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

In the Matter of	)	
	)	
Presubscribed Interexchange Carrier	)	CC Docket No. 02-53
Charges	)	CCB/CPD File No. 01-12
	)	RM-10131

COMMENTS

BellSouth Corporation, on behalf of itself and its wholly-owned subsidiaries hereby submits its comments in response to the *Notice of Proposed Rulemaking* ("*Notice*") released on March 20, 2002 in the above referenced proceeding.

I. INTRODUCTION

1. In the *Notice*, the Commission proposes to reexamine the current safe harbor associated with the presubscribed interexchange carrier ("PIC") change charge in light of the industry and market changes that have occurred since its implementation in 1984. The safe harbor was initially established, in part, as a pragmatic regulatory approach to implement generally reasonable, workable initial interstate access tariffs. Not only has the safe harbor achieved its initial purpose but it has operated well during the succeeding years.

2. While the passage of time and the substantial market changes that have occurred during the intervening years explain the Commission's interest in revisiting the underlying policies of the PIC change charge, the Commission should not be looking to impose new regulatory burdens on local exchange carriers. The Commission did not find it necessary in the past to strictly regulate PIC change charges, and the more dynamic, competitive market changes

brought about by the Telecommunications Act of 1996 do not justify the imposition of heavy-handed regulation.

3. Experience has shown that Commission intervention is not needed. Some interexchange carriers have argued that BellSouth's PIC change charge evidences that PIC costs have decreased and that there is a need for the Commission to intervene and establish new parameters for charges. These carriers are wrong. BellSouth's charge reflected a market response by BellSouth to develop a lower cost mechanized approach to PIC changes. Over time, however, the market has changed and a single mechanized approach is no longer acceptable to meet market needs. As a result, costs of PIC changes are increasing, not decreasing as suggested in the *Notice*.

4. Further, as recognized by the Commission, there is good reason for the PIC change charge to deviate from cost—to discourage excessive amounts of shifting back and forth by end users between and among interexchange carriers. Ultimately, if such behavior is not effectively constrained, costs increase and productive resources are diverted from providing other services.

5. As discussed below, BellSouth believes that the Commission should adopt a more market-based approach to PIC change charges by including them within price cap regulation. In addition, in response to the *Notice*, BellSouth discusses the type of costs associated with PIC change charges.

II. DISCUSSION

6. When the Commission first adopted price cap regulation for local exchange carriers ("LECs"), it excluded certain services including PIC change charges. At the time price cap regulation was being considered, it represented a far-reaching departure from traditional rate of return regulation. Given the inexperience with the new regulatory platform, a somewhat

conservative approach to implementation was understandable. LEC price caps, however, have been functioning effectively for over a decade. With the considerable experience that has been gained and the benefits that price regulation has been shown to provide, it is time to bring the PIC change charge within price cap regulation.

7. There are a number of advantages to be gained by applying price cap regulation to PIC change charges. Price cap regulation defines regulatory limitations that are more reflective of the competitive environment. Over the past decade, the Commission has taken steps to adjust regulation to the rapid competitive changes in the marketplace.[1] There is no reason to exclude PIC change charges from a similar regulatory approach.

8. As experience has shown, price cap regulation affords sufficient regulatory oversight to insure reasonable charges; nevertheless, regulation is not so intrusive and overbearing so as to increase the LECs' cost of doing business. In the current competitive telecommunications environment, such a balance is important. Unlike 1984 or 1990, when LEC price caps were adopted, incumbent local exchange carriers are not the only local alternative. End users can select competitive carriers for local service who not only are not limited regarding the charges they can assess for changing PICs, but who do not even have to offer their customers the ability to change primary interexchange carriers.

9. Thus, in today's marketplace, interexchange carrier preselection plays a very different role than it did in 1984. Implementing price cap regulation for PIC change charges makes sense in this new environment. It would enable the ILECs to make price adjustments within a defined

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[1] *In the Matter of Access Charge Reform, et al.,* CC Docket No. 96-262, *et al., Fifth Report and Order and Further Notice of Proposed Rulemaking,* 14 FCC Rcd 14221 (1999) (*"Pricing Flexibility Order").*

set of rules without the need to perform time and resource consuming cost studies. Not only is this limited flexibility fair in the current market environment, but it also affords incumbent LECs the ability to adjust rates quickly to insure that there is not excessive end user switching between and among interexchange carriers—a pricing opportunity that is even more important since only ILECs have the obligation to provide for interexchange carrier preselection. Excessive switching can place incumbent LECs at a competitive disadvantage relative to competitive LECs who neither incur the costs to permit their customers to switch interexchange carriers nor have to divert resources to PIC activities. Price cap regulation of PIC change charges would be an effective and efficient mechanism to ensure that ILECs can compete fairly and at the same time provide regulatory oversight so that PIC change charges remain reasonable.

10. Although BellSouth believes a more market-oriented approach should be followed for PIC change charges, BellSouth does take this opportunity to address the issues relating to PIC change costs. At the outset, it is necessary to dispel the myth that PIC change costs are decreasing. Some parties attempt to use BellSouth's current PIC change rate as evidence of declining PIC costs. No such inference can be made. When BellSouth adjusted its PIC change rate many years ago, it was based on an assumption that manual PIC changes would be isolated, and that the then existing mechanized approach to PIC changes would dominate the activity. The rate never contemplated significant process changes nor did it contemplate the kind of major market restructure that the telecommunications industry has undergone.

11. Some might suggest that BellSouth's failure to change its PIC change rate also reflects decreasing PIC change costs. Such an inference would also be incorrect. The fact of the matter is that assembling relevant costs to submit in connection with a tariff filing requires a substantial dedication of resources, resources that are often required to support other business

activities. With the passage of the Telecommunication Act of 1996, these same resources were called upon to assume new roles and responsibilities in order for BellSouth to meet its new statutory obligations. Supporting preexisting, arcane tariff processes took on a secondary role.

