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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Treatment of Operator Services Under Price Cap Regulation	)	CC Docket No. 93-124
	)	
Revisions to Price Cap Rules for AT&T	)	CC Docket No. 93-197

COMMENTS OF U S WEST COMMUNICATIONS, INC.

Gregory L. Cannon
Suite 700
1020 19th Street, N.W.
Washington, DC 20036
(303) 672-2765

Attorney for
U S WEST COMMUNICATIONS, INC.

Of Counsel,
Dan L. Poole

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COMMENTS OF U S WEST COMMUNICATIONS, INC.[1]

I. INTRODUCTION AND SUMMARY

By all relevant measures, the Federal Communications Commission's ("Commission") move to price cap regulation for interstate services has been successful. Many of the Commission's goals and objectives set out in the initial Price Cap Order[2] have been realized: access prices to interexchange carriers ("IXC")

[1] U S WEST Communications, Inc. ("U S WEST") herein files these comments to the Commission's ("Second NPRM"), In the Matter of Price Cap Performance Review for Local Exchange Carriers, Treatment of Operator Services Under Price Cap Regulation, Revisions to Price Cap Rules for AT&T, CC Docket Nos. 94-1, 93-124, 93-197, Second Further Notice of Proposed Rulemaking in CC Docket No. 94-1, Further Notice of Proposed Rulemaking in CC Docket No. 93-124, and Second Further Notice of Proposed Rulemaking in CC Docket No. 93-197, FCC 95-393, rel. Sep. 20, 1995 ("Second NPRM"). See also Order on Motion for Extension of Time, DA 95-2340, rel. Nov. 13, 1995.

[2] In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd. 6786 (1990) ("LEC Price Cap Order"); Order on Reconsideration, 6 FCC Rcd. 2637 (1991), aff'd sub nom. National Rural Telecom Ass'n v. FCC, 988 F.2d 174 (D.C. Cir. 1993).

have declined; investment in telecommunications infrastructure has been maintained; and local exchange carriers ("LEC") have increased their efficiency.[3] None of the grave consequences predicted by some early commenters has come to pass; instead, competition has increased and consumers have reaped the benefits. Additional reduction of regulatory burdens will result in even greater increases in competition, efficiency, and benefit to consumers.

A. The Time Is Right For Additional Regulatory Flexibility

The time is right for the Commission to allow the market to further shape the competitive landscape. Competition in the local exchange is imminent from the two largest IXCs -- AT&T Corp. ("AT&T") and MCI Telecommunications Corporation ("MCI"). Several large cable multiple system operators are beginning to provide telecommunications service and plan to expand their offerings to include competitive data communications products. Large competitive access providers ("CAP") already are firmly established in many large markets. CAPs provide service in eight states in U S WEST's 14-state region. Local exchange competition from resellers and facilities-based providers is in full swing in Seattle, Washington, and is emerging in five other metropolitan areas. Statutory barriers to competition remain in only one state.[4]

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[3] In the Matter of Price Cap Performance Review for Local Exchange Carriers, First Report and Order, 10 FCC Rcd. 8961, 8979-80 ¶¶ 39, 41 (1995) ("First Report and Order").

[4] Attached as Exhibits 1a and 1b are matrices which show CAPs and the status of local exchange competition by state in U S WEST's region.

It is obvious that the barriers which prevented entry into the local exchange and interstate access marketplaces are rapidly being eliminated. It is imperative that the regulation which continues to restrain incumbent local exchange providers be removed concurrently. None of the new entrants to the local exchange business is a small player, and these new entrants neither require nor should be provided with substantial assistance through regulatory inequities to move ahead with their planned entry into the local exchange market. It is important that the Commission act now to keep the future marketplace fair and efficient for all participants.

The Commission noted in its First Report and Order that price cap regulation was a transitional regulatory scheme[5] put in place until the advent of competition. U S WEST maintains that in large urban areas where the barriers to entry have been eliminated, competition has already arrived. The Commission must develop and implement simple and measurable market indicators of competition in such urban areas (also sometimes referred to as metropolitan statistical areas or "MSAs") which in turn signal the time for relaxation or removal of regulatory restrictions. Once such a demonstration has been made for a particular MSA, regulation should be removed without requiring additional filings. A straightforward, unambiguous approach is necessary to eliminate the possibility of frivolous debates with parties who would seek to use the regulatory process for perpetual delay. Absent reasonable objections and contrary evidence, competition

[5] First Report and Order, 10 FCC Rcd. at 8966 ¶ 4.

should be allowed to flourish in the balance provided by market forces, not left to wallow in the mire of innuendo through endless regulatory proceedings.

