Friday
June 25, 1999

Part V

Federal Communications Commission

47 CFR Part 64

Truth-in-Billing and Billing Format; Final Rule and Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 98–170; FCC 99–72]

Truth-in-Billing and Billing Format

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: This document establishes common-sense billing principles to ensure that consumers are provided with basic information they need to make informed choices among telecommunications services and providers. First, consumer telephone bills must be clearly organized, clearly identify the service provider, and highlight any new providers. Second, bills must contain full and non-misleading descriptions of charges that appear therein. Third, bills must contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, or contest charges, on the bill. These requirements are intended to protect consumers against inaccurate and unfair billing practices. More specifically, the principles adopted herein will enhance consumers' ability to detect cramming and slamming.

DATES: These rules which contain information collection requirements are effective upon OMB approval, but no sooner than thirty (30) days after publication in the Federal Register. The Commission will publish a document in the Federal Register announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Enforcement Division, Common Carrier Bureau. (202) 418–0960.

SUPPLEMENTARY INFORMATION:

I. The Importance of Clear and Informative Bills in Competitive Telecommunications Markets

1. In this Order, we undertake common-sense steps to ensure that consumers are provided with basic information they need to make informed choices in a competitive telecommunications marketplace, while at the same time protecting themselves from unscrupulous competitors. We believe that the ''truth-in-billing'' principles adopted herein will significantly further consumers' opportunity to reap fully the benefits envisioned by the Telecommunications Act of 1996 (1996 Act), which amended the Communications Act of 1934 (Act).

2. In this Order, we adopt generally the ''truth-in-billing'' principles proposed in the Proposed Rules, 63 FR 55077, in order to ensure that consumers receive thorough, accurate, and understandable bills from their telecommunications carriers. Specifically, we will require:

(1) That consumer telephone bills be clearly organized, clearly identify the service provider, and highlight any new providers;

(2) That bills contain full and non-misleading descriptions of charges that appear therein; and,

(3) That bills contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, or contest charges, on the bill.

Additionally, we adopt minimal, basic guidelines that explicate carriers' binding obligations pursuant to these broad principles. These principles and guidelines are designed to prevent the types of consumer fraud and confusion evidenced in the tens of thousands of complaints we have received. Moreover, we believe that they represent fundamental principles of fairness to consumers and just and reasonable practices by carriers.

3. By implementing these principles through broad, binding guidelines as described more fully below, we allow carriers considerable discretion to satisfy their obligations in a manner that best suits their needs and those of their customers. Thus, carriers that wish to distinguish themselves through creative and consumer-friendly billing formats have wide latitude to compete in this manner (*i.e.*, by producing bills on 8½×11 inch paper).

II. Truth-in-Billing Principles

A. Adoption of Guidelines

4. Through this Order, we adopt broad, binding principles to promote truth-in-billing, rather than mandate detailed rules that would rigidly govern the details or format of carrier billing practices. We envision that carriers may satisfy these obligations in widely divergent manners that best fit their own specific needs and those of their customers. Indeed, our decision to adopt broad, binding principles, rather than detailed, comprehensive rules, reflects a recognition that there are typically many ways to convey important information to consumers in a clear and accurate manner.

5. Yet purely voluntary guidelines would be insufficient to combat misleading bills that facilitate slamming and cramming. The extent of the current problem shows that voluntary action alone is inadequate for many carriers. Failure to codify these principles and implementing guidelines might result in carriers ignoring our requirements, to the detriment of consumers. Our Order permits carriers to render bills using the format of their choice, so long as the bills comply with the implementing guidelines that we adopt today. We consider our principles and guidelines to be flexible enough that carriers will be able to comply with them without incurring unnecessary expense. In fact, we note that many carriers commented that their current practices already comport with proposals we outlined in the Proposed Rules.

6. *Commercial Mobile Radio Service (CMRS) Carriers.* We believe that the broad principles we adopt to promote truth-in-billing should apply to all telecommunications carriers, both wireline and wireless. The principles we adopt today represent fundamental statements of fair and reasonable practices. Like wireline carriers, wireless carriers also should be fair, clear, and truthful in their billing practices.

7. The record does not, however, reflect the same high volume of customer complaints in the CMRS context, nor does the record indicate that CMRS billing practices fail to provide consumers with the clear and non-misleading information they need to make informed choices. If current CMRS billing practices are clear and non-misleading to consumers, then it might be appropriate either to forbear from specific wireline rules or not to apply them in the first instance. Furthermore, in some instances, the rules we have adopted might simply be inapplicable in the wireless context.

8. Despite the fact that some rules may be inapplicable or unnecessary in the CMRS context, there are two rules that we think are so fundamental that they should apply to all telecommunications common carriers: (1) that the name of the service provider associated with each charge be clearly identified on the bill; and (2) that each bill should prominently display a telephone number that customers may call free-of-charge in order to inquire or dispute any charge contained on the bill.

9. We also intend to require CMRS carriers to comply with standardized labels for charges resulting from Federal regulatory action, if and when such requirements are adopted. As a practical matter, this rule will not apply until we issue an order that adopts the standard labels for federal line-item charges. We expect to apply the same rule to both wireline and CMRS carriers, however, because we believe that labels assigned to charges related to federal regulatory

action should be consistent, understandable, and should not confuse or mislead customers.

