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January 9, 1996

BY OVERNIGHT MAIL

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: CC Docket Nos. 94-1, *et al.*

Dear Mr. Caton:

Enclosed for filing please find an original plus nine copies of the Reply Comments of Frontier Corporation.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

cc: Tariff Division (2)
Industry Analysis Division (1 diskette)
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 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**

DOCKET FILE COPY ORIGINAL

REPLY COMMENTS OF FRONTIER CORPORATION

Michael J. Shortley, III

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January 9, 1996

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Table of Contents

Page

Summary iii

Introduction 1

Argument 3

I. THE COMMISSION SHOULD CRAFT A MORE EFFICIENT SET OF PRICE CAP RULES 3

A. The Commission Should Facilitate the Timely Introduction of New Services 3

B. The Commission Should Rationalize the Current Service Categories 7

1. The Commission Should Retain the Existing Price Cap Baskets 7

2. The Commission Should Rationalize the Existing Service Category Structure 8

II. THE COMMISSION SHOULD AFFORD EXCHANGE CARRIERS ADDITIONAL PRICING FLEXIBILITY ONLY UPON A SHOWING THAT COMPETITIVE CONDITIONS SO WARRANT 11

A. The Commission Should Decline To Afford Exchange Carriers Increased Pricing Flexibility for Services Subject to Price Cap Regulation 12

1. Additional Pricing Flexibility Is Unwarranted at This Time 12

2. The Commission Should Not Adopt Its Proposed Self-Certification Procedure 14

B. Streamlined Regulation Is Appropriate Only in the Face of Substantial Actual Competition 15

Conclusion 18

Summary

Frontier submits this reply on behalf of its interexchange and exchange carrier subsidiaries to the comments received in response to the Commission's Second Further Notice in this proceeding. The comments demonstrate that the Commission should chart a middle course, particularly with respect to the changes proposed to its baseline regulatory model. Exchange carriers generally seek more pricing flexibility than is warranted at the current time. Interexchange carriers, on the other hand, generally see little need to change the current rules. The Commission should reject both extremes. Frontier, as a holding company owning substantial providers of both interexchange and exchange services, is interested in having the Commission find the most constructive (pro-competitive) result. Price cap exchange carriers need the flexibility to introduce new and innovative service offerings and to compete against other providers of exchange and exchange access services where they exist. However, absent the existence of actual and sustainable competition in the local exchange, the Commission should not provide exchange carriers unlimited pricing flexibility that would both inhibit the emergence of exchange competition and distort interexchange competition. *Carte blanche* adoption of the Commission's proposals would provide exchange carriers with an inappropriate degree of pricing flexibility today. However, as described below, certain targeted reforms to the existing rules are essential to rationalize the patchwork quilt that has developed over the past several years. With respect to the longer-term, or Phase II, issues, most parties agree that streamlined regulation or non-dominant status is appropriate only in the presence of

actual and sustainable local exchange competition. In light of the foregoing, Frontier offers two sets of suggestions on the proposals contained in the Second Further Notice.

First, the Commission should adopt a number of its proposals to remove the inefficiencies inherent in the current system. The existing rules governing the introduction of new services and the service category classifications are unduly complex. The Commission should permit exchange carriers, through an expedited process, to offer new services. The Commission also needs to alter the existing service categories and subcategories. As the rules have evolved, the categories are far too numerous, cumbersome and largely unnecessary. However, this does not mean that individual services, particularly those with competitive significance, should be lost among other services in a basket.

Second, the Commission should tread with care in affording exchange carriers additional pricing flexibility. Its proposals to provide exchange carriers with unlimited downward pricing flexibility and to permit exchange carriers to offer alternative pricing plans and generally to price other services on an individual case basis in the absence of appropriate indices of local exchange competition are unwise. Wholesale abandonment of the existing pricing constraints should not be adopted. Instead, the Commission should afford exchange carriers significantly increased pricing flexibility only after a *concrete showing and affirmative finding* that particular services in particular geographic areas are subject to truly effective and sustainable competition.

