Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	CC Docket No. 98-170
Truth-In-Billing and Billing Format	)	

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REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.

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GLOSSARY OF COMMENTING PARTIES

AirTouch	AirTouch Communications, Inc.
AFT	American Federation of Teachers
APCC	American Public Communications Council
ACTA	America's Carriers Telecommunication Association
Americatel	Americatel Corporation
Ameritech	Ameritech
ALTS	The Association for Local Telecommunications Services
AT&T	AT&T Corp.
APCC	American Public Communications Council
APIACC	Asian Pacific Islander American Consumer Coalition
BA	Bell Atlantic
BAM	Bell Atlantic Mobile
BellSouth	BellSouth Corporation
BRTF	Billing Reform Task Force
Bills Project	Bills Project
C&W USA	Cable & Wireless USA, Inc.
CPUC	California Public Utilities Commission
CTIA	Cellular Telecommunications Industry Association
CentryTel	Century Telephone Enterprises, Inc.
Coalition	Coalition to Ensure Responsible Billing
CommNet	CommNet Cellular Inc.
Commonwealth	Commonwealth Telephone Company
CompTel	Competitive Telecommunications Association
Detecon	Detecon, Inc.
EDLINC	Education and Library Networks Coalition
ECA	Electronic Commerce Association
EXCEL	Excel Telecommunications, Inc.
FTC	Federal Trade Commission
FPSC	Florida Public Service Commission
Frontier	Frontier Corporation
CUCD	Georgia Consumers' Utility Counsel Division
GTC	Global Telecompetition Consultants, Inc.
GST	GST Telecom Inc.
GTE	GTE Service Corporation
GVNW	GVNW Inc./Management
ITTA	Independent Telephone & Telecommunications Alliance
KCC	Kansas Corporation Commission
Liberty	Liberty Cellular, Inc.
MPUC	Maine Public Utilities Commission
MCI	MCI WorldCom, Inc.
MediaOne	MediaOne Group, Inc.
MN-OAG	Minnesota Office of Attorney General

MPSC	Mississippi Public Service Commission
MoPSC	Missouri Public Service Commission
NAAG	National Association of Attorneys General
NACAA	National Association of Consumer Agency Administrators
NASUCA	National Association of State Utility Consumer Advocates
NCL	National Consumers League
Nevadacom	Nevadacom, Inc.
NNI	New Networks Institute
NYSCPB	New York State Consumer Protection Board
NYDPS	New York State Department of Public Service
Nextel	Nextel Communications, Inc.
NITCO	Northwestern Indiana Telephone Company, Inc.
Omnipoint	Omnipoint Communications, Inc.
PaPUC	Pennsylvania Public Utility Commission
PCIA	Personal Communications Industry Association
PetroCom	Petroleum Communications, Inc.
PILGRIM	Pilgrim Telephone, Inc.
PMT	Project Mutual Telephone Cooperative Association
WVPSC	Public Service Commission of West Virginia
PSCW	Public Service Commission of Wisconsin
PUCO	Public Utilities Commission of Ohio
PUCT	Public Utility Commission of Texas
PrimeCo	PrimeCo Personal Communications, LP
QCI	Quality Communication Inc.
Qwest	Qwest Communications Corporation
RCA	Rural Cellular Association
RTG	Rural Telecommunications Group
RTC	Rural Telephone Coalition
RUS	Rural Utilities Service
SBC	SBC Communications Inc.
Siegel & Gale	Siegel & Gale
SBAFUR	Small Business Alliance for Fair Utility Regulation
SCSI	Southern Communications Services, Inc.
Sprint	Sprint Corporation
TRA	Telecommunications Resellers Association
Teligent	Teligent, Inc.
TCA	Texas Citizen Action
Texas OPUC	Texas Office of Public Utility Counsel
Time Warner	Time Warner Telecom, Inc.
USCC	United States Cellular Corporation
USTA	United States Telephone Association
USP&C	USP&C, Inc.
UCAN	Utility Consumers' Action Network
Vermont PSB	Vermont Public Service Board
WUTC	Washington Utilities & Transportation Commission

WVCAD West Virginia Consumer Advocate Division

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REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.

I. SUMMARY AND INTRODUCTION

U S WEST Communications, Inc. ("U S WEST") supports the overwhelming majority of commentors who advocate that, barring the total termination of this proceeding,[1] the Federal Communications Commission ("FCC" or "Commission") proceed in the area of billing content and format through the promulgation of broad-based principles or guidelines rather than detailed prescriptions.[2] Ideally, such principles would be derived through some type of industry self-regulatory forum or process.[3]

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[1] Termination of the proceeding is a position advocated not only by U S WEST but others, although sometimes not quite as directly as stated by U S WEST. See, e.g., AT&T at 2-3, 7-8 (market solutions, along with prompt enforcement of existing statutory remedies is the more ideal approach), NYDPS at 1 (the FCC "should rely on the market participants to develop billing formats that meet consumers' information needs"); NYSCPB at 3-4 (likes the self-regulatory process associated with the Anti-Cramming Best Practices over a formal FCC rulemaking such as is being proposed); Sprint at 3 (market forces will work best, especially with respect to certain telecommunications market segments).

[2] See USTA, passim; CenturyTel at 1; Coalition at 13; Commonwealth at 1; Excel at 10; GTE at 5; ITTA at 7, 8; Liberty, passim; MoPSC at 2; PCIA, passim; PMT at 2, 6; SCSI at 1, 3, 4, 5; Qwest at 2-7.

[3] See, e.g., AT&T at 3, 10-12; Ameritech at 1; MCI at 1 n.3, 3-4, 27, 46-47; NYDPS at 1-2; TRA at 3. And see Excel at 5 (FCC should rely on industry guidelines where possible and if something more is needed proceed to targeted regulations).

