FCC Initiates Rulemaking to Deregulate End-User Charges and Simplify Customer Bills

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The FCC has proposed new rules to eliminate several obscure telecommunications charges that were either mandated or authorized for price regulated local exchange carriers and then mirrored by many competitive telecommunications providers. At its March 2020 Open Meeting, the Commission adopted a Notice of Proposed Rulemaking (NPRM) that would eliminate the FCC's regulation of the Subscriber Line Charge, and several other end-user access charges largely created as cost-recovery mechanism during access charge reforms in the 1990's and early 2000's. The NPRM also would prohibit all carriers from both listing these charges in their tariffs and breaking out these charges into separate line items on customer bills. These moves are touted by the Commission as relieving carriers of price regulation and increasing transparency for consumers.

Deregulating and Detariffing End-User Access Charges

The Commission's proposal would eliminate ex ante price regulation of all five remaining access charges that incumbent local exchange carriers ("ILECs") can assess on end users and require both ILECs and competitive local exchange carriers ("CLECs") to detariff all such charges. (The FCC does not regulate CLECs access charges so long as they are just and reasonable.) The five end-user charges on the regulatory chopping block are:

- *Subscriber Line Charge* – A flat per-line fee, capped by the FCC, that ILECs can assess on customers to recover a portion of the costs associated with transporting calls on the ILEC's local facilities. This charge, also referred to as the "SLC" (pronounced "slick") or the End User Common Line Charge ("EUCL"), stemmed from the earliest access charge orders as a way to recover non-recurring charges associated with providing the ability to make interstate calls.

- *Access Recovery Charge* – An end-user charge created by the FCC in 2011 as a mechanism to mitigate reduced ILEC intercarrier compensation revenues from charges assessed on IXCs as a result of the transition to the intercarrier bill-and-keep regime. The ARC allowed ILECs to recoup some of the costs no longer collected from other carriers through per-minute access charges.

- *Presubscribed Interexchange Carrier Charge* – A fee that price cap ILECs can assess on multi-line business subscribers who do not presubscribe an IXC to recover a portion of the ILECs' local transport costs. The PICC (pronounced "Pick-C") was introduced shortly after the Telecommunications Act of 1996 with the advent of competitive local service.

- *Line Port Charge* – A monthly charge ILECs can assess to recover the cost associated with porting digital subscriber lines to the switch in the ILEC's central office if it exceeds the cost for porting analog lines.

- *Special Access Surcharge* – A monthly charge to recover transit costs for calls that "leak" out of a private branch exchanges ("PBXs") onto the public network, such as when large business customers allow employees to use a PBX to make long-distance calls without incurring access charges. This charge has been in place since the early days of telephone access charges.

The FCC says its rule changes are warranted because of increased competition in the voice service market, including by interconnected VoIP, wireless, and over-the-top providers. The Commission recognizes that competition may not be sufficient in rural and other high-cost areas, but proposes to find that other price constraints exist, such as obligations associated with the receipt of federal high-cost Universal Service Fund (USF) support.

Notwithstanding the Commission’s proposed approach, the NPRM invites comments on “alternative approaches to determining where and under what circumstances [it] should eliminate” price and tariff controls. One such proposal it offers is a case-by-case assessment finding rate regulation is unnecessary if: (1) a competing voice provider serves 75% of the census blocks in the same area as the ILEC; (2) the Eligible Telecommunications Carrier in the area is subject to the reasonable comparability benchmark; or (3) the state has deregulated intrastate rates. The Commission also seeks comment on the whether it should mandatorily detariff other charges related to federal programs, such as pass-through fees for USF contributions.

USF Reporting Impact

The Commission’s proposed action may impact how carriers allocate revenues between interstate and intrastate jurisdictions for the purpose of determining USF contribution amounts. To prevent carriers from gaming the system to reduce their contributions, the FCC is seeking comment on two alternative proposals for allocating revenues: a 25% safe harbor, where 25% of revenues would be allocated to interstate services, or bright-line rules for how carriers allocate revenues.

Prohibiting Line Item Charges on Customer Bills

The second major piece of the NPRM is a proposal to prohibit all carriers (ILECs and competitive carriers) from assessing end-user access charges as separate line items on customer bills, which they are currently permitted to do. The FCC said that the carrier descriptions for these charges vary significantly and unnecessarily complicate customer bills. The Commission states that it has sought to reduce the ambiguity of carriers’ advertised rates and simplify customer bills using its Truth-In-Billing rules, and its proposed action here would be consistent with those goals. Prohibiting carriers from listing end-user access charges separately, the NPRM asserts, would result in advertised prices that are closer to the total prices that appear on customer bills. This would increase transparency for consumers by removing the inconsistent line item descriptions and enable consumers to more easily compare voice service offerings by different providers.

Comments on the proposed access charge reforms are due 30 days after the NPRM is published in the *Federal Register*, with reply comments due 15 days later.

Because this proposal would affect both incumbent and competitive carriers, and may impact federal USF reporting, telecommunications service providers should review the NPRM carefully. Now would be a good time to review the line item and surcharge structure of a carrier’s services to determine if any changes should be made.