



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 51, 54, 61, and 69

[WC Docket No. 20-71; FCC 20-40; FRS 16704]

Eliminating Ex Ante Pricing Regulation and Tariffing of Telephone Access Charges

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes to deregulate and detariff the end user interstate access charges currently included on consumers' and small businesses' local telephone bills. The proposal would also prohibit carriers from separately listing these charges on customers' bills and address issues related to the Universal Service Fund's and other federal programs' historic reliance on these charges in certain circumstances. The need to regulate and tariff those charges is declining as consumers and businesses continue to rapidly migrate away from traditional telephone service provided by local exchange carriers to next-generation voice service options. Detariffing and deregulating these charges will give carriers the flexibility to price their services competitively. Eliminating these charges from consumers' telephone bills will make it easier for consumers to understand their telephone bills, compare prices among voice service providers, and better ensure that a voice service provider's advertised price is closer to the total price that appears on its customers' bills.

DATES: Comments are due on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments are due

on or before **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed in the following as soon as possible.

ADDRESSES: Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in this document. Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

If the FCC Headquarters is open to the public, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. The Commission directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to use a table of contents, regardless of the length of their submission. The Commission also strongly encourages parties to track the organization set forth in the Further Notice in order to facilitate its internal review process.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

FOR FURTHER INFORMATION CONTACT: For further information, please contact Victoria Goldberg, Pricing Policy Division, Wireline Competition Bureau, at Victoria.goldberg@fcc.gov. For information regarding the Paperwork Reduction Act (PRA) information requirements contained in this document, contact Nicole Ongele, Office of Managing Director, at (202) 418-2991 or Nicole.Ongele@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (Notice) in WC Docket No. 20-71, adopted March 31,

2020 and released April 1, 2020. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY—A257, Washington, DC 20554. It is available on the Commission’s website at <https://docs.fcc.gov/public/attachments/FCC-20-40A1.pdf>.

I. Introduction

1. Twenty-five years ago, consumers made most of their telephone calls from their home phones, their work phones or public payphones—and, in almost all cases, the local telephone company provided the local telephone service. Most of those companies (known as incumbent local exchange carriers) faced little to no competition as a result of state-granted monopolies. It therefore made sense for the Commission to impose pricing regulation and tariffing obligations on the portion of local telephone service used to originate and terminate interstate long-distance calls and for states to impose similar obligations on the intrastate portion of such service. Doing so protected consumers from the monopoly power of the incumbent local exchange carrier and ensured that rates were just and reasonable as required by the Communications Act, 47 U.S.C. 201(b).

2. Today, the communications marketplace is dramatically different. As a result of the Telecommunications Act of 1996, local telephone markets are open to competition. And consumers and businesses continue to rapidly migrate away from traditional telephone service provided by incumbent local exchange carriers to a multitude of voice service options offered by providers of interconnected VoIP service, mobile and fixed wireless services, and over-the-top voice applications. In light of the sweeping changes in the competitive landscape for voice services, many states have begun to deregulate the

intrastate portion of local telephone service provided by incumbent local exchange carriers.

3. And yet, the Commission continues to regulate the various end-user charges associated with interstate access service offered by incumbent local exchange carriers—“Telephone Access Charges” for short. In addition to remaining subject to federal price regulation and complicated federal tariffing requirements, these Telephone Access Charges are difficult to understand, and the opaque way they are sometimes described on telephone bills reduces consumers’ ability to compare the cost of different voice service offerings.

4. Significant marketplace and regulatory changes over the past two-plus decades call into question whether ex ante price regulation and tariffing of Telephone Access Charges remain in the public interest. Consistent with the Commission’s commitment to eliminate outdated and unnecessary regulations and to encourage efficient competition, this Notice proposes to deregulate and detariff these charges, which represent the last handful of interstate end-user charges that remain subject to regulation. In the interest of enabling consumers to easily compare voice service offerings by different providers, the Commission also proposes to prohibit all carriers from separately listing Telephone Access Charges on customers’ bills. Doing so should help ensure that a voice service provider’s advertised price is closer to the total price that appears on its customers’ bills.

II. Background

A. Currently Tariffed Telephone Access Charges

5. Section 203 of the Communications Act of 1934, 47 U.S.C. 203, as amended (the Act), requires that common carriers file tariffs or “schedules showing all charges for

itself and its connecting carriers for interstate and foreign wire or radio communication between the different points on its own system, and between points on its own system and points on the system of its connecting carriers or points on the system of any other carrier . . . and showing the classifications, practices, and regulations affecting such charges.”

Commission rules currently include five tariffed Telephone Access Charges: the Subscriber Line Charge, the Access Recovery Charge, the Presubscribed Interexchange Carrier Charge, the Line Port Charge, and the Special Access Surcharge, 47 CFR 51.915(e), 51.917(e), 69.115, 69.152, 69.153, 69.157.

6. The Subscriber Line Charge. The Subscriber Line Charge was the product of the Commission’s decision in 1983 to establish a formal system of tariffed charges governing intercarrier compensation. That system originally required long-distance companies (known as interexchange carriers) to pay local exchange carriers for originating and terminating long-distance calls. Those intercarrier charges did not, however, recover the entire cost of the local loop—the connection between an end user and its local exchange carrier. Instead, the Commission created the Subscriber Line Charge as the mechanism through which local exchange carriers recover a portion of the costs of their local loops through a flat per-line fee assessed on end users. The Commission adopted a flat per-line fee because the local exchange carrier’s cost of providing the local loop is not traffic-sensitive. In other words, the costs of providing the local loop do not vary with the amount of traffic carried over the loop. The Commission found that requiring carriers to recover non-traffic sensitive costs through flat fees would ensure that rates were “just and reasonable” as required by the Act. Recovering the entire cost of the loop from end users, however, raised the concern that customers in high-cost

areas would see a sudden increase in rates. The Commission therefore capped Subscriber Line Charges and required carriers to recover the remaining common line costs through a per-minute Carrier Common Line charge assessed on interexchange carriers. For price cap local exchange carriers, there are three categories of caps on the Subscriber Line Charge: a primary residential or single-line business cap, a non-primary residential cap, and a multi-line business cap, 47 CFR 69.152. For rate-of-return local exchange carriers, there are two such categories: a residential or single-line business cap and a multi-line business cap, 47 CFR 69.104.

7. In 1996, the Commission began reform of interstate access charges to align the access rate structure more closely with the manner in which costs are incurred. At the same time, the Commission developed a federal high-cost universal service support mechanism to make explicit subsidies that had been implicitly included in interstate access service charges. As part of that order and subsequent reforms, the Commission increased the Subscriber Line Charge caps for price cap carriers as follows:

- \$6.50 for primary residential and single-line business lines;
- \$7.00 for non-primary residential lines; and
- \$9.20 per line for multi-line business lines.

47 CFR 69.152(d), (e), (k). The Commission then amended the interstate access charge system for rate-of-return carriers, increasing the Subscriber Line Charge caps to the levels established for price cap carriers.

8. The Commission does not regulate the end-user charges of competitive local exchange carriers because it has found that competitive local exchange carriers generally lack market power in the provision of telecommunications service. Thus, competitive

local exchange carriers are free to build into their end-user rates for voice service any charge, including an amount equivalent to the incumbent local exchange carriers' Subscriber Line Charge, subject only to the general requirement that their rates be just and reasonable, 47 U.S.C. 201(b).

9.The Access Recovery Charge. The Commission created the Access Recovery Charge in 2011 as part of new rules requiring local exchange carriers to reduce, over a period of years, many of their switched access charges assessed on interexchange carriers, with the ultimate goal of transitioning intercarrier compensation to a bill-and-keep regime. The Commission adopted a transitional recovery mechanism to mitigate the impact of reduced intercarrier compensation revenues on incumbent local exchange carriers and to facilitate continued investment in broadband-capable infrastructure. The Commission defined a portion of the revenues that incumbent local exchange carriers lost due to reduced access charges as “Eligible Recovery” and allowed eligible carriers to use a combination of a new limited end-user charge—known as the Access Recovery Charge—and universal service support (known as CAF Intercarrier Compensation or CAF ICC) to recover their Eligible Recovery.

10.Incumbent local exchange carriers may assess an Access Recovery Charge on customers in the form of a monthly fixed charge. To ensure that any increases to the Access Recovery Charge would not adversely impact service affordability, the Commission limited annual increases of the Access Recovery Charge to \$0.50 per month for residential and single-line businesses and \$1.00 per month for multiline businesses. In addition, residential and single-line business Access Recovery Charges cannot exceed \$2.50 per line per month for price cap carriers and \$3.00 per line per month for rate-of-

return carriers. Access Recovery Charges for multi-line businesses are capped at \$5.00 per line per month for price cap carriers and \$6.00 per line per month for rate-of-return carriers. In addition, the multi-line business Access Recovery Charge plus the Subscriber Line Charge may not exceed \$12.20 per line per month, 47 CFR 51.915(e), 51.917(e).

11. The Commission adopted these caps to fairly balance recovery across all end users, to protect customers from carriers imposing excessive Access Recovery Charges, and to ensure that the total rates that multi-line businesses pay for Subscriber Line Charge and Access Recovery Charge line items remain just and reasonable. The Access Recovery Charge is tariffed separately from the Subscriber Line Charge but may be combined with the Subscriber Line Charge on bills to customers.

12. Carriers that choose not to impose the maximum Access Recovery Charge on their end users must still impute the full Access Recovery Charge revenue they are permitted to collect for purposes of calculating CAF ICC support. In addition, rate-of-return carriers offering consumer broadband-only lines must impute an Access Recovery Charge amount equal to the amount that would have been assessed on a voice or voice-data line in calculating CAF ICC support.

13. In the USF/ICC Transformation Order, the Commission established a sunset date for price cap carriers' CAF ICC Support. Specifically, as of July 1, 2019, a price cap carrier unable to recover its entire Eligible Recovery through Access Recovery Charges was no longer permitted to recover the remainder of its eligible support through CAF ICC support 47 CFR 51.915(f)(5). Price cap carriers can continue to calculate their Eligible Recovery, pursuant to the Commission's rules, and to assess Access Recovery Charges on their end users to recover as much of their Eligible Recovery as they can, subject to

the caps on the Access Recovery Charge. There is no sunset date for rate-of-return carriers' CAF ICC support.