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Revisions to Price Cap Rules for AT&T	)	**CC Docket No. 93-197**

REPLY COMMENTS OF
FRONTIER CORPORATION

Introduction

Frontier Corporation ("Frontier") submits this reply on behalf of its interexchange and exchange carrier subsidiaries to the comments received in response to the Commission's Second Further Notice in this proceeding.[1] The comments demonstrate that the Commission should chart a middle course, particularly with respect to the changes proposed to its baseline regulatory model. Exchange carriers generally seek more pricing flexibility than is warranted at the current time. Interexchange carriers, on the other hand, generally see little need to change the current rules. The Commission should reject both extremes. Frontier, as a holding company owning substantial providers of both interexchange and exchange services, is interested in having the Commission find the

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1 *Price Cap Performance Review for Local Exchange Carriers,* CC Dkts. 94-1, *et al.*, Second Further Notice of Proposed Rulemaking in CC Docket 94-1, Further Notice of Proposed Rulemaking in CC Docket 93-124, and Second Further Notice of Proposed Rulemaking in CC Docket 93-137, FCC 95-393 (Sept. 20, 1995) ("Second Further Notice").

most constructive (pro-competitive) result. Price cap exchange carriers need the flexibility to introduce new and innovative service offerings and to compete against other providers of exchange and exchange access services where they exist. However, absent the existence of actual and sustainable competition in the local exchange, the Commission should not provide exchange carriers unlimited pricing flexibility that would both inhibit the emergence of exchange competition and distort interexchange competition. *Carte blanche* adoption of the Commission's proposals would provide exchange carriers with an inappropriate degree of pricing flexibility today. However, as described below, certain targeted reforms to the existing rules are essential to rationalize the patchwork quilt that has developed over the past several years. With respect to the longer-term, or Phase II, issues, most parties agree that streamlined regulation or non-dominant status is appropriate only in the presence of actual and sustainable local exchange competition. In light of the foregoing, Frontier offers two sets of suggestions on the proposals contained in the Second Further Notice.

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services, particularly those with competitive significance, should be lost among other services in a basket.

Second, the Commission should tread with care in affording exchange carriers additional pricing flexibility. Its proposals to provide exchange carriers with unlimited downward pricing flexibility and to permit exchange carriers to offer alternative pricing plans and generally to price other services on an individual case basis in the absence of appropriate indices of local exchange competition are unwise. Wholesale abandonment of the existing pricing constraints should not be adopted. Instead, the Commission should afford exchange carriers significantly increased pricing flexibility only after a *concrete showing and affirmative finding* that particular services in particular geographic areas are subject to truly effective and sustainable competition.

Argument

I. THE COMMISSION SHOULD CRAFT A MORE EFFICIENT SET OF PRICE CAP RULES.

The existing price cap rules are unnecessarily cumbersome and counterproductive in two principal areas: the treatment of new services and the existing service categories.

A. The Commission Should Facilitate the Timely Introduction of New Services.

As the comments amply demonstrate,[2] under the current Part 69 rules, whenever an exchange carrier wishes to introduce a new switched access service, that carrier must not only undergo the tariff review process, it must also submit to a lengthy and

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[2] *E.g.*, GTE at 21-23; USTA at 15-21.

cumbersome waiver process. The result, as the Commission correctly notes,[3] is substantial delay. For services that exchange carriers wish to introduce in response to customer demand or that are demonstrably pro-competitive, such delay is wholly unnecessary. To eliminate this unnecessary delay, the Commission should adopt its proposal to permit exchange carriers to propose new services on an expedited basis, subject to a negative review by the Common Carrier Bureau.[4] Such a process will permit exchange carriers to offer services on a timely basis and to be responsive to customer demand.[5]

To further this goal, however, the Commission should modify its proposed Track 1/ Track 2 classification of new services.[6] The Commission's suggestion[7] -- that some new switched services may potentially be essential services and, therefore, should be subject

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3 Second Further Notice, ¶ 69.

4 *Id.*, ¶ 71.