Such an approach is a sound one from various perspectives. First, it generally avoids the jurisdictional issues associated with federal regulatory action in the realm of billing for intrastate services and charges. Second, it avoids the inevitable problems associated with implementation of requirements across computer and billing systems not designed to accommodate broad or detailed regulatory prescriptions. Third, it accords some modicum of respect for the notion that most carriers already attempt to create accurate, understandable bills and places the burden on those arguing that such obligations are not being met. Finally, it cuts short the imprudent suggestion that the FCC go beyond strict "truth-in-billing" proposals to other aspects of carriers' operations, such as customer service representative interactions with customers.[4]

Given the large number of filings in this proceeding, other than our general endorsement above for those parties advocating principles over prescriptions, U S WEST does not focus on those filed positions with which we agree. Rather, in this Reply we focus on those comments with which we disagree or which we think raise significantly provocative issues that comment is warranted. Thus, below we

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[4] See CUCD at 4; TCA at 6-7; Vermont PSB at 14 (arguing that the FCC's truth-in-billing principles should be extended to sales solicitations and representations and, following up on Commissioner Ness's remark, to customer service personnel, as well); MN-OAG at 7 (sales reps should be required to disclose all material terms and conditions of service); NCL at 9 (accord); NASUCA at 21-24 (discussing a whole host of additional initiatives that NASUCA thinks the FCC should pursue as consumer protection principles); QCI at 5-6 (accord). But compare NYDPS at 2 n. 2 (arguing that mandates directed to customer service representatives seem unnecessary and that isolated incidents of misleading or deceptive dealings should be addressed through the complaint process); Sprint at 23-24 (arguing that no regulation in this area is necessary).

address:

- The flawed arguments of those claiming that certain types of carriers or customer billings should be *carte blanche* exempted from any Commission-mandated billing rules;

- Certain specific proposals advanced by commenting parties are necessarily required within a truth-in-billing regulatory regime;

- Whether disclosures in/on a bill can ever really provide "full" information about a service offering or the "nature and purpose" of a particular charge, especially one imbued with a lengthy regulatory and public service history;

- Allegations regarding the misleading nature of certain service descriptions and carrier names and proposed regulatory "remedies;" and

- The untimely and inappropriate arguments of those using this proceeding to argue for mandated access to LEC bills by unaffiliated third parties and regulations of the terms and conditions under which such billing is conducted.

Each of these items deserves comment because of the potential mischief that might be caused by believing that certain advocacy on specific issues outlines a sound regulatory or policy resolution. It does not.

II. ITEMS OF SPECIFIC CONCERN

A. Truth-In-Billing Obligations Should Be Applied To All Carriers

A number of constituencies argue for exemptions from any Commission-promulgated rules in the area of billing format or billing presentation, particularly if such rules extend beyond the articulation of "principles." These constituencies include Commercial Mobile Radio Service ("CMRS") providers,[5] competitive

[5] See, e.g., Airtouch at 6-7, 10; BAM at 7-10; BellSouth at 11-15; CTIA at 3-7; Nextel at Summary, 3-9; Omnipoint at 2, 3-10; PCIA at 1-2; RCA at 1, 3-4.

carriers,[6] rural telephone companies,[7] integrated commercial providers[8] and interexchange carriers.[9] Alternatively, sometime the "exemption" is phrased in terms of exemptions from billing rules for certain types of customers.[10] As a general matter, U S WEST opposes disparate regulatory treatment in this area, at least as a matter of general regulatory philosophy.

Assuming that detailed federal regulatory billing content or format prescriptions is not the direction the Commission will ultimately take, arguments for blanket status "exemptions" clearly should be rejected. Any and every telecommunications carrier should be expected to have "accurate and understandable bills," to have service descriptions that are not misleading or deceptive and to provide information on how to reach the carrier in case of questions. And, such obligations should append not only to residential but business billings, as well. These are certainly not principles the application of which should

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[6] See, e.g., ACTA 1-3 (rules should be confined to ILECs).

[7] See, e.g., RTG at ii, 10.

[8] GST at 1; C&W USA at 2 (any formal rules should apply only to LECs and then only to residential bills).

[9] See, e.g., MCI at 5, 28, 47-48 (proposing guidelines for all carriers but ILECs, where prescriptive access obligations should append); Sprint at 3, 9-10 (IXCs and non-dominant carriers should not be saddled with prescriptive billing requirements); CompTel at 1-2 (rules should be confined to ILECs).

[10] See, e.g., AT&T at 4-5 ("no new billing rules should apply to telecommunications services or charges for large business customers"); GST at 16-20 (exempt billing for business usage); PetroCom at 2, 5-6 (exempt business or commercial billing); Sprint at 2 n.2 (limit regulations to residential customers), 9 (limit any rule applications to mass market customers who receive paper invoices); Teligent at 3-4 (want rules to differentiate between residential and business customers and not apply to the latter type of customer); TRA at 5 (the FCC should differentiate between residential and business bills, "to the extent detailed billing safeguards are adopted").

be confined to LECs or limited categories of customers.[11]

However, even if the Commission determines that something more prescriptive is in order, blanket exemptions should not be granted on a wholesale basis for segments of the industry or customer base. There is a single exception. U S WEST supports the arguments of the CMRS providers that they should not be included in detailed, prescriptive rules regarding bill format and presentation, in large part in light of the recent Congressional findings that slamming is not an issue in that segment of the telecommunications industry.[12]

Exemptions for other carriers -- such as rural or small carriers or resellers -- should not be granted in the absence of knowledge of the specific billing requirements, the legal and policy rationale for such requirements and the specific factual information demonstrating the effect of the requirement on the carriers' operations (including a cost/benefit analysis).[13] Indeed, in this regard any and all carriers (including large ILECs) should be able to make a case that a particular billing requirement(s) should be waived.

