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2005 MAY 18 PM 2:02  
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Attorney for the Commission Staff

## **BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE INVESTIGATION</b>	)	
<b>OF INTRASTATE PRESUBSCRIBED</b>	)	<b>CASE NO. GNR-T-05-1</b>
<b>INTEREXCHANGE CARRIER (LPIC) CHANGE</b>	)	
<b>CHARGES</b>	)	
	)	<b>COMMENTS OF THE</b>
	)	<b>COMMISSION STAFF</b>
	)	

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The Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Donovan E. Walker, Deputy Attorney General, in response to the Notice of Investigation and Notice of Modified Procedure issued on March 28, 2005, respectfully submits the following comments.

### **INTRODUCTION**

The Federal Communications Commission (FCC) ordered a new interstate presubscribed interexchange carrier (PIC) change charge to be tariffed on or before April 14, 2005 for interstate long distance carrier charges. The Idaho Commission opened this docket to investigate intraLATA PIC change charges (LPIC) that are tariffed at the state level. On April 8, 2005, the FCC issued Order No. DA-05-1045, which extended the deadline for the filing of revised interstate PIC change charge tariffs from April 14 to October 17, 2005. Staff recommends that the Commission adopt as a safe harbor the same pricing structure for intralata LPIC change

charges as adopted by the FCC for interstate PIC change charges, and require that all incumbent local exchange carriers file changes to LPIC change charges in the appropriate Idaho tariffs at the same time as they file changes to interstate PIC change charges with the FCC.

## **BACKGROUND**

On March 15, 2005, the FCC issued a Report and Order (47 C.F.R. Chapter I, CC Docket No. 02-53, FCC 05-32) revising its PIC charge policies. PIC change charges are federally tariffed charges imposed by incumbent local exchange carriers (ILECs) on end-user subscribers when these subscribers change their long distance carriers. The Report and Order requires ILECs to create separate PIC change charges based on the method used to process the request. Based on cost information submitted in the record of the proceeding, the Report and Order adopts safe harbors below which PIC change charges will be considered reasonable. These safe harbors are \$1.25 for electronically processed PIC changes and \$5.50 for manually processed PIC changes. Additionally, ILECs must also revise their federal tariffs to reflect a rate that is equal to 50 percent of the full PIC change charge rate when a customer requests a PIC change in conjunction with an intraLATA primary interexchange carrier (LPIC) change. Pursuant to this initial order, these federal tariff revisions were to be filed on or before April 14, 2005. The FCC subsequently extended this deadline to October 17, 2005.

The FCC's previous safe harbor was set at \$5.00. Under the safe harbor, companies could tariff a charge of up to \$5.00 without providing cost studies. If a carrier desired to tariff a higher charge, they had to provide cost support to justify the higher amount. The FCC's new safe harbor applies only to PIC changes for interstate long distance. IntraLATA PIC (LPIC) change charges are tariffed at the state level. Although the Idaho Commission has not formally established a safe harbor rate for LPIC change charges, it has established a precedent of approving a rate that is within the FCC's safe harbor of \$5.00 without requiring the company to submit detailed cost support. When the new rates for interstate PIC change charges become effective there will be a lack of consistency between the charges for changing PICs and LPICs. The consumer impact of any changes are difficult to identify without information on the extent to which Idaho's ILECs can process such change orders electronically.

The Commission opened this docket to investigate whether the LPIC change charges established by the Commission should coincide with the PIC change charges established by the

FCC. Additionally, the Commission requested information from Idaho ILECs on their capabilities and actual usage levels of electronic processing for PIC/LPIC changes.

## **STAFF ANALYSIS**

The FCC extended the April 14 deadline to October 17, 2005, in response to petitions from many local carriers regarding the extent of the changes required to implement the two tiered rate structure and the difficulties associated with complying by the April 14 deadline. This delay may also give the Idaho Commission more time to review the comments that may be filed in this proceeding and to address other concerns that may come up regarding this change.