14. *The Presubscribed Interexchange Carrier Charge.* Price cap carriers may assess a monthly flat-rate charge on the presubscribed interexchange carrier—the long-distance carrier to which the calls are routed by default—of a multi-line business subscriber. Created in 1997, the charge recovers a portion of the common line costs not recovered by the Subscriber Line Charge. The Presubscribed Interexchange Carrier Charge is capped and has largely been phased out. When a multi-line business customer does not presubscribe to a long-distance carrier, the Commission's rules allow the price cap carrier to assess the Presubscribed Interexchange Carrier Charge on the end-user customer directly, 47 CFR 69.153.

15. *The Line Port Charge.* A local switch consists of (1) an analog or digital switching system, and (2) line and trunk cards. Line ports connect subscriber lines to the switch in the local exchange carrier's central office. The costs associated with line ports include the line card, protector, and main distribution frame. The Line Port Charge is a monthly end-user charge that recovers costs associated with digital lines, such as integrated services digital network (ISDN) line ports, to the extent those port costs exceed the costs for a line port used for basic, analog service, 47 CFR 69.130, 69.157. The Line Port Charge was established for price cap carriers in 1997 and for rate-of-return carriers in 2001.

16. *The Special Access Surcharge.* Established in 1983, the \$25 per month Special Access Surcharge is assessed on trunks that could “leak” traffic into the public switched network in order to address the problem of a “leaky private branch exchange (PBX), 47

CFR 69.5(c), 69.115.” The “leaky PBX” problem can arise where large end users that employ multiple PBXs in multiple locations lease private lines to connect their various PBXs. Although these lines were intended to permit employees of large business end users to communicate between locations without incurring access charges, some large end users permitted long-distance calls to leak from the PBX into the local public network, where they were terminated without incurring access charges. The assessed amount currently constitutes only a de minimis portion of revenues for most carriers.

B. Universal Service Rules Related to Telephone Access Charges

17.*The Reasonable Comparability Benchmark.* Section 254(b) of the Act, 47 U.S.C. 254(b)(3), provides that “[c]onsumers in all regions of the Nation . . . should have access to telecommunications and information services . . . that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.” Consistent with this principle, the Commission requires certain carriers receiving high cost universal service support, known as Eligible Telecommunications Carriers, to “offer voice telephony as a standalone service throughout their designated service area . . . at rates that are reasonably comparable to urban rates” as a “condition of receiving support,” 47 CFR 54.201. Rates for voice services are “reasonably comparable” to urban rates when they are within two standard deviations of the “national average urban rate for voice service,” 47 CFR 54.313(a)(2). The Wireline Competition Bureau publishes an updated reasonable comparability benchmark annually.

18.*Telephone Access Charges Used to Calculate Universal Service Fund (USF) Support.* Revenues from some Telephone Access Charges are used in the computation of USF support for rate-of-return carriers. Specifically, the Subscriber Line Charge, Line

Port Charge, and Special Access Surcharge revenues are subtracted from a carrier's common line revenue requirement to determine the amount of Connect America Fund Broadband Loop Support (CAF BLS) a carrier is entitled to receive, 47 CFR 54.901. The Access Recovery Charge is subtracted from the Eligible Recovery to determine the amount of CAFICC support a rate-of-return carrier is entitled to receive.

19. CAF BLS support is the successor to Interstate Common Line Support, which was created by the Commission in 2001 to allow rate-of-return carriers to recover from the USF any shortfall between their allowed Subscriber Line Charge and their allowed common line revenue requirement. If a rate-of-return carrier charged a Subscriber Line Charge that was less than the full amount it was permitted to charge, the carrier had to impute the maximum allowed Subscriber Line Charge in calculating its Interstate Common Line Support. In 2016, the Commission revised its Interstate Common Line Support rules to include support for consumer broadband-only loops and renamed it CAF BLS, but the relationship between the Subscriber Line Charge, common line expenses, and the support mechanism remains the same.

20. In 2011, the Commission adopted a Residential Rate Ceiling of \$30 per month (i.e., the total rate for basic local telephone service, including any additional charges, that a customer actually pays each month) to ensure that local telephone service remains affordable and set at reasonable levels. The Commission's rules currently prohibit an incumbent local exchange carrier from assessing an Access Recovery Charge on residential customers that would cause the carrier's total charges to exceed the Residential Rate Ceiling, 47 CFR 51.915(b)(11)-(12). A rate-of-return carrier can, however, recover through CAF ICC, the amount of Eligible Recovery that it is not

permitted to recover through its Access Recovery Charges due to the Residential Rate Ceiling.

21. *Role of Telephone Access Charges in USF Contributions.* Section 254(d) of the Act, 47 U.S.C. 254(d), specifies that “[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the . . . mechanisms established by the Commission to preserve and advance universal service,” and that “[a]ny other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.” Pursuant to that provision, the Commission requires all “[e]ntities that provide interstate telecommunications to the public, or to such classes of users as to be effectively available to the public, for a fee,” to contribute to the federal USF based on their interstate and international end-user telecommunications revenues. The Commission requires interconnected Voice over Internet Protocol (VoIP) service providers to contribute as a means of ensuring a level playing field among direct competitors, 47 CFR 54.706, 54.708.

22. Contributions to the Fund are based upon a percentage of contributors’ interstate and international end-user telecommunications revenues. This percentage is called the contribution factor. The Commission calculates the quarterly contribution factor based on the ratio of total projected quarterly costs of the universal service support mechanisms to contributors’ total projected quarterly collected end-user interstate and international telecommunications revenues, net of projected contributions, 47 CFR 54.709(a)(2). Telephone Access Charges are assessable revenue for federal USF contribution purposes, 47 CFR 54.709(a)(2).

23. As discussed, the Commission does not regulate how competitive local exchange carriers recover their costs of providing interstate access service from their end-user customers. To the extent that a competitive local exchange carrier chooses to assess a separate interstate end-user access charge on its customers, it is required to report such revenues for USF contribution purposes in a manner that is consistent with its supporting books of account and records.

24. For providers of voice services that are not able to easily determine the jurisdictional nature of their traffic, the Commission created different USF contribution safe harbors for different types of providers. Wireless providers, for example, are considered in compliance with the Commission's USF contributions requirements if they treat 37.1% of their telecommunications revenue as assessable for purposes of determining their federal USF contributions. Interconnected VoIP service providers are considered to be in compliance with the Commission's USF contributions requirements if they treat 64.9% of their total revenue as assessable for purposes of determining their federal USF contributions.

C. The Commission's Truth-In-Billing Rules

25. The Commission has long sought to make telephone bills more understandable for consumers. Indeed, the Commission currently has two open rulemaking proceedings in which the Commission is considering, among other things, whether government-mandated charges should be separate from other charges on customers' telephone bills, and whether to apply the Commission's truth-in-billing rules to interconnected VoIP services.

26. In order to assist consumers in understanding their phone bills, the

Commission has posted on its website consumer education material explaining the various charges consumers are likely to find on such bills. As described in the Commission’s consumer education materials, a typical phone bill includes a “base” charge for local service; line items for local, state, and federal taxes; additional charges to pay for 911 services, federal USF, and Local Number Portability Administration; the Subscriber Line Charge; and various other charges.

27. The Commission has held that the prohibition on carriers engaging in unjust and unreasonable practices in section 201(b) of the Act, 47 U.S.C. 201(b) prohibits carriers from including misleading information on telephone bills, but does not require all carriers to use the same descriptions for the various types of charges found on telephone bills. Recognizing that there are “many ways to convey important information to consumers in a clear and accurate manner” the Commission has declined to prescribe specific descriptions for charges typically found on telephone bills. As a result, carriers use different descriptions for these charges.

28. For example, different carriers’ bills describe the Subscriber Line Charges as “FCC-Approved Customer Line Charge,” “FCC Subscriber Line Charge,” “Customer Subscriber Line Charge,” “Easy Access Dialing Fee,” and “Federal Line Fee.” What is more, although the Commission has directed carriers to list the Subscriber Line Charge as a line-item charge on customers’ telephone bills, it also specified in 2011 that the Access Recovery Charge may be combined in a single line item with the Subscriber Line Charge on the bill. As a result, some phone bills may have a single line item combining the two charges and other phone bills may break them out separately.

D. The Commission’s Detariffing Authority

29. The Telecommunications Act of 1996 was adopted to “promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers,” 47 U.S.C. 151. In implementing this legislation, the Commission noted the pro-competitive, deregulatory goals of the Act and its directive to remove “statutory and regulatory impediments to competition.”

30. Consistent with these objectives, the 1996 Act granted the Commission authority to forbear from statutory provisions and regulations that are no longer “current and necessary in light of changes in the industry.” More specifically, under section 10 of the Act, 47 U.S.C. 160, the Commission is required to forbear from any statutory provision or regulation if it determines that: (1) enforcement of the provision or regulation is not necessary to ensure that the telecommunications carrier’s charges, practices, classifications, or regulations are just, reasonable, and not unjustly or unreasonably discriminatory; (2) enforcement of the provision or regulation is not necessary to protect consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest.

31. Over the last two decades, the Commission has repeatedly relied on its section 10 authority to forbear from applying section 203’s tariffing requirements when competitive developments made such requirements unnecessary and even counterproductive. Shortly after Congress enacted section 10, the Commission forbore from section 203 tariffing requirements for domestic long-distance services provided by non-dominant carriers. The Commission found that market forces would generally ensure that the rates, practices, and classifications of nondominant interexchange carriers for interstate, domestic, interexchange services are just and reasonable and not unjustly or

unreasonably discriminatory. The Commission also found that tariff filings by non-dominant interexchange carriers for long distance services were not necessary to protect consumers. Instead, the Commission found that market forces, the section 208 complaint process, and the Commission's ability to reimpose tariff requirements, if necessary, were sufficient to protect consumers. The Commission further found that detariffing of non-dominant domestic long distance services was in the public interest because it would further the pro-competitive, deregulatory objectives of the 1996 Act by fostering increased competition in the market for interstate, domestic, interexchange telecommunications services.

32. Beginning in 2007, the Commission granted forbearance from dominant carrier regulation, including tariffing and price regulation, to a number of price cap incumbent local exchange carriers for their newer packet-based broadband services. In the case of AT&T, for example, the Commission found that a number of entities provided, or were ready to provide, broadband services in competition with AT&T's broadband services. Given the level of competition, the Commission concluded that dominant carrier tariffing and pricing regulation was not necessary to ensure that AT&T's rates and practices for those services remained just, reasonable, and not unjustly or unreasonably discriminatory. The Commission found that, under these circumstances, the benefits of tariffing requirements to ensuring just, reasonable, and nondiscriminatory charges and practices, were negligible. The Commission explained that continuing to apply dominant carrier tariff regulation was not in the public interest because it would create market inefficiencies, inhibit carriers from responding quickly to rivals' new offerings, and impose other unnecessary costs.