The Commission also correctly proposes to adopt a "me-too" policy, under which after one exchange carrier receives approval to offer a particular new service, other exchange carriers could also file tariffs to offer the same rate elements. *Id.* In devising its "me-too" rules, the Commission should require exchange carriers availing themselves of these rules to adopt the same rate elements that have previously become effective. If an exchange carrier wishes to offer a new service, but under a different rate structure from that previously approved, the new rate elements should be subject to prior, but still expedited, scrutiny.

5 MCI's suggestion (at 8-11) that the current new services rules are needed to protect interstate access customers is a logical *non sequitur*. New services, by definition, expand the range of options available to interstate access customers; they do not replace existing services. Simply stated, if MCI does not want a proffered new service, it need not subscribe to it.

6 Second Further Notice, ¶¶ 46-49.

7 *Id.*, ¶ 47.

to more intense scrutiny -- has not proven to be correct to date. Many of the new services that exchange carriers have introduced have been in response to specific customer demand for a new feature or option that have had little effect on the level of competition in the market. The few services that to date have not fallen in this category are those that the Commission itself has prescribed, *e.g.*, virtual collocation[8] and video dial-tone.[9]

Rather than determining, as a threshold matter, what constitutes an essential or discretionary/competitive service, the Commission should presumptively apply its expedited processing proposal to all new services, except for those that the Commission specifically prescribes or determines, either through the Common Carrier Bureau's negative review or through the tariff review process, are essential or strategically significant.[10] Adoption of this proposal will permit exchange carriers to respond to customer demand in a timely and efficient manner by eliminating the need for the Commission to determine -- and for parties to suggest -- that a particular service warrants a more rigorous, initial investigation.[11] By

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8 *Expanded Interconnection with Local Telephone Company Facilities,* CC Dkt. 91-141, Memorandum Opinion and Order, 9 FCC Rcd. 5154 (1994).

9 *See Price Cap Performance Review for Local Exchange Carriers*, CC Dkt. 94-1, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 95-394 (Sept. 21, 1995).

10 The Commission should address the regulatory treatment of such services outside the context of price cap regulation. Similarly, alternative pricing plans and individual case basis offerings should be handled outside price cap regulation. Both raise significant competitive concerns -- particularly, predation -- such that they should be subject to a more rigorous standard of review. For this reason, the Commission should not adopt its proposal to permit tariffs for alternative pricing plans -- even limited-time offerings -- to be filed on fourteen days' notice with no cost support. *See* ¶¶ 57-60.

11 Under this proposal, the Commission would still possess the ability to scrutinize rate levels proposed for truly new services in the context of the tariff review process.

eliminating one procedural vehicle for parties to object to a particular new service, the process of introducing such services will necessarily be expedited.[12] At any point that the Commission determines that a new service becomes essential (or strategically significant), it can then elect whether additional scrutiny is merited, and to what extent.

With respect to restructured services, the Commission's current rules are generally appropriate. Those rules require the filing of only minimal support -- essentially to demonstrate revenue neutrality.[13] Moreover, because of this revenue neutrality requirement, the effects of service restructures on customers are likely to be minimal. For this reason, the Commission should decline to adopt its proposal to subject restructures that tend to increase prices to more exacting scrutiny than those that tend to decrease prices.[14] The current restructure rules tend to negate, in the aggregate, this possibility.

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12 The procedural nightmare that characterized the introduction of 500 access service provides an example of why the new services rules require streamlining. Exchange carriers were required to file numerous Part 69 waiver requests seeking permission to offer 500 access service in response to specific and urgent customer demand. Each such petition was separately noticed, generating numerous -- and redundant -- comments that all raised one issue -- whether 500 access service should be modeled on 800 or 900 access service. The Commission ultimately resolved this issue correctly by permitting exchange carriers to choose which model to utilize. *Ameritech Operating Companies, Petitions for Waivers of Sections 69.4(h) and 69.106 of Part 69 of the Commission's Rules*, DA 94-1350, Order, 9 FCC Rcd. 7873 (Com. Car. Bur. 1994).

13 47 C.F.R. §§ 61.46(c), 61.47(d).