B. Legal Authority

10. We find that our authority to enact the truth-in-billing guidelines set forth herein stems from both section 201(b) and section 258 of the Act. Section 201(b) requires that all carrier charges, practices, classifications, and regulations ''for and in connection with'' interstate communications service be just and reasonable, and gives the Commission jurisdiction to enact rules to implement that requirement. Section 258 of the Act further authorizes the Commission to adopt verification requirements to deter slamming in both the interstate and the intrastate markets. The Supreme Court has ruled that section 201(b) provides the Commission with authority to implement all of the provisions of the Act, including those that apply to intrastate communications. As explained in this Order, with the exception of the guideline discussed at section II(C)(2)(c) of this Order, which involves standardized labels for charges relating to federal regulatory action, the truth-in-billing principles and guidelines adopted herein are justified as slamming verification requirements pursuant to section 258, and thus can be applied to both interstate and intrastate services. We recognize, however, that the standardized label guideline rests exclusively on our authority under section 201(b) and therefore is limited to interstate services.

C. Specific Truth-in-Billing Guidelines

1. Clear Organization and Highlighting New Service Provider Information

11. We adopt the threshold principle set forth in the Proposed Rules that telephone bills must be clearly organized and highlight new service provider information. We conclude that such a basic principle is essential to facilitate consumers' understanding of services for which they are being charged, and thereby discourage consumer fraud such as slamming. The goal of these requirements is to deter slamming, as well as cramming, and accordingly, we possess jurisdiction to impose these requirements under sections 201(b) and 258 of the Act. Based on our review of the record and experience handling consumer complaints of fraudulent carrier practices, we further conclude that implementation of this principle translates into three broad, binding guidelines on which we sought comment in the Proposed Rules: (1) The name of the service provider associated with each charge must be clearly identified; (2) charges must be separated by service provider; and (3) clear and conspicuous notification of any change in service provider must be made manifest. Through ensuring that the billed information concerning service providers is clear and conspicuous, these guidelines enhance consumers' ability to review individual charges contained in their telephone bills and detect unwarranted charges or unauthorized changes in their service arrangements.

12. In our view, a clear description of the name of the service provider is both rudimentary to any reasonable billing practice and essential to combat unfair carrier practices, including slamming and cramming. Consumers will be able to detect whether or when they have been slammed, crammed, or even overcharged only if they can readily identify their current service providers. Clear identification of service providers is also an essential predicate for consumers to be able to communicate complaints and dispute billed charges. Indeed, our complaint experience suggests that consumers are both confused and potentially hampered in obtaining information about billed charges or lodging complaints when the only entity name associated with a charge is, for example, that of a ''billing aggregator.'' Regardless of whether the billing aggregator can handle the consumer inquiry or complaint on behalf of the service provider, we believe that identification of the service provider is essential to enable consumers to monitor their service arrangements and judge the accuracy of the charges levied. Accordingly, we find that the name of the service provider must be clearly listed on the bill in connection with that entity's charges to the consumer.

13. We conclude that, where telephone bills include charges from more than one service provider, the charges should be displayed according to service provider with clear visual separation—although not necessarily separate pages—to distinguish the different providers. We believe that listing charges by service provider should produce bills that can be reviewed by consumers more easily than those that would list charges by service type, and facilitate the prompt detection of unreasonable and fraudulent carrier practices. For instance, if a consumer were slammed, a bill segregated by provider would show, in a distinct portion of the bill, all the charges billed on behalf of the unauthorized carrier. A bill segregated by service type, on the other hand, could list together long distance charges from the unauthorized carrier, the authorized carrier, and any carrier that was used to place dial-around calls. This intermingling of authorized and unauthorized charges could make it more difficult for a consumer to realize that he or she has been slammed.

14. As a final corollary to our guidelines concerning providers, we conclude that new service providers must be clearly and conspicuously identified on the bill. We contemplate that such clear and conspicuous identification would involve all service providers that did not bill for services on the previous billing statement, and would describe, where applicable, any new presubscribed or continuing relationship with the customer. Clear identification of new service providers will improve consumers' ability to detect slamming and cramming. For instance, consumers' discovery of fraudulent charges would be prompted by noticing that an unfamiliar service provider has charges appearing on the bill. Indeed, because cramming complaints most commonly emanate from charges levied by service providers that do not have a pre-existing business relationship with the consumer, highlighting the name of a new service provider should prompt a subscriber to examine closely the particular charges billed by that provider and facilitate detection of cramming.

15. Carriers have discretion to determine the best means to highlight the required information; we do not require that separate bill pages be used to show the charges billed by each service provider. Again, we are cognizant of commenters' concerns that any rigid formatting rule that required separate pages, or produced ''dead space'' on the bill, may frustrate consumers and substantially, or even prohibitively, increase carriers' billing expenses. Accordingly, we do not mandate any particular means of complying with the guidelines set forth herein, but rather permit and contemplate that carriers will employ a variety of practices that would be consistent with this Order. In adopting a provider-based guideline and affording wide latitude to determine the most efficient way to convey the service provider information, we have balanced consumers' need for clear, logical, and easily understood charges against concerns that rigid formatting and disclosure requirements would inhibit innovation and greatly increase carrier costs.