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[11] Compare CompTel at 6 (endorsing the FCC's stated guidelines but arguing that such need not be transformed into mandatory rules); Liberty at 5 (recommending the issuance of "guiding [sic] principals"); Omnipoint at 7 ("CMRS operators should adhere to the truth-in-billing principles"); PCIA at 2 (the FCC should "at most develop flexible guidelines that protect consumers while allowing carriers to execute their business plans with minimal regulatory interference"), 12, 18; SCSI at 3 ("establish[ ] broad policy guidelines that would apply universally to all carriers"); TRA at 3-4 ("The Commission has articulated a number of [sic] principals which TRA believes should govern carrier billing.").

[12] See BellSouth at 11; PrimeCo at 5 and n.15.

[13] The Commission will recall that in our opening comments, U S WEST indicated that no meaningful cost/benefit analysis could be done until the precise types of bill format change mandates were articulated. U S WEST at 20-21.

In no event should "blanket" exemptions be handed out in the nature of regulatory dispensations. Like other carriers (be they small, competitive, non-dominant or green-colored with webbed feet), U S WEST prides ourselves on the look and feel of our bill. We consider it both communicative in nature and a competitive advantage in the marketplace. Thus, arguments around deference of regulation to market forces are no less true for LECs than for other carriers.

Also, as with privacy, the matter of truthful billing spans the carrier universe. If, in order to be accurate and truthful, the Commission finds that a cadre of specific bill format requirements are necessary, it should not be assumed that such requirements become unnecessary simply because some carriers are rural or small or competitive. Either the requirements are generally necessary to protect the public interest or they are not.

Furthermore, exemptions should not generally be accorded based on the status of customers being billed, i.e., residential versus business. While it is true that, quite often, the billing needs of business customers are different from those of residential customers, no carrier should be entitled to a *carte blanche* dispensation from any regulatory mandates in this area simply because they have chosen to serve the most lucrative parts of the telecommunications customer base, while other carriers remain obligated to serve the entire market. Finally, it is clear that imposing regulatory obligations only on LECs increases the costs of becoming a

LEC, i.e., the cost of competitive entry.[14]

The Commission should not create a regulatory structure that perpetuates an unlevel playing field by saddling LECs with regulatory compliance costs while allowing other carriers -- not so burdened -- to invest their money and energy in innovation and creativity regarding their billing operations. For all the above reasons, the Commission should reject requests for "special treatment" with respect to any promulgated billing rules.

B. Specific Bill Presentation Proposals That Raise Issues Or Problems

Below, U S WEST briefly addresses certain comments that pose billing system issues for us. In some cases, we oppose a commenting party's proposal on the grounds that it is not unnecessary; in other cases, we believe it important for the Commission to understand that our billing systems currently do not support the proposal. In all cases, we believe the proposals should be rejected.

1. Service Versus Usage Explanations

Siegel & Gale argue that the fact that telephone bills often contain two types of charges, i.e., for service (billed in advance) and for usage (billed in arrears) "often results in confusion."[15] To alleviate said confusion, Siegel & Gale argue that "[c]onsumers need a clear explanation of the difference in how these charges are

[14] Compare Time Warner at 5 ("[r]egulations which will increase the cost of competitive entry and which raise the prices to consumers of increasingly competitive services should be avoided unless such regulations are absolutely necessary to prevent abusive practices.").

[15] Siegel & Gale at 2.

billed, and in particular, how pro rated services are handled."[16]

U S WEST does not know what Siegel & Gale mean by "often," but our experience does not support their observation. While there is sometimes confusion associated with the proration of service and payments in final bill situations, as a general matter, it has not been our experience that customers are confused about the service and usage components of their bills. Thus, we do not support regulatory intervention in this matter.

2. Text Length Associated With "Safe Harbor" Language

Two commentors propose "safe harbor" language that the Commission might consider with respect to making clearer the nature and purpose of certain charges associated with universal service and access charge reform.[17] These proposals potentially pose significant formatting problems for U S WEST and demonstrate the problem with the Commission's regulating to this level of detail.

Specifically, Omnipoint and BellSouth propose safe harbor language around certain carrier assessments which run a number of lines. One proposal is around 14 lines long (Omnipoint), the other 9 lines (BellSouth). At this time, U S WEST could accommodate either of these messages as a "market message" on a carrier bill page,[18] although the charge to the carrier would be more for the Omnipoint message

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[16] Id.

[17] Omnipoint at 13-14; BellSouth at 16.

[18] See MCI at 14, 17 (calling this "invoice messaging"); U S WEST at 21-22 n.28 (describing the availability and utility of market messages as well as U S WEST's editorial control over their content).

than the BellSouth one.[19] Thus, the Commission must be very careful in prescribing such "descriptive language," always cognizant of the system limitations[20] as well as the carrier cost. Should the Commission propose "safe harbor" language it would best be brief in its narrative if it really wants carriers to be able to utilize the bill as the communication vehicle.

3. Asterisks, Symbols, Color, Etc.

BellSouth argues that asterisks are the "best" method by which a carrier can differentiate those charges on a bill that might result in a denial of local service and those which will not.[21] U S WEST disagrees. While BellSouth might believe that such is best for it in the context of its billing for its customers, U S WEST does not use asterisks with respect to our bill format or content; nor do we wish to.[22] From our perspective, a narrative of what charges cannot result in disconnection (which

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[19] This is due to the fact that the BellSouth message could be subsumed within the line limitations for a single market message, while the Omnipoint message would constitute two market messages (the maximum available in any billing cycle).

[20] Compare PUCT at 9 (suggesting that such descriptions could be put on the "reverse side of a bill page or as a footnote on the bill." Obviously, neither of the proposals is workable if there is no "reverse side" of a bill page or footnote capability is not an aspect of the billing system infrastructure).

[21] BellSouth at 9 (differentiation between "deniable" and "non-deniable" charges can "best be accomplished by means of an asterisk next to 'non-deniable' charges and an explanatory footnote on the front summary page of the bill."). Compare PUCT at 8 (reporting out focus group data where some participants believed an asterisk should be associated with disputed charges).