14 Second Further Notice, ¶ 51.

B. The Commission Should Rationalize the Current Service Categories.

The existing baskets are acceptable. The service categories, however, require overhaul. In the latter respect, the Commission should decline to create a new basket or service category for operator assistance/call completion services.

1. The Commission Should Retain the Existing Price Cap Baskets.

After the realignment of the traffic sensitive switched access and special access baskets into the trunking and traffic sensitive switched access baskets,[15] the Commission need not, at this time, modify the existing baskets. Services that are functionally similar (*e.g.*, transport services, on the one hand, and switching services, on the other) are grouped together in the same basket while dissimilar functions are separated. This alignment encourages exchange carriers to price their services in a rational manner, while preventing the subsidization of one set of services by offsetting price decreases for those services with price increases for dissimilar services.[16] Thus, pending the outcome of a comprehensive review of the current Part 69 rules, there is no reason for the Commission to alter the existing baskets at this time.[17]

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15 *Transport Rate Structure and Pricing*, CC Dkt. 91-213, Second Report and Order, 9 FCC Rcd. 615 (1994) ("Second Report and Order").

16 *See* Second Further Notice, ¶ 86.

17 USTA and others have proposed slight modifications to the price cap baskets. While Frontier does not necessarily oppose these changes, they depend, to some degree, upon more fundamental changes to the current Part 69 rules. Frontier, therefore, suggests that the Commission defer their consideration until its forthcoming review of the Part 69 access (continued...)

2. The Commission Should Rationalize the Existing Service Category Structure.

The traffic sensitive switched access and trunking baskets both contain numerous and often unnecessary service categories and subcategories. The Commission should streamline the service categories and subcategories within these two baskets. The existing categories -- and particularly the subcategories -- serve only to inhibit efficient pricing by exchange carriers of functionally similar access services.

With respect to the trunking basket, the Commission should reduce the number of service categories to three -- low capacity (below DS-1), high capacity (DS-1 and above) and tandem-switched transport. Further gradations are not necessary to ensure that customers that subscribe primarily to low capacity and tandem-switched transport services do not subsidize rate reductions for subscribers to more competitive high capacity services. This segregation appropriately prevents low capacity and tandem-switched transport customers from bearing the brunt of offsetting price increases to compensate for price decreases for high capacity services.[18] To the extent that the characteristics of individual services demand specialized attention, this can be achieved outside the price cap rules.[19]

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17 (...continued)
charge rules.

18 The residual interconnection charge should reside in the tandem-switched transport category, but, because it represents a pure subsidy, should continue to be subject to no upward pricing flexibility. In addition, the expanded interconnection rate elements should remain outside price cap regulation.

19 This proposal is relatively close to the service category structure of USTA's proposed transport basket. *See* USTA *at 35.*

The existing service categories in the traffic sensitive switched access basket are also needlessly complex. Time after time, the Commission has created new categories and subcategories to address possible competitive concerns. Data base access, customer name and address and the like have somehow merited their own distinct price cap treatment, as have individual rate elements within these service categories. The Commission should revise the current arrangement by reducing the current service categories to two -- switching and "other."

Creating two service categories in the traffic sensitive switched basket is appropriate. This approach would segregate local switching from a variety of miscellaneous, adjunct services, such that decreases in the price for local switching could not be offset by price increases for these other services. Further gradations are unnecessary. The number of "other" services is sufficiently small that the ability of exchange carriers to price these services in a discriminatory manner is minimal, at best. Creating (or maintaining) additional services categories or subcategories would only result in a price cap plan that is overly cumbersome and administratively complex, yet would provide no countervailing benefits. As with the trunking basket, the Commission should address individualized service concerns outside the price cap rules.[20]

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[20] This proposal is a slightly more streamlined version of the service category structure of USTA's proposed switched access basket. *See id.* Frontier believes that, because of the relatively low levels of demand for services in the "other" category, two service categories are sufficient to address any potential anti-competitive concerns.

In addition, the Commission should retain the existing rules under which exchange carriers are permitted to offer volume and term discounts and to establish pricing zones for both

(continued...)