B. U S WEST Supports The Commission's Specific Proposals

Many of the Commission's proposals and suggested alternatives in the Second NPRM are steps in the right direction. U S WEST strongly supports those and additional measures which would:

- Eliminate the Part 69 waiver process for switched access services.
- Provide alternative pricing plans, including volume and term discounts for switched access.
- Provide additional pricing flexibilities, including MSA-wide zones for switching, carrier common line ("CCL"), and the residual interconnection charge.
- Not condition such pricing flexibility on a competitive showing.
- Revise baskets and reduce the number of service categories.
- Establish definite criteria and time frames for Commission action and regulatory parity.
- Define an MSA as the relevant market area for the provision of streamlined regulation.
- Allow the use of contract carriage to respond to generally issued Requests for Proposals ("RFP").

Such proactive measures taken by the Commission will provide U S WEST and other LECs the incentive and regulatory parity necessary to compete in the emerging telecommunications marketplace.

C. Access Reform Is Also Essential

The Commission also needs to move quickly to address access reform. The implicit subsidies inherent in the current access charges (e.g., CCL charges) provide the impetus for inefficient entry and competitive imbalance. It is imperative that access reform be accomplished along with the measures proposed above. The Commission must allow increased pricing flexibility and undertake comprehensive access reform for the benefit of future competition and telephone consumers.

II. THE FIRST GRADATION: MODIFICATIONS TO THE PRICE CAP PLAN

A. The Commission Should Modify The Current Price Cap Rules To Allow Additional Pricing Flexibility And Eliminate Unnecessary Review

The Commission first seeks comment on: clarifying and relaxing tariff and waiver requirements for the introduction of certain service offerings; allowing LECs additional pricing flexibility; and changing the existing service basket and category structure under the price cap rules. U S WEST supports a majority of the Commission's proposals in each of these areas. Allowing these modifications will provide for increased innovation, encourage the introduction of new service offerings, reduce the cycle time for offering new services to customers, and enable more creative and market-based pricing which will ultimately benefit end-user customers. LEC competitors will no doubt again predict grave consequences and that significant competitive harm will result from these proposed plan modifications. The only true harm will come, however, if the Commission takes no

action and allows inefficient providers additional time to leverage current regulatory anomalies to the detriment of consumers.

B. No Competitive Showing Is Necessary For The Proposed Modifications

No competitive showing is necessary for the proposed modifications to the current plan. None of the Commission's proposed changes gives price cap LECs an advantage over competitors; they only increase efficiency. In addition, price cap rules still limit the ability to raise prices, and the requirements for uniform pricing across relevant geographic areas would still apply. Furthermore, other remedies exist for the possible maladies -- cross-subsidization, predatory pricing, unlawful discrimination, etc. -- cited by the Commission. These remedies lie in the Communications Act provisions concerning rate review and prescription, tariffing, unreasonable discrimination, and complaints.[6] Remedies also lie in various federal and state antitrust laws. If a competitor is truly aggrieved by a LEC's action, multiple fora are available in which their complaints can be adjudged. Moreover, if pricing anomalies exist in a competitive market, competition will eliminate such anomalies, removing any inappropriate pricing structures. Modifications to the current price cap plan are both desirable and essential, given the telecommunications services currently on the competitive horizon.

[6] 47 USC § 151 et seq.

C. Implementation Of Service Offerings And Rate Changes

1. Relaxed Regulatory Treatment Of New And Restructured Services

Issue 1a: *Should we relax the regulatory requirements relating to new services for some or all new services? Will there be any anti-competitive or other negative effects as a result of such modifications to the plan? If a relaxed treatment is appropriate for only certain new services, how should we distinguish between the services eligible for the simplified treatment and those which are not? What are some examples of the services that would fall into each category? How would this distinction be administered? What cost showings, notice, and other regulatory requirements are necessary with respect to the various types of new services to provide the appropriate level of regulatory oversight without hindering the efficient introduction of new services?*

Issue 1b: *Should we modify the definition of new services to exclude APPs or otherwise?*

Issue 1c: *Should we modify the definition of restructured services? What, if any, changes should be made with respect to the treatment of restructured services?*

As recognized by the Commission,[7] the current requirements for the introduction of new services by LECs are unnecessarily burdensome and time consuming.[8] The process hinders the introduction of new services and delays the availability of such services to consumers, other carriers, and enhanced service

[7] Second NPRM ¶ 38.