33. More recently, in the 2017 Price Cap BDS Order, the Commission found, among other things, that competition was sufficiently pervasive to justify granting all price cap carriers forbearance from tariffing of their packet-based business data services and time division multiplexing (TDM)-based business data services above a DS3 bandwidth level. The Commission also adopted a competitive market test to determine where there was sufficient competitive pressure on lower speed (DS3 and below) TDM-based end user channel termination services to justify forbearance from tariffing requirements for those services, 47 CFR 69.803(a), 69.807(a). The Commission found that application of section 203's tariffing requirements was not necessary because competition and remaining statutory and regulatory requirements were sufficient to ensure "just and reasonable rates, terms, and conditions" that are not "unjustly or unreasonably discriminatory." The Commission further found that by ensuring regulatory parity and promoting competition and broadband deployment, detariffing these services met the requirements of section 10(a)(3). On partial remand of the Price Cap BDS Order, the Commission similarly found that competition for lower speed TDM transport business data services in price cap areas was sufficiently widespread to justify granting price cap carriers forbearance from tariffing these services.

34. In 2018, the Commission relied on its section 10 forbearance authority to detariff certain business data services provided by rate-of-return carriers receiving fixed or model-based universal service support. In the Rate-of-Return BDS Order, the Commission adopted a voluntary path by which rate-of-return carriers that receive fixed or model-based universal service support could elect to transition their business data service offerings to incentive regulation, 47 CFR 61.50(b). As part of this framework, the

Commission granted electing carriers forbearance from section 203 tariffing requirements for packet-based and higher capacity (above DS3) TDM-based business data services.

The Commission also detariffed electing carriers' lower capacity (DS3 and below) TDM-based business data services in rate-of-return study areas deemed competitive. The Commission found that forbearance from tariffing these services "will promote competition, reduce compliance costs, increase investment and innovation, and facilitate the technology transitions." Therefore, application of section 203 was not necessary, and forbearance was in the public interest consistent with sections 10(a) and 10(b).

35. Thus, both the statute and longstanding Commission precedent make clear that the Commission can and should forbear from the tariffing requirements of section 203 when there is sufficient competition for a service such that tariffing is not necessary to protect a carrier's customers nor to promote the public interest.

III. Discussion

36. In this Notice, the Commission proposes to eliminate ex ante pricing regulation of all Telephone Access Charges. In addition, the Commission proposes to require incumbent local exchange carriers and competitive local exchange carriers to detariff all such charges. The Commission proposes a nationwide approach based on its review of data demonstrating widespread availability of competitive alternatives for voice services and on other factors that appear to make such regulation and tariffing unnecessary and contrary to the public interest. The Commission seeks comment on this proposal and invites commenters to offer alternative proposals. Further, while the Commission believes those identified charges—the Subscriber Line Charge (also called the End User Common Line charge), Access Recovery Charge, Presubscribed

Interexchange Carrier Charge, Line Port Charge, and Special Access Surcharge—are the appropriate focus of its proposals here, the Commission seeks comment on whether there are any other interstate end-user charges for which the Commission should adopt the reforms being considered as part of this proceeding. The Commission also seeks comment on the data it uses and on its analysis of those data and invite commenters to offer additional data and their own analyses.

37. Consistent with the goal of simplifying carriers' advertised rates and customers' bills, the Commission also proposes to prohibit carriers from billing customers for Telephone Access Charges through separate line items on their bills. Given that some Telephone Access Charges are used to calculate contributions to the USF and other federal programs, as well as high-cost support, the Commission also proposes ways to provide certainty in calculating such contributions and support to ensure stability in funding following pricing deregulation and detariffing of Telephone Access Charges. Finally, the Commission seeks comment on its legal authority to adopt these rule changes and on the costs and benefits of its proposals.

A. The Declining Need for *Ex Ante* Pricing Regulation and Tariffing of Telephone Access Charges

38. The primary objective of ex ante pricing regulation and tariffing is to ensure that prices are just and reasonable as required by the Act. While such ex ante regulation and tariffing may have been necessary when the incumbent local exchange carriers were dominant suppliers, that no longer appears to be the case. Today, competition for voice services is widespread and the Commission expects it to be more effective than regulation in ensuring that incumbent local exchange carriers' rates for voice services are

just and reasonable. The Commission is also concerned that the costs of regulating and tariffing Telephone Access Charges are likely to exceed the benefits, because they impose costs on carriers and hinder carriers' ability to quickly adapt to changing market conditions.

39. The Commission proposes to find that widespread competition among voice services makes ex ante pricing regulation and tariffing of Telephone Access Charges unnecessary to ensure just and reasonable rates or to otherwise protect customers. The Commission seeks comment on its proposal. As the Commission has explained in prior deregulatory decisions, “competition is the most effective means of ensuring that . . . charges, practices, classifications, and regulations . . . are just and reasonable, and not unreasonably discriminatory.” When markets become competitive, pricing regulations are not only unnecessary, they are counterproductive.

40. Over the last several decades, local exchange carriers have been quickly losing subscribers while mobile and interconnected VoIP providers have continued gaining subscribers. The Commission's annual Voice Telephone Services Reports show, for example, that from December 2008 to December 2018, the share of total voice subscribers served by incumbent local exchange carriers decreased from 27.9% to only 7.4%. During this same period, the share of total voice subscriptions for interconnected VoIP service providers unaffiliated with an incumbent local exchange carrier more than doubled, from 4.9% to 11.7%. Moreover, in the same period, mobile voice subscriptions increased from 61.7% to 75.9%, and as of the end of 2018, 57.1% of households purchased only wireless voice service.

41. The Commission's data also demonstrate that competitive voice service offerings are available nationwide. More than 99.9% of populated census blocks have one or more facilities-based providers of mobile voice services unaffiliated with an incumbent local exchange carrier deployed in the block. Further, 80.6% of populated census blocks have one or more unaffiliated facilities-based providers of fixed broadband at speeds of 10/1 Mbps or greater deployed in the block. Those fixed broadband technologies include xDSL, fiber, terrestrial fixed wireless, and cable modem, and allow providers to offer voice services and allow customers to use over-the-top VoIP service providers. The Commission believes that the presence of competition in voice services imposes material pricing pressure on incumbent local exchange carriers, rendering ex ante pricing regulation and tariffing of Telephone Access Charges unnecessary to ensure just and reasonable rates. The Commission seeks comment on these data, and on its analysis. The Commission also invites commenters to offer other data sources the Commission should use to examine the extent of competition for voice services.

42. For purposes of these analyses, the Commission defines a "populated census block" as any non-water census block with at least one occupied or unoccupied housing unit according to its 2018 "Staff Block Estimates," available at <https://www.fcc.gov/reports-research/data/staff-block-estimates>. The Commission counts wireless voice and fixed broadband service providers affiliated with incumbent local exchange carriers as "unaffiliated," but only outside of the incumbent local exchange carriers' respective study areas. Data on census blocks with mobile voice deployment are publicly available on the Commission website at <https://www.fcc.gov/mobile-deployment-form-477-data> (select "Dec. 2018" from the "Actual Area Methodology")

column). Lists of carriers and affiliates are available at <https://www.fcc.gov/general/form-477-filers-state-0> and <https://www.fcc.gov/document/fcc-proposes-detariffing-access-charges-simplifying-consumer-bills>. Study area data and data regarding the affiliations of incumbent local exchange carriers and wireless voice providers are also available on the Commission website at <https://www.fcc.gov/economics-analytics/industry-analysis-division/study-area-boundary-data> (use “Census Block - Study Area Cross Reference (ZIP) (Oct 2016)”) and <https://www.fcc.gov/general/fcc-form-477-additional-data> (use “Form 477 Filers by State (12/08-current)”).

43. Further, this analysis relies on data regarding fixed broadband instead of fixed voice or interconnected VoIP because data regarding fixed broadband is reported at the more granular census-block level. For purposes of this analysis, the Commission limits its consideration of fixed broadband to unaffiliated providers offering service with speeds of at least 10/1 Mbps, which ensures that the broadband deployment measured here represents the availability of next-generation voice services such as interconnected VoIP service. Data on census blocks with fixed broadband deployment are publicly available on the Commission website at <https://www.fcc.gov/general/broadband-deployment-data-fcc-form-477> (select “Data as of December 31, 2018”).

44. The Commission’s proposal to eliminate ex ante pricing regulation and tariffing of Telephone Access Charges is supported by the fact that the prices charged by incumbent local exchange carriers in many of the areas that are least likely to have robust competition are subject to other regulatory constraints. Generally, competition in voice services is least likely to exist in rural areas and other high-cost areas. These areas are

usually served by carriers that receive federal high-cost USF support. To receive such support, a carrier must be designated as an Eligible Telecommunications Carrier either by a state or by the Commission, 47 CFR 54.201, 54.214(e), 54.254(e). To ensure that customers in all areas of the nation have access to affordable voice service, consistent with the principles set forth by Congress, the Commission requires that Eligible Telecommunications Carriers offer supported services—including voice telephony services—at rates that are reasonably comparable to urban rates throughout their designated service areas, unless they can offer a reasonable justification for charging higher rates.

45. This requirement constrains the prices that carriers can charge for voice services in high-cost areas of the country. Currently, the Commission's Office of Economics and Analytics conducts an annual Urban Rate Survey to determine what constitutes a reasonable comparability benchmark for residential voice services. A voice rate is deemed to be compliant with the Commission's rules if it falls within two standard deviations of the national average of the Urban Rate Survey, 47 CFR 54.313(a)(2). Therefore, Eligible Telecommunications Carriers are presumed to be in compliance with the Commission's rules if they charge no more than the reasonable comparability benchmark. This benchmark helps constrain incumbent local exchange carriers' pricing, even in high-cost areas where robust competition is least likely to occur.

46. The Commission recognizes that a small percentage of consumers do not have competitive options, but its preliminary analysis is that such consumers live in high-cost areas that are currently served by an Eligible Telecommunications Carrier subject to the reasonable comparability benchmark. What is more, the Commission expects that the

overwhelming number of census blocks with competitive options will help constrain prices in the very few census blocks that do not have competitive options through unaffiliated mobile voice or broadband services. As the United States Court of Appeals for the District of Columbia Circuit has observed, “[c]onsumers in areas with fewer than two providers may also reap the benefits of competition; a provider in this area ‘will tend to treat customers that do not have a competitive choice as if they do’ because competitive pressures elsewhere ‘often have spillover effects across a given corporation.’” The Commission seeks comment on this preliminary analysis and these expectations.

