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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Policy and Rules Concerning)	CC Docket No. 96-61
the Interstate, Interexchange)	
Marketplace)	
)	
Implementation of Section 254(g))	
of the Communications Act of 1934,)	
as Amended)	

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April 25, 1996

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SUMMARY

AT&T strongly supports the Commission's proposals to forbear under new Section 10 of the Communications Act from enforcing Section 203's tariffing requirements against domestic interexchange services offered by nondominant carriers ("permissive detariffing"), and to eliminate the prohibition on bundling interexchange services with CPE. The tariff filing requirement and bundling prohibition are not necessary to protect consumers, can impose unnecessary costs, and limit customer choice. In these circumstances, the Commission has ample authority to adopt a permissive detariffing rule and eliminate the bundling prohibition. Indeed, the rationale for eliminating the CPE bundling prohibition applies equally to the restrictions that prohibit the bundling of information and telecommunications services. Thus, the Commission should act promptly to increase customer choice by eliminating these unnecessary restrictions as well.

In contrast, the mandatory detariffing proposal exceeds the Commission's statutory authority, and is also contrary to the Commission's objective to establish a pro-competitive, deregulatory framework for regulation of the interexchange market. A mandatory detariffing rule would impose unnecessary costs by eliminating the efficiencies that tariffs create under many conditions, without achieving any countervailing benefits. A permissive detariffing rule would impose the fewest costs on

interexchange carriers and their customers. Such a rule would afford carriers and customers the freedom to decide for themselves whether to rely on filed tariffs or on unfiled contracts to define their respective duties, rights and liabilities. This is the essence of deregulation.

Further, allegations of "price coordination" by interexchange carriers provide no basis either for a mandatory detariffing rule, or for premature authorization of the BOCs to provide in-region, interexchange services. As an initial matter, the allegations of price coordination are unproven, as the Notice acknowledges, and in fact meritless, as AT&T has demonstrated. The characteristics of the interexchange market make tacit collusion highly improbable and virtually impossible to sustain. All of the conduct identified as "proof" of price coordination can be explained by pro-competitive rationales.

In all events, mandatory detariffing would not have any material impact upon the ability of interexchange carriers to engage in such conduct, and premature BOC entry for in-region interexchange services would harm, not promote, interexchange competition. Sound policy reasons, as well as the plain terms of the 1996 Act, require rigorous application of the statutory criteria in Section 271 of the Act before the BOCs may be permitted to provide in-region interexchange services.

Finally, the Commission should not adopt any new rules applicable to contract tariffs. As the Commission has recognized, the ``substantial cause'' test has been derived from Section 201 of the Act, a provision from which the Commission does not propose to forbear. The Commission should also refrain from dictating the terms or conditions of contract tariffs or imposing longer notice periods for revisions to such tariffs. Contract tariff services are subject to enormous competitive pressures, and there is no need to substitute regulatory fiat for the disciplines of the market in such cases.

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COMMENTS OF AT&T CORP.

Pursuant to Section 1.415 of the Commission's Rules, and its Notice of Proposed Rulemaking, FCC 96-123, released March 25, 1996 ("Notice"), AT&T Corp. ("AT&T") hereby responds to the Commission's proposals addressed to detariffing, pricing, the bundling of customer premises equipment ("CPE") with interexchange services, and related issues.

Consistent with its long-standing policies governing regulation of the interstate, interexchange market, the Commission's objective in this proceeding is to facilitate competition. The Commission's pro-competitive agenda has now been specifically endorsed by Congress in the Telecommunications Act of 1996 ("the Act"), which seeks "to provide for a pro-competitive, deregulatory national policy

framework" for all telecommunications services, including interexchange services.¹

No carrier more than AT&T has actively supported the Commission's efforts to promote competition and reduce unnecessary regulation, consistent with the Communications Act. Where substantial competition exists, regulation of carriers that lack market power is unnecessary; indeed, it interferes with the efficient operation of market forces, and denies to consumers the widest range of choices that the market can produce. Although AT&T disagrees with some of the Commission's tentative conclusions and proposals in the Notice, it fully supports, therefore, the Commission's objectives in this phase of the proceeding.

In particular, AT&T strongly supports the Commission's proposals to forbear from enforcing the tariff filing requirements of Section 203 ("permissive detariffing") against nondominant interexchange carriers, and to eliminate the prohibition on the bundling of interexchange services with CPE. The tariff filing requirement and bundling prohibition are not necessary to protect consumers, can impose unnecessary costs, and limit customer choice. In these circumstances, the Commission has ample authority to adopt a permissive detariffing rule and eliminate the bundling prohibition.