2. Full and Non-Misleading Billed Charges

16. We adopt the second core principle set forth in the Proposed Rules that bills should contain full and non-misleading descriptions of the service charges that appear therein. In our view, providing clear communication and disclosure of the nature of the service for which payment is expected is fundamental to a carrier's obligation of reasonable charges and practices. Indeed, we find it difficult to imagine any scenario where payment could be lawfully demanded on the basis of inaccurate, incomplete, or misleading information. Moreover, to permit such practices in the context of telecommunications services is particularly troublesome in light of the rapid technological and market developments, and associated new terminology, that can confuse even the most informed and savvy telecommunications consumer. Accordingly, as discussed below, we adopt three guidelines that implement this core disclosure principle.

a. Billing Descriptions

17. We conclude that services included on the telephone bill must be accompanied by a brief, clear, plain language description of the services rendered. The description of the charge must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged. Requiring clear descriptions of billed charges will assist consumers in understanding their bills, and thereby, deter slamming, as well as cramming.

18. We contemplate that sufficient descriptions will convey enough information to enable a customer reasonably to identify and to understand the service for which the customer is being charged. Conversely, descriptions that convey ambiguous or vague information, such as, for example, charges identified as ''miscellaneous,'' would not conform to our guideline. Similarly, in our view, a charge described by what it is *not*, such as, for example, ''service not regulated by the Public Service Commission'' is inherently ambiguous and does not disclose sufficient information. There is no way for a consumer to discern from this description that the charge refers to, for example, inside wiring maintenance insurance.

19. Although carriers must provide sufficient information, we emphasize that full descriptions do not mean redundant or unnecessary explanations. In particular, carriers need not define those terms that are already generally understood by consumers, such as ''local service'' or ''long distance service.'' Similarly, carriers need not identify every long distance call as being a long distance call. Rather, they may simply identify a section of the telephone bill as ''long distance service,'' followed by an itemized description of calls showing the destination cities, the numbers dialed, the date, and the charge for each call. We do not prescribe any particular methods of presentation, organization, or language, but rather encourage carriers to be innovative in designing bills that provide clear descriptions of services rendered.

20. Although we decline to formulate standardized descriptions, we encourage carriers to develop uniform terminology. We believe that industry is better equipped than the Commission to develop, in conjunction with consumer focus groups, standardized descriptions that are compatible with the character limitations for text messages and other operational restrictions found in the systems currently used for billing. Adopting understandable common descriptions for services offered could enable consumers to comparison shop more readily, and thereby take full advantage of the benefits of a competitive telecommunications market.

b. ''Deniable'' and ''Non-Deniable'' Charges

21. We further conclude that, where additional carrier charges are billed along with local wireline service, reasonable practice necessitates that carriers clarify when non-payment for service would not result in the termination of the consumer's basic local service. More specifically, we adopt the guideline we proposed in the Proposed Rules that telephone bills differentiate between what are commonly referred to as ''deniable'' and ''non-deniable'' charges. A ''deniable'' charge is a charge that, if not paid, may result in the termination—''denial''—of the customer's local exchange service. Conversely, a ''non-deniable'' charge is a charge that will not result in the termination of the customer's basic service for non-payment, even though the particular service for which the charge has been levied, *e.g.*, paging service, could be terminated. We agree with the comments of state regulatory agencies and consumer advocacy groups that distinguishing between such charges on consumers' bills protects consumers from paying contestable, unauthorized charges out of fear of losing basic telephone service for non-payment. We agree that consumers should not be intimidated into paying contestable charges because of fear that they will lose telephone service. We likewise believe that consumers must be fully empowered and apprised of their right to refuse to pay for unauthorized charges. Accordingly, we conclude that carriers must clearly identify on bills those charges for which non-payment will not result in disconnection of basic, local service.

22. We agree with those commenters who state that the terms ''deniable'' and ''non-deniable'' are inherently confusing, if not counter-intuitive, and therefore fail to achieve the basic goal of signalling to consumers their rights with respect to such charges. Rather than mandate any particular means for accomplishing this goal, however, we merely require that carriers clearly and conspicuously identify those charges for which nonpayment will not result in termination of local service.

23. We emphasize, however, that this guideline only applies where carriers include in a single bill both ''deniable'' and ''non-deniable'' charges. Accordingly, a carrier that bills directly for service that includes no charges for basic, local wireline service would not have a disclosure obligation. In this direct billing circumstance, we are persuaded that consumers understand that, for example, their wireless or interexchange service may be disconnected should they fail to pay the bill for the specific service involved, but that their basic local service, billed on a separate invoice, will not be disconnected. Accordingly, requiring carriers to disclose such information on direct bills that contain no basic local service charges would place a burden on carriers without any corresponding consumer benefit. We further note that, whether a charge is or is not ''deniable'' varies according to state law. Our requirement is not meant to preempt states that have yet to adopt such a distinction.