47. Furthermore, the Commission expects that the benefits to the vast majority of customers from its removal of ex ante pricing regulation and detariffing of Telephone Access Charges outweigh the potential risk that a small number of consumers without competitive options for voice services may pay higher rates if the Commission deregulates and detariffs Telephone Access Charges. In reaching its forbearance decisions, the Commission has long recognized that unnecessary tariffing requirements may impede carriers’ flexibility to react to competition and may harm customers in some circumstances. For example, tariffing requirements can inhibit carriers’ ability to offer innovative integrated services designed to meet changing market conditions. In addition, a customer may be adversely affected when a carrier unilaterally changes a rate by filing a tariff revision (so long as the revision is not found to be unjust, unreasonable, or unlawful under the Act) because, pursuant to the “filed rate doctrine,” a filed tariff rate, term, or condition controls over a rate, term, or condition set in a non-tariffed carrier-customer contract. Detariffing, on the other hand, can help customers obtain service

arrangements that are specifically tailored to their individual needs. Furthermore, detariffing will allow consumers to avail themselves of the protections provided by state consumer protection and contract laws—protections not available to consumers under the filed-rate doctrine.

48. Indeed, the Commission has found that the high costs of regulation likely outweigh the benefits, even in less-than-fully-competitive markets, particularly where regulatory costs are imposed on only one class of competitors. In light of the evidence of widespread competition for voice services, the Commission invites comment on whether, and to what extent, the costs of continued regulation of Telephone Access Charges imposed on incumbent local exchange carriers outweigh the benefits of such regulation. The Commission invites commenters to quantify both the costs and the benefits of its proposal and of any alternative approaches to the removal of ex ante pricing regulation and detariffing of Telephone Access Charges.

49. Finally, the growing number of states that have adopted rate flexibility for the intrastate portion of local telephone services supports the conclusion that in many states deregulating and detariffing Telephone Access Charges will not affect the overall rate customers pay for telephone service. That's because carriers that have pricing flexibility for the intrastate portion of their local voice services can adjust the intrastate portion of their local rates to price their local voice services at market rates notwithstanding existing limits on the interstate portion of those charges. As a result, federal deregulation and detariffing of Telephone Access Charges should not result in any material change in the total rates customers pay for voice service in these states. Thus, the Commission proposes to find that ex ante pricing regulation and tariffing of Telephone Access Charges in such

states imposes costs, but likely does not yield any benefits. The Commission seeks comment on its theory of the impact of states' adoption of pricing flexibility for retail rates.

50. The Commission invites commenters to provide it with information about the status and impact of state telephone rate deregulation generally. According to one report, as of 2016, at least 41 states had “significantly reduced or eliminated oversight of wireline telecommunications” through legislation or public utility commission action. In several states, state utility commissions no longer have authority to regulate telecommunications services and their prices. California, for example, eliminated pricing regulation for all local exchange services that do not receive state high-cost support, while Tennessee permits incumbent carriers to elect to operate free from the jurisdiction of the state public utility commission, with certain exceptions.

51. Further, a growing number of states have adopted retail rate flexibility for the intrastate portion of local voice services justified, at least in part, by the presence of competitive options. For example, the California Public Utilities Commission found that incumbent local exchange carriers “lack the market power to sustain prices above the levels that a competitive market would produce” because of wireless, cable, and VoIP service entrants into the marketplace. Still other states such as Washington and Minnesota have deregulated rates on a service-area or exchange-area basis for services subject to “effective competition” or for exchanges satisfying competitive market criteria.

52. In sum, while states are trending toward pricing flexibility for the intrastate portion of local telephone rates, there appears to be considerable variation among states and among areas within states. The Commission seeks comment on that variation and its

impact on its proposal, if any. Parties are invited to provide more updated data on intrastate rate regulation and rate flexibility for the intrastate portion of local telephone rates. The Commission seeks comment on whether the varied nature of state regulation of local telephone rates supports or detracts from its proposal to eliminate ex ante pricing regulation and tariffing of Telephone Access Charges nationally.

53. The Commission also seeks comment on whether there are any factors that would either support or call into question its proposal to eliminate ex ante pricing regulation and mandatorily detariff Telephone Access Charges across the country.

54. *Competitive Local Exchange Carriers.* Some competitive local exchange carriers have chosen to tariff some Telephone Access Charges. By definition, such carriers are subject to competition and already have pricing flexibility. In the interest of parity, the Commission proposes to require competitive local exchange carriers to detariff, on a nationwide basis, all Telephone Access Charges. Competitive local exchange carriers face competition from wireless providers and other competitive wireline providers and must also compete with incumbent local exchange carriers. The Commission sees no justification for allowing competitive local exchange carriers to tariff Telephone Access Charges if incumbent local exchange carriers are prohibited from doing so. The Commission seeks comment on its proposal to require mandatory detariffing of competitive local exchange carriers' Telephone Access Charges.

55. *Detariffing Other Federal Charges.* In addition to Telephone Access Charges, there are other charges related to federal programs that many carriers currently include in their interstate tariffs, e.g., pass-throughs for contributions to the USF. The Commission seeks comment on mandatorily detariffing these charges. Such charges are subject to

regulatory requirements and its Truth-in-Billing rules will continue to govern if and how these charges can be passed through to end users. Accordingly, the Commission expects that detariffing these charges will bring the benefits of reduced regulatory requirements while creating little risk of abuse. The Commission seeks comment on this expectation and any other issues that it should consider in deciding whether to detariff all interstate retail charges. The Commission invites commenters to identify these charges and to comment on the costs and benefits of mandatorily detariffing them.

B. Alternative Approaches

56. The Commission invites commenters to offer alternative approaches to determining where and under what circumstances the Commission should eliminate ex ante pricing regulation and require detariffing of Telephone Access Charges. For example, should the Commission take a more case-by-case approach and find that rate regulation is unnecessary only in locations where at least one of the following conditions is met: (1) in an incumbent local exchange carrier's study area, where there is at least one unaffiliated voice provider available in 75% of the populated census blocks; (2) in areas where the Eligible Telecommunications Carrier is subject to the reasonable comparability benchmark; or (3) in states where intrastate rates have been deregulated?

57. Under this alternative, the Commission would remove ex ante pricing regulation and require detariffing of Telephone Access Charges in study areas where there is at least one unaffiliated provider of voice services in 75% of the inhabited census blocks. In the Price Cap BDS Order, the Commission found that one competitor within a census block is sufficient to help constrain prices of business data services offered by an incumbent local exchange carrier. Do commenters believe that one voice competitor in

75% of the inhabited census blocks of a study area is sufficient to help constrain prices for voice services offered by an incumbent local exchange carrier? In the alternative, would competition in a lower percentage of inhabited census blocks in a study area be sufficient to help constrain prices for local voice services? The Commission invites commenters to offer alternatives, explain the bases for the alternatives they offer, and identify supporting data.

58. Under this alternative, the Commission would remove ex ante pricing regulation and require detariffing of Telephone Access Charges at the study-area level because doing so on a census-block basis is not administratively feasible. As the Commission has explained, “census blocks or census tracts are too numerous to effectively administer” and “could lead to a patchwork of different regulations that vary from census block-to-census block.” Study areas, however, “are more administratively feasible because there are a limited number” and the Commission and industry have substantial experience administering rules on a study area basis. Price deregulation and detariffing on the study-area level is likewise sufficiently granular to protect customers across the study area because it is reasonable to assume that incumbent local exchange carriers charge uniform prices across study areas. Further, customers in rural areas of study areas will benefit from both competition in urban areas, as competitive pressures “often have spillover effects across a given corporation,” and from the Commission’s prohibitions against unjust and discriminatory rates. The Commission seeks comment on these parameters, data, and assumptions, including whether the Commission should evaluate competition using a competitive market test, as it has previously done.

59. Under this alternative, the Commission would also eliminate ex ante pricing regulation and require detariffing of Telephone Access Charges in areas where there is a designated Eligible Telecommunications Carrier subject to the reasonable comparability requirement. Do commenters agree that the reasonable comparability requirement sufficiently constrains retail rates for voice services by ensuring that Eligible Telecommunications Carriers do not charge rates that significantly exceed the rates that apply in competitive urban markets? If so, does it follow that ex ante pricing regulation and tariffing are not necessary in areas where there is an Eligible Telecommunications Carrier subject to the reasonable comparability requirement? Commenters asserting that pricing regulations and interstate tariffs are nonetheless necessary to constrain Eligible Telecommunications Carriers' Telephone Access Charges should explain why the reasonable comparability requirement is not sufficient to ensure that Eligible Telecommunications Carriers' rates are just and reasonable. Should the Commission instead deregulate and detariff Telephone Access Charges based on a combination of competition and reasonable comparability requirements in an area? For example, should the Commission do so if competition does not hit the 75% threshold discussed above, but the reasonable comparability requirement holds in areas without competition?

60. If the Commission eliminates ex ante pricing regulation and require detariffing of Telephone Access Charges based on a carrier's obligation to comply with the reasonable comparability requirement, would a new benchmark for business customers be necessary to constrain retail rates charged to business customers? There is currently no benchmarking process for retail rates charged to business customers. The Commission recognizes that business customers may purchase very different voice services depending

on a variety of factors and that many businesses purchase voice services pursuant to negotiated contracts. The Commission seeks comment on whether a comparability benchmark for business customers is necessary given their ability to negotiate contract rates, especially when voice services are often bundled with other services. Does the current benchmark for residential customers constrain prices for business customers? Could a benchmarking process be developed for retail business rates? If a benchmarking process for retail business rates could be developed, would such development be unduly complex and burdensome given the differences among voice services purchased by business customers?

61. Under this alternative, the Commission would also eliminate ex ante pricing regulation and require detariffing of Telephone Access Charges for incumbent local exchange carriers in study areas where states have deregulated the rates charged for the intrastate portion of local voice services. The Commission would do so given that a carrier's current ability to adjust its end-user rates due to state deregulation means that federal deregulation and detariffing of Telephone Access Charges will not result in increased prices for voice services. Should the Commission generate and maintain a list of areas where there is state retail rate pricing flexibility? Should the Commission have carriers self-certify whether the intrastate portion of local voice services are no longer subject to state price controls and use those certifications as the basis for a list? If the Commission does elect to maintain a list of states that have deregulated the rates charged for the intrastate portion of local voice services, should the Commission update that list periodically—every three years, for example—to ensure that it accurately reflects state regulation of retail rates. How would the Commission make the list available to the

public? Should the Commission direct the Wireline Competition Bureau to issue a Public Notice updating the list every few years? If a state were to re-implement rate regulation of the intrastate portion of local voice services, what effect should that have on the Commission's price deregulation and detariffing of Telephone Access Charges?