[22] In this regard, U S WEST's advocacy here reflects a difference of opinion similar to that reflected by the fact that U S WEST supports (and utilizes) a Summary Page in our bills and BellSouth does not, believing that it is "contraindicated by customers' expressed wish for a shorter and simpler bill." BellSouth at 4. Supporting the BellSouth position is CenturyTel (at 4), while numerous other commentors support the U S WEST position.

we currently provide) is equally as good as -- if not better than -- asterisks. The Commission should refrain from endorsing any single method of differentiating "deniable" versus "nondeniable" charges[23] on a carrier's bill. Indeed, in this respect, U S WEST supports those commentors who suggest that the Commission should refrain altogether from even becoming a participant in whether the bill (as opposed to a disconnect notice)[24] makes such a differentiation[25] (other than for 900 charges).

Similarly, the Commission should refrain from requiring other types of "symbols" or "flags" or "colors" be incorporated into the "look" or presentation of the bill.[26] Those advocating the use of such symbols do not demonstrate their

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[23] See NASUCA at 3, 16 (better terminology could be found than "deniable/ undeniable" to convey concepts); Vermont PSB at 14 (preferring the terms "disconnectable and nondisconnectable" as better suited to the discussion and understanding by consumers).

[24] See, e.g., Commonwealth at 5 (arguing that the most appropriate point for this differentiation is in the termination of service notices).

[25] See MediaOne, generally; ALTS at 9-10; BA at 9-10; CenturyTel at 6; CompTel at 7-8; C&W USA at 11; Excel at 11; GST at 22; GTC at 14-16; GVNW at 8; PMT at 5-6; Time Warner at 13-14; UCAN at 9. And compare BRTF at 4-5 (noting that current 900 disclosure suggests to customers that charges are not enforceable rather than articulating the individual's obligation to pay for authorized transactions).

U S WEST takes particular exception to those comments from state regulatory authorities (such as MoPSC at 4, Vermont PSB at 13, PUCT at 8, WVPSC at 2) who suggest that additional FCC intercession in this area would be helpful. Such authorities are perfectly capable of addressing this matter under their own jurisdictional mantle, especially in light of the FCC's general deference to the states on the issue of "deniability," and they should be expected to do so rather than attempt to insinuate federal regulatory authority back into the decision-making process. See, e.g., PUCO's description of its activity in this area (at 10) and that of the PaPUC at 7-8. See also Ameritech at 16 (noting extensive state commission involvement in this matter throughout its territory).

[26] Compare NASUCA at 2, 13-14 ("identifying symbol" for non-telecommunications services); NCL at 7 ("universal symbol" to identify deniable from undeniable

superiority over other types of communication devices. Nor do they engage in any cost/benefit analysis which would suggest their use is sound from an economic or public interest perspective.

4. Service Provider Business Addresses

While well-intentioned, those commentors advocating that a carrier address should be shown on the bill whenever a carrier is identified[27] fail to make a compelling case that the availability of such information on the bill itself is helpful, let alone critical, to promotion of consumers' commercial interests. As stated in our opening comments, U S WEST opposes having to include such information on the bill, believing it is not generally desired or needed by most customers. Customers generally want to make a call to a number that is answered by someone in a position to satisfy them. They are not interested in writing letters to addresses, except in the most extreme of circumstances.[28] Provided that address information is available to customers, upon request, any public interest concern should be met.[29]

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charges); Texas OPUC at 4 (arguing that "flags" should be used to highlight changes), 5 (an "identifying symbol or icon" should be utilized to highlight changes); PUCT at 6 ("[n]ew charges should be highlighted in a bold color or with icons"). And see FTC at 10-12 (recommending the use of different colors to visually highlight items).

[27] See ACTA at 8; CompTel at 4; CUCD at 4; C&W USA at 11-12; Excel at 14; MPUC at 5-6; MN-OAG at 14; MPSC at 2; MoPSC at 4; NAAG at 5; NASUCA at 9, 15; NCL at 9; NYSCPB at 14; PUCO at 8, 11; SBAFUR at 5-6, 9-10; TCA at 3 n.10; Texas OPUC at 5; UCAN at 2, 9; Vermont PSB at 14; WUTC at 6; WVPSC at 3.

[28] See accord Ameritech at 17; BA at 13; GVNW at 9; Sprint at 22.

[29] The idea that certain information is available to individuals who want it and who exercise a certain level of self help, i.e., calling a service provider, supports the notion that not all information needs to be on the bill and that 100% clarity is not the requisite standard. Compare PrimeCo at 8 (noting that a "'24-7' availability of

Furthermore, it would require system changes for U S WEST to be able to include such information.[30]

5. Including PIC/PC Freeze Information

A number of commentors suggest, in conformity with the Commission's initial suggestion in the NPRM, that PIC/PC ("Primary Interexchange Carrier"/"Preferred Carrier") freeze information be provided on the bills.[31] Currently U S WEST does not include this information on our bills. And, we

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customer service personnel" is an aspect of giving "full and complete information [to customers about] what they need to understand and inquire about their bills"); Sprint at 13 (accord); and CompTel at 7 ("Subscribers who believe they do not have sufficient information about a charge or a service provider should be able to obtain such information by calling the toll-free number on the bill"), 8.

As RTG points out, carrier bills cannot currently be deemed so deceptive or obtuse as some might suggest, given that the calls to the various regulatory authorities as well as carriers compels the conclusion that bills are being read and are sufficiently clear to prompt requests for additional information. Thus, as RTG concludes, "the current billing structure is quite adequate." RTG at 7. Thus, the fact that the majority of line items on carrier bills go unexplained (EDLINC at 4, outlining certain of these items) does not render them deceptive or misleading, since most of them probably have never even generated an inquiry. Making a phone call to inquire about an item can hardly be characterized as being required to "have to go to unreasonable lengths to educate" oneself. Id.

