

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

In the Matter of)	
)	
Empowering Consumers to Avoid Bill Shock)	CG Docket No. 10-207
)	
Consumer Information and Disclosure)	CG Docket No. 09-158

**REPLY COMMENTS
OF THE
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT
OF SMALL TELECOMMUNICATIONS COMPANIES**

I. INTRODUCTION & SUMMARY

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these reply comments in response to the Notice of Proposed Rulemaking (NPRM) in the above-captioned proceedings.¹ OPASTCO is a national trade association representing approximately 470 small, rural rate of return (RoR)-regulated incumbent local exchange carriers (RLECs). Its members, which include both commercial companies and cooperatives, together serve more than 3 million customers. Approximately one third of OPASTCO's members provide some type of wireless service.

The record in this proceeding does not support the adoption of the rules proposed in the NPRM, as they would impose significant costs on rural wireless carriers. However, the proposed rules are not needed in light of the fact that rural wireless

¹ *Empowering Consumers to Avoid Bill Shock*, CG Docket No. 10-207, *Consumer Information and Disclosure*, CG Docket No. 09-158, Notice of Proposed Rulemaking, FCC 10-180 (rel. Oct. 14, 2010) (NPRM).

providers have adopted a number of methods to enable subscribers to monitor their voice, text, and data usage in order to prevent “bill shock.”

The Commission should instead work with the wireless industry to better educate consumers on the “bill shock” prevention methods already available to them. This could take the form of flexible consumer disclosure guidelines that require carriers to provide wireless customers with clear and ongoing disclosure of the tools available to them to monitor their usage. Finally, should the Commission adopt the proposed rules despite a record that does not support their necessity, it should exempt rural wireless carriers to prevent hindering their ability to continue investing in their data and voice networks. At the very least, rural wireless carriers should be permitted to become compliant with any “bill shock” rules through billing system upgrades made in the normal course of business.

II. THE COMMISSION SHOULD DECLINE TO ADOPT THE PROPOSED RULES, AS THE COMPLIANCE COSTS WOULD FAR OUTWEIGH THE BENEFITS IN LIGHT OF THE TOOLS ALREADY AVAILABLE TO CONSUMERS TO PREVENT “BILL SHOCK”

Commenters have amply demonstrated in this proceeding that the rules proposed in the NPRM are neither necessary nor appropriate.² This is because wireless providers of all sizes offer tools to their customers that enable them to avoid unexpected overage charges or other forms of so-called “bill shock.” The Commission should therefore reject the unnecessary and costly measures proposed in the NPRM and instead provide wireless carriers with the flexibility to tailor their customer service practices to the needs and demands of their subscribers. In addition, the Commission should work with wireless

² Rural Telecommunications Group (RTG), pp. 2-3; Rural Cellular Association (RCA), pp. 9-13; Verizon Wireless, pp. 2-13; AT&T, Inc. (AT&T), pp. 7-30; CTIA-The Wireless Association, pp. 6-23; National Telecommunications Cooperative Association (NTCA), p. 2; T-Mobile USA, Inc. (T-Mobile), pp. 2-8.

carriers to improve consumer awareness (see section II, c., *infra*) of the usage monitoring tools currently available to them.

A. Rural wireless carriers have adopted a variety of tools that enable customers to prevent “bill shock”

As the record demonstrates, rural wireless carriers have adopted a number of ways for subscribers to monitor and limit their wireless usage, practices intended to prevent “bill shock.”³ For instance, many rural carriers provide online tools for subscribers to track their wireless usage (voice, text, and data). Some have also adopted caps on the amount of overage charges a subscriber can incur, while some offer their subscribers who do incur overage charges the opportunity to choose a different service plan that better fits their usage pattern. In a few cases, rural wireless carriers have adopted usage alerts similar to those proposed in the NPRM, and more are considering or experimenting with them. In short, it is clear that rural wireless carriers are committed to preventing customers from experiencing “bill shock.”

It should come as no surprise that rural wireless carriers have undertaken the efforts described above. As RCA notes, their members “...have had great success retaining customers and keeping churn rates low because of the individual attention they pay to each customer, including monitoring customers’ bills and wireless usage.”⁴ In a highly competitive market,⁵ small rural wireless carriers often distinguish themselves by

³ RTG, p. 2; RCA, pp. 9-13 & Exhibit A; NTCA, p. 2.