24. We are unpersuaded by some commenters that customers should be informed of these rights through a ''dunning message'' issued prior to termination of service for non-payment, rather than through the telephone bill. Such an approach does not protect those consumers who pay charges that they did not authorize out of the mistaken fear that their service will be disconnected if they fail to pay. The complaints we receive demonstrate that

many consumers pay disputable charges immediately, even if they believe the charge is unauthorized, out of fear of losing local service. These consumers would not receive any dunning notice and, thus, would remain unaware of their rights with regard to these charges.

c. Standardized Labels For Charges Resulting from Federal Regulatory Action

25. We conclude that the principle of full and non-misleading descriptions also extends to carrier charges purportedly associated with federal regulatory action. Consistent with our core principle that charges should be clearly described in a manner that allows consumers to understand them, we expressed concern in the Proposed Rules that consumers may be less likely to engage in comparative shopping among service providers if they are led erroneously to believe that certain rates or charges are federally mandated amounts from which individual carriers may not deviate. Moreover, we noted that complaints received by the Commission indicate considerable consumer confusion with regard to various line item charges appearing on their monthly service bills that are assessed by carriers ostensibly to recover costs incurred as a result of specific government action. Charges resulting from federal regulatory action are ''charges, practices [or] classifications * * * for and in connection with'' interstate communication service pursuant to section 201(b), and accordingly, we possess jurisdiction to require carriers to employ standardized labels for such charges.

26. We find that the substantial record on this issue supports our adoption of guidelines to address customers' confusion and potential for misunderstanding concerning the nature of these charges. Specifically, for the reasons discussed more fully below, we adopt our proposals that require carriers to identify line item charges associated with federal regulatory action through a standard industry-wide label and provide full, clear and non-misleading descriptions of the nature of the charges, and display a toll-free number associated with the charge for customer inquiries. While we adopt guidelines to facilitate consumer understanding of these charges and comparison among service providers, we decline the recommendations of those that would urge us to limit the manner in which carriers recover these costs of doing business.

27. We focus particularly on three types of line items that have appeared on consumers' bills. Specifically, the 1996 Act instructed the Commission to establish support mechanisms to ensure that all Americans have access to affordable telecommunications services. Pursuant to this directive, the Commission is in the process of fundamentally altering the manner in which long distance carriers pay for access to the networks of local carriers and for supporting the universal availability of telecommunications services at just, reasonable, and affordable rates. Although the Commission did not direct the manner in which carriers could recover their universal service contributions or access fees directly from their customers, and substantially reduced the access rates charged to long distance carriers to offset their new universal service obligations, some carriers began including on their customers' bills line item charges purportedly intended to recover these costs. These fees have been charged in connection with consumers' long distance service. The amounts charged and the name describing the universal service-related fees, however, have varied considerably among carriers. For example, some carriers have labelled the fee as ''Universal Connectivity Charge,'' ''Federal Universal Service Fee,'' ''Carrier Universal Service Charge,'' and even ''Local Service Subsidy,'' and charges have ranged from $.93 per bill to 5% of the customers' net interstate and international charges. Access related charges and associated names have likewise varied by carrier. The nature of these charges is, in some instances, further confused because different charges may be assessed on the consumer's ''primary,'' or first line, than on a consumer's subsequent or ''non-primary'' lines.

28. Local exchange carriers have also chosen to assess various line item charges associated with federal regulatory action. Since 1985, the Commission has allowed local exchange carriers to assess a ''subscriber line charge,'' (SLC), also known as the end-user common line charge. This charge allows local exchange carriers to recover a portion of the costs for providing local loops. More recently, pursuant to the dictates of the 1996 Act, the Commission permitted local exchange carriers to recover through a line-item charge on end-user bills the costs associated with implementing local number portability, which allows a consumer to retain the same phone number when changing local phone companies. This local number portability charge first appeared on some consumers' bills in February, 1999. The amount of the charge, however, as well as the name describing it varies by carrier (*e.g.*, ''number portability surcharge;'' ''local number portability service charge;'' ''federal charge—service provider number portability'').

29. The record in this proceeding supports our concern that the failure of carriers to label and accurately describe certain line item charges on their bills has led to increased consumer confusion about the nature of these changes. Several factors appear to have contributed to this confusion. The names associated with these charges as well as accompanying descriptions (or entire lack thereof) may convince consumers that all of these fees are federally mandated. In addition, a lack of consistency in the way such charges are labelled by carriers makes it difficult for consumers accurately to compare the price of telecommunications services offered by competing carriers.

30. We adopt the guideline proposed in our Proposed Rules that line-item charges associated with federal regulatory action should be identified through standard and uniform labels across the industry. We agree that standardized labels will promote consumers' ability to understand their bills, thus facilitating their ability to compare rates and packages among competing providers. Such comparisons are very difficult when carriers choose different names for the same charge. In considering which specific labels would be most accurate, descriptive and consumer-friendly, however, we believe that consumer groups are particularly well suited to assist in the development of the uniform terms. Accordingly, through a Further Notice of Proposed Rules in this proceeding, we encourage consumer and industry groups to come together, conduct consumer focus groups, and propose jointly to the Commission standard labels for these line item charges. We will choose the standard labels based on the suggestions we receive in response to our Further Notice of Proposed Rules.

