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 Before the
 Federal Communications Commission
 Washington, D.C. 20554
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CC Docket No. 93-123

In the Matter of

National Exchange
 Carrier Association

Revisions to Tariff
 F.C.C. No. 5

Transmittal No. 577

Universal Service Fund and
 Lifeline Assistance Rates

**MEMORANDUM OPINION AND ORDER
 SUSPENDING RATES
 AND DESIGNATING ISSUES FOR INVESTIGATION**

Adopted: December 17, 1993; Released: December 27, 1993

By the Chief, Tariff Division, Common Carrier Bureau:

I. INTRODUCTION

1. On November 5, 1993, the National Exchange Carrier Association (NECA) filed Transmittal No. 577 to decrease its Universal Service Fund (USF) monthly rate from 45.61 cents to 45.20 cents per line, and to increase its Lifeline Assistance (LA) monthly rate from 8.09 cents to 8.41 cents per line.¹ Also, NECA proposed an increase of \$1.4 million above the current six-month USF revenue requirement of \$373.4 million, and an increase of \$3.5 million above the current six-month LA revenue requirement of \$66.2 million. NECA's Transmittal No. 577 is scheduled to become effective on January 1, 1994.

2. On November 22, 1993, MCI Telecommunications Corporation (MCI) filed a petition to reject or, in the alternative, to suspend and investigate Transmittal No. 577. On the same date, American Telephone and Telegraph (AT&T) filed a petition to suspend and investigate the transmittal. Neither carrier opposes the LA rate. NECA

filed a reply to these petitions on December 3, 1993. For the reasons discussed below, we suspend Transmittal No. 577 for one day, impose an accounting order, and initiate an investigation of the proposed rates by consolidating this transmittal with the ongoing investigation in CC Docket No. 93-123.

II. SUMMARY OF PLEADINGS

3. MCI claims that the growth in loop costs for LECs receiving USF revenues is abnormally high when compared to other LECs.² Also, MCI avers that "suspicious" data underlying the USF revenue requirement raises serious questions regarding NECA's ability to audit member companies' data. *Id.* In addition, MCI maintains that NECA's resizing calculation resulted in a double counting of carrier expense adjustments. *Id.* Further, MCI asserts that numerous discrepancies exist between LEC data submitted to NECA for USF computations and similar data given to the Rural Electrification Administration. *Id.*

4. MCI claims that the "separations procedures have allowed a great many LECs to significantly increase their [non-traffic sensitive] allocation to the interstate jurisdiction, thus avoiding upward pressure on state revenue requirements and 'universal service' altogether."³ Also, MCI criticizes the USF program as giving LECs the incentive to over-allocate certain investment and expenses to the USF revenue requirement categories.⁴

5. AT&T contends that NECA's proposed USF rate change is based on the same anomalous and unsubstantiated growth in LEC costs, inconsistent data, and questionable reconciliation and unsupported resizing procedures that led the Commission to suspend and investigate NECA's tariff filing in CC Docket No. 93-123.⁵ AT&T submitted an analysis of NECA's cost company study areas which AT&T claims supports its contention that the USF is overstated due to anomalously high growth in costs.⁶ Also, AT&T asserts that NECA's tariff support reflects a \$1.6 million error in the resizing calculation.⁷ In addition, AT&T maintains that NECA's editing procedures are not sufficient to exclude erroneous data from its USF computations.⁸ Further, AT&T claims that NECA improperly included USF data for Micronesia Telecommunications Corporation (MTC), even though the Commission has not acted on MTC's request for a declaratory ruling asking the Commission to approve MTC's study area.⁹

6. In its reply, NECA argues that MCI has presented no legal grounds for rejection or suspension of the proposed USF, only inappropriate policy arguments.¹⁰ Also, NECA asserts that its calculation of the USF rate is based upon

¹ NECA collects these rates from the largest interexchange carriers (IXCs) on the basis of each IXC's total number of presubscribed lines. NECA then distributes these funds to promote affordable telephone service among high cost LECs and low income subscribers.

² MCI Petition at 4.

³ MCI Petition at 5.

⁴ MCI Petition at 5-6. In addition, MCI requests that the Commission implement with this filing its proposal, contained in the Notice of Proposed Rulemaking in CC Docket No. 80-286, to cap the rate of growth in the USF based upon the growth in presubscribed loop counts. MCI Petition at 3-4.