¹ See Notice, ¶ 1.

In contrast, the Commission's proposal to prohibit carriers from filing tariffs ("mandatory detariffing") is both unlawful, because it exceeds the Commission's statutory authority, and contrary to the Commission's objectives, because it would limit the flexibility of carriers and customers and increase costs, with no countervailing public benefit. The mandatory detariffing proposal is neither pro-competitive nor deregulatory, and should not be adopted.

I. A PERMISSIVE DETARIFFING RULE IS THE LOWEST COST, MOST DEREGULATORY, AND ONLY LAWFUL MEANS OF IMPLEMENTING THE COMMISSION'S STATUTORY FORBEARANCE AUTHORITY.

The Notice applies the Section 10 forbearance test to the Section 203 tariffing requirements for nondominant interexchange carriers, and properly concludes that permissive detariffing is required. In addition, the Notice (§ 34) proposes to adopt a rule which would "implement" forbearance "on a mandatory basis." Under this proposal, the Commission would not merely forbear from enforcing the tariffing requirements of Section 203 against nondominant carriers, it would also prohibit such carriers from filing tariffs for any domestic services for any customers, and would presumably require such carriers to cancel all of their existing tariffs.

The Commission bases this proposed rule on its tentative conclusions (1) that the intense competition in today's interexchange services market is itself sufficient to prevent unreasonable charges or discrimination and

(2) that it would reduce costs for carriers, minimize risks of possible oligopolist behavior, and better promote the overall public interest if carriers were required to enter into separate contracts with each of the more than 100 million interexchange customers. Although AT&T agrees with the first tentative finding, the second tentative conclusion is incorrect as a matter of fact and impermissible as a matter of law.

As explained in detail below, a policy of "permissive detariffing" would promote the maximum feasible deregulation and would impose the fewest costs on interexchange carriers and their customers. Such a policy would afford carriers and their customers the freedom and flexibility to decide for themselves whether to rely on filed tariffs or on individual contracts to define their respective duties, rights, and liabilities. By contrast, a mandatory detariffing rule would impose unnecessary costs by eliminating the efficiencies that tariffs create under many conditions, without creating any countervailing benefits that could not be achieved in other less costly ways. That is presumably why Congress has authorized the Commission to adopt only permissive detariffing and not mandatory detariffing.

A. Permissive Detariffing For Nondominant Carriers Is Required By Section 10 And Consistent With The Public Interest.

New Section 10 of the Communications Act provides the framework under which the Commission must now forbear from enforcing Section 203's tariffing requirements against domestic nondominant carriers.² The Notice (¶ 17) acknowledges that Section 10 "require[s]" the Commission to forbear from applying "any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services" if the three-prong statutory test is met.³ Further, it (¶ 19) correctly concludes that all of these criteria are satisfied with respect to the domestic interexchange services of nondominant carriers.

² The Commission's prior efforts to forbear from applying the tariffing requirements of Section 203 to nondominant carriers were unsuccessful because there was no provision authorizing the Commission to relieve carriers of these legislatively-mandated duties (see AT&T v. FCC, 978 F.2d 727 (D.C. Cir. 1992), aff'd MCI Telecommunications Corp. v. AT&T, 114 S. Ct. 2223 (1994)).

³ See also Notice, ¶ 27. Section 10 provides that the Commission "shall forbear if the Commission determines that: (1) enforcement of such . . . provision is not necessary to ensure that the charges, practices, classifications or regulations by, for, or in connection with that . . . telecommunications service are just and reasonable and are not unjustly or unreasonable discriminatory; (2) enforcement of such . . . provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision . . . is consistent with the public interest (emphasis added)."

First, the Notice (¶ 28) confirms that nondominant carriers meet the first prong of the Section 10 forbearance test, because carriers which "lack[] market power simply cannot rationally price their services in ways which, or impose terms and conditions which, contravene Sections 201(b) and 202(a) of the Act." Thus, such carriers cannot impose unreasonable prices or conditions on customers, or charge unreasonably discriminatory rates, because any attempt to do so is promptly met with more attractive offers from numerous other suppliers. Similarly, the Notice (¶ 29) correctly concludes that enforcing Section 203's requirements against nondominant carriers is "superfluous as a consumer protection device, since competition circumscribes the prices and practices of these companies." Thus, enforcing Section 203 requirements against nondominant carriers is unnecessary to protect consumers.