Finally, the Commission cannot really act to protect those who assert a "we're too busy to review our bills" defense (SBAFUR at 7; compare CUCD at 2 (many individuals only look at total amount due); MN-OAG at 16). Entities who decide to pay bills without reviewing them themselves make a cost/benefit analysis, i.e., the bill is within a range of reasonableness and the time it takes to review the particulars is not worth the effort. This is not a *per se* unreasonable approach to bill payment. However, the Commission cannot "protect" against the practice when the costs begin to exceed the benefits. Rather, the entity must be motivated by its own self-interest to change its behavior.

[30] See Coalition at 3 (noting that inclusion of street address information sometimes presents technical issues for LEC billing systems).

[31] See, e.g., AT&T at 2; USP&C at 4; FTC at 10; MPUC at 3; NASUCA at 2, 13-14; WUTC at 4-5; WVCAD at 2, 5.

support those commentors who oppose such information being mandated by a regulatory agency.[32] We did want the Commission to be aware, however, that we are investigating whether or not including such information in the bill might add value for our customers. Our future actions will be guided by that investigation.

6. Referencing Page Numbers

Some commentors suggest that the first page of the bill contain page numbers for where information is found further in the bill.[33] U S WEST opposes this proposal. While U S WEST's bill separations do print out page numbers, such numbers are not referenced on the Account Summary page.[34] It would clearly require systems development and implementation efforts to allow such referencing to occur. At this time, given consumer response to the U S WEST bill format, U S WEST sees no material consumer benefit in including this information in the bill format.

Furthermore, such micro-management of the billing process clearly extends beyond any reasonable regulatory concern or response to a broad-based "truth-in-billing" initiative. The Commission should reject this proposal.

C. Billing Service Descriptions Versus Descriptions In Other Contexts

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[32] Compare Ameritech at 10 (such information on the bill would add little value); Sprint at 7 (asserting that, on balance, such information should not be included in billing invoice information).

[33] See, e.g., MPSC at 2; NCL at 7.

[34] See U S WEST Comments at Attachment. Compare C&W USA and attached bill and ITTA, attaching CBT bill, both of which contain page numbers, something that might well give these carriers a competitive advantage over other carriers.

The Commission's ostensible focus in the NPRM was on service and charge descriptions on bills. However, it seemed clear even from the context of the NPRM that the concern about "descriptions" extended beyond the bill presentation. This is confirmed by the filed comments.

Quite often, what is being complained about is not necessarily the language of "description" on the bill but the failure -- generally prior to the act of billing -- of carriers to provide individuals with adequate information about service attributes and the "nature and purpose" of assessed fees or charges.[35] Or stated another way as SBC puts it, "The great majority of the problems this NPRM seeks to solve are problems arising from the fraudulent marketing of products and services, not the billing process itself. The problem is the intentional misrepresentation of the product or service, not flaws in the billing system."[36] Similarly, while the NPRM ostensibly seems to take issue with certain service or charge "descriptions," there is a secondary or collateral objection to the charged amount, above and beyond the descriptive language.[37] It is unclear to U S WEST that either of these matters, i.e.,

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[35] Compare MN-OAG at 1 (charges not disclosed to customers before they initiate services has led to confusion in advertisement and purchase of toll services), 3 (the information that carriers provide customers before customers sign up for service is a matter subject to regulatory intervention), 6 (disclosures need to be made at point of sale to provide any meaningful consumer protection), 8, Attachment One; NASUCA at 15, 18 (asserting that there are misrepresentations or omissions made at the point of sale which are reinforced through the bill).

[36] SBC at 24 (noting that if initial up-front disclosure and understanding were reached, customers are "not confused by a simple or cryptic text phrase in the billing line item description."). Id.

[37] Compare AT&T at 12 n.9 (noting that FCC concerns over the amount of the charge being assessed with respect to universal service contribution recovery "are beyond the scope of this proceeding" since "[s]uch questions are essentially rate

failure to make point of sale disclosures or the specific levels of printed rates or charges, is really a "truth-in-billing" or invoicing issue or that revising bills is necessarily the most appropriate means of providing relevant information to consumers.[38]

The response to the first issue is that there are a number of communication vehicles -- besides and in addition to bills -- that carriers utilize to convey information to customers. Focusing on the bill as the sole, or even primary, communication tool can be quite misleading.[39] Except with respect to a certain type

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level issues."); Bills Project at 5; CTIA at 7 (the FCC's NPRM suggests "opening the back door to rate and service regulation" of CMRS providers); Time Warner at 16 (the FCC seems to confuse billing/invoicing universal service/access charge fees with whether the particular assessments are lawful); APCC, generally (arguing that a Payphone Surcharge basically amounts to a theft of monies from individuals, given that carriers already recover this cost through other means); GVNW at 15-17. And see Sprint at 16-21 (responding to the FCC's inquiry with a "rate determination" analysis); MCI at 36-37, 39-46 (responding in a manner similar to Sprint); BA at 3 (if the problem is rate assessments, the solution is to go after the matter directly); MN-OAG at 10-11 (advocating that a "percentage of the bill" approach should not be permitted to support a fee assessment), 13.

[38] Compare PUCT at 9 (noting that when charges started showing up on bills, customers called in requesting printed information about charges). See also **note 35**, supra.

[39] See AT&T at 8-9 and n.6 (telephone bills are not the service agreement but are used to invoice the customer for current charges owed with respect to the contracted-for services, noting that changes to a customer's service arrangement are better communicated through bill messages or bill inserts), Ameritech at 10-11 (communications about service additions are provided through confirmation letters); CTIA at 4 ("No single bill can provide the detailed description of services and charges [that] agreements contain."); C&W USA at 6, 8 (asserting that new product and service descriptions are better suited to bill inserts than bills and that the FCC should do nothing now about charge descriptions since this will only confuse customers more, but should require annual bill inserts to describe universal service); MCI at 14, 17 (invoice messaging and bill inserts provide some vehicle for narrative communication); PCIA at 8 n.13 (noting that it is difficult to provide full service descriptions on bills and arguing that such can be better accomplished

of carrier-customer relationship,[40] the carrier-customer relationship is generally rich in communication and undoubtedly the source of much commercial information for the consumer.

