by the Commission to pay the PICC in addition to other new and/or increased Commission charges, in their own capacity.

Section 69.153 is also anticompetitive, discriminatory and arbitrary, as it applies the PICC to municipal governments and specifically to Centrex lines. Section 69.153 removes Centrex as a competitive alternative for municipal governments that often use Centrex as an efficient means of using telecommunications services. Moreover, § 69.153 disproportionately affects municipal governments and their citizens given that municipal governments can only generate revenues

² 47 CFR § 69.153, effective upon approval by the Office of Management and Budget ("OMB"), but no sooner than January 1, 1998.

³ Access Charge Reform Order at ¶¶ 38-40.

⁴ Recon Petition at 1.

through taxes and fees and must necessarily pass along the multi-line PICC charges to its citizens.

At the same time, § 69.153 will impact municipal governments' ability to obtain long-distance service because of the considerable added costs of the PICC that is assessed against inter-exchange carriers ("IXCs") for multi-line business lines and the diminutive use by municipalities of interstate telecommunications services.

Because of the foregoing effects of the PICC on municipal governments, the City respectfully requests that the Commission reconsider the Access Charge Reform Order with regard to § 69.153 created under that order and waive the PICC charge for municipal governments or, alternatively, clarify the PICC charge as applied to Centrex lines to reflect trunk equivalency by assessing PICC on Centrex lines using appropriate line to trunk equivalency ratios.

II. SECTION 69.153 CONFLICTS WITH THE COMMISSION'S STATED INTENT TO PRESERVE UNIVERSAL SERVICE AND IMPOSES A DRAMATIC AND UNWARRANTED RATE SHOCK ON THE CITY OF NEW YORK

Section 69.153 would result in the City passing along the PICC to the City's residential and business consumers while such consumers are already required by the Commission to pay the PICC in their own capacity. This is in addition to other consumer rate increases required under the Commission's Access Charge Reform and Universal Service proceedings⁵, such as the increased subscriber line charge and universal service fund surcharge. Requiring residential and single-line business consumers to incur PICC charges passed along from their municipal

⁵ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45.

government conflicts with the intent of the Commission that sought to phase in a mechanism of cost-causative access charges without affecting the universal service mandate to ensure the continued availability of affordable local rates.⁶ At the same time, multi-line business consumers are required to pay PICC twice, once for their own multi-line business lines and second, because of the PICC charges incurred by their municipality.

Municipalities are generally not revenue-producing entities that can absorb costs; in fact, a municipalities' costs are "absorbed" by being passed along to its citizens, generally in the form of taxes. Accordingly, under § 69.153, a municipality must necessarily pass along the multi-line PICC to its citizens. This pass-along of the multi-line PICC will impose a dramatic and unwarranted rate shock on the City of New York and all its consumers.

The multi-line PICC, moreover, is not a cost allocation mechanism that allocates specific multi-line costs, but rather the multi-line PICC is the result of a prolonged phase-in of business single-line subscriber line costs and business single-line and residential PICCs. The stated goal of the Commission in the Access Charge Reform Order for such a phase-in of non-traffic sensitive costs is to preserve the universal service mandate to ensure affordable local rates.⁷ Yet, because municipal governments generate revenues primarily by taxing its citizens, the practical application of the multi-line PICC on municipal governments is for business single-line and residential

⁶ Access Charge Reform Order at ¶¶ 38-40.

⁷ Access Charge Reform Order at ¶¶ 38-40.

consumers to incur the non-traffic sensitive costs that the Commission intended to phase-in as a PICC on such consumers.

Accordingly, charging the multi-line PICC on municipalities conflicts with the universal service goal to preserve affordable local rates. Moreover, charging municipalities with the PICC in effect charges the PICC to multi-line business consumers twice and charges the PICC to business single-line and residential consumers now; therefore, in addition to the new and/or increased Commission charges on consumers arising from the Access Charge Reform and Universal Service proceedings, charging PICCs to municipalities will impose a dramatic and unwarranted rate shock on the City and all its consumers.

III. SECTION 69.153 IS ANTICOMPETITIVE BECAUSE § 69.153 REMOVES CENTREX AS A COMPETITIVE ALTERNATIVE FOR MUNICIPAL GOVERNMENTS

Section 69.153 is also anticompetitive, as it applies the PICC to Centrex lines, because § 69.153 removes Centrex as a competitive alternative for municipal governments given that, as currently described in § 69.153, the multi-line PICC is charged on each Centrex line. Yet, the same charge would apply to each PBX trunk, rather than each PBX station line.⁸ The dramatic effect on costs for the City of such a discriminatory application of functionally equivalent technology is evident as follows: the City's mayoral agencies alone comprise approximately 73,100 Centrex lines and non-mayoral agencies comprise at least an additional 1776 Centrex lines

⁸ Recon Petition at 6.

- the cost to the City at \$2.75 PICC per Centrex line adds up to an annual cost of approximately \$2,470,908. If, however, the same functionality is accomplished via a PBX trunk at a trunk-line equivalency of 8 to 1⁹, the annual PICC charge is approximately \$308, 863.50 - an annual savings of over 2 millions dollars!!