Finally, permissive detariffing is consistent with the public interest, because it enables carriers and customers to adopt the most flexible and cost-efficient methods of doing business. For example, if nondominant carriers determine that continued tariffing would cause them to incur economically unreasonable or unnecessary costs in some instances (e.g., tariffs for individual customer service arrangements), they can avoid such costs and not burden their customers with them. Alternatively, when providing service under tariff is more convenient or cost-

efficient, especially for services offered to large numbers of customers, carriers could continue to provide such services under familiar tariffing arrangements. Thus, permissive detariffing provides carriers and customers with the widest array of options, is consistent with sound economic principles, and serves the public interest.⁴

B. The Commission Does Not Have The Authority To Order Mandatory Detariffing.

The Notice (§ 36) appropriately seeks comments on whether the Commission has the statutory authority to order mandatory and not merely permissive detariffing. Simply put, it does not. Thus, although mandatory detariffing would also be bad public policy (see Part I.C., infra), this issue need not be reached, because Congress authorized only permissive detariffing.

⁴ The Notice (§ 33) also recognizes that "many carriers currently file bundled tariffs that include both domestic and international services," and it seeks comment on whether the Commission should exercise its forbearance authority for the international portions of such offers. AT&T urges the Commission to apply the same rules to all services in such bundles. Different tariffing rules for the domestic and international aspects of bundled offers would necessitate the tariffing of virtually all customized contracts or require artificial partitioning of such unified arrangements. Neither would serve the interests of carriers or customers. AT&T notes, however, that the Commission still has not acted on AT&T's long-standing request to be reclassified as a nondominant carrier in international markets, even though AT&T has presented the Commission with overwhelming evidence that it lacks market power in all such markets under every established criterion. Therefore, AT&T urgently requests that the Commission act immediately on AT&T's petition -- so that all IXCs, including AT&T, and all customers benefit equally from the proposed changes.

Prior to the Act, the Commission did not have the authority to order any form of detariffing of interexchange services. In its Second Report and its Fourth Report in the Competitive Carrier proceeding, the Commission adopted a policy of "forbearing" from enforcing the tariffing requirements against nondominant carriers (permissive detariffing),⁵ and in its Sixth Report, the Commission cancelled the tariffs of these "forborne [nondominant] carriers" and prohibited them from filing new tariffs (mandatory detariffing).⁶ Courts vacated both sets of orders on the ground that Section 203 requires all carriers to file all their rates and that the "modification" authority of Section 203(b) did not allow the Commission to excuse any carrier from its tariff filing duty either by permitting or requiring untariffed services.⁷ In this regard, the D.C. Circuit invalidated the mandatory detariffing requirement of the Sixth Report on this ground, without reaching MCI's alternative argument that even if permissive detariffing were authorized, the Commission could

⁵ See Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, Second Report and Order, 91 F.C.C.2d 59 (1982); id., Fourth Report and Order, 95 F.C.C.2d 554 (1983).

⁶ Id., Sixth Report and Order, 99 F.C.C.2d 1191 (1984).

⁷ MCI v. AT&T, 114 S. Ct. 2223 (1994) (invalidating permissive detariffing); AT&T v. FCC, 978 F.2d 727 (D.C. Cir. 1992) (same); MCI v. FCC, 765 F.2d 1186 (D.C. Cir. 1985) (invalidating mandatory detariffing).

not forbid carriers from filing the tariffs that the Act otherwise requires.⁸

Section 10 of the Act overrules these decisions only to the extent of giving the Commission the authority to reinstate a policy of permissive detariffing under which the Commission must forbear from applying or enforcing the requirements of Section 203 to particular carriers when the filing of tariffs is not necessary to serve the purposes of the Communications Act. By contrast, Section 10 gives the Commission no authority to cancel tariffs of forborne carriers or to prohibit the filing of new ones. This distinction is made clear from the plain terms of Section 10, particularly when read in light of the other provisions of the Act and the Commission's own prior use of the terms of Section 10.