⁴ RCA, p. 10; *See also*, Blooston Rural Wireless Carriers (Blooston), p. 4.

⁵ The FCC’s most recent annual report on the state of competition in the wireless market found that “...94.5 percent of the rural population lives in census blocks with two or more mobile voice operators competing to offer service, 83.1 percent live in census blocks with at least three competing mobile voice operators, and 65.5 percent live in census blocks with at least four competing mobile voice operators.” *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 09-66, 14th Report, FCC 10-81 (rel. May 20, 2010), p. 18.

providing superior customer service. It is these market-based incentives that the Commission should rely upon, rather than costly new mandates, to ensure that the goals of this proceeding are fulfilled.

The Commission should also consider that certain of the proposals in the NPRM are either technologically unfeasible or could undermine the purported goal of this proceeding. As commenters have noted,⁶ “real-time” alerts may not be technically possible absent significant and costly billing system upgrades. Moreover, for rural wireless carriers, information regarding wireless subscribers’ roaming on other carriers’ networks is not provided by their roaming partners on a “real-time” basis.⁷ Thus, there would be an unavoidable latency in roaming usage alerts, causing customer confusion and frustration. Also, the NPRM’s proposed rules could result in subscribers receiving a large number of alerts, which would quickly lead to subscribers simply ignoring them.⁸

Furthermore, the Commission should flatly reject proposals for an “opt-in” mechanism⁹ that requires wireless providers to discontinue service once a subscriber reaches the allotted minutes of use or volume of data in their service plan. Under this ill-advised proposal, a subscriber’s voice, text, and/or data service would be disabled if they reach their monthly allotted usage or they are about to incur roaming charges. When this occurs, the subscriber could only reactivate service by affirmatively authorizing

⁶ NTCA, p. 2; RCA, p. 8; T-Mobile, p. 20.

⁷ NTCA, p. 2; AT&T, pp. 35-37. *See also*, AT&T, p. 42 (“A wireless provider cannot unilaterally reduce latency in the roaming context. Even if a given provider adopted a technological system that could theoretically allow prompt inter-provider exchanges of roaming information, that provider still could not supply timely information to its customers about their off-network usage unless *its roaming partners* also adopted compatible latency-reduction solutions.”).

⁸ AT&T, pp. 30-31.

⁹ Center for Media Justice, Consumer Action, Consumer Federation of America, Consumers Union, Free Press, Media Access Project, National Consumers League, National Hispanic Media Coalition and New America Foundation Open Technology Initiative, p. 5.

overage charges, which may require direct contact with a customer service representative. Such a requirement would be frustrating to customers and, more importantly, may compromise public safety.¹⁰ Moreover, should a consumer desire the option of an absolute limit on their wireless usage and the coincident charges, this option already exists in the form of prepaid wireless service.

In short, it is clear from the record that rural wireless providers are committed to providing their customers with ways to avoid “bill shock,” and that the measures proposed in the NPRM are unnecessary and inappropriate. In light of the substantial cost they would impose, the better approach would be improved consumer education of the tools that wireless providers already make available to their subscribers.

B. The rules proposed in the NPRM would impose significant costs on rural wireless providers

As the rural wireless industry has noted, the rules proposed in the NPRM would impose significant costs on rural wireless carriers.¹¹ Many rural wireless carriers’ billing systems are not configured to provide the usage alerts proposed in the NPRM.¹² Thus, these providers would have to make expensive software and/or hardware upgrades to their billing systems or possibly even replace them entirely. RCA estimates that their members could incur costs of \$2 million per carrier, an amount that would certainly divert rural carriers’ limited financial resources from upgrading their networks to provide 3G and 4G voice and data services. Therefore, considering the tools that rural wireless carriers already make available to their subscribers to avoid “bill shock,” the NPRM’s

¹⁰ For example, AT&T, p. 59 (“...even though a customer can place outgoing E911 calls on a disabled phone, emergency personnel have no means of calling that phone back.”).

¹¹ RTG, p. 2; NTCA, p. 2; RCA, p.7.

¹² NTCA, p. 2; RCA, p. 7.

proposed rules fail a rational cost/benefit test and should not be adopted, at least for rural wireless providers.