62. The Commission invites comment on this alternative approach and the costs and benefits of such an approach. Assuming that competition and the reasonable comparability requirements impose sufficient pricing constraints on carriers subject to them, and that federal price regulation does not have any practical effect in areas where states offer pricing flexibility, are there any other reasons to impose federal tariffing and pricing regulations with respect to Telephone Access Charges? The Commission invites commenters to identify any such reasons and the relative benefits and costs of leaving ex ante pricing regulation and tariffing in place as compared to its alternative proposal to deregulate and detariff the Telephone Access Charges.

63. The Commission also seeks comment on other alternative proposals, along with the data and assumptions supporting any alternative. For instance, should the Commission consider permissive detariffing of Telephone Access Charges for some categories of carriers, such as rate-of-return carriers, as suggested by NTCA? What considerations, if any, would support a different approach for such carriers? How would permissive detariffing for some carriers and mandatory detariffing for others affect the overall policy goals of this proceeding? Are there other alternatives the Commission should consider for some categories of carriers? Commenters supporting an alternative approach should also address the costs and benefits of such an approach.

C. Measures to Simplify Consumers' Telephone Bills

64. Consistent with its ongoing efforts to simplify consumers' telephone bills, the Commission also proposes to modify its truth-in-billing rules, 47 CFR 64.2400-64.2401, to explicitly prohibit carriers from assessing any separate Telephone Access Charges, such as Subscriber Line Charges and Access Recovery Charges, on customers' bills after those charges are deregulated and detariffed. The Commission seeks comments on this proposal. The Commission also invites suggestions for how to minimize any customer confusion regarding telephone bills during the transition to price deregulation and detariffing of Telephone Access Charges.

65. The Commission remains concerned that telephone bills are too complicated and difficult to read and understand. For example, the terms used by carriers to describe Subscriber Line Charges, such as "FCC-Approved Customer Line Charge," "FCC Subscriber Line Charge," and "Federal Line Fee," are meaningless to most consumers. They may also lead consumers to mistakenly believe that the government mandates the amount of Subscriber Line Charges or other Telephone Access Charges.

66. Prohibiting carriers from using separate, obscurely worded line items to bill for the interstate portion of local telephone services should make it easier for customers to understand their bills and to compare rates between different providers. As a result, greater transparency can improve the effectiveness of competition. Studies of pricing transparency in other industries have shown that increased price transparency reduces prices paid by consumers. For example, the advent of the Internet, which enabled consumers to make better price comparisons, appears to have reduced the prices for life insurance policies by about 8% to 15%. Evidence that price transparency can benefit consumers has been found in markets for many other products as well, including

prescription drugs, eye exams and eyeglasses, gasoline, automobiles and securities. The Commission would expect that bringing advertised rates for voice services closer to what consumers actually pay would yield similar price reductions. Moreover, Telephone Access Charges are vestiges of legacy telephone networks when most local exchange carriers were subject to comprehensive cost-based regulatory regimes and operated in a substantially different telecommunications marketplace. The Commission does not think that these charges should have a place on consumers' phone bills once those charges are deregulated and detariffed. The Commission invites comment on that reasoning.

67. Assuming that its proposal results in greater price transparency, how could the Commission estimate the benefits that such increased transparency would bring? Should the Commission expect price declines similar to those observed in other industries when consumers were better able to compare prices? If not, is there other evidence or are there other approaches the Commission should consider to evaluate the benefits of greater transparency provided by its proposal? Are there factors that the Commission's proposal fails to address that should be addressed in its final rules? Are there other changes that should be made to the Commission's truth-in-billing rules to effectuate the changes proposed here?

68. The Commission recognizes that some states may authorize carriers to collect charges for the intrastate portion of local voice services from their customers using billing descriptions similar to the Telephone Access Charges. Are there state requirements that would prohibit carriers from completely eliminating separate line-item charges from their bills? If so, how should the Commission address those requirements to carry out its policy of minimizing consumer confusion? Are there other issues related

to the billing of intrastate charges of which the Commission should be aware? For example, how are such charges listed on customers' bills? In those states where carriers do not have pricing flexibility with respect to the intrastate portions of their local telephone service, how will continuing state regulation of those intrastate rates affect the Commission's proposal to prohibit carriers from assessing any separate Telephone Access Charges on customers' bills? For example, if a carrier is precluded by state regulations from changing its local service rates, what steps does the Commission need to take to ensure that a carrier has flexibility to charge its customers for the interstate component of the service currently collected through Telephone Access Charges?

69. Are there states that authorize or require carriers to assess separate intrastate end-user charges? If so, the Commission asks that commenters provide specific examples. To the extent such state laws or regulations exist, should the Commission require carriers to make it clear that the listed charges are not federally authorized? Do carriers combine Telephone Access Charges and intrastate end-user charges into a single line item? If so, how do they identify and describe that charge on the bill? To the extent that some carriers may be prohibited by state law from combining charges for the intrastate and interstate portions of their local telephone service on customers' bills, should the Commission require such carriers to charge for the interstate portions of that service in a certain manner or using uniform nomenclature? If so, the Commission seeks comment on the specifics of such an approach. In the alternative, where state laws or regulations prohibit carriers from combining charges for the intrastate and interstate portions of their local telephone service on customers' bills, should the Commission consider preempting such laws and regulations on the basis that it would be impossible to

comply both with those laws and the rules proposed in this proceeding and that such regulations conflict with the regulatory objectives of this proceeding?

70. Finally, the Commission also seeks comment on any consumer education initiatives the Commission or providers should undertake to help consumers understand any billing changes that may result from its proposed changes.

D. Addressing Related Universal Service Fund and Other Federal Program Issues

71. The Commission proposes ways to address issues related to the Universal Service Fund's and other federal programs' historic reliance on Telephone Access Charges in certain circumstances. Addressing these issues at the outset will ensure that the rural carriers that rely on such federal funds will have the certainty they need to continue investing in the deployment of next-generation networks and services in rural America.

72. *Connect America Fund Broadband Loop Support.* The Commission proposes several modifications to its rules for calculating CAF BLS to address the detariffing of Telephone Access Charges—modifications that the Commission does not expect will materially change the amount of funds made available for carriers relying on this mechanism to continue to serve their service areas.

73. The Commission first proposes to require that legacy rate-of-return carriers that use costs to determine CAF BLS support use \$6.50 for residential and single-line business lines and \$9.20 for multi-line business lines (the maximum Subscriber Line Charge amounts) to calculate their CAF BLS going forward. By using these fixed amounts rather than a tariffed rate, the Commission ensures that carriers will continue to

be able to calculate CAF BLS. The Commission expects that this approach will have minimal effect on the CAF BLS legacy rate-of-return carriers receive since most, if not all, of those carriers are currently charging the maximum Subscriber Line Charges allowed under its rules. Are there any legacy rate-of-return carriers that would be adversely affected by the Commission's proposal? If so, should the Commission require each of those carriers to identify the highest end-user charge that it could have assessed on the day preceding the day that it detariffs its Telephone Access Charges and use that amount to calculate its CAF BLS going forward?

74. The Commission also seeks comment on how to account for other Telephone Access Charges affecting the calculation of CAF BLS that will be detariffed. The Commission proposes to delete any requirement to offset Special Access Surcharges from CAF BLS. As a result, a carrier receiving CAF BLS will not have to reflect any revenues for this charge in determining revenues for purposes of calculating CAF BLS. Given the minimal amount of Special Access Surcharge revenues being collected, the Commission expects making this change will have a negligible impact on CAF BLS. Additionally, the Commission proposes to require carriers to use the rates they are charging for line ports as of the effective date of an order adopting these reforms. This recognizes that carriers assess individual Line Port Charges differently. The Commission seeks comment on these proposals. Alternatively, should the Commission develop a uniform rate for each type of line port that is currently tariffed and, if so, how should such a rate be determined? Would a weighted average of the currently tariffed monthly rates in the National Exchange Carrier Association tariff be a reasonable approach? Or should the Commission eliminate the requirement to take into account Line Port Charges

when calculating CAF BLS? Or instead should the Commission impute the aggregate Line Port Charges of each carrier on the effective date of an order adopting these reforms to said carrier for purposes of calculating CAF BLS?

75. The Commission expects that these proposed approaches would limit any adverse effects on the CAF BLS program and also minimize the administrative and other burdens on legacy rate-of-return carriers, most of which are small entities. The Commission invites parties to comment on this expectation. Are there alternative approaches the Commission should consider to account for these revenues when calculating their CAF BLS after these charges have been detariffed? Are there any other Telephone Access Charges that would affect CAF BLS calculations? The Commission also asks parties to comment on whether there should be any particular relationship between how end-user rates are treated in connection with determining CAF BLS and on how they are treated in determining the revenues that may be assessed for universal service contribution purposes.

76. The Commission invites parties to suggest other approaches that would minimize the effects of its proposals on CAF BLS. Parties should identify and quantify the costs and benefits that would result from any alternative proposals. The Commission invites parties to address the extent to which (if at all) the Commission should change the rules governing participation in the National Exchange Carrier Association tariffing and pooling processes to reflect the detariffing of Telephone Access Charges. Finally, if the Commission adopts its proposal to detariff and deregulate the pricing of Telephone Access Charges, in order to effectuate that proposal, are there any changes that the Commission should adopt to other Commission rules, including its rules relating to the

functions of the National Exchange Carrier Association or the USF administration responsibilities handled by the Universal Service Administrative Company?

77. Connect America Fund Intercarrier Compensation. The Commission next seeks comment on how to ensure that detariffing of the Access Recovery Charge does not unreasonably affect the amount of funds that rate-of-return carriers are eligible to receive from CAF ICC. The CAF ICC support that a rate-of-return carrier receives is reduced by the Access Recovery Charge that the carrier is permitted to charge and by an imputed amount based on the Access Recovery Charge that the carrier could have charged on voice or voice-data lines if such charges could be assessed on Consumer Broadband Only Loop lines. Thus, eliminating the Access Recovery Charge affects the calculation of CAF ICC support.