⁸ In particular, when the D.C. Circuit invalidated the mandatory detariffing provisions of the Sixth Report, the decision rested on a ground that applied equally to permissive detariffing: that Section 203(a) required all carriers to file all rates and that the Commission had no authority to excuse any carrier from that requirement. See MCI v. FCC, 765 F.2d at 1190-94 & n.4 (reserving question of whether Fourth Report could be defended as statement of the Commission's prosecutorial policies). The Court made this explicit when the Commission subsequently held that its forbearance policy was a substantive rule of permissive detariffing and not an unreviewable statement of the Commission's prosecutorial practices. The D.C. Circuit then invalidated the rule of permissive detariffing on the ground that MCI v. FCC established that it was unlawful. See AT&T v. FCC, 978 F.2d at 735-36; accord, MCI v. AT&T, 114 S. Ct. 2223 (1994).

Foremost, the language of Section 10 makes it explicit that the 1996 Act alters prior law only by requiring the Commission to refrain from enforcing or applying Section 203 when enforcement is not necessary to achieve the statute's purposes, and is inconsistent with the public interest. In particular, it provides that the Commission "shall forbear from applying . . . any provision of this Act to a telecommunications carrier . . . if the Commission determines that (1) enforcement of . . . such provision is not necessary [to assure charges are reasonable and nondiscriminatory]; (2) enforcement of such . . . provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision . . . is consistent with the public interest."

By use of the terms "forbear" when enforcement is not "necessary" to achieve statutory purposes, Congress plainly intended to authorize the Commission to do no more than refrain from requiring compliance with the tariffing requirements of Section 203. See Black's Law Dictionary 329 (5th Ab. ed. 1983) (Forbearance: "Refraining from action."); accord, Webster's Third International Dictionary 886 (1981); Random House Dictionary 748 (2d Ed. 1987). Nothing in this language could remotely be read to give the Commission the authority to prohibit carriers from filing tariffs when the carrier and its customers conclude that a tariff is the most efficient way to order their relationship.

Other aids to construction make it even clearer that Congress intended to authorize only permissive detariffing, and not mandatory detariffing. Congress acted against a background in which the Commission itself had used the term "forbearance" to refer only to permissive detariffing (in the Second Report and the Fourth Report) and had used other terms to refer to mandatory detariffing: i.e., "cancellation of all forborne carrier tariffs" and "eliminat[ion] of future federal tariff filings by carriers treated by forbearance." Sixth Report, 99 F.C.C.2d at 1021.

Further, Congress itself recently used different terms in the other provisions of the Communications Act that have been construed to authorize the Commission to order mandatory detariffing. In particular, the Notice (¶ 35) seeks to draw support from the Commission's earlier decision to prohibit the filing of tariffs by commercial mobile radio service providers, but the Commission there acted pursuant to Section 332(c)(1)(A) of the Act, which gave the Commission the authority to adopt rules rendering the Section 203 tariffing provisions "inapplicable" to CMRS providers. By failing to use this term in Section 10 and by instead using language ("forbear from applying" or "enforcing") which has historically been understood to authorize only permissive detariffing -- i.e., "forbear from

applying" or "enforcing" -- Congress quite plainly was denying authority to order mandatory detariffing.⁹

In this regard, there is an obvious explanation for the choice Congress made. The 1996 Act was also enacted against the background of a century of decisions that establish that tariffs do not merely advance the public interest in preventing unreasonable rates and discrimination, but also serve fundamental and legitimate business interests of carriers and customers themselves. Even when competitive conditions alone are sufficient to prevent discrimination, courts have recognized that tariffs serve the legitimate interest of permitting the rights, duties, and liabilities of customers and carriers to be defined efficiently through the filing of a single legal document that provides notice to and is presumed to be known by all.¹⁰ By contrast, as shown below, if interexchange carriers had to establish separate contracts with each of millions of individual customers, the costs on carriers and their customers would be dramatically increased.

⁹ Section 332 applies to the provision of mobile services, not to interexchange services, for one very simple reason. Mobile customers will almost always have direct physical contact with carriers when they subscribe for service -- to pick up the mobile telephone and have it programmed or installed -- so the mobile carrier invariably has an opportunity to have the customer execute a contract. Interexchange carriers almost never have comparable dealings with their customers.

¹⁰ See, e.g., Louisville & Nashville R. Co. v. Maxwell, 237 U.S. 94, 97 (1915); Maislin Indus., U.S., Inc. v. Primary Steel, Inc., 497 U.S. 116, 127 (1990).

C. Even If The Commission Had The Authority To Order Mandatory Detariffing, A Regime Of Permissive Detariffing Is Less Regulatory, Will Impose Fewer Costs, And Will Better Serve The Public Interest.