And, the response to the second issue involves determining whether it really is -- at base -- a rate issue, an invoice "labelling" issue or a commercial speech issue. Those that argue about how the universal service charges and the PICC charges associated with access reform should be "labelled" fundamentally present issues that go considerably beyond the labelling.

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through other mechanisms, such as bill inserts); SBC at 11 (noting that companies use "welcome kits" and other vehicles to provide more extensive service descriptions than appear on the billing invoice), 21 (noting that competition will drive shorter bills and alternative sources of information, such as Internet access to explanations), 24 (noting other sources of information about products/services including "[m]arketing materials, directory information, advertisements, brochures, and websites" that do not "burden[ ] the billing process for all customers"); Sprint at 3 ("there are many tools other than the invoice itself which carriers use to address consumer inquiries, to apprise customers of changes to the telecommunications services being provided, and to alert customers to new rate elements and surcharges being assessed."), 13 (included in these tools are welcome package communications, bill inserts, service representative availability).

A note of caution about bill inserts. As is clear from the above citations, a number of carriers identify bill inserts as communications vehicles that allow for more significant narrative than bill line descriptions. While carriers who bill on their own behalf might consider bill inserts as one of their available communications devices, such is not always the case when billing is done through a billing agent. For example, U S WEST will not allow third parties to author bill inserts for inclusion in our billing envelope. (See MCI at 17, observing that some LECs do not allow bill inserts to be authored by unaffiliated parties.) The only means for a more narrative communication than a service or charge description is a "market message" (see discussion in note 18 and accompanying text, supra). Contrary to the entreaties of some, such as MCI (at 16-17), this proceeding is certainly not the proceeding to address -- let alone declare unlawful -- this type of editorial decision-making.

[40] See **note 50**, infra and accompanying text.

Even if the "labelling" became standardized, the issue of whether the reason for the charge was assigned to federal regulatory actions or initiatives or carrier business decisions would remain at issue. In this respect, the matter is not as facile as differentiating between "facts" and "opinions."[41] U S WEST agrees with those commentors who argue that "there is simply no basis to require carriers . . . to provide the regulatory and legal history relating to"[42] assessment of certain types of charges. Furthermore, even if such history was communicated through charge descriptions or narratives approved by regulatory authorities, carriers would remain free to communicate their differences of opinion with the label or description.[43] One has to really wonder if this type of cross-communication *vis-a-vis*

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[41] EDLINC at 2 ("carriers have the right to their own opinions, but not to their own facts."). The EDLINC filing was perhaps the most disappointing given the short shrift accorded the constitutional rights of carriers. The amount and content of "forced speech" that EDLINC asserts carriers could be required to pass on to their constituents is unnerving. EDLINC at 5 (arguing that carriers could be required to include in their bills "a statement on the history of universal service" (How such "history" could be articulated in a statement is not made clear.); a description of the "benefits of universal service to the country as a whole, as well as eligible recipients" (even, apparently, if the carrier believes there are no benefits); should provide the FCC cover for its actions by telling subscribers that "Congress made us do it!", and so on). The proposals -- even under the notion of "safe harbor" communications -- are outrageous. They make a mockery out of the fact that "the purpose of a billing statement is to provide customers with an invoice of services and charges not to summarize federal or state policy decisions." Excel at 12. The advocated positions of EDLINC is all the more unsettling given the hawkish nature of most of the EDLINC members regarding First Amendment rights generally.

[42] AT&T at 13 n.10. And see Sprint at 12-13 (quoting from RCA Global Communications, Inc., regarding a customer's potential reaction to being required "to absorb a history of the transoceanic telegraph history").

[43] See Airtouch at 10 ("mandating a particular message will not accomplish the Commission's goal of reducing customer confusion as carriers could simply supplement 'safe harbor' language with additional language in the bill that presents the carriers' view."); PrimeCo at 14 n.39 ("there is nothing preventing a carrier from

all customers would alleviate or exacerbate the customer "confusion" problem.

Thus, those commentors that suggest that carriers are required (or should be compelled) to advise customers of the "nature and purpose" of charges associated with regulatory initiatives may be overstating carrier obligations[44] as well as customer tolerances.[45] Carriers are free to advise their customers of the nature and purpose of charges -- or not. To the extent carriers respond to customer inquiries about such charges (i.e., respond to those who desire more information), they fulfill any obligation to engage in just and reasonable conduct.

Narratives associated with the "nature and purpose" of either the universal service charge or the PICC are bound to be colored by the perspective of the speaker.[46] And, common carriers should not have their bills or billing envelopes conscripted in the aid of federal regulatory speech. To the extent regulatory agencies desire to put their own "spin" on the "nature and purpose" of certain

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using 'safe harbor' language on its bill, yet including with the bill a separate insert criticizing universal service statutes and regulations"). Thus, even a "standardized explanation" (PUCO at 10) would not necessarily remain "standardized".

[44] See RCA at 6 ("RCA disagrees that [the problem of customer confusion over universal service charges] can or should be resolved by requiring carriers to function as agents of the government, responsible for explaining the purpose of universal service funding mechanisms. Simply stated, this is not the role of carriers.").

[45] See **note 43**, supra.

[46] See PrimeCo at 13 ("reasonable persons of different political sensibilities or degrees of cynicism might come to different decisions on the 'scope and purpose' of the universal service program"); ACTA at 9 and n.14 (posing questions about what might be necessary to reach a "fully 'truthful'" description on a bill around issues of universal service and access reform).

carrier-initiated charges,[47] or to engage in consumer protection educational or outreach efforts,[48] such agencies need to find their own forum in which to make such

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[47] See FPSC, arguing that the FCC should establish sufficient resources to respond to inquiries involving federal regulatory initiatives and their financial consequences to telecommunications subscribers. FPSC at 8-9. And see KCC at 6 ("Since the implementation of the state universal service fund in Kansas in March of 1997, the KCC has sought to arm consumers with truthful and accurate information regarding their universal service surcharges.").