C. The Commission should work with the wireless industry to better educate consumers on the “bill shock” prevention methods already available to them

The Commission should consider working with the wireless industry to better educate consumers on the tools already available to them to prevent “bill shock.” As the record demonstrates, the tools that wireless consumers need to prevent unexpected overage charges and other forms of “bill shock” are readily available. However, the wireless industry and the Commission may need to do a better job of improving consumer knowledge of the availability of these tools. Like RTG, OPASTCO would not be opposed to flexible consumer disclosure guidelines that require wireless providers to “... make clear, conspicuous and ongoing disclosure of any tools they offer which allow subscribers to either limit usage or monitor usage history.”¹³ The Commission could collaborate with the wireless industry to develop these guidelines. This would greatly improve subscriber awareness of the possible overage charges they may incur under their service plan and methods to prevent them from occurring in the first place. At the same time, it would provide the necessary flexibility to enable rural wireless carriers to preserve their limited resources for improving the quality and reach of their services.

¹³ RTG, pp. 2-3. When the Commission adopted its existing truth-in-billing guidelines, it wisely adopted broad, flexible principles rather than rigid, detailed rules. The Commission took this approach, in part, to avoid increasing carriers’ costs. *Truth-in-Billing and Billing Format*, CC Docket No. 98-170, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492, 7499 (1999) (First Report and Order), ¶10.

III. SHOULD THE COMMISSION ADOPT THE PROPOSED “BILL SHOCK” RULES DESPITE A RECORD THAT DEMONSTRATES NO NEED FOR THEM, IT SHOULD EXEMPT RURAL WIRELESS CARRIERS

As discussed above, the record in this proceeding demonstrates that the “bill shock” rules proposed in the NPRM are unnecessary and inadvisable. However, should the Commission decide to adopt the proposed rules, it should exempt rural wireless carriers.

Small, rural wireless carriers already face numerous hurdles in their effort to effectively compete for customers. These hurdles include difficulty purchasing wireless handsets,¹⁴ negotiating automatic roaming agreements,¹⁵ and the inability to offer nationwide service plans. Despite these challenges, rural carriers have invested significant resources to provide high-quality service to consumers that the nation’s largest wireless carriers sometimes offer spotty service to and, in some cases, do not serve at all.

The proposals in the NPRM, however, would require significant upgrades to, or replacement of, existing billing systems, the costs of which will largely need to be passed through to end users. As previously noted, rural carriers have already taken a number of steps to empower their customers to monitor their usage and avoid unexpected overage charges on their wireless bills. And, in many cases, additional efforts are underway or are being contemplated. It therefore makes little sense to impose costly mandates that would hinder rural carriers’ ability to invest in their networks and improve service to customers.

¹⁴ Petition for Rulemaking Regarding Exclusivity Arrangements between Commercial Wireless Carriers and Handset Manufactures, Rural Cellular Association, filed in RM-11497 (May 20, 2008).

¹⁵ OPASTCO & NTCA comments, WT Docket No. 05-265 (fil. June 14, 2010).

At the very least, the Commission should consider an implementation period for rural wireless carriers that takes into account their existing investment plans. In other words, these carriers should be permitted to become compliant with any “bill shock” rules through billing system upgrades made in the normal course of business. This would avoid the burden of a significant, unplanned expense that may delay other network investments which would truly improve the services available to subscribers.

IV. CONCLUSION

The Commission should decline to adopt the rules proposed in the NPRM. The proposed rules would impose significant costs on rural wireless carriers that are not justified in light of the various tools that carriers already have in place to enable subscribers to avoid “bill shock.” Instead, the Commission should consider working with the rural wireless industry to better educate consumers on the “bill shock” prevention methods already available to them. However, should the Commission decide to adopt the proposed rules despite a record that does not support their necessity, it should exempt rural wireless carriers. This would prevent hindering rural carriers’ ability to continue making investments in their networks that improve service to customers. At the very least, rural wireless carriers should be permitted to become compliant with any “bill shock” rules through billing system upgrades made in the normal course of business.

Respectfully submitted,

**THE ORGANIZATION FOR THE
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February 8, 2011

CERTIFICATE OF SERVICE

I, Brian Ford, hereby certify that a copy of the reply comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent via US mail or electronic mail, on this, the 8th day of February, 2011, to those listed on the attached sheet.

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