The equivalency of function, however, between the two competing technologies of PBX and Centrex is not reflected in equivalent PICC charges. This result is anticompetitive and consequently, contrary to the Telecommunications Act's Congressional mandate to promote competition.¹⁰

Centrex, moreover, is often an efficient competitive alternative for municipal governments that serve numerous geographically dispersed areas. For example, Centrex may offer the "advanced features of fourth-generation PBXs, without the need to purchase or lease equipment, and, in most cases, eliminates the need for floor space, electrical prime power and heating, ventilation and air-conditioning."¹¹ Yet the market distortion effectuated by charging the multi-line PICC per PBX trunk while charging the same multi-line PICC per Centrex line disadvantages

⁹ This equivalency ratio has been presented to the City as the industry standard for the size Centrex system that the City uses.

¹⁰ "Congress sought to establish a 'pro-competitive and deregulatory national policy framework.'" Access Charge Reform Order at ¶ 1, citing the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. §§ 151 et. seq.).

¹¹ Joseph A. Pecar, et al., *McGraw Hill Telecommunications Fact Book*, McGraw Hill (1993), at 345.

Centrex, though Centrex may be the preferable and efficient method for municipalities to use telecommunications services. Section 69.153, as presently applied, is anticompetitive because § 69.153 removes Centrex as a competitive alternative for municipal governments. Accordingly, if the Commission determines that it cannot waive the multi-line PICC for the City, the City requests that the Commission determine a ratio equivalency between PBX trunks and Centrex lines to apply the PICC in a manner that does not disadvantage the City, other municipalities and other users of Centrex lines.

IV. SECTION 69.153 IS DISCRIMINATORY AND ARBITRARY BECAUSE IT DISPROPORTIONATELY AFFECTS MUNICIPAL GOVERNMENTS

Section 69.153 is discriminatory and arbitrary because it disproportionately affects municipal governments given that municipal governments must necessarily pass along the multi-line PICC charges to its citizens in addition to other charges arising under the Access Charge Reform and the Universal Service proceedings, such as the increased subscriber line charges and the increased universal service fund surcharges. While state governments and the federal government are also affected by the multi-line PICC, the impact on municipal governments is exacerbated because the PICC charges incurred by municipal governments must be passed through to a smaller population than that which comprises a state or the federal government.

The PICC, as applied to municipal governments, is the result of a flawed market analysis by the Commission concerning the rate impact of the multi-line PICC on large telecommunications users because municipal governments will not receive the anticipated

reduction in interstate rates and switched access charges given the diminutive amount of municipal governments' originated interstate long-distance minutes relative to the number of access lines upon which the multi-line PICC is charged.

The City of New York, as most municipalities, consumes a significantly lower number of interstate long-distance minutes, relative to the number of local minutes consumed. For example, the approximate number of interstate long-distance minutes consumed in the past year, for the City's Mayoral agencies alone, comprised only 8,450,000 minutes; the number of local calls consumed by the City's Mayoral agencies was 934,980,000¹² minutes. Section 69.153 would require that the City of New York pass along nearly 2.5 million dollars while receiving only a minuscule portion of the expected interstate savings. Accordingly, § 69.153 is discriminatory and arbitrary because it disproportionately affects municipal governments that must necessarily pass along substantial costs increases and yet, municipalities will not achieve the anticipated savings in interstate charges because municipalities use the bulk of their lines for local calling.

V. THE MULTI-LINE PICC WILL IMPACT MUNICIPAL GOVERNMENTS' ABILITY TO OBTAIN LONG-DISTANCE SERVICE BECAUSE OF THE CONSIDERABLE ADDED PICC COSTS ASSESSED AGAINST IXCS AND THE LOW-INTERSTATE TELECOMMUNICATIONS USE OF MUNICIPALITIES

Because § 69.153 assesses the PICC on the presubscribed IXC, IXCs may seek to avoid municipal governments given the considerable additional PICC costs that the IXC will incur by

¹² This includes 41,560,000 minutes for regional calls.

servicing municipal governments and given the diminutive use of interstate telecommunications services by municipal governments. Accordingly, the multi-line PICC will impact municipal governments' ability to negotiate favorable long-distance service contracts.

VI. CONCLUSION

The PICC, as described in § 69.153 of the Commission's rules, conflicts with the stated intent of the Commission to phase in a mechanism of cost-causative access charges without affecting the universal service mandate to ensure the continued availability of affordable local rates. At the same time, the PICC will impose a dramatic and unwarranted rate shock upon the City of New York and its consumers.

Section 69.153 is also anticompetitive, discriminatory and arbitrary, as it applies the PICC to municipal governments and specifically to Centrex lines. The PICC, moreover, disproportionately affects municipal governments and their citizens and impacts on a municipal governments' ability to negotiate favorable long-distance service contracts.

Because of the foregoing effects of the PICC on municipal governments, the City respectfully requests that the Commission reconsider the Access Charge Reform Order with regard to § 69.153 created under that order and waive the PICC charge for municipal governments or, alternatively, clarify the PICC charge as applied to Centrex lines to reflect trunk equivalency by assessing PICC on Centrex lines using appropriate line to trunk equivalency ratios.

Comments in LA County Petition for Reconsideration
First Report and Order, FCC 97-158, in CC Docket 96-262 et al.
City of New York (DoITT)
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Respectfully submitted,

City of New York
Department of Information Technology
and Telecommunications (DoITT)

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