31. We decline to take a more prescriptive approach as to how carriers may recover these costs. We recognize that several commenters assert that service providers should be required to combine all regulatory fees into one charge, or should be prohibited from separating out any fees resulting from regulatory action. Other commenters urge us to go even farther and require carriers to include on bills per-minute rates that include all fees associated with the service. We decline at this time to mandate such requirements, but rather prefer to afford carriers the

freedom to respond to consumer and market forces individually, and consider whether to include these charges as part of their rates, or to list the charges in separate line items. We believe that so long as we ensure that consumers are readily able to understand and compare these charges, competition should ensure that they are recovered in an appropriate manner. Moreover, we are concerned that precluding a breakdown of line item charges would facilitate carriers' ability to bury costs in lump figures. Insofar as the regulatory-related charges have different origins, and are applied to different service and provider offerings, we also question whether implementation of a lump-sum figure for all charges resulting from federal regulatory action could be presented in a manner in which consumers could clearly understand the origin of such a charge. On the other hand, we recognize that consumers may benefit from a simplified, total charge approach. As a result, we encourage industry and consumer groups to consider further whether some categorization and aggregation of charges would be advisable. For example, we seek further comment on whether the line item charges associated with long distance service could be or should be identified as a single, uniformly described, charge, while those charges associated with local service be identified by a separate standardized term.

32. Although we adopt the guideline that charges be identified through standard labels, carriers may nevertheless choose to include additional language further describing the charges. We are persuaded by the record not to adopt any particular ''safe-harbor'' language, as set forth in the Proposed Rules, or mandate specific disclosures. Rather, we believe carriers should have broad discretion in fashioning their additional descriptions, provided only that they are factually accurate and non-misleading. For example, for purposes of good customer relations, a carrier may wish to elaborate on the nature and origin of its universal service charge. A full, accurate and non-misleading description of the charge would be fully consistent with our guideline. In contrast, we would not consider a description of that charge as being ''mandated'' by the Commission or the Federal Government to be accurate. Instead, it is the carriers' business decision whether, how, and how much of such costs they choose to recover directly from consumers through separately identifiable charges. Accordingly, to state or imply that the carrier has no choice regarding whether or not such a charge must be included on the bill or the amount of the charge would be misleading.

33. In the Proposed Rules, we sought comment on whether it is a violation of section 201(b) for a carrier to bill customers for more than their *pro rata* share of universal service and access fees. We decline to adopt specific rules addressing these concerns. Some commenters assert that it may be impractical accurately to allocate some line-item charges to an individual customer on a per-bill basis. For example, a carrier's universal service contributions may depend on variables whose values are not known at the time the carrier issues a bill, such as the total revenue contribution base of all carriers and the high-cost and low-income projections for universal service support. At least one commenter argues that carriers should be allowed to account for uncollectibles, billing expenses, and administrative expenses in setting the amount of their line item assessments for universal service. Although we decline to adopt specific rules here, we caution that we will not hesitate to take action on a case-by-case basis under section 201(b) of the Act against carriers who impose unjust or unreasonable line-item charges.

34. We also decline suggestions to require carriers to provide a detailed breakdown of their costs and cost reductions on their customer bills. The purpose behind these proposals in the Proposed Rules was to enhance consumers' understanding of the costs of telecommunications services, thereby increasing their ability to determine whether such services are fairly priced. We agree, however, that long explanations of a carrier's cost calculations may add complexity to telephone bills, creating confusion that outweighs the benefits of providing such descriptions. For these reasons, we also decline to adopt specific language describing the distinction between primary and non-primary residential lines. We conclude that LECs may craft their own descriptions to convey the Commission's primary/non-primary definition to their customers, provided that the information is conveyed truthfully and accurately. We believe, however, that our purpose of enhancing consumers' understanding will be adequately met through the guidelines adopted herein.

35. We decline to specify any periodic notification to consumers providing additional explanation of any charges resulting from federal regulatory action. We believe our guideline requiring standard labels for such charges should, even without further non-misleading description, provide consumers with, at minimum, notice of these charges. In this regard, we point out that such line-item charges, like all other charges on the bill, are subject to our guideline requiring the prominent display of a toll-free number for consumer inquiries and disputes. We emphasize that carriers' customer service representatives must be prepared to explain fully the nature and purpose of these charges if asked to do so.

36. In balancing the legitimate interest of consumers and carriers, we reject suggestions that standardized labels would violate the First Amendment. We therefore disagree with ACTA's comment that the Commission cannot discourage use of other line-item labels ''as a matter of constitutional law,'' if such descriptions are accurate. We emphasize that we have not mandated or limited specific language that carriers utilize to describe the nature and purpose of these charges; each carrier may develop its own language to describe these charges in detail. Commercial speech that is misleading is not protected speech and may be prohibited. Furthermore, commercial speech that is only potentially misleading may be restricted if the restrictions directly advance a substantial governmental interest and are no more extensive than necessary to serve that interest. Finally, commercial speech that is neither actually nor potentially misleading may be regulated if the government satisfies a three-pronged test: first, the government must assert a substantial interest in support of its regulation; second, the government must demonstrate that the restriction on commercial speech directly and materially advances that interest; and third, the regulation must be ''narrowly drawn.'' We concluded that our requirement that carriers use standard terms to label charges resulting from federal regulatory action passes this three-prong test.