78. The Commission proposes to require rate-of-return carriers to calculate CAF ICC using the maximum Access Recovery Charge that could have been assessed on the day preceding the detariffing of that charge. This approach is administratively simple and would eliminate any uncertainty about how to account for the Access Recovery Charge in calculating CAF ICC. The Commission invites parties to comment on this approach, noting in particular the potential effects of this approach. Alternatively, should the Commission eliminate the ongoing imputation of Access Recovery Charges for such carriers and instead reduce their Eligible Recovery each year by the aggregate Access Recovery Charge revenue they were actually receiving on the effective date of any order adopting reforms? This would eliminate the need to true up Access Recovery Charge revenues along with providing some administrative efficiencies.

79. The Commission invites parties to suggest other approaches for addressing potential effects of detariffing Access Recovery Charges on CAF ICC. Parties should identify potential issues and quantify the costs and benefits that would result from any alternative proposals.

80. Contributions to the Universal Service Fund and Other Federal Programs.

Every telecommunications carrier that provides interstate telecommunications services has an obligation to contribute, on an equitable and nondiscriminatory basis, to the federal Universal Service Fund, as well as several other programs. Although the Commission has not codified any rules for how contributors should allocate revenues between the interstate and intrastate jurisdictions for contributions purposes, many incumbent local exchange carriers (and some competitive local exchange carriers) have relied on the tariffing of Telephone Access Charges at the federal level as their means of determining their interstate and international revenues for contributions purposes. These revenues are reported on FCC Form 499-A and are used for purposes of determining their contributions to the USF, the Interstate Telecommunications Relay Service Fund, Local Number Portability Administration, and North American Numbering Plan Administration. To help ensure continued stability of the USF and other federal programs, the Commission seeks comment on two alternative proposals for allocating interstate and intrastate revenues for voice services in light of its proposed elimination of ex ante pricing regulation and detariffing of Telephone Access Charges.

81. *First*, the Commission seeks comment on adopting an interstate safe harbor of 25% for local voice services provided by local exchange carriers, with the option for such carriers to file individualized traffic studies to establish a different allocation. As used

here, “local voice services revenue” includes revenues from local exchange service and revenues related to detariffed Telephone Access Charges. Local voice services revenue does not include revenues associated with bundled toll services. The Commission proposes a 25% safe harbor because these revenues largely reflect common line recovery and 25% of common line costs have historically been allocated to the interstate jurisdiction, 47 CFR 36.2(b)(3)(iv).

82. Such an approach would be consistent with the existing approach for other voice service providers and types of services. Specifically, the Commission’s current rules provide a safe harbor for assessing contributions for mobile wireless service providers and interconnected VoIP providers. The Commission has set an interstate safe harbor of 37.1% for wireless operators and 64.9% for interconnected VoIP providers. In adopting the 37.1% safe harbor, the Commission reasoned that this would ensure that mobile wireless service providers’ obligations are on par with carriers offering similar services that must report actual interstate end-user telecommunications revenue. For interconnected VoIP services, the Commission established 64.9% as the safe harbor, which was the percentage of interstate revenues reported to the Commission by wireline toll providers.

83. As with other contributions safe harbors, the Commission proposes to allow a local exchange carrier to use traffic studies to determine its contributions base, rather than avail itself of the proposed safe harbor. Pursuant to the criteria contained in Form 499-A, traffic studies, among other things: (1) “may use statistical sampling to estimate the proportion of minutes that are interstate and international”; (2) must account for all interstate or international charges as “100 percent interstate or international”; (3) must be

designed to use sampling techniques to produce a margin of error of no more than 1% with a confidence level of 95%; and (4) should explain the methods and estimation methods employed and why the study results in an unbiased estimate. If a local exchange carrier elects to use a traffic study to determine its interstate and international revenues for universal service contribution purposes, it would be required to submit the traffic studies for review. The Commission's current rules require affiliated entities to make a single election, for all of the affiliates each quarter, as to whether to use a traffic study or to use the safe harbor adopted for that category of services. The Commission proposes applying the same study area and election requirement to local exchange carriers.

84. The Commission invites parties to comment on this proposal and, in particular, on the costs and benefits of the proposal. Is 25% a reasonable percentage of local voice services revenue to use as a safe harbor for assessing federal USF contributions? Could the introduction of this safe harbor and/or the Commission's proposal to allow carriers to submit a traffic study materially change the amount of contributions obtained from local voice services? If so, are there other alternatives that will better estimate the contributions base? Will the Commission's proposed approach ensure that all carriers make an equitable USF contribution? Are there other factors that the Commission should consider in establishing a safe harbor? The Commission invites parties experienced with the use of other safe harbors to provide information that will help inform its decision-making with respect to a proposed safe harbor as a proxy for the contributions carriers currently make based on their actual Telephone Access Charges. The Commission invites parties to address whether the use of a traffic study to estimate interstate and international revenues will result in a contributions base that will provide comparable support to that

provided by the safe harbor and is equitable among contributors. Are there alternative approaches that would produce better estimates? Are there other methods for determining the percentage of interstate and international traffic that should be used?

85.*Second*, the Commission sought comment in 2012 on adopting bright-line rules for the allocation of interstate and intrastate revenues for broad categories of services. In light of the other proposals the Commission makes today, the Commission now seeks comment on taking that proposed approach for all end-user voice services currently tariffed at the federal level—those offered by incumbent local exchange carriers as well as those offered by competitive local exchange carriers. The Commission’s analysis in 2012 showed that the allocation of interstate and intrastate revenues remained consistent over time (between 20% and 30% of total revenues for non-toll services were interstate and international and around 70% for toll services). The Commission invites comment on whether that allocation has continued to remain consistent. The Commission also seeks comment on all aspects of adopting bright-line rules for the allocation of interstate and intrastate revenue for such voice services, such as whether the Commission would need to set different fixed allocators for different categories of voice services (and whether that would create any competitive distortions in the marketplace or increase compliance burdens), what that allocator should be (the Commission specifically sought comment on a 20% interstate allocator, but the Commission now seeks comment on whether it should be higher such as 25%, 30%, or even 50%), how much weight to give the traffic studies filed by some reporting entities (considering the apparent differences in methodology the Commission observed in 2012), and whether the Commission would need to create some form of opt-out based on actual

revenue receipts (for example, for a local voice service not connected to the interstate public switched telephone network). Would such an approach reduce the administrative costs of compliance, ease oversight, reduce gamesmanship, and ensure a steady stream of contributions are available for the USF going forward?

86. The Commission's goal is to help ensure that carriers properly attribute revenues to the interstate jurisdiction and prevent carriers from avoiding contributions altogether by allocating all their revenues to the intrastate jurisdiction. This sort of gamesmanship could destabilize the contribution base used to fund universal service and other programs. The Commission invites comment on the extent to which each proposal would ensure that local exchange carriers would continue to contribute on an equitable and non-discriminatory basis.

87. Are there alternative approaches the Commission could take to ensure that local exchange carriers that currently assess Telephone Access Charges continue to comply with their obligations to contribute to the federal USF? Parties proposing other alternatives for determining assessable revenues should present data to support their proposals. They should explain how their proposed alternative would minimize the effects on the contributions base and reduce administrative burdens compared to the safe harbor approach the Commission proposes here. Parties should also identify any changes that are necessary to Form 499-A or 499-Q and the associated instructions to reflect changes made in response to this Notice.

E. Transition Period

88. To allow affected carriers sufficient time to amend their tariffs and billing systems, the Commission proposes a transition that would permit carriers to detariff

Telephone Access Charges with a July 1 effective date, consistent with the effective date of the annual access charge tariff filing, 47 CFR 69.3, following the effective date of the Order in this proceeding, and would require carriers to detariff these charges no later than the second annual tariff filing date following the effective date of such order. Carriers would be required to remove Telephone Access Charges from relevant portions of their interstate tariffs on one of these two annual access tariff filing dates, at the option of the carrier. Carriers would not be permitted to detariff these charges on dates other than the annual tariff filing dates specified by Commission. These dates will facilitate the transition process for incumbent local exchange carriers who use computerized programs to determine their Eligible Recovery and, for rate-of-return carriers, their CAF ICC. Finally, it will avoid placing large administrative costs on the National Exchange Carrier Association if member carriers were to elect to detariff at varying times during the year. Once the transition ends, no affected carrier would be permitted to include these charges in its interstate tariffs.

89. The Commission seeks comment on whether the proposed transition period provides carriers adequate time to amend their tariffs. The Commission also seeks comment on how to minimize consumer confusion during that transition. Should the Commission consider a different transition period for different classes of carriers, because its proposed actions may affect different classes of carriers differently? For instance, should the Commission apply the proposed transition to incumbent local exchange carriers, because the Commission currently regulates their Telephone Access Charges, but prescribe a shorter transition for competitive local exchange carriers, which have unregulated end-user charges? Would small carriers require more time for the

transition? Would the changes proposed here affect existing contractual arrangements and, if so, would the proposed transition allow carriers adequate time to meet or amend those contractual arrangements? Should the Commission consider a different transition for carriers depending on how they may be affected by changes to universal service calculations? The Commission seeks comment on the specific costs associated with the transition, and how they could be reduced, especially for small carriers.

90. Finally, the Commission seeks comment on whether the proposed transition provides enough time to address changes to customer billing. Because the Commission proposes to prohibit affected carriers from separately listing any Telephone Access Charges on customer bills, carriers would need to make conforming changes to their billing systems and to customers' bills. The Commission seeks comment on whether the proposed transition period would provide carriers adequate time to modify their billing systems and customer bills, and to provide any necessary notices to their customers.

F. Legal Authority

91. *Section 201(b) Authority.* The Commission intends to rely on section 201(b) of the Act to eliminate ex ante price regulation of Telephone Access Charges where such regulation is no longer necessary. Section 201(b) of the Act specifies that “[a]ll charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful.” It also allows the Commission to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this chapter.” This authority necessarily includes the authority to opt not to regulate—or to deregulate—carriers’ interstate rates if such

regulation is no longer necessary and thus, deregulation is in the public interest. Even if the Commission eliminates its current pricing regulations, any violations of the reasonableness and nondiscrimination requirements of sections 201 and 202 of the Act, 47 U.S.C. 201-202, could be addressed through the complaint process under section 208 of the Act, 47 U.S.C. 208. The Commission seeks comment on these conclusions.

92. The Commission also intends to use its authority under section 201(b) of the Act to prohibit carriers from including separate line items for any Telephone Access Charges, such as Subscriber Line Charges and Access Recovery Charges, on customers' bills. The Commission seeks comment on the nature and scope of its authority to adopt these proposals. The Commission has traditionally relied on its section 201(b) authority to adopt its truth-in-billing rules. Are there other statutory provisions that would support the Commission's proposal to prohibit the assessment of these separate Telephone Access Charges? Are there any potential legal impediments that the Commission need to address? In the First Truth-in-Billing Order, for example, the Commission determined that commercial speech that is misleading is not entitled to the protections of the First Amendment and may be prohibited.