Nor is there a current reason for the Commission to create a separate basket or service category for operator assistance/call completion services, as suggested.[21] These services -- like the remaining services in the "other" service category -- are ancillary to basic switching functions. Logically, therefore, they belong in the traffic sensitive switched access basket.

In addition, there is nothing competitively unique about operator assistance or call completion services that warrant disparate treatment. With the emergence of new applications of existing technologies -- such as CD-ROM[22] -- it is possible for numerous entities to provide call completion services and directory assistance-related call completion services.[23] Although operator transfer and line verification services may currently be less competitive than other types of operator services functions, it is not at all clear that the benefits of segregating such services into separate service categories or subcategories would outweigh the costs of the inefficiencies and administrative complexities that such segregation would create. Accordingly, the Commission should decline to create a new

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20 (...continued)
special and switched transport services. The ability of exchange carriers to offer reasonable term and volume discounts is necessary for them to compete effectively with competitive access providers that routinely offer such arrangements. However, because alternative sources of switching and common line services are currently not nearly as prevalent as are transport alternatives, it would be premature for the Commission to authorize zone density pricing for the local switching and carrier common line rate elements, as proposed.

21 Second Further Notice, ¶¶ 96-102; *see also* MCI at 20.

22 CD-ROMs containing nationwide listings of directory assistance listings are currently available.

23 On this basis, the Commission's tentative conclusion that directory assistance-related call completion services are not competitive (*id.*, ¶ 101) is incorrect.

basket or new service categories for operator assistance/call completion services at this time.

In adjusting the service band indices, the Commission should seek to balance the needs of exchange carriers to price their services rationally against the possibility that one class of ratepayers could be forced to fund price decreases for another class of customer through price increases for services essential to their operations. To do so, the Commission should adopt uniform pricing bands in each of the service categories within each of the baskets, but should set the bands toward the tighter end of the ranges of bands that currently exist.[24]

II. THE COMMISSION SHOULD AFFORD EXCHANGE CARRIERS ADDITIONAL PRICING FLEXIBILITY ONLY UPON A SHOWING THAT COMPETITIVE CONDITIONS SO WARRANT.

The Commission proposes to afford exchange carriers additional pricing flexibility both immediately and in the future.[25] If the Commission adopts the changes to the existing rules proposed above, it will provide sufficient pricing flexibility for the time being. Additional flexibility should be permitted only upon a showing that competitive conditions so warrant. Such increased flexibility may take two forms: (1) further pricing freedom within the price cap rules; and (2) removal of specific services in specific geographic areas from price cap regulation. The former is unnecessary and the latter should occur only after

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24 As explained *infra* at 12-13, the Commission should decline to eliminate the lower service band indices.

25 *Id.*, ¶¶ 32-36.

an affirmative demonstration that specific services in specific geographic areas face substantial actual competition.

A. The Commission Should Decline To Afford Exchange Carriers Increased Pricing Flexibility for Services Subject to Price Cap Regulation.

The Commission need not, at this time, afford exchange carriers additional pricing flexibility, except for the proposals set forth in Part I, *supra*. However, even if the Commission were to conclude otherwise, it should not permit exchange carriers to "self-certify" that they comply with a competitive checklist as the sole *quid pro quo* for increased pricing flexibility.

1. Additional Pricing Flexibility Is Unwarranted at This Time.

The Commission proposes to afford individual exchange carriers increased pricing flexibility within the construct of price cap regulation if the affected exchange carrier demonstrates compliance with a "competitive checklist."[26] In addition, the exchange carrier industry argues that the Commission should afford exchange carriers such flexibility –*e.g.*, generalized use of individual case basis pricing and the use of alternative pricing plans[27] -- even in the absence of any showing of competitive need. The Commission should decline to adopt either proposal. In particular, the Commission should neither eliminate the lower service band indices nor offer exchange carriers an open-ended ability to offer additional

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26 *Id.*, ¶¶ 107-10.

27 *E.g.*, USTA at 22-34.

alternative pricing plans or individual case basis offerings[28] unless and until competitive conditions so warrant.