[8] The Commission currently defines "new service offering" as "[a] tariff filing that provides for a class or sub-class of service not previously offered by the carrier involved and that enlarges the range of service options available to ratepayers." 47 CFR § 61.3(s).

providers. Such delays serve no purpose. The current system requires modification.[9]

a. Shorter Notice And Reduced Cost Support Requirements Will Provide For Competitive Parity And Promote Increased Efficient Competition

The Commission proposes to allow the introduction of new services on shorter notice with reduced cost support.[10] U S WEST wholeheartedly supports this proposal. As competitors increasingly enter the market and offer competing services, they are allowed to tender their services under the Commission's nondominant carrier rules. Under those rules, they can provide new services on one-day's notice with no cost support.[11] As recently noted in the Commission's Order classifying AT&T as a nondominant carrier, these reduced filing requirements provide competitors significant advantages in the marketplace and sometimes preclude incumbents from offering innovative and beneficial pricing plans to consumers.[12] A shorter approval cycle for new service filings would allow LECs the opportunity to introduce services on a more equitable basis. Greater

[9] In addition to the pricing flexibility proposals considered for new services, the new service reporting requirements should also be revised. The Commission initiated a proceeding to address necessary revisions to the new services tracking reports in CC Docket No. 92-275. See Comments of the United States Telephone Association, filed Mar. 29, 1993 and Reply Comments of U S WEST Communication, Inc., filed Apr. 13, 1993, CC Docket No. 92-275.

[10] Second NPRM ¶ 45.

[11] 47 CFR § 61.23(c).

[12] In the Matter of Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, FCC 95-427, rel. Oct. 23, 1995 ("Order") ¶ 27.

innovation would be triggered as the barriers to introducing new services are eliminated.

b. Separate Tracks For New Service Filing Requirements Are Unnecessary

U S WEST believes that the classification of new services into tracks for reduced filing requirements is neither necessary nor appropriate. Division of new services into separate tracks for regulatory treatment would simply increase the opportunity for regulatory wrangling over the classification, thus increasing the time it takes to introduce a new service to customers and allowing competitors to provide the service before a LEC can, in turn reducing the incentive to offer new services. The Commission should in particular avoid classification of new services into those "like" a previous offering and those "unlike" any previous offering (the so-called "close substitutes test"). Such a classification would significantly reduce the incentive to offer truly new services and would negatively impact LECs' ability to respond to new services offered by competitors.

c. If Required, Tracks Must Have Clear Criteria For Classification

If the Commission feels compelled to require separate tracks for new service offerings, it should establish specific, easily identifiable criteria for classification. Without clear criteria, a LEC's classification of a service will be the subject of regulatory debate and unjustified delay. Lack of such clear criteria will also make

it difficult to estimate the additional cost and time needed to gain regulatory approval or to understand the potential for competitive response (e.g., is a new service offering viable if a competitor gains a significant head start in introducing a similar service offering due only to the fact that the competitor has fewer regulatory constraints?).

Customers requesting new services from U S WEST are currently frustrated because U S WEST is unable to tell them when approval to offer the new service will be received. Without additional clarity, customers will go to competitors who can provide the requested services, not to the price cap LECs who cannot. Specific approval guidelines and time frames are essential for competitive parity.

If necessary, the Commission can create a clear distinction between Track 1 and Track 2 services by giving Track 1 status only to mandated services(e.g., interconnection or other services directed by the Commission). By defining Track 1 services as those that are mandated, the Commission ensures that all new services it considers imperative for competition receive adequate review and the opportunity for comment. While this might still cause significant delay in new product offerings, it would at least allay any concerns that a LEC is acting in an anti-competitive manner.[13] Track 1 services should be subject to the existing new services notice and cost support requirements, without, as discussed below, the need for a Part 69 waiver. The Commission should reject any "essential services"

[13] As discussed previously, prior scrutiny of new service offerings by the Commission is actually unnecessary as there are other remedies and proceedings by which such alleged anti-competitive behavior can be addressed. Even a new service which is presumptively lawful may be challenged as unreasonable in a Section 208 [47 USC § 208] complaint.

classification for new service offerings as such classification would undoubtedly be controversial and challenged by delay-oriented competitors. Introducing subjective tests into the regulatory process invites contentious responses and reduces the clarity necessary for efficient decision-making by providers in a competitive marketplace.