⁵ AT&T Petition at 1-2 (citing National Exchange Carrier Association, Revisions to Tariff F.C.C. No. 5, Universal Service Fund and Lifeline Assistance Rates, 8 FCC Rcd 922 (Com. Car.

Bur. 1993) (the Common Carrier Bureau (Bureau) initiates an investigation into the lawfulness of the USF rate increase filed by NECA), CC Docket No. 93-123, 8 FCC Rcd 2930 (Com. Car. Bur. 1993) (Bureau designates issues for investigation). *See also* 1993 Annual Access Tariff Filings and National Exchange Carrier Association Universal Service Fund and Lifeline Assistance Rates, CC Docket No. 93-123, 8 FCC Rcd 4960 (Com. Car. Bur. 1993) (the Bureau adds a transmittal filed by NECA to the ongoing investigation in CC Docket No. 93-123).

⁶ AT&T Petition at Appendix 1.

⁷ AT&T Petition at 5-6.

⁸ AT&T Petition at 6.

⁹ *Citing* Micronesia Telecommunications Corporation Request for Declaratory Ruling (filed Apr. 7, 1993).

¹⁰ NECA Reply at 15.

actual historical costs that have been incurred by exchange carriers and allocated to the USF in accordance with Commission rules. *Id.*

7. NECA argues that AT&T's cost growth analyses are flawed because they are based on the assumption that costs identified by AT&T as falling more than one standard deviation above the mean are artificially inflated and should be disallowed from the USF revenue requirement.¹¹ Also, NECA claims that the inconsistencies in data identified by AT&T are a result of AT&T's incorrect use and interpretation of the data.¹² In addition, NECA argues that AT&T's resizing analysis is incorrect because AT&T failed to include interim adjustment amounts for the second half of 1993.¹³ Further, NECA avers that its edit procedures are effective in excluding erroneous data from USF computations.¹⁴ Also, NECA asserts that its inclusion of MTC data in its USF filing is subject to any action by the Commission on MTC's petition.¹⁵

III. DISCUSSION

8. The Tariff Division has reviewed Transmittal No. 577, the concerns raised by petitioners, and NECA's response to those concerns. We conclude that sufficient questions have been raised regarding the lawfulness of the transmittal to warrant suspension for one day and investigation of the reasonableness of NECA's proposed rates. We also find that these issues raised by Transmittal No. 577 are sufficiently similar to those in our current investigation of NECA's rate changes in CC Docket No. 93-123 that administrative convenience permits adding this transmittal to that investigation. We therefore suspend NECA's Transmittal 577 for one day and incorporate that transmittal into the investigation in CC Docket No. 93-123. The accounting order imposed in CC Docket No. 93-123 also applies to this transmittal.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, 47 U.S.C. § 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the tariff revisions filed by the National Exchange Carrier Association, Inc. in Tariff F.C.C. No. 5, Transmittal No. 577, ARE SUSPENDED for one day from the current effective date and an investigation into the lawfulness of those tariff revision IS INSTITUTED.

10. IT IS FURTHER ORDERED that pursuant to Section 204(a) of the Communications Act of 1934, 47 U.S.C. § 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the tariff revisions filed by the National Exchange Carrier Association, Inc. in Tariff F.C.C. No. 5, Transmittal No. 557, are subject to the investigation in CC Docket No. 93-123. The National Exchange Carrier Association, Inc. SHALL FILE a supplement reflecting this suspension no later than five business days from the release of this Order.

11. IT IS FURTHER ORDERED that, pursuant to Sections 4(i) and 204(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i) and 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the National Ex-

change Carrier Association, Inc. SHALL KEEP ACCURATE ACCOUNT of all amounts received that are the subject of this investigation.

12. IT IS FURTHER ORDERED that petition to reject or, in the alternative, to suspend and investigate filed by MCI Telecommunications Corporation, and the petition to suspend and investigate filed by American Telephone and Telegraph ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Gregory J. Vogt
Chief, Tariff Division
Common Carrier Bureau

¹¹ NECA Reply at 5-6.
¹² NECA Reply at 9-10.
¹³ NECA Reply at 12.

¹⁴ NECA Reply at 13.
¹⁵ NECA Reply at 4-5 n.9.