A checklist is a necessary, but not a sufficient, condition for competition actually to exist in a particular geographic or product market or submarket. While a particular study area may appear, on paper, to satisfy market conditions that may be conducive to competition, the correct test should focus upon whether some level of competition actually exists, *i.e.,* whether one or more competitors perceive that conditions, in fact, are conducive to competition, whether it is adequate to exert market controls and whether it is sustainable. Thus, as a general matter, the Commission should not rely upon a checklist as the sole basis for affording exchange carriers increased pricing flexibility. *A fortiori*, the Commission should not afford exchange carriers such additonal flexibility in the absence of any competitive showing at all.

Moreover, the current rules both provide exchange carriers significant pricing flexibility for their most competitive services and provide generally appropriate triggers for

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28 The Commission currently permits exchange carriers to offer services on an individual case basis where the exchange carrier does not possess the necessary experience to develop a generally available offering. *See* Public Notice, *Common Carrier Bureau Restates Commission Policy on Individual Case Basis Tariffs*, DA 95-2013 (Com. Car. Bur. Sept. 27, 1995). In these circumstances, individual case basis pricing permits exchange carriers to compete for business that they could not otherwise obtain. The Commission should continue to permit exchange carriers to offer services on this basis under currently permissible conditions.

additional pricing flexibility within the price cap system of regulation. To afford additional flexibility on the basis of a less rigorous standard is inappropriate and unnecessary.[29]

2. The Commission Should Not Adopt Its Proposed Self-Certification Procedure.

Even if the Commission decides to offer additional pricing flexibility within the construct of price cap regulation and decides to utilize a checklist, it should not adopt its proposed procedure pursuant to which an affected exchange carrier may merely certify that it complies with the competitive checklist.[30] Rather, the Commission should place the burden on each exchange carrier to demonstrate -- in practice as well as in theory -- that structural market conditions are conducive to competition and that some meaningful degree of competition actually exists and should do so in the context of a full notice and comment proceeding.

The competitive checklist must be viewed as more than a mere exercise in formalism. The relevant statutes and regulations in some places arguably satisfy each element of the checklist, at least in theory. Nonetheless, carrier tariffs, practices and internal policies -- *i.e.,* endogenous entry barriers[31] -- may make this appearance more

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29 Even if the Commission declines to adopt the proposals contained in the Notice, it could still address unique circumstances by reviewing proposed individual case basis tariffs, below-band filings or waiver petitions. Thus, if an affected exchange carrier believes that a response to a particular situation constitutes a competitive necessity, it could always pursue one of these avenues of relief, to which the Commission has reasonably responded in the past. *See* Second Report and Order, ¶ 16 & n.26.

30 Second Further Notice, ¶¶ 111-15.

31 *See id.,* ¶ 22.

illusory than real. If such barriers are in place or may be hastily re-erected, then a particular market is not even potentially competitive and the Commission should not afford the affected exchange carrier any additional pricing flexibility.[32]

The notice-and-comment route is the procedural vehicle that the Commission utilized in evaluating the Part 69 waiver requests filed in response to changed competitive conditions -- including the one relating to Rochester's Open Market Plan.[33] The Commission should do the same in the context of reviewing requests for additional pricing flexibility. Any less rigorous procedure would deny to the Commission the ability to determine if circumstances truly warrant additional regulatory relief.

B. Streamlined Regulation Is Appropriate Only in the Face of Substantial Actual Competition.

The Commission correctly proposes[34] to remove specific services in specific geographic areas from price cap regulation -- whether through streamlined or non-dominant regulation[35] -- only upon a showing of substantial actual competition. Complete or virtually complete pricing freedom requires, as a precondition, a showing that the affected exchange carrier no longer possesses market power over the services and areas

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32 In this regard, attempts to impose unreasonable restrictions on the resale of exchange carrier services (*see, e.g., US West, Tariff F.C.C. Nos. 3 and 5, Trans. No. 629*, DA 95-2064, Order, (Com. Car. Bur. Sept. 28, 1995)), should be viewed with extreme suspicion.