93. *Forbearance Authority.* The Commission intends to rely on its authority under section 10 of the Act to forbear from section 203 of the Act, 47 U.S.C. 203, and any associated regulations, to the extent necessary to detariff Telephone Access Charges on a mandatory basis. The Commission also intends to use its forbearance authority as an alternate basis for eliminating ex ante price regulation where it is no longer necessary or in the public interest. Under section 10 of the Act, the Commission can forbear, on its own motion, from applying any regulation or provision of the Act in any or some of a

carrier's (or class of carriers') geographic markets if the Commission determines that the following three forbearance criteria are met: "(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest." The Commission has previously relied on its forbearance authority to detariff and deregulate interstate services. The Commission seeks comment on whether the forbearance criteria are met with respect to both mandatory detariffing and price deregulation of Telephone Access Charges in each of the circumstances and conditions described herein.

94. Statutory Authority to Support Universal Service and Other Federal Programs. The Commission intends to use its authority under section 254 of the Act, 47 U.S.C. 254(d), to make any changes necessary to ensure that the Commission minimizes any adverse impact of its proposed reforms on universal service contributions and support. Section 254(d) requires telecommunications carriers that provide interstate telecommunications services to "contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service." Section 254(d) also provides the Commission's authority to require other providers of interstate telecommunications "to contribute to the preservation and advancement of universal service if the public interest so requires." Section 254(e) specifies that only Eligible Telecommunications Carriers designated under

section 214(e) of the Act shall be eligible to receive universal service support, and that “such support should be explicit and sufficient to achieve the purposes” of section 254 of the Act. Together, these statutory provisions provide the Commission authority to revise its rules consistent with these requirements and adopt the proposals relating to universal service. The Commission invites comment on this use of the Commission’s section 254 authority.

95. Similarly, the Commission intends to use its authority under sections 225, 251 and 715 of the Act, 47 U.S.C. 225, 251(e)(2), 616, to make any changes necessary to ensure that the Commission minimizes any adverse impact of its proposed reforms on the TRS Fund, Local Number Portability Administration, and North America Numbering Plan Administration. Sections 225 and 715 provide the Commission authority to prescribe contributions to TRS from “all subscribers for every telecommunications service” and from interconnected and non-interconnected VoIP service providers. Section 251(e)(2) provides that the “cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.” The Commission seeks comment on its authority under sections 225, 251 and 715 of the Act to minimize any adverse impacts of its proposed reforms on these programs.

IV. Procedural Matters

A. Paperwork Reduction Act Analysis.

96. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the

general public and OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

B. Initial Regulatory Flexibility Analysis.

97. As required by the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this Notice of Proposed Rulemaking. The Initial Regulatory Flexibility Analysis is set forth in Appendix B of the Notice and below. Written public comments are requested on the Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines for comments on the Notice, and they should have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

98. *Need for, and Objectives of, the Proposed Rules.* Despite dramatic changes in the competitive landscape for voice services in the past twenty-five years, the Commission continues to regulate the Telephone Access Charges imposed by incumbent local exchange carriers. The Notice suggests that continued regulation and tariffing of

Telephone Access Charges is no longer necessary or in the public interest. Consistent with the Commission's commitment to eliminate outdated and unnecessary regulations and to encourage efficient competition, the Commission proposes to deregulate and detariff these charges nationwide, or in the alternative, in certain areas where specific criteria indicate that rate regulation is unnecessary. The Commission also seeks comment on mandatorily detariffing other charges related to federal programs that many carriers currently include in their interstate tariffs.

99. In the interest of enabling consumers to easily compare voice service offerings by different providers, the Commission also proposes to modify its truth-in-billing rules to explicitly prohibit carriers from assessing any separate Telephone Access Charges, such as Subscriber Line Charges and Access Recovery Charges, on customers' bills when those charges are deregulated and detariffed. Prohibiting carriers from using separate, obscurely worded line items to bill for the interstate portion of local telephone services should make it easier for customers to understand their bills and to compare rates between different providers. Doing so should help ensure that a provider's advertised price is closer to the total price that appears on its customers' bills.

100. The Commission proposes several modifications to its rules for calculating Connect America Fund Broadband Loop Support (CAF BLS) and CAF Intercarrier Compensation (CAF ICC) to address the detariffing of Telephone Access Charges—modifications that the Commission does not expect will materially change the amount of funds made available for carriers relying on this mechanism to continue to serve their service areas. Given that some Telephone Access Charges are used to calculate contributions to the Universal Service Fund (USF) and other federal programs, as well as

high-cost support, the Commission also proposes ways to provide certainty in calculating such contributions and support to ensure stability in funding following pricing deregulation and detariffing of Telephone Access Charges. Addressing these issues at the outset will ensure that the rural carriers that rely on such federal funds will have the certainty they need to continue investing in the deployment of next-generation networks and services in rural America. The Notice seeks comment on these proposals.

101.*Legal Basis.* The legal basis for any action that may be taken pursuant to the Notice is contained in sections 1, 4(i), 10, 201-203, 214, 225, 251, 254, 303(r), and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 160, 201-203, 214, 225, 251, 254, 303(r), 616, and sections 1.1 and 1.412 of the Commission's rules, 47 CFR 1.1 and 1.412.

102.*Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* 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 proposed rule revisions, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction," 5 U.S.C. 601(3)-(6). 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 SBA.

103.*Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily

categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.

104. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field," 5 U.S.C. 610(4). The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

105. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand," 5 U.S.C. 601(5). U.S. Census Bureau data from the 2017 Census of Governments, 13 U.S.C. 161, indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments -

independent school districts with enrollment populations of less than 50,000.

Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of “small governmental jurisdictions.”

106. *Wired Telecommunications Carriers*. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

107. *Local Exchange Carriers (LECs)*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications

Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated for the entire year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

108. *Incumbent Local Exchange Carriers (Incumbent LECs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated the entire year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by its actions. According to Commission data, one thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus, using the SBA's size standard the majority of incumbent LECs can be considered small entities.

109. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers*. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined above. Under that size standard, such a

business is small if it has 1,500 or fewer employees, 13 CFR 121.201. U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on this data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

110. *Interexchange Carriers (IXCs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for Interexchange Carriers. The closest applicable NAICS Code category is Wired Telecommunications Carriers. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees, 13 CFR 120.201. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated for the entire year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently,

the Commission estimates that the majority of interexchange service providers are small entities.

111.*Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees, 13 CFR 121.201. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities.

112.*Internet Service Providers (Broadband).* Broadband Internet service providers include wired (e.g., cable, DSL) and VoIP service providers using their own operated wired telecommunications infrastructure fall in the category of Wired Telecommunication Carriers. The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to

provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry,” 13 CFR 120.201. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees, 13 CFR 120.201. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

113. *Cable Companies and Systems (Rate Regulation)*. The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide, 47 CFR 76.901(e). Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but eleven cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a “small system” is a cable system serving 15,000 or fewer subscribers, 47 CFR 76.901(c). Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, the Commission estimates that most cable systems are small entities.

114.*All Other Telecommunications.* The “All Other Telecommunications” category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with annual receipts of \$35 million or less, 13 CFR 121.201. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than \$25 million and 15 firms had annual receipts of \$25 million to \$49,999,999. Thus, the Commission estimates that the majority of “All Other Telecommunications” firms potentially affected by its action can be considered small.

115.*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* The Commission proposes to detariff and deregulate all Telephone Access Charges nationwide, or in the alternative, in areas where specific criteria indicate that rate regulation is unnecessary. The affected carriers will need to file amendments to their tariffs with the Commission in order to detariff their Telephone Access Charges within the proposed transition period. The Commission also seeks comment on mandatory detariffing of other charges related to federal programs that many

carriers currently include in their interstate tariffs. Because the Commission also proposes to prohibit carriers from including Telephone Access Charges as separate line items on customer bills, affected carriers will need to make changes to existing billing formats and may need to educate their customers. Carriers will likely modify their in-house recordkeeping to reflect the changes. The Commission proposes a transition to facilitate the detariffing of Telephone Access Charges to address potential administrative burdens.

116. The Commission seeks to ensure certainty in calculating contributions to the USF, the interstate Telecommunications Relay Service Fund, Local Number Portability Administration, and the North American Numbering Plan Administration. The Commission proposes to adopt a safe harbor for incumbent and competitive local exchange carriers to use as a proxy for the contributions carriers currently make based on their actual Telephone Access Charges. The Commission proposes to treat 25% of a carrier's local voice services revenue as assessable revenue subject to contribution obligations. Alternatively, a carrier that does not want to rely on the safe harbor would have the option of providing a traffic study demonstrating the actual percentage of its local voice traffic that is interstate and international in nature and using that percentage to determine its contributions base. The Commission also seeks comment on adopting bright-line rules for the allocation of interstate and intrastate revenues for all voice services—those offered by local exchange carriers, as well as those offered by other voice service operators. The Commission seeks comment on alternative approaches and on whether the proposed approach will ensure that all carriers make equitable contributions. The rules could potentially affect recordkeeping and reporting requirements.

117. The Commission also proposes to amend its rules to provide certainty in the amount of CAF BLS and CAF ICC support rate-of-return carriers receive following the deregulation and detariffing of Telephone Access Charges. The Commission seeks comment on proposals to establish fixed levels for future inputs to the CAF BLS and CAF ICC calculations, as well as seeking alternatives to the proposals. The rules could affect recordkeeping and reporting requirements.

118. *Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities, 5 U.S.C. 603(c)(1)-(4). The Commission expects to consider all of these factors when the Commission receives substantive comment from the public and potentially affected entities.

119. The Notice seeks comment on a proposal to deregulate and mandatorily detariff Telephone Access Charges nationwide, or in the alternative, in certain areas where specific criteria indicate that rate regulation is unnecessary. The Commission invites comment on whether, and to what extent, the costs of continued regulation of Telephone Access Charges imposed on incumbent local exchange carriers outweigh the benefits of such regulation. The Commission invites commenters to quantify both the

costs and the benefits of its proposal and of any alternative approaches to detariffing and deregulating the pricing of Telephone Access Charges. The Commission also seeks comment on detariffing charges related to contributions to the federal USF that many carriers currently include in their interstate tariffs and seek comment on the costs and benefits of mandatorily detariffing these charges.