3. Clear and Conspicuous Disclosure of Inquiry Contacts

37. The final fundamental truth-in-billing principle we adopt is that consumers must have the necessary tools to challenge charges for unauthorized services. We conclude that carriers must prominently display on their monthly bill a toll-free number or numbers by which customers may inquire or dispute any change on that bill. This telephone number shall be provided in a clear and conspicuous manner, so that the customer can easily identify the appropriate number to use to inquire about each charge. We are cognizant, however, that the service

provider is not necessarily the most appropriate entity for consumers to call. A service provider may, for example, contract with the LEC or an independent billing aggregator to provide inquiry and dispute resolution services for charges billed through the local telephone bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. This will enable customers to avoid feeling that they are ''getting the run around.'' We decline to require carriers to provide a business address on each telephone bill for the receipt of consumer inquiries and complaints. As several commenters have noted, most customers call when they have questions—they do not write. Accordingly, the inclusion of a business address will not significantly enhance consumers' ability to contact the billing entity. We do require, however, that each carrier make its business address available upon request to consumers through its toll-free number, for those consumers who wish to follow up their complaint or inquiry in writing.

38. We conclude that conspicuous display of a toll-free inquiry and dispute resolution number is an essential linchpin to consumers' exercise of the rights we seek to protect in this Order, as well as in other proceedings such as our new slamming rules. Consumers often experience considerable difficulty in contacting the entity whose charges appear on the telephone bill. This results in delayed resolution of billing problems, often necessitating the intervention of other parties such as the LEC, the state public service commission, or the Commission. Requiring that each telephone bill include at a minimum a toll-free telephone number for the receipt of consumer inquiries and complaints will minimize customer confusion regarding charges on telephone bills and enable consumers to resolve their billing disputes easily and promptly.

39. We decline at this time to adopt standards for the provision of accurate information by carrier customer service representatives. We expect such personnel to be well-trained and that the number of employees is sufficient to handle call volumes, and we assume that competition will provide a strong incentive for each carrier to set appropriate standards on its own initiative. Although we decline to mandate any particular standards for customer service, we remind carriers that the intentional provision of untruthful or misleading information to a customer regarding the nature and purpose of charges or fees would constitute a violation of section 201(b) of the Act.

III. Procedural Matters

A. Final Regulatory Flexibility Analysis

40. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Proposed Rules in Truth-in-Billing and Billing Format. The Commission sought written public comment on the proposals in the Proposed Rules, including comment on the IRFA. The comments received are discussed below. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for and Objectives of this Order and the Rules Adopted Herein

41. Section 258 of the Act makes it unlawful for any telecommunications carrier ''to submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe.'' Accordingly, the Commission adopts in this Order principles to ensure that consumers receive thorough, accurate, and understandable bills from their telecommunications carriers. First, consumer telephone bills must be clearly organized, clearly identify the service provider, and highlight any new providers; second, bills must contain full and non-misleading descriptions of charges that appear therein; and third, bills must contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, or contest charges, on the bill. Additionally, the Commission adopts minimal, basic guidelines that explicate carriers' obligations pursuant to these broad principles. These principles and guidelines are designed to prevent the types of consumer fraud and confusion evidenced in the tens of thousands of complaints that this Commission, and state commissions, receive each year. In enacting the principles and guidelines contained in this Order, our goal is to implement the provisions of sections 201(b) and 258 to prevent telecommunications fraud, as well as to encourage full and fair competition among telecommunications carriers in the marketplace.

2. Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA

42. In the IRFA, we found that the rules we proposed to adopt in this proceeding may have a significant impact on a substantial number of small businesses as defined by 5 U.S.C. 601(3). The IRFA solicited comment on the number of small businesses that would be affected by the proposed rules and on alternatives to the proposed rules that would minimize the impact on small entities consistent with the objectives of this proceeding.

43. PCIA, Liberty, RTG and others argue that the cost of compliance faced by smaller carriers would be particularly burdensome. PCIA asserts that medium- and small-sized carriers will be less likely to have billing systems in place that ''can simply be 'tweaked' to produce the required modifications.'' Indeed, PCIA states that smaller carriers may be forced to replace their entire billing systems in order to comply with the format and content mandates of the proposed rules. RTG agrees, arguing that rural carriers are particularly sensitive to increased regulatory requirements with significant costs.

44. The Office of Management and Budget (OMB) received a large number of comments in response to the Proposed Rules. The commenters generally agree that new charges or services need to be easily identifiable on customer bills; that definitions of services and other terms are difficult to reach and could be counterproductive; that more information, including point of contact toll-free numbers for service providers or billing agents needs to be included in billing materials; that materials should be clear, concise, and relatively simple; that the Commission must account for costs of any changes to bills that will be passed on to consumers in making decisions; that CMRS and other wireless firms that provide services only to businesses should be exempt from most new requirements that would be imposed on wireline carriers; that every effort should be made so that billing standards are uniform across the nation; that reseller information should be included; and that, where possible, market-based solutions should be adopted unless there is conclusory evidence that the Commission must enact regulations that affect billing practices. As a result, OMB recommends that we not impose undue burdens on wireless providers and small wireline services, and urges that flexibility be given to small companies that may experience significant cost and

managerial issues related to implementation of billing requirements. Moreover, OMB recommends that the Commission allow companies sufficient time to address their necessary Year 2000-related modifications to their computer systems as well as modifying their billing systems to meet any new requirements. OMB also recommends that the Commission make a concerted effort to work with the industry to establish voluntary guidelines in lieu of mandatory requirements that restrict the ability of firms to tailor their billing to meet the needs of customers.

