

Docket No. 96–262, adopted on June 19, 2003 and released on June 25, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402 Washington, DC 20554. The full text also may be downloaded at <http://www.fcc.gov>. *Introduction*. On July 21, 2000, One Call Communications, Inc. d/b/a Opticom ("One Call") filed a petition for reconsideration and clarification of the Commission's *CALLS Order*. See *Access Charge Reform*, CC Docket No. 96–262, Sixth Report and Order in CC Docket Nos. 96–262 and 94–1, Report and Order in CC Docket No. 99–249, Eleventh Report and Order in CC Docket No. 96–45, 65 FR 38684, June 21, 2000. In its petition, One Call sought to apply to payphone lines the common line cost recovery mechanism for single-line business and residential subscriber lines established in the *CALLS Order*, rather than the cost recovery mechanism applicable to multi-line business lines. In this document, the Commission grants One Call's request to reconsider the treatment of payphone lines under the Commission's access charge rules. Specifically, the Commission adopts a rule exempting payphone lines from the PICC, and the Commission denies One Call's request that payphone lines be treated as single-line business lines for purposes of assessment of the SLC.

*The PICC for Payphone Lines*. The Commission finds that payphone lines should be exempt from the PICC. In furtherance of section 276(a), the Commission has determined that payphone line rates should be set according to the cost-based new services test. See 47 U.S.C. 276(a) (1) and the *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket 96–128, Report and Order, 61 FR 52307, October 7, 1996. The multi-line business PICC, however, does not recover the costs of the lines on which it is assessed. Rather, it recovers revenues that would be recovered through charges on residential and single-line business lines, if those charges were not capped. Thus, because the PICC is not cost-based, it does not comply with the new services test.

The Commission notes that, in adopting section 276(b), Congress desired to "promote the widespread deployment of payphone services to the general public." See 47 U.S.C. 276(b)(1). The Commission believes that this is

consistent with a universal service function that payphones provide to those who cannot otherwise afford telephone service. The Commission concludes that it is bad policy to impose a non-cost-based charge, such as the PICC, on payphone lines because doing so may limit the deployment of payphone services that serve these important functions. Given Congress's stated intent to preserve the availability of payphones, the universal service functions payphones provide, and that the PICC does not reflect costs incurred for the provision of payphone service, the Commission finds it desirable to exempt payphone lines from the PICC. Although the Commission's Order establishes that payphone lines are exempted from the PICC on a going-forward basis, the Commission makes no finding with respect to the application of PICCs to payphone lines prior to the effective date of the Order.

Therefore, price cap LECs that still assess the PICC on multi-line business lines must adjust their rates in their next annual access tariff filings to reflect that the PICC no longer applies to payphone lines. Price cap LECs may recover the revenue previously recovered through assessing the PICC on payphone lines by adjusting their multi-line business PICCs. To the extent the PICC cap prevents such recovery, price cap LECs may recover the revenue shortfall through Carrier Common Line Charges (CCLCs).

*The Appropriate SLC for Payphone Lines*. The Commission rejects One Call's proposal that payphone lines be treated as single-line business lines for the purpose of assessing the SLC. Although the multi-line business PICC represents a subsidy flowing from multi-line business lines to residential and single-line business lines, the multi-line business SLC is a cost-based charge. The SLCs are the primary method by which incumbent LECs recover their interstate common line costs, and the SLC caps ensure that the SLCs never recover more than the carrier's per-line permitted revenues. See 47 CFR 69.152(d), (e) and (k). Moreover, the Commission's rules prevent a LEC from subsidizing one class of customers through the SLCs assessed on another class of customers. See *id.* Thus, the assessment of multi-line business line SLCs on payphone lines does not result in any subsidy to other lines. In addition, to prevent a BOC from overrecovering its costs for a payphone line, the BOC must reduce the monthly per-line charge for payphone lines determined in a state proceeding under the new services test by the amount of the SLC. If the Commission were to treat payphone lines as single-

line business lines, however, the amount by which a LEC's per-line revenue requirement exceeds the single-line business line SLC cap, which is lower than the multi-line business SLC cap, would then need to be recovered through increased PICCs on multi-line businesses. This would result in multi-line business lines subsidizing LEC-owned payphone lines in contravention of the mandate of section 276(a) against such subsidization. See 47 U.S.C. 276(a)(1).

*Final Regulatory Certification*. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b). 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(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 5 U.S.C. 601(3). A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). See 15 U.S.C. 632.

The *CALLS Order* revised the Commission's system of common line access charges by increasing the residential and single-line business line SLC, while simultaneously eliminating the PICC for these lines. The *CALLS Order* also required annual reductions in traffic sensitive switching and trunking access rates until they reached a specified level. In addition, the *CALLS Order* also established an interstate access universal support mechanism that provides explicit support to replace support that was implicit in interstate access charges.

This document responds to a petition for reconsideration that sought, for payphone lines, the application of the common line cost recovery mechanism for residential and single-line business lines established in the *CALLS Order*, rather than the cost recovery mechanism applicable to multi-line business lines. This document grants the petition insofar as it sought the elimination of the PICC for payphone lines, and denies the request that payphone lines be subject to the SLC applicable to single-line business and residential lines. The rule revision will result in a positive net