[48] See PUCO, noting that it has developed its own avenue for educating customers about federal regulatory proceedings and their consequences for customer's bills. PUCO at 2 (outlining efforts including "the issuance of a 'consumer alert' and brochure on cramming as well as sponsoring a cramming roundtable and efforts targeting potential prosecution of fraudulent information providers"). Compare Communications Daily, October 23, 1998, reporting on the Ohio PUC, Ohio Consumers' Counsel and Ohio Attorney General "'full-scale assault' to warn customers about cramming" which included the distribution of a "new consumer education brochure about steps consumers can take to protect themselves against cramming and what to do if they're crammed. Agencies also joined forces to streamline [the] process for identifying offending companies through complaints and taking legal action against them. Agencies said they are sending [a] 'zero tolerance' message to telecom companies about cramming." And see SBAFUR at 11 ("the Commission should conduct a consumer education program to inform small business and residential customers of their right to dispute unauthorized charges appearing on their phone bills and how such disputes will be handled"); Bills Project at 5; CommNet at 4, 5 (both recommending that the FCC have a website to explain carrier charges relative to regulatory initiatives).

Thus, while some commentors (such as PUCT at 11) assert that "customers deserve to know" certain regulatory consequences (in the referenced case the costs of providing service have decreased), the real question is whose job it is to tell them and how the information gets communicated. If a regulatory authority believes the public deserves to know something, it should pay the freight of communicating the information. See, e.g., CTIA at 11-12 (arguing that taxing/fee assessing authorities should be obligated to "explain" assessments in communications that carriers can make available to their customers, if the carriers so desire); PCIA at 6 and n.9 (arguing that much customer confusion has been generated as a consequence of taxing and regulatory authorities imposing funding obligations); Nextel at 10-11 (accord), 13-14; ACTA at 7 and n.12 (arguing -- maybe correctly -- that rather than assume that calls to the Commission around universal service and access reform charges are all reflective of customer confusion or deception, an argument can probably be made that participatory democracy is at play whereby the government has an opportunity to explain its position and the citizen to respond).

communications.

Furthermore, while carriers in an existing or presubscribed relationship with a customer have certain opportunities to communicate at some length with those customers (either through printed contract terms, fulfillment packages sent to customers, their own bill inserts, or market messages in LEC bills), carriers lacking such a relationship have no such opportunity. The "service description" (of a few words) is the first opportunity those carriers have to identify the service they have or are providing.[49]

As U S WEST stated in our opening comments, when we bill for such carriers we work with them to devise the most accurate (within the character limitations) service description possible. If subsequent customer response demonstrates that the description failed in its essential purpose (as demonstrated by calls to regulatory authorities, U S WEST's business offices, carrier feedback), another attempt is made to find a better description. This is clearly a superior methodology

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[49] NCL, for example, argues "[b]ecause there is no requirement for the billing entity to notify consumers in advance or to verify that they agreed to purchase the services, consumers do not usually realize that they are being inappropriately charged until they receive the bills." NCL at 5. NCL argues that "prior notification" (or "advance notice") should be required, and should be done by the billing entity. Compare KCC, noting that in its proposed billing standards order, it incorporated a requirement of a separate service confirmation notification. KCC at 3-4.

Beyond the issue of whether such notification would even be helpful to consumers (a matter addressed at the Truth-in-Billing Forum) and the propriety of the proposal that the notification be done by the billing agent (which U S WEST objects to) is the fact that often there is no prior relationship between a carrier and a customer that would accommodate such communication. Most dial-around and much operator services transactions would not support such a prior notification and

to "clear" and "nonmisleading" service descriptions than federal regulatory prescriptions of bill content.

D. Current Service Descriptions And Carrier Names Identified On Bills

1. References To "Monthly Service" Charges

Some commentors assert that terms such as "monthly service fee" should not be permitted to be used.[50] While not always making clear the context in which such assertions are made, it often seems in the context of discussions of resale carriers or service providers of non-telecommunications services.

While U S WEST can support certain commentors advocacy over "misleading" service descriptions (for example, NASUCA and MN-OAG asserting that "miscellaneous" would be such an ambiguous term so as to be misleading and NYSCPB asserting that terms "miscellaneous" and "other" are inappropriate),[51] we disagree with the blanket notion that the term "monthly service charge" or "monthly service fee" is a misleading description. Indeed such terms, or terms similar to these, have been used by ILECs for decades with respect to flat-rated, local monthly service charges.[52]

2. Choice Of Carrier Names Included In Bills

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such carriers must carefully craft the service description, after the fact, to advise the individual what service was provided.

[50] Bills Project at 3 (expressing dislike of the term "monthly fee"), 4 (same for "monthly charge"); NCL at 5 (asserting that term is "vague"); NAAG at 4 (attacking the use of terms such as "SVC CHG," "SET UP FEE," "MONTHLY FEE," and others).

[51] NASUCA at 3, 16; MN-OAG at 12; NYSCPB at 12.

[52] Compare bill attachments to U S WEST Comments, using the phrases "Monthly Service" and "Itemized Monthly Service."

A few commentors address the matter of carrier names and how those names might be reflected on billing statements. For example, BellSouth states that the name of the service provider that they incorporate in their name must "match the name on the state-granted certification."[53] Others argue that the name of the service provider on the bill should match the name utilized by the service provider in its marketing or advertising materials.[54] And, Americatel argues that U S WEST

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[53] BellSouth at 4 n. 7 (BellSouth does not state what name it uses in the absence of a state-certification. Furthermore, BellSouth references the NPRM for the proposition that "some unscrupulous providers have adopted names suggestive of a service offering."). Compare FTC at 14 n. 26 (suggesting that vendor names such as "Voicemail," "Discount Pricing Program," or "Access" might be misleading); SBAFUR at 8-9 (citing to "confusing, deceptive, misleading or unfair names" such as "I Don't Care," "It Doesn't Matter," "I Don't Know," "Whatever," "Whoever," "Anyone is OK," "The Phone Company" and "Minimum Rate Pricing, Inc."); NCL at 5 (mentioning Minimum Rate Pricing); PUCT at 8 (citing to "some companies' deceptive names such as . . . "I Don't Know", or "Local Fone Service").