45. We have considered these comments and believe we appropriately balanced the concerns of carriers that detailed rules may increase their costs against our goal of protecting consumers against fraud. We have exempted CMRS carriers from certain of our requirements on ground that the requirements may be inapplicable or unnecessary in the CMRS context. Moreover, we consider our principles and guidelines to be flexible enough that carriers will be able to comply with them without incurring unnecessary expense.

3. Description and Estimates of the Number of Small Entities to Which the Rules Adopted in the Order in CC Docket No. 98–170 May Apply

46. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

47. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

48. The SBA has defined establishments engaged in providing ''Radiotelephone Communications'' and ''Telephone Communications, Except Radiotelephone'' to be small businesses when they have no more than 1,500 employees. Below, we discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

49. Although some affected incumbent LECs may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term ''small ILECs'' to refer to any ILECs that arguably might be defined by the SBA as ''small business concerns.''

50. Total Number of Telephone Companies Affected. The U.S. Bureau of the Census (''Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communications services providers, covered specialized mobile radio providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by our principles and guidelines.

51. Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small ILECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by our principles and guidelines.

52. Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small ILECs that may be affected by our principles and guidelines.

53. Interexchange Carriers. Neither the Commission nor the SBA has developed a definition of small entities

specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 143 carriers reported that they were engaged in the provision of interexchange services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 143 small entity IXCs that may be affected by our principles and guidelines.

54. Competitive Access Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than except radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 109 carriers reported that they were engaged in the provision of competitive access services. We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 109 small entity CAPs that may be affected by our principles and guidelines.

55. Resellers (including debit card providers). Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 339 reported that they were engaged in the resale of telephone service. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 339 small entity resellers that may be affected by our principles and guidelines.

56. Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

57. International Services. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9,999 million. The Census report does not provide more precise data.

58. Telex. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to telex. The most reliable source of information regarding the number of telegraph service providers of which we are aware is the data the Commission collects in connection with the *International Telecommunications Data.* According to our most recent data, 5 facilities based and 2 resale provider reported that they engaged in telex service. Consequently, we estimate that there are fewer than 7 telex providers that may be affected by our principles and guidelines.

59. Message Telephone Service. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to message telephone service. The most reliable source of information regarding the number of message telephone service providers of which we are aware is the data the Commission collects in connection with the *International Telecommunications Data.* According to our most recent data, 1,092 carriers reported that they engaged in message telephone service. Consequently, we estimate that there are fewer than 1,092 message telephone service providers that may be affected by our principles and guidelines.

60. Cellular Licensees. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent *Telecommunications Industry Revenue* data, 804 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 804 small cellular service carriers that may be affected by the final rules.

61. 220 Mhz Radio Services. Because the Commission has not yet defined a small business with respect to 220 MHz services, we will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. With respect to 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) for Economic Area (EA) licensees, a firm with average annual gross revenues of not more than $6 million for the preceding three years and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than $15 million for the preceding three years. Given that nearly all radiotelephone companies under the SBA definition employ no more than 1,500 employees (as noted *supra*), we will consider the approximately 1,500 incumbent licensees in this service as small businesses under the SBA definition.

62. Private and Common Carrier Paging. The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by the final rules. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

63. Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. As noted above in the section concerning paging service carriers, the closest applicable definition under the SBA rules is that for radiotelephone (wireless) companies, and the most recent *Telecommunications Industry Revenue* data shows that 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services. Consequently, we estimate that there are fewer than 172 small mobile service carriers that may be affected by the final rules.

64. Broadband Personal Communications Service. The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

65. Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

66. Specialized Mobile Radio (SMR). The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of the three previous calendar years. In the context of 900 MHz SMR, this regulation defining ''small entity'' has been approved by the SBA; approval concerning 800 MHz SMR is being sought. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

67. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band, and recently completed an auction for geographic area 800 MHz SMR licenses. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. In the recently concluded 800 MHz SMR auction there were 524 licenses awarded to winning bidders, of which 38 were won by small or very small entities.

68. Cable Service Providers. The SBA has developed a definition of small entities for cable and other pay television services that includes all such companies generating no more than $11 million in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. According to the Census Bureau, there were 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue. We note that cable system operators are included in our analysis due to their ability to provide telephony.

4. Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements

69. Our binding principles require that all telecommunications carriers, both wireline and wireless, ensure (1) that consumer telephone bills be clearly organized, clearly identify the service provider, and highlight any new providers; (2) that bills contain full and non-misleading descriptions of charges that appear therein; and (3) that bills contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, or contest charges, on the bill. In addition, carriers must comply with the Commission's rules found below under ''Rule Changes.''