120. The Notice also seeks comment on a proposal to prohibit all carriers from separately listing Telephone Access Charges on customers' bills. The Commission seeks comment on how much time carriers would need to modify their existing billing systems to comply with its proposed rule changes and how the Commission could minimize burdens, particularly for smaller carriers. As an initial proposal, the Commission proposes a transition that would permit carriers two opportunities, one year apart, to detariff Telephone Access Charges at the same time as the annual access tariff filing, thereby eliminating the need for any additional tariff filings. The Commission expects that these options will allow even the small entities adequate time to amend their tariffs and meet most, if not all, existing contractual arrangements.

121. The Notice also proposes to amend the Commission's rules to provide certainty in the amount of CAF BLS and CAF ICC support rate-of-return carriers receive following the deregulation and detariffing of Telephone Access Charges. The Commission seeks comment on proposals to establish fixed levels for future inputs to the CAF BLS and CAF ICC calculations, as well as seeking alternatives to the proposals.

122. To provide certainty in calculating USF contributions and support to ensure stability in funding following the deregulation and detariffing of Telephone Access Charges, the Commission proposes to adopt a safe harbor for incumbent and competitive

local exchange carriers to use to determine their assessable revenue from the interstate access portion of local service for purposes of determining their contribution obligations, but to permit carriers to submit traffic studies if they do not want to rely on the safe harbor. The Notice seeks comment on this proposal and a few different alternative approaches. The Commission also seeks comment on adopting bright-line rules for the allocation of interstate and intrastate revenues for all voice services and seek comment on all aspects of adopting bright-line rules for the allocation of interstate and intrastate revenue for all voice services.

123. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the Notice and this IRFA, in reaching its final conclusions and promulgating rules in this proceeding. The proposals and questions laid out in the Notice were designed to ensure the Commission has a complete understanding of the benefits and potential burdens associated with the different actions and methods.

124. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

C. Ex Parte Presentations: Permit-But-Disclose.

125. The proceeding that this Notice of Proposed Rulemaking initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules, 47 CFR 1.1200 et seq. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies).

126. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

V. Ordering Clauses

127. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 10, 201-203, 214, 225, 251, 254, 303(r), and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 160, 201-203, 214, 225, 251, 254, 303(r), 616, and sections 1.1 and 1.412 of the Commission's rules, 47 CFR 1.1, 1.412, this Notice of Proposed Rulemaking IS ADOPTED, effective thirty (30) days after publication of a summary thereof in the *Federal Register*.

128. IT IS FURTHER ORDERED that, pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before 45 days

after publication of a summary of this Notice of Proposed Rulemaking in the *Federal Register* and reply comments on or before 75 days after publication of a summary of this Notice of Proposed Rulemaking in the *Federal Register*.

129.IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 51

Communications common carriers, Telecommunications

47 CFR Part 54

Communications common carriers, Internet, Reporting and recordkeeping requirements, Telecommunications, Telephone

47 CFR Part 61 and 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone

FEDERAL COMMUNICATIONS COMMISSION

Marlene Dortch,
Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 51, 54, 61, and 69 as follows:

PART 51 – INTERCONNECTION

1. The authority citation for part 51 is revised to read as follows:

Authority: 47 U.S.C. 151-155, 201-205, 207-209, 218, 225-227, 251-252, 271, 332 unless otherwise noted.

2. Amend § 51.915 by revising paragraph (e)(1) and adding paragraph (e)(6) to read as follows:

§ 51.915 Recovery mechanism for price cap carriers.

* * * * *

(e) Access Recovery Charge.

(1) Subject to paragraph (e)(6) of this section and to the caps described in paragraph (e)(5) of this section, a charge that is expressed in dollars and cents per line per month may be assessed upon end users that may be assessed an end user common line charge pursuant to § 69.152 of this chapter, to the extent necessary to allow the Price Cap Carrier to recover some or all of its Eligible Recovery determined pursuant to paragraph (d) of this section. A Price Cap Carrier may elect to forgo charging some or all of the Access Recovery Charge.

*** **

(6) Price Cap Carrier otherwise entitled to assess an Access Recovery Charge may not do so if it is subject to detariffing pursuant to § 61.27 of this chapter.

* * * * *

3. Amend § 51.917 by:
 - a. Revising paragraph (e)(1),
 - b. Adding paragraph (e)(7),
 - c. Revising paragraphs (f)(2), (4) and (5), and
 - d. Adding paragraph (f)(6).

The revisions and additions read as follows:

§ 51.917 Revenue recovery for Rate-of-Return Carriers.

* * * * *

(e) Access Recovery Charge.

(1) Subject to paragraph (e)(7) of this section and to the caps described in paragraph (e)(6) of this section, a charge that is expressed in dollars and cents per line per month may be assessed upon end users that may be assessed a subscriber line charge pursuant to § 69.104 of this chapter, to the extent necessary to allow the rate-of-return carrier to recover some or all of its Eligible Recovery determined pursuant to paragraph (d) of this section. A rate-of-return carrier may elect to forgo charging some or all of the Access Recovery Charge.

* * * * *

(7) A rate-of-return carrier otherwise entitled to assess an Access Recovery Charge may not do so if it is subject to detariffing pursuant to § 61.27 of this chapter.

(f) Rate-of-return carrier eligibility for CAF ICC Recovery.

(1) * * *

(2) Subject to paragraph (f)(6) of this section, beginning July 1, 2012, a rate-of-

return carrier may recover any Eligible Recovery allowed by paragraph (d) of this section that it could not have recovered through charges assessed pursuant to paragraph (e) of this section from CAF ICC Support pursuant to § 54.304. For this purpose, the rate-of-return carrier must impute the maximum charges it could have assessed under paragraph (e) of this section.

(3) * * *

(4) Subject to paragraph (f)(6) of this section, and except as provided in paragraph (f)(5) of this section, a rate-of-return carrier must impute an amount equal to the Access Recovery Charge for each Consumer Broadband-Only Loop line that receives support pursuant to § 54.901 of this chapter, with the imputation applied before CAF-ICC recovery is determined. The per line per month imputation amount shall be equal to the Access Recovery Charge amount prescribed by paragraph (e) of this section, consistent with the residential or single-line business or multi-line business status of the retail customer.

(5) Subject to paragraph (f)(6) of this section, and notwithstanding paragraph (f)(4) of this section, commencing July 1, 2018 and ending June 30, 2023, the maximum total dollar amount a carrier must impute on supported Consumer Broadband-Only Loops is limited as follows:

* * * * *

(6) A rate-of-return carrier subject to detariffing pursuant to § 61.27 of this chapter must reduce its Eligible Recovery by:

(i) An amount equal to the maximum Access Recovery Charge- that could

have been assessed pursuant to paragraph (e) of this section on the day preceding the detariffing multiplied by the projected subscriber lines for the period associated with the Eligible Recovery calculation, and

(ii) An amount equal to the maximum per line per month Access Recovery Charges calculated under paragraph (f)(4) of this section that would have been imputed on Consumer Broadband-Only Loop lines that receive support pursuant to § 54.901 of this chapter on the day preceding the detariffing multiplied by the projected demand for the period associated with the Eligible Recovery calculation, subject to the total imputation limit under paragraph (f)(5) of this section.

PART 54 – UNIVERSAL SERVICE

4. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004 and 1302, unless otherwise noted.

5. Amend § 54.901 by revising paragraph (a) and adding paragraph (h) to read as follows:

§ 54.901 Calculation of Connect America Fund Broadband Loop Support.

(a) Subject to the requirements of paragraph (h) of this section, Connect America Fund Broadband Loop Support (CAF BLS) available to a rate-of-return carrier shall equal the Interstate Common Line Revenue Requirement per Study Area, plus the Consumer Broadband-Only Revenue Requirement per Study Area as calculated in accordance with part 69 of this chapter, minus: * * *

* * * * *

(h) In calculating support pursuant to paragraph (a) of this section, if a rate-of-return carrier is subject to detariffing pursuant to § 61.27 of this chapter, the values for paragraphs (a)(1) and (4) shall be as follows:

(1) The study area revenues obtained from end user common line charges shall be set at \$6.50 per line per month for residential and single-line business lines and \$9.20 per line per month for multi-line business lines;

(2) any line port costs in excess of basic analog service described in § 69.130 of this chapter being assessed on [the effective date of the order].

PART 61 – TARIFFS

6. The authority citation for part 61 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 201-205, 403, unless otherwise noted.

7. Add § 61.27 to read as follows:

§ 61.27 Detariffing of interstate end user access charges.

(a) An incumbent local exchange carrier as defined in § 51.5 of this chapter must detariff the charges listed in paragraph (b) on July 1, [insert year] or July 1, [insert year]

(b) The charges to be detariffed are:

(1) Access Recovery Charges as described in §§ 51.915(e) and 51.917(e) of this chapter;

(2) End-User Common Line charges as described in §§ 69.104 and 69.152 of this chapter;

(3) Line port costs in excess of basic analog service as described in §§ 69.130 and 69.157 of this chapter;

- (4) Special Access Surcharge as described in § 69.115 of this chapter; and
- (5) Presubscribed interexchange carrier charge assessed on end users as described in § 69.153 of this chapter.
- (c) A competitive local exchange carrier must detariff any interstate charge listed in paragraph (b) of this section, or its equivalent, on July 1, [insert year] or July [insert year]
- (d) A rate-of-return local exchange carrier participating in a National Exchange Carrier Association's interstate access tariff must remove its charges listed in paragraph (b) of this section from the tariff on the date the detariffing takes place. As of that date, the National Exchange Carrier Association may no longer pool any costs or revenues associated with detariffed offerings.
- (e) Charges listed in paragraph (b) of this section shall not be subject to ex ante pricing regulation once detariffed.

PART 69 – ACCESS CHARGES

8. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

9. Amend § 69.4 by revising paragraph (a) to read as follows:

§ 69.4 Charges to be filed.

- (a) Except as provided in § 61.27 of this chapter, the end user charges for access service filed with this Commission shall include charges for the End User Common Line element, and for line port costs in excess of basic, analog service.

* * * * *

10. Amend § 69.5 by revising paragraphs (a) and (c) to read as follows:

§ 69.5 Persons to be assessed.

(a) Except as provided in § 61.27 of this chapter, end user charges shall be computed and assessed upon public end users, and upon providers of public telephones, as defined in this subpart, and as provided in subpart B of this part.

* * * * *

(c) Except as provided in § 61.27 of this chapter, special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of interstate or foreign telecommunications to the extent that carrier's carrier charges are not assessed upon such interconnected usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and non-discriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services and WATS services pursuant to the provisions of § 69.115 of this part.

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