New services not mandated by the Commission should be classified as Track 2 services which would be presumed lawful and filed on 14-day's notice without cost showings. The Commission should eliminate the requirement for cost information on new product offerings in a competitive market. Such cost information is competitively sensitive and can be used to undermine such offerings and also might encourage inefficient entry if such cost showings include implicit subsidies not required in a competitor's service offering. If the Commission requires additional assurance that a service recovers its direct costs, it can require that carriers certify (without a public showing) to such cost recovery in their initial tariff filings.[14]

d. Alternative Pricing Plans Should Not Be Classified As New Services

Alternative pricing plans ("APP") should be excluded from classification as new services. This existing regulatory aberration should be remedied by the

[14] If the Commission insists on cost support for Track 2 services, then, at a minimum, the current support for overhead loadings and deviations is unwarranted. The overhead loading requirement places artificial pricing constraints on new services that may serve to deter the offering of new services to consumers.

Commission as soon as possible. It is both impractical and inefficient to require the filing of similar cost support information for the provision of the same services under different terms and conditions. No new service is being offered by an APP, and such classification would only result in additional regulatory delay which in turn would delay the benefit to consumers from pricing alternatives.

e. A Uniform Seven-Day Notice Requirement For All Restructured Service Rate Changes Is Appropriate

U S WEST suggests a modification of the Commission's proposed 15-day's notice for restructured service rate increases and seven-day's notice for restructured service rate decreases, and instead recommends a single, uniform seven-day notice for all restructured service rate changes. The restructured filing requirements modifying rates, demand, or terms and conditions include provision of supporting material sufficient to calculate the required adjustment to each Actual Price Index ("API") or Service Band Index ("SBI"). This support and the upper limit pricing constraints alleviate any concerns that a restructured price change will be unreasonable.

2. Allowance Of Alternative Pricing Plans

Issue 2a: *Should we allow LECs to file APPs in addition to the volume and term discounts currently permitted? Under what terms and conditions? How should APPs be defined? Would the introduction of APPs cause any anti-competitive effects? If we permit LECs to offer APPs, what notice, cost support, and other requirements should be applied to those tariff filings? Should the rules be different depending on the particular LEC service basket*

or services involved and, if so, how? How and when should APPs be integrated into the price cap plan?

Issue 2b: *If we do not generally permit LECs to introduce APPs, should we nevertheless permit volume and term discounts for switched access services other than those currently permitted? If so, should we condition such offerings on a showing of competitive presence similar to the conditions adopted in the* *Switched Transport Expanded Interconnection Order* *or on the other measures of competition discussed in this Second Further Notice in the geographic areas where such competition exists?*

The Commission should allow LECs to offer APPs. As the Commission noted, APPs are distinct from both new and restructured services. APPs are only pricing plans and do not represent new or additional technical capabilities. As noted previously, APPs are not "new" services. Nothing new is offered, and nothing old is replaced. Only additional pricing and term options result by allowing this additional regulatory flexibility.

a. APPs Offer Customers Expanded Choices And Optional Pricing Plans

APPs expand significantly customer choice through the offering of optional pricing plans and allow LECs to respond to competitors' offerings which currently enjoy greater filing flexibility and are subject to no pricing restrictions. The Commission should permit promotional and optional discounted service offerings in addition to the term and volume discounts available today. Since the non-discounted services underlying each of the plans continue to be available, there is no opportunity for such plans to create any harm to existing customers. On the

contrary, customers are better served through plans structured to meet their individual needs.

b. APP Notice Requirements Should Be The Same As Restructures

Similar to the notice requirement for restructures, APPs should be allowed on seven-day's notice without cost support. No other requirements should be attached to APPs, as none is necessary. While U S WEST does not believe that cost support is necessary for APPs, should the Commission require additional assurance that an APP recovers direct costs, it can require carriers to certify to such cost recovery in their initial tariff findings.