5. Steps Taken To Minimize the Significant Economic Impact of This Order on Small Entities and Small Incumbent LECs, Including the Significant Alternatives Considered

70. In this Order, we decline to adopt many of the proposals made in the Proposed Rules that would be most costly for subject carriers to implement. For example, we decline to adopt our proposal to require carriers to indicate each new service ordered by a customer each month. We also decline to require that carriers provide a detailed breakdown of their costs incurred due to federal regulatory action, and instead permit carriers to use their discretion to describe the nature and purpose of these charges to their customers. We have adopted general principles rather than stringent rules governing the organization of, and information included in, customer bills. We also exempt CMRS carriers from certain of our requirements. By implementing principles through broad guidelines, we allow carriers considerable discretion to satisfy their obligation in a manner that best suits their needs and those of their customers, thus minimizing the economic impact on small carriers to the greatest possible extent. The principles adopted here are common-sense requirements that make good business sense, and we believe that many, if not most, subject carriers already conform to these requirements. Many carriers will therefore find that little or no change to their existing billing practices will be needed.

71. The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

B. Final Paperwork Reduction Act of 1995 Analysis

72. The decision herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law 104–13, and the Office of Management and Budget (OMB) has approved some of its requirements in OMB No. 3060–0854. Among its recommendations, OMB ''strongly encourage[d]'' us not to adopt an approach that imposes undue burden on wireless carriers, and ''urges flexibility be given to small companies that may experience significant cost'' as a result of our proposals. In this Order, we have exempted CMRS carriers from certain of the requirements we adopt to promote truth-in-billing. Moreover, we have established general principles and guidelines, rather than rigid formatting rules, which provide sufficient flexibility to small carriers to meet these requirements without incurring undue cost. Some of the proposals have been modified or added, however, and therefore some of the information collection requirements in this item are contingent upon approval by the OMB.

C. Further Information

73. For further information concerning this proceeding, contact David Konuch, Enforcement Division, Common Carrier Bureau at (202) 418–0199 (voice), (202) 418–0485 (TTY).

74. Alternate formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 (voice), (202) 418–2555 (TTY), or at mcontee@fcc.gov. The First Report and Order and Further Notice of Proposed Rules can be downloaded in WP or ASCII text at: http//www.fcc.gov/dtf/.

V. Ordering Clauses

75. Accordingly, *it is ordered,* pursuant to sections 1, 4(i) and (j), 201–209, 254, 258, and 403 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–209, 254, 258, and 403 that this First Report and Order *is hereby adopted,* effective 30 days after publication of a summary in the **Federal Register**. The collections of information contained within are contingent upon approval by the Office of Management and Budget.

76. *It is further ordered* that 47 CFR part 64, *is amended* as set forth in Rule Changes.

77. *It is further ordered* that, to the extent issues from CC Docket No. 97–181, *Defining Primary Lines,* are resolved here, we incorporate the relevant portions of the record in that docket.

78. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this First Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications common carriers, Consumer protection, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 47 U.S.C. 10, 201, 218, 226, 228, 332, unless otherwise noted.

2. Section 64.2000 is added to read as follows:

§ 64.2000 Purpose and scope.

(a) The purpose of these rules is to reduce slamming and other telecommunications fraud by setting standards for bills for telecommunications service. These rules are also intended to aid customers in understanding their telecommunications bills, and to provide them with the tools they need to make informed choices in the market for telecommunications service.

(b) These rules shall apply to all telecommunications common carriers, except that §§ 64.2001(a)(2), 64.2001(b), and 64.2001(c) shall not apply to providers of Commercial Mobile Radio Service as defined in § 20.9 of this chapter, or to other providers of mobile service as defined in § 20.7 of this chapter, unless the Commission determines otherwise in a further rulemaking.

(c) *Preemptive effect of rules.* The requirements contained in this subpart are not intended to preempt the adoption or enforcement of consistent truth-in-billing requirements by the states.

3. Section 64.2001 is revised to read as follows:

§ 64.2001 Truth-in-Billing Requirements.

(a) *Bill organization.* Telephone bills shall be clearly organized, and must comply with the following requirements:

(1) The name of the service provider associated with each charge must be clearly identified on the telephone bill.

(2) Where charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider, and the telephone bill must provide clear and conspicuous notification of any change in service provider, including notification to the customer that a new provider has begun providing service.

(i) ''Clear and conspicuous notification'' means notice that would be apparent to a reasonable consumer.

(ii) ''New service provider'' is any provider that did not bill for services on the previous billing statement. The notification should describe the nature of the relationship with the customer, including a description of whether the new service provider is the presubscribed local exchange or interexchange carrier.

(b) *Descriptions of billed charges.* Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

(c) *''Deniable'' and ''Non-Deniable'' Charges.* Where a bill contains charges for basic local service, in addition to other charges, the bill must distinguish between charges for which non-payment will result in disconnection of basic, local service, and charges for which non-payment will not result in such disconnection. The carrier must explain this distinction to the customer, and must clearly and conspicuously identify on the bill those charges for which non-payment will not result in disconnection of basic, local service. Carriers may also elect to devise other methods of informing consumers on the bill that they may contest charges prior to payment.

(d) *Clear and Conspicuous Disclosure of Inquiry Contacts.* Telephone bills must contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill. Common carriers must prominently display on each bill a toll-free number or numbers by which customers may inquire or dispute any charge contained on the bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Each carrier must make its business address available upon request to consumers through its toll-free number.

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