The Commission has multiple options with regard to the tariffing of intraLATA or LPIC change charges. It could allow each company to file its proposed charges without guidance from the Commission, requiring each company to individually justify its proposals. This would require each company to prepare cost studies to support their proposals, and require evaluation of those cost studies by Staff. This would be time consuming and expensive for all. The Commission could allow companies to keep LPIC charges as currently filed, and not make changes to LPIC charges when they make changes to the interstate PIC change charges. This would likely lead to considerable confusion at the consumer level. In addition, the FCC requirement that the interstate PIC change charges are to be cut in half if both an LPIC and PIC change is made at the same time is inconsistent with the manner in which this situation is currently addressed. Current Commission policy precludes charges for changing the LPIC when ordered at the same time as changes to the PIC. These provisions were the result of Commission guidance issued in the orders requiring local exchange companies to implement equal access (for example, see Order No. 28072). This discrepancy would result in the companies failing to recover their costs when both changes are made at the same time. Alternatively, the Commission could establish a safe harbor for LPIC change charges at the same level as that set for interstate PIC change charges, and require that all Idaho incumbent local exchange companies (ILECs) implement these changes at the same time that changes are made to the interstate PIC change charge.

The FCC relied upon cost data submitted in its proceeding when establishing the interstate PIC change charge safe harbor. Its analysis indicated essentially no difference in costs when an ILEC makes a change in either the PIC or LPIC. As the costs are the same, Staff sees

no reason to consider any safe harbor levels other than those selected by the FCC for PIC change charges for an LPIC change charge.

There are a number of implementation issues that deserve some discussion. Under a two tiered rate structure, a consumer can only get the lower rate if a change order is submitted electronically. An electronic submission takes place when the long distance company's computer sends electronic information to the computer of the local exchange company that serves the customer. This electronic information is then automatically entered into the local exchange company's work order system. Only long distance carriers may submit electronic requests.

If a customer calls the desired new long distance carrier and has that carrier initiate the PIC change, the order will most often be placed electronically, and the customer will only be charged \$1.25. If the customer simply calls their local exchange company and asks to be switched to a different carrier, then that order will be placed manually, and the customer billed at the higher \$5.50 rate. If a customer wants to change to a "no-PIC", where no carrier is designated as the default long distance carrier, the customer's only option is to place the order with the local exchange company, which would result in a manual order charge of \$5.50.

Customers that request to change both the LPIC and PIC at the same time would incur the same charges as a customer that requests a change to only the PIC or LPIC. However, if a customer were to change the PIC at one time, and then later request a change to the LPIC, they would incur double charges. While this is appropriate, as the Company would incur the costs of making changes twice, it is in both the company and the customers interest that both changes be requested at the same time.

Clearly, the manner in which the customer requests the change of carrier will impact the charges that the customer will incur. For this reason, the Commission may wish to consider whether disclosure or customer education requirements would be appropriate.

Staff has very little information on the extent to which electronic filing is used by Idaho local exchange companies, especially the smaller ones. Some companies may not be able to accept electronic submissions. The FCC concluded that the two tiered rate structure would encourage long distance carriers, who often pay the change charge as an enticement to get consumers to switch, to upgrade to electronic filing. While Staff agrees that this may be the case for long distance carriers, it does not apply to local exchange carriers. Questions remain, such as: Are all Idaho local exchange companies able to process electronic LPIC change requests?

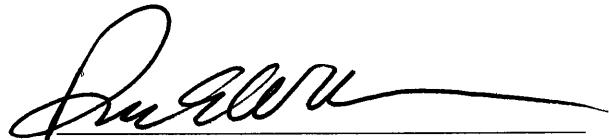
Would the public interest be served if any non-electronic capable companies were to upgrade? If so, how should this be encouraged?

While Staff is hopeful that some of the answers to these questions may be provided by the comments submitted in this proceeding, additional research into these issues may be appropriate.

#### **RECOMMENDATION**

Staff recommends that the Commission adopt as a safe harbor the same pricing structure for intralata LPIC change charges as adopted by the FCC for interstate PIC change charges, and require that all incumbent local exchange carriers file changes to LPIC change charges in the appropriate Idaho tariffs to become effective at the same time as changes to interstate PIC change charges that are filed with the FCC.

Respectfully submitted this 16th day of May 2005.



Donovan E. Walker  
Deputy Attorney General

Technical Staff: Wayne Hart  
Beverly Barker

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 18<sup>TH</sup> DAY OF MAY 2005,  
SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN  
CASE NO. GNR-T-05-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID,  
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