33 *Rochester Telephone Corp., Petition for Waivers To Implement Its Open Market Plan*, FCC 95-96, Order, 10 FCC Rcd. 6776 (1995).

34 *See* Second Further Notice, ¶¶ 127-50, 152-58.

35 In Frontier's view, the difference between the two forms of regulation is minimal, amounting only to a difference of filing tariffs on fourteen days' rather than one day's notice.

in question. This is the test that the Commission applied to AT&T[36] and it is equally appropriate in this context. Frontier, in general, agrees with the market definitions -- both geographic and product -- proposed by the Commission and with the economic indices of effective actual competition.[37] Discrete product and geographic market are appropriate because they recognize that competition is likely to evolve at different rates for different services (*e.g.,* transport vs. switching) and in different areas (*e.g.,* high-density vs. low-density areas).

The Commission is proposing the correct analytical framework for determining whether exchange carrier services should be subject to streamlined regulation. As described above,[38] the Commission should put the affected exchange carrier to the test of meeting a high burden of proof of demonstrating that competitive conditions warrant substantially decreased regulatory surveillance.

With respect to the specifics of the required showing, Frontier generally agrees with the addressability tests proposed by USTA[39] as the basis for further regulatory

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36 *Revisions to Price Cap Plan for AT&T Corp.*, CC Dkt. 93-197, Report and Order, 10 FCC Rcd. 3009, 3014 (1995).

37 *See* Second Further Notice, ¶¶ 134-46.

The one area to which Frontier takes exception is whether an exchange carrier has priced its services at or below cap. *See id.,* ¶¶ 144-45. Whether exchange carriers have done so addresses competitive *responses* to market conditions rather than the *degree* of competition. As such, it is not an accurate indicator of the degree of competition in a particular geographic or product market.

38 *See supra* at 13-15.

39 *See* USTA at 38-57.

streamlining. The addressability model is sufficiently concrete and forward-looking to serve as a basis for a demonstration that competitive conditions warrant relaxed regulation. Frontier, however, proposes three modifications to the USTA proposal. First, the addressability model should apply to *all* local exchange services, rather than selected access elements. To the extent that exchange carriers still retain the ability to dominate significant segments of the local exchange business, that market cannot be considered truly competitive and the ability to leverage market power in less competitive segments to gain a competitive advantage in more competitive segments would still exist. As such, the proposal to permit regulatory streamlining on a large customer vs. small customer basis should not be adopted.

Second, the Commission should decline the request that competitors publicly disclose, with a fair degree of specificity, the areas within which they offer -- or propose to offer -- their services.[40] This information -- particularly with respect to proposed service extensions -- is generally highly confidential. Mandatory disclosure would provide exchange carriers with competitively sensitive information that could clearly be used to inhibit competition. The burden of justifying additional regulatory streamlining should appropriately be placed on exchange carriers and their competitors should not be placed in the position of undermining their own ability to compete. The Commission should require exchange carriers to rely upon their own, normal market research capabilities to make the requisite showing.

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[40] *See id.* at 50-51.

Third, the proposed twenty-five percent showing[41] for streamlined regulation is too low. If only twenty-five percent of the defined market is truly addressable (and not necessarily even served by competitive providers), that demonstrates the existence of substantial market power. The Commission should, therefore, adopt a threshold of at least fifty percent, which USTA proposes for non-dominant status.[42]

Conclusion

For the foregoing reasons, the Commission should act upon the proposals contained in the Second Further Notice in the manner set forth herein.

Respectfully submitted,

Michael J. Shortley, III

Attorney for Frontier Corporation

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January 9, 1996

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41 *See id.* at 51-52.

42 As described *supra* at 15 n.35, the differences between streamlined and non-dominant regulation are minimal and should not, therefore, be subject to substantially different tests.

Certificate of Service

I hereby certify that, on this 9th day of January, 1996, copies of the foregoing Reply Comments of Frontier Corporation were served by first-class mail, postage prepaid, upon the parties on the attached service list.

Michael J. Shortley, III

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