U S WEST believes that caution needs to be exercised in this area before making blanket assumptions that corporate naming decisions reflect "unscrupulous" actions. Appending such a description to the naming decision should at least require some type of factual investigation and assessment, strongly suggesting that such cases are better framed for enforcement than for rulemaking. For example, the printed press reports that U S WEST has reviewed did not indicate that the Attorney Generals settlement with Minimum Rate Pricing, Inc. required that company to change its name. And, the FPSC recently granted an interexchange reseller certificate "to controversial operator service provider KTNT Communications of Tex., which uses "'I Don't Care'" and "'It Doesn't Matter'" as trade names" over the objections of the Florida Office of Public Counsel. Communications Daily, October 5, 1998. The FPSC apparently found no compelling evidence that the company engaged in intentional deceit and determined that they should receive the benefit of the doubt. However, the fact that a service provider name is not adopted by that provider out of unscrupulous motivation does not mean that a billing entity could not refuse -- for business reasons -- to reflect the name on its bill.

[54] BA at 8 (referencing "Lucky Dog" and AT&T); MPUC at 6; MN-OAG at 14 (the "actual name" of the company should be on bill); USP&C at 5.

in fact prohibits it from using its "marketing name" in the U S WEST bill.

The Commission should exercise extreme caution regarding a potential prescription of carrier names incorporated in bills, particularly in the context of billing agency relationships. Carriers acting as billing agents generally have considerable discretion under such contracts to engage in editorial decision-making. Depending on the carrier, such editorial control might not necessarily require or permit the "marketing name" of the carrier for whom the billing is being done to be reflected (or reflected in full) on the bill. So long as a case for deceptive or misleading billing cannot be proven, determinations around names and their reflections on bills should be left to the private parties and their contractual agreements.[55]

E. Access To LECs' Bills Or Billing Practices

Piggybacking on the Commission's articulated focus in this proceeding as being a carrier's billing relationship with its end user, a number of commenting parties take the opportunity to press arguments more correctly raised in other proceedings. Those commentors argue that access to LECs' bills and billing envelopes is critical and that the FCC should fundamentally revisit its 1986 Billing

[55] Americatel claims that U S WEST's offer to allow it to utilize a name that incorporated a dialing pattern for six months was motivated by some anticompetitive *animus*. Americatel at 3 n.2. Americatel is incorrect. U S WEST was willing to extend to Americatel the opportunity to take advantage of the fact that U S WEST had previously allowed a carrier to incorporate such a business name in our bills and that such opportunity would extend for another six months before being terminated. Americatel never responded to U S WEST's offer.

and Collections Detariffing Order.[56] Other commentors simply use the current proceeding as another opportunity to criticize a particular LEC billing practice or decision.[57]

The Commission should advise that these comments are not relevant to the instant proceeding. Carriers choosing to bill their end users through the services of others are bound by the contractual agreements attendant to such billing. They cannot pursue an "end around" by arguing that they should have greater rights with respect to billing their end users than they have contractually negotiated. Indeed, even if the Commission were to acknowledge that carriers have substantial flexibility in end user billing decisions, those not billing on their own behalf are constrained in that flexibility by the contractual agreements they have entered into.

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[56] See, e.g., ACTA at 3-4 (arguing that the "fundamental premise of the Commission's 1986 order detariffing LEC billing services is no longer valid"), 5-6 (rehashing old arguments and referencing pending proceedings); BRTF at 1, 6 (wants the Commission "to adopt rules that will ensure fair, non-discriminatory access to . . . [LEC] billing and collection services"), 3; Coalition at 2-11; ECA, passim; GTC at 11-14 (FCC should reconsider its 1986 detariffing order); MCI at 5, 18-19, 28-29, 47; Pilgrim, passim (Pilgrim's filing proves there is no end to the amount of acronyms that can be created, as Pilgrim advocates the needs of CCATES (which includes both telecommunications and non-telecommunications service offerings); USP&C at 3 ("advocat[ing] regulation of the billing platform to ensure access by competing providers").

[57] See, e.g., BRTF at 9 (complaining about some "unreasonable . . . and overly restrictive billing practices [recently adopted by] some LECs"); CompTel at 9 (criticizing charges associated with LEC billing for 10-10XXX calls); Excel at 6 (criticizing LEC charges); Nevadacom, passim (Nevadacom complains about U S WEST's cancellation of a billing arrangement between a Billing Aggregator (Integretel) and U S WEST with respect to Specialized Products and Services. This is certainly not the correct forum to litigate this issue and U S WEST has no further comment on Nevadacom's filing); Americatel, passim (discussed also above in Section D.).

This proceeding is not the appropriate one to revisit the history associated with third party billing or the contractual provisions or rights of those carriers taking issue with current billing contracts or agency relationships. Other than acknowledging that increased regulatory prescriptions in the area of third-party billing might cause those offering such services to rethink their provision of the services,[58] the Commission should reject this line of comments out of hand.

III. CONCLUSION

For all of the reasons stated herein and in its previously filed Comments, U S WEST believes the Commission should terminate this proceeding. If, however, the Commission believes it must take some formal action regarding billing content and format, then it should promulgate broad-based principles or guidelines rather than detailed prescriptions or rules.

Respectfully submitted,

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[58] See GVNW at 2, 12, 15; PMT at 2, 3.

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 16th day of December, 1998, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.** to be served, via first-class United States mail,* postage prepaid, upon the persons listed on the attached service list.

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