The Notice's stated preference for mandatory as opposed to permissive tariffing is based upon the suggestion that "the risk of anticompetitive conduct inherent in, and the costs associated with tariff filings by nondominant interexchange carriers . . . would persist if carriers were permitted to file tariffs voluntarily" (Notice, ¶ 34), and concerns about "possible invocation" of the filed rate doctrine (*id.*). These concerns are misplaced. A mandatory detariffing rule would have no pro-competitive consequences, would impose substantial additional costs on carriers and customers, and is not necessary to avoid concerns associated with the filed rate doctrine.

1. Permissive Detariffing Is Not Anticompetitive.

With respect to anticompetitive consequences, the Notice suggests that tariffs deny to carriers the ability to make rapid responses to changes in demand and costs, could enable carriers to ascertain competitors' existing rates and stifle discounting. What the Notice overlooks, however, is that most of these concerns are a function not of the mere existence of tariffs, but of other regulatory requirements -- such as lengthy notice periods and detailed cost support -- that the Commission has already properly discarded and are thus no longer at issue.

More specifically, mandatory detariffing would have no impact on competitive response times or the

availability of competitive pricing information. In contrast to the time when tariff filing rules imposed delays on potential competitive responses, or when one carrier could ``game'' the regulatory process to create delays for a competitor, the Commission's existing rules permit all nondominant carriers to make immediate responses to changes in costs, consumer needs or competitive offers. These rules enable any nondominant carrier to make price changes, or even to develop an entirely new service offer, in one day, without providing any advance notice, or detailed supporting material, to its competitors.

Moreover, permissive tariffs filed on one day's notice would not give competitors any more information than would be available in the open market under a mandatory detariffing regime. Particularly in the most populous customer segments (residential and small business customers), carriers can effectively market their services and collect their service charges only if customers have access to information about their prices. In the absence of tariffs, carriers would have to rely even more on public price statements, through regular or ``tombstone'' advertising, telemarketing, or other similar activities.¹¹

¹¹ If carriers are to have the flexibility to make rapid price changes for consumer and small business customer services, they must be able to modify prices without giving personal notice to every customer. This can only be achieved through some form of constructive notice, such as tariffs or published notices. Regardless of the

This public information would be available to competitors. For this reason, any "risk" of alleged coordinated pricing by interexchange carriers would not be increased under a permissive as opposed to mandatory detariffing regime.¹²

2. Mandatory Detariffing Would Impose Greater Costs And Dislocations On Consumers And Carriers Than Permissive Detariffing.

The Notice (¶ 34) asserts that "costs associated with tariff filings would persist" under a permissive tariffing rule. The costs to which this statement refers appear to be "administrative costs" (*id.*, ¶ 31) imposed on carriers by a tariff filing requirement. The Notice fails to explain, however, why a rule granting carriers the flexibility to choose whether to file tariffs would impose

(footnote continued from previous page)

form of notice, however, such information must be publicly available.

¹² The suggestion in the Notice that permissive detariffing could stifle discounting is likewise unsupported, and is in fact contradicted by the extensive discounting in the market that occurs both today (under mandatory tariffing), and during the period prior to the 1992 invalidation of the permissive detariffing policy in AT&T v. FCC, supra. See Competition in the Interstate, Interexchange Marketplace, Notice of Proposed Rulemaking, 5 FCC Rcd. 2627, 2639 (1990) (tacit collusion "particularly unlikely"); id., Order, 6 FCC Rcd. 5880 (1991); AT&T Communications, Tariff F.C.C. No. 15, Holiday Rate Plan, 4 FCC Rcd. 7712-13, 7719, 7723 (1988) (discussing tariffed and non-tariffed discounts provided by interexchange carriers to customers); AT&T Nondominance Order, ¶ 80. In any event, it would appear that carriers' and customers' ability to achieve discounts could only be enhanced, not "stifled," by increasing the flexibility with which carriers can operate -- as with permissive detariffing.

greater costs than a blanket prohibition eliminating that flexibility.¹³ Indeed, if filing tariffs would be more costly than not filing them, a rational carrier operating under a permissive tariffing rule would simply elect not to file them -- as many nondominant carriers elected to do prior to AT&T v. FCC.