12. Nevertheless, PIC change costs have increased. The systems that support PIC change have become more complex and, hence, more costly to implement and maintain. For example, when BellSouth filed its currently existing PIC change charge, BellSouth only used two methods to support a mechanized PIC change charge and its OSS systems were based on computer mainframes. Today, BellSouth uses a variety of mechanized methods to enable PIC changes. While these methods are more user friendly, they are more expensive than the older mechanized processes and more costly to maintain.

13. Another factor affecting the cost of PIC changes is the relative mix of mechanized versus manual PIC changes. BellSouth's current PIC change rate was based on an assumption that manual PIC changes would be limited and, in a manner of speaking, incidental to PIC changes based on a mechanized process. BellSouth underestimated the degree to which manual PIC changes would remain a presence in the marketplace. For BellSouth in 2001, manual PIC changes accounted for 34 percent of all PIC changes and there is no evidence to suggest that this percentage will abate in the future. Further, the cost of processing manual PIC changes, like that of mechanized PIC changes, has increased. In addition to the increased cost of support systems used in the manual PIC change process, the amount of time necessary to handle manual PIC changes has grown and increased labor rates have contributed to increasing labor costs.

14. With regard to the specific types of costs incurred to accomplish a PIC change, the costs vary by the way in which a PIC change is processed. A manual PIC change is initiated through direct customer contact with the business office. BellSouth will incur labor costs

associated with the service representative that receives the request. The service representative is responsible for verifying the request, performing functions to implement a PIC freeze if requested,[2] and submitting service orders. In addition to the service representative's direct cost, other costs associated with contract vendors are incurred for activities such as third party verification. Supporting service representatives are mechanized systems for service order entry and processing. Accordingly, the computer hardware and software costs of these systems are part of the costs of a manual PIC change. In addition, computer hardware and software costs are incurred to notify interexchange carriers of PIC changes.

15. For PIC changes that are processed mechanically, the costs are associated with data transmission software and hardware as well as the computer software and hardware associated with operational support systems used to process PIC changes. As is the case for a manual PIC change, BellSouth incurs the computer costs for notifying interexchange carriers of PIC changes. In some instances, mechanized PIC change requests fall out of the system because of an error. Such requests must be processed manually. The labor costs and system upgrades necessary to handle such requests are also a cost of the mechanized PIC change process.

16. In addition to the direct costs for manual and mechanized processing of PIC changes, the rates should also contribute to the recovery of joint and common costs. Common costs include a reasonable portion of the costs of such items as land and buildings and general administrative expenses.

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2 BellSouth's current PIC change charge does not include costs associated with implementing a PIC freeze. Nevertheless, such costs are associated with the PIC change function and therefore properly recoverable through the PIC change charge.

17. Finally, the Commission solicits comments on whether the assessment of an interLATA PIC change charge and an intrastate intraLATA charge ("LPIC") constitutes double recovery of the same costs. At the outset, the Commission must be mindful of the jurisdictional differences. LPIC is an intrastate charge subject to the exclusive jurisdiction of the state commissions. It arises out of activities associated with selecting carriers to carry intrastate, intraLATA traffic. Thus, the Commission has no jurisdiction to evaluate the reasonableness of the intrastate charge.

18. The jurisdictional issue aside, the fact of the matter is that LPIC and PIC charges recover the costs of separate and distinct activities. BellSouth assesses the LPIC charge when both a PIC and LPIC change are requested on the same order. In order for a customer's choice of intraLATA toll carrier to be properly handled, there are processing costs that BellSouth incurs that are in addition to the costs of performing PIC changes. The LPIC charge recovers the additional labor costs associated with a manual request and the additional processing costs in connection with a manual and a mechanical request. Further, for both manual and mechanized requests, BellSouth incurs additional provisioning and billing costs that also are recovered through the LPIC charge. Thus, there is no overlap in the costs recovered by the PIC change charge and the LPIC change charge.

III. CONCLUSION

19. The time has come for the Commission to lessen the regulatory burden that has been and continues to be placed only upon incumbent local exchange carriers. The Commission has had sufficient experience with price cap regulation to be confident that this form of regulation provides more than adequate regulatory oversight and that PIC change charges should now be brought within price cap regulation.

20. BellSouth has shown that the assumption of declining PIC change costs is myth. Mythology should not be the basis for new regulatory requirements. Incumbent local exchange carriers already face numerous competitive hurdles based on asymmetrical regulation, and the Commission should not add to these hurdles by over-regulating PIC changes.

Respectfully submitted,

BELLSOUTH CORPORATION

By: /s/ Richard M. Sbaratta
Richard M. Sbaratta

Its Attorney

Suite 4300
675 West Peachtree Street, N. E.
Atlanta, Georgia 30375-0001
(404) 335-0738

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CERTIFICATE OF SERVICE

I do hereby certify that I have this 14th day of June served the following parties to this action with a copy of the foregoing **COMMENTS** by electronic filing and/or by placing a copy of the same in the United States Mail, addressed to the parties listed below.

+Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
The Portals, 445 12th Street, S. W.
Room 5-B540
Washington, D. C. 20554

+Qualex International
The Portals, 445 12th Street, S. W.
Room CY-B402
Washington, D. C. 20554

Tamara L. Preiss
Chief, Pricing Policy Division
Federal Communications Commission
The Portals, 445 12th Street, S. W.
Room 5-A225
Washington, D. C. 20554

/s/ Juanita H. Lee
Juanita H. Lee

+ VIA ELECTRONIC FILING