As a discounted service plan, an APP is most similar to a current price cap restructure. As the Commission has appropriately suggested reduced notice requirements for restructures (including no requirement for cost support), it should treat APPs similarly. APPs should be excluded from any burdensome waiver or petition process. The Commission should presume that all APPs are lawful and allow them to proceed through the normal tariff process. Different treatment is neither appropriate nor necessary based upon the specific basket or service category involved.

c. APPs Should Be Integrated Into The Price Cap Plan If Made Into Permanent Offerings

APPs should be integrated into the existing price cap plan as follows: 1) if the APP is a temporary or promotional offer of 90 days or less, it should be excluded from the price cap plan and, as discussed above, be allowed to take effect on seven-day's notice without cost support; and 2) if an APP is converted into a permanent offering, it should be integrated into the existing price cap plan similar to a restructured service. U S WEST recommends that APPs be allowed to become permanent on seven-day's notice without cost support, or, in the alternative, with certification that the offering recovers direct costs.

d. If APPs Are Not Allowed, The Commission Should Nonetheless Allow Volume And Term Plans For Switched Access Services

The Commission has previously recognized the importance of allowing pricing flexibility into the market. Should the Commission choose to not allow the offering of APPs, however, it should nonetheless allow volume and term plans for all elements of switched access services without any threshold requirements. No competitive tests or checklists are appropriate for this additional pricing flexibility as the benefits to consumers are significant while the potential for competitive harm is minimal. Such additional flexibility provides U S WEST and other LECs with a competitive response to customers who would otherwise choose to abandon the switched network because of artificial pricing anomalies that exist between

current switched and special access offerings.[15] As the Commission noted, these anomalies lead to the inefficient creation of excess network capacity and entry by inefficient service providers.[16] Volume discounts reduce the distortion of customer choices between switched access and special access, where discounts have been available for years.

The current distortions in switched access pricing are due in large part to the present level of subsidy, implicit and explicit, included in these averaged rates. These distortions must also be addressed by the Commission in a separate access reform proceeding so that cost and pricing signals delivered to the market do not continue to be out of line with reality. By permitting LECs to offer volume and term discounts, the Commission encourages economic efficiency in the market and provides significant additional pricing benefits to consumers.[17]

No harm to competition will occur should the Commission allow LECs to offer APPs, or, alternatively, to offer volume and term discounts for switched access. On the contrary, competition is enhanced as true market forces, not artificially created incentives, provide the impetus for efficient competitive entry and service offerings.

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[15] Second NPRM ¶ 24.

[16] Id.

[17] With respect to volume and term discounts, the Commission previously stated that "if volume and term discounts are justified by underlying costs, and are not otherwise unlawful, the LECs should -- indeed, must -- be allowed to offer them in order to encourage efficiency and full competition." In the Matter of Expanded Interconnection with Local Telephone Company Facilities, Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, Second Report and Order and Third Notice of Proposed Rulemaking, 8 FCC Rcd. 7374, 7433 ¶ 115 (1993).

Market-based efficiency will benefit consumers and foster the development of true competition in the switched access market.

3. Restrictions On Individual Case Basis ("ICB") Tariffs

Issue 3: *Under what conditions, if any, should we permit price cap carriers to establish ICB rates? What showing would enable us to determine that the carrier cannot reasonably be expected to establish generally available averaged rates at the time the common carrier service is introduced? How long should we permit those rates to remain in effect before we require generally available averaged rates? What cost support requirements should apply when the carrier files ICB tariffs, and when the LEC files tariffs establishing generally available averaged rates?*

a. Strict New ICB Guidelines Are Unnecessary

Individual case basis ("ICB") pricing offers a reasonable and efficient alternative for the introduction and provision of new or substantially modified LEC service offerings. ICB pricing makes the marketplace for interstate access services more, not less, competitive and provides a method of efficient introduction and pricing for newly created services. The Commission has suggested strict new requirements concerning ICB offerings. Specifically, the Commission has proposed requiring a generally available tariff filing after an ICB offering has been provided for six months or if more than two customers purchase the ICB service. Such limitations are inconsistent with fostering the development of new services and will diminish other incentives the Commission has proposed for new service offerings in previous sections of this proceeding.

b. Forcing Carriers To Automatically Tariff ICB Offerings After Meeting Commission-Specified Circumstances May Be Unlawful

