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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
CompTel Petition for Rulemaking Re:	)	RM No. 10131
Presubscribed Interexchange Carrier	)	CCB/CPD 01-12
Charges	)	

COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc. (SBC) hereby submits its comments on the Petition for Rulemaking filed by the Competitive Telecommunications Association (CompTel) that asks the Commission to initiate a rulemaking proceeding to change its rules governing federally tariffed charges associated with presubscribed interexchange carrier (PIC) changes. SBC is filing these comments as an incumbent local exchange carrier (ILEC) that assesses the PIC-change charge on end-user customers and as a new entrant interexchange carrier (IXC) that must acquire customers from incumbent IXCs.

Contrary to CompTel's claim, the $5.00 "safe harbor" for PIC-change charges established by the Commission continues to be reasonable. First, although there has been increased mechanization of the process when PIC-change requests are received from IXCs, that mechanization was designed primarily to allow for *faster* processing of PIC-change requests, not to reduce costs. In fact, the automated processing system is expensive to implement and maintain. Second, less than half of all PIC-changes are handled on a mechanized basis. Most PIC-change requests are received directly from end-user customers and are still processed manually, which requires the active participation of SBC's billing and customer service representatives (including the manual creation of a service order). Third, the $5.00 PIC-change charge covers much more than just the actual processing of PIC-change requests. The explosion of "slamming" cases in recent years has created significant customer concern and confusion over unauthorized PIC changes. The $5.00 PIC-change charge currently is the only mechanism for ILECs to recover the costs associated with responding to customer inquiries and conducting slamming investigations.

Moreover, CompTel's claim that the $5.00 safe harbor for PIC-change charges is somehow anti-competitive is irrelevant to the issue of cost recovery, but it is also wrong. The Commission's intent in establishing the PIC-change charge safe harbor was not to deter end-user customers from switching long distance providers, as CompTel suggests, but rather to deter *excessive* switching by allowing ILECs to recover the costs associated with PIC changes directly from the end-user customer submitting the request. CompTel also claims that ILECs can engage in an anti-competitive price squeeze when they enter the long distance market. The notion that ILECs can engage in a price squeeze with a one-time $5.00 charge is absurd, given the size of the incentives that IXCs are offering customers and the Commission's prior finding that the ILECs' long distance affiliates are non-dominant.

CompTel has provided no legitimate basis for putting the ILECs and the Commission's staff through the unnecessary and burdensome exercise of reexamining current PIC-change charges. There is a good chance PIC-change charges would actually *increase* if all costs related to PIC changes were calculated and included in the charges. Ultimately, SBC believes there is no public interest benefit in conducting a complex rulemaking proceeding that is unlikely to result in lower PIC-change charges and may actually produce price increases.

I. The $5.00 Safe Harbor for PIC-Change Charges Established by the Commission Continues to be Reasonable

To support its claim that the costs associated with PIC changes have significantly decreased since the Commission adopted the $5.00 safe harbor, CompTel relies exclusively on the Commission's May 18, 2000 decision that denied a complaint filed by MCI Telecommunications Corporation (MCI) seeking a refund of PIC-change charges.[1] The Commission did make some generalized statements that the defendant ILECs had realized substantial cost savings from the automation of their PIC-change processes.[2] However, the Commission did not make any determination as to the extent of any such cost savings or consider whether there were countervailing cost increases that occurred during the same time period. Nor did the Commission address the particular cost evidence presented by the ILECs, which, in Ameritech's case, supported a PIC-change charge above $5.00. The Commission's dicta in the *MCI Order* falls far short of a finding that ILECs' PIC-change charges should be set below $5.00, as CompTel claims.[3]

Comptel's conclusory assertion that the "vast majority" of PIC change requests are handled using a "fully automated process" is incorrect.[4] In fact, we estimate that more than 50% of PIC-change requests received by SBC are initiated by end users and therefore are not

[1] CompTel Petition at 3 (*citing MCI Telecommunications Corp. v. U S WEST Communications, Inc. et al.*, 15 FCC Rcd 9328, Memorandum Opinion and Order (2000) (*MCI Order*)).

[2] *MCI Order*, 15 FCC Rcd at 9332.

[3] CompTel Petition at 8.

[4] *Id.*

processed using the more automated system for requests submitted by IXCs.[5] Of these manual PIC-change requests, more than half are attributable to end-user customers who have requested "PIC freezes" on their accounts.[6] Thus, the widespread use of PIC freezes by consumers to combat unauthorized PIC changes contributes to the large percentage of manual PIC requests.

CompTel also overstates the extent to which the automated system for processing PIC-change requests submitted by IXCs produces cost savings. It is a gross mischaracterization to claim that the processing of PIC-change requests in the Customer Account Record Exchange (CARE) system involves no direct costs other than "some computer time."[7] CompTel ignores the fact that the mechanized process was designed primarily to allow for *faster* processing of PIC-change requests, not to reduce costs. In fact, the ongoing cost of maintaining and operating the CARE system is a substantial expense. To illustrate the complexity of the CARE system, there are multiple databases dedicated solely to maintaining, verifying and tracking PIC-change requests in the CARE system. There are also other costs involved in processing a PIC-change request. As CompTel acknowledges, the process of updating the switch involves various operations support databases such as MARCH. Further, a mechanized service order must be generated for each automated PIC change.

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[5] This estimate is based on recent data from Ameritech and Pacific Bell. Of course, there has not been sufficient time to prepare a detailed cost study and, in any event, SBC does not believe such a cost study is warranted. As previously noted, Ameritech did submit a cost study in the MCI complaint proceeding supporting a PIC-change charge above $5.00.