The Commission's proposal that ICB services be converted automatically to general offerings is inappropriate and may be inconsistent with the Communications Act and previous court of appeals decisions.[18] The Commission may not force a carrier into making generally available tariff offerings. The Act allows the Commission only the ability to determine the reasonableness of such tariffs and to prescribe just and reasonable charges should it find proposed rates unreasonable.[19] A Commission rule which requires the automatic conversion of an ICB offering into a new service for price cap purposes after a six-month period or if more than two customers are served without additional LEC action (e.g., a general tariff filing or 214 application) constitutes an abuse of the Commission's authority under the Communications Act.

c. The Commission's Proposed Six-Month Maximum And Two Customer Limit For ICB Offerings Is Arbitrary And Irrational

The Commission's selection of a six-month time limit for ICB offerings is arbitrary and irrational. It makes no sense to require a generally available tariff offering when an ICB service may have had only one customer during a given six-

[18] See, e.g., Southwestern Bell Telephone Co. v. F.C.C., 19 F.3d 1475 (D.C. Cir. 1994).

[19] 47 USC §§ 201, 205.

month period. Requiring such a filing with no other demand would certainly force the withdrawal of the service and result in significant harm to the single customer who received service under the ICB arrangement as no replacement service will be available. Artificially imposed time limits may cause new services to be discontinued prematurely after only six months as sufficient time is not allowed to develop the demand or expertise required for a general offering. ICB offerings meet the needs of specific customers. Whereas a single ICB offering to a specific customer may be feasible, a general offering of the same service may be too burdensome to be practicable.[20]

Similarly, the Commission's requirement that ICB offerings be tariffed generally when offered to more than two customers is equally unreasonable. Imposing such a requirement at such a low threshold number of customers effectively eliminates the use of ICB pricing for the controlled offering of new products or services -- historically, one of their most important uses. The two-customer limit is completely arbitrary as it does not take into account any quantity or demand considerations for the service offered. The Commission should not effectively preclude the offering of ICB services without additional consideration of the market impacts or further development of more productive, and less intrusive, alternatives.

[20] Many customers require special facilities and/or equipment for their unique applications that cannot be universally provided. These limitations might be due to distance limitations, availability of technology, bandwidth requirements, or other similar constraining circumstances. These services may not be generally required by other customers and are not truly an interim measure. It is not unreasonable to continue to provide a unique service to the one customer who needs it.

d. Notice For Special Construction ICB Filings Should Be Reduced

The Commission has proposed to continue to allow LECs to offer special construction on an individual case basis, without requiring averaged rates.[21] The Commission should additionally allow such special construction ICB filings to be offered on a shortened notice requirement. These one-time, non-recurring charges for construction activity related to specific projects do not require the additional time or potential scrutiny of new services. U S WEST proposes that the Commission reduce the notice requirement for special construction ICB filings to seven days, consistent with the proposed notice for other relatively simple, non-contentious issues such as restructures.

e. The Commission Should Additionally Allow Contract Carriage In Response To RFPs In Baseline Regulation

U S WEST requests that the Commission allow contract carriage in response to generally issued RFPs as a part of baseline regulation. The RFP process is a widely used business practice for acquiring goods and services. Businesses want and need vendors which can provide custom configurations with pricing flexibility. Strong competition now exists to provide service in response to such RFPs, and additional pricing flexibility is needed immediately to competitively respond to

[21] Second NPRM ¶ 65.

these requests. LEC competitors are able to package their services according to the RFP specifications, but LECs cannot respond similarly. This additional flexibility would provide a fair and competitive basis for such proposals to be considered on an equal basis.

4. Elimination Of The Part 69 Waiver Process

Issue 4a: *Should we eliminate the requirement for, or simplify the process of, obtaining a waiver of Part 69 for new switched access services and, if so, how? What standard should we use in determining whether to grant a petition proposing to establish new rate elements for a switched access service? Would there be any anti-competitive or other negative effects from modifying the current system?*

Issue 4b: *How should any new procedures with respect to Part 69 waivers be coordinated with the process for determining whether a new service is a Track 1 or Track 2 service as defined in the previous subsection herein if those concepts are adopted?*

a. The Commission Should Eliminate The Part 69 Waiver Process

Continuing to require a Part 69 waiver for the introduction of new switched access rate elements in any form is a burdensome and useless exercise of regulatory oversight. The Part 69 waiver process results in no useful output and only delays the introduction of beneficial and productive new services to the marketplace. The process has been used traditionally by competitors to impose significant delays and is rarely used to deny proposed new service offerings or rate elements. The current system is inflexible, labor intensive, and time consuming. The Commission has