[6] A PIC freeze simply blocks the customer's account from PIC-change requests submitted by IXCs. If an IXC submits a batch of PIC-change requests via the automated process, any account that is under a PIC freeze will drop out as an error. At that point, the IXC must contact the SBC customer service center with the end-user customer on the line to verify the customer's authorization. Once the SBC customer service representative has confirmed the customer's authorization, a manual order is submitted to effectuate the PIC change.

[7] CompTel Petition at 8.

Moreover, the $5.00 PIC-change charge covers much more than just the processing of a PIC-change request. As the Commission well knows, the explosion of "slamming" cases in recent years has created significant customer concern and confusion over unauthorized PIC changes. ILECs incur real costs in responding to customer inquires and concerns regarding unauthorized PIC changes, and the amount of time spent with customers has only increased in the wake of the Commission's changes to its slamming rules. The $5.00 PIC-change charge currently is the only mechanism for ILECs to recover these costs.

In its Petition, Comptel takes an unreasonably narrow view of the costs that are appropriately recovered through the PIC-change charge. It seeks to limit cost recovery to only those costs that are incurred to receive and validate a PIC change request and forward that request to the switch.[8] According to CompTel, ILECs should not be allowed to include customer service expenses incurred to respond to PIC change inquiries from end-user customers.[9] CompTel's attempt to artificially limit cost recovery for PIC-change activities ignores the reality that customer service support is directly related to the PIC-change process. It also is self-serving for IXCs to oppose cost recovery for customer service expenses that are the direct result of their slamming activity. The Commission must consider *all* costs related to PIC changes in evaluating the reasonableness of the current safe harbor.

II. The Commission's Current PIC Change Charge Rules are not Anti-Competitive

CompTel's claim that the $5.00 safe harbor for PIC-change charges is somehow anti-competitive is irrelevant to the issue of cost recovery, but it is also wrong. CompTel argues that

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[8] *Id.* at 9-10.

[9] *Id.* at 10.

the purpose of the safe harbor is to "dampen competition and consumer choice in the long distance market,"[10] but that is not a fair characterization of the Commission's justification for the safe harbor. The Commission's intent in establishing the PIC-change charge safe harbor was not to deter end-user customers from switching long distance providers, but rather to deter *excessive* switching by allowing ILECs to recover the costs associated with PIC changes directly from the end-user customer submitting the request.

In any event, CompTel's anti-competitive claim is firmly refuted by 15 years of actual experience in the long distance market. Competition has continued to grow in the long distance market, particularly as SBC and other ILECs have entered the market, and prices have steadily declined. There is absolutely no evidence that customers are hesitant to switch long distance providers because of the PIC-change charge. In fact, long distance providers typically pay for the PIC-change charge and often offer additional incentives – including checks for as much as $75 – to attract new customers.

CompTel also claims that the safe harbor for PIC-change charges permits the ILECs and their long distance affiliates to engage in an anti-competitive price squeeze.[11] However, the Commission previously considered and dismissed similar price squeeze claims involving much larger cost issues (*e.g.*, access charges) when it classified the ILECs' long distance affiliates as non-dominant. The notion that a one-time $5.00 charge creates a price squeeze concern is absurd, given the size of the incentives that IXCs are offering customers and the Commission's prior finding that the ILECs' long distance affiliates are non-dominant. Indeed, the fact that SBC

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[10] *Id.* at 7.

[11] *Id.* at 5.

Long Distance has successfully acquired millions of customers from incumbent IXCs further demonstrates that current PIC-change charges are not impeding competition.

III. There is no Public Interest Benefit in Initiating a Complex Rulemaking Proceeding to Reexamine PIC-Change Charges

CompTel has provided no legitimate basis for putting the ILECs and the Commission's staff through the unnecessary and burdensome exercise of reexamining current PIC-change charges. As it did in 1987, the Commission should consider factors such as the complexities of developing cost support data for the PIC-change charge in deciding whether to conduct a cost proceeding. The Commission cannot take any action to lower the safe harbor for PIC-change charges without conducting a detailed examination of the ILECs' cost data.[12] Moreover, any proceeding to reexamine PIC-change charges would have to include *all* of the PIC-related costs that are recovered through the PIC-change charge, including customer service support related to unauthorized PIC changes. There is a good chance PIC-change charges would actually *increase* if all of these costs were calculated and included in the charges.

If the Commission were to limit the type of costs included in the PIC-change charge as requested by CompTel, the Commission also would have to address the issue of how all costs related to PIC changes are to be recovered. These costs cannot simply be ignored, as CompTel attempts to do in its Petition. The Commission would have to consider the customer implications of creating new PIC-related charges, including the potential chilling effect that such charges could have on customers reporting incidents of unauthorized PIC changes. Ultimately, SBC

[12] Even if the Commission were to reduce the safe harbor amount, it would have to preserve the ILECs' ability to demonstrate that their costs exceed that amount. The Commission could not simply prescribe a lower PIC-change charge.

believes there is no public interest benefit in conducting a complex rulemaking proceeding that is unlikely to result in lower PIC-change charges and may actually produce price increases.

IV. Conclusion

For the foregoing reasons, the Commission should not accept CompTel's invitation to initiate a rulemaking proceeding to change its rules governing federally tariffed charges associated with PIC changes. The $5.00 safe harbor for PIC-change charges continues to be reasonable given all of the costs that are covered by the PIC-change charge. Moreover, PIC-change charges clearly have not impeded competition in the long distance market or had any anti-competitive effect for new entrant IXCs. Thus, there is no public interest benefit in initiating a complex rulemaking proceeding to reexamine PIC-change charges.

Respectfully Submitted,

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