The simple fact is that consumers and carriers would face substantial additional costs and dislocation if nondominant carriers were forbidden to file tariffs. Unlike a permissive detariffing regime, which would allow carriers to provide services either under contract or tariff, mandatory detariffing would force carriers to an exclusively contractual relationship with customers. This presents a number of cost and customer relationship issues which the Notice does not consider, including the practical economics of serving well over 100 million existing consumer and small business customers without tariffs, and the costs associated with an immediate transition to a mandatory detariffing environment.¹⁴

¹³ The Notice fails even to explain why it believes that the "administrative costs" of maintaining on a carrier's premises information about rates, terms and conditions would be less than those incurred to file and maintain tariffs.

¹⁴ Mandatory detariffing would be a radical departure from an industry practice that has been relied upon by carriers and customers for over sixty years. This fact, together with the difference in the sheer size of the interexchange and CMRS markets, makes the Notice's (¶ 35) reference to the CMRS experience inapposite. The mandatory detariffing rule for CMRS was introduced at a

There are many circumstances in which tariffs allow carriers to provide service more cost-effectively than under individual contracts. This is especially true for services that are offered to large volumes of consumers or small business customers. Under a mandatory detariffing rule, prudent carriers would have to find another way to establish the rates, terms and conditions that will govern their relationships with customers. The aggregate costs of establishing and maintaining those contractual relationships would be enormous, and well in excess of those incurred to file and maintain tariffs.¹⁵ For example, even if the cost to provide the nation's more than 100 million consumer and small business customers with a service contract were only 50 cents each (a low estimate), that would generate over \$50 million in additional annual costs on the industry and its

(footnote continued from previous page)

time when the CMRS market was relatively new and small and when most CMRS providers did not operate pursuant to tariffs. Moreover, most early users of CMRS were sophisticated telecommunications customers, who were typically better able to shop for the service offer that best met their needs. Thus, there was no widespread or long-standing history of tariffing in the CMRS industry and less of a market need to have service offerings made through tariffs. In contrast, the interexchange market is very mature and has well over 100 million customers, all of whom have "grown up" in a tariff environment, and many of whom place very few calls.

¹⁵ Under permissive detariffing, however, if carriers find that the costs of tariffing are unwarranted in particular (or even all) circumstances, they can simply avoid such costs by providing their services pursuant to contracts, without filing tariffs.

customers, assuming carriers sent only one mailing per year.¹⁶ When changes requested by carriers or customers are considered, these costs may increase substantially.¹⁷ Indeed, mandatory detariffing would not only increase these "administrative costs," but would also reduce the speed with which carriers could implement price changes and make available new features and services, contrary to the Commission's goal.

In addition, substantial numbers of customers are likely to be confused by the change to a contract-based relationship. This would require carriers to spend an additional tens of millions of dollars for new customer education and servicing costs. These direct costs do not even consider consumers' expenditures of personal time and other resources in order to accommodate to the new regime. In the aggregate, these costs could be disproportionately

¹⁶ Clearly, it does not cost a comparable amount for the Commission simply to maintain permissively filed tariffs for reference purposes. Moreover, the Commission currently imposes a fee on carriers in connection with every tariff filing. Such fees should (and presumably do) cover the costs to store tariffs and make them available for public review. Alternatively, as is done today, the Commission could designate a third party contractor to maintain and distribute copies of current tariff information on a fee-for-service basis.

¹⁷ About 17-20 percent of consumers move each year, and in 1994 nearly 30 million consumers changed their presubscribed carrier. Managing the contracting issues arising from these changes alone could add tens of millions more dollars to the costs of mandatory detariffing.

high, especially those incurred with respect to the millions of consumers who place very few calls each year.¹⁸ Further, in order to assure that customers have appropriate notice of price changes and new service offerings, carriers' advertising expenses would likely be greater in a mandatory detariffing environment than if they were permitted to file tariffs when it makes economic sense to do so.¹⁹

Tariffs also allow carriers to be available to transitory and casual users in ways that are not available in a "pure contract" environment. For example, tariffs allow carriers to provide service to a consumer who wishes to pay by coin or commercial credit card, or to accept collect calls, but is otherwise unknown to them. Similarly, tariffs enable IXCs to maintain access code availability for consumers with whom they have no other relationship, particularly customers of other carriers who need to place calls during network emergency conditions.²⁰ In such cases, tariffs enable carriers to pre-establish vendor-customer relationships in a manner that would be impractical in any

¹⁸ About 25 million customers average \$3 per month or less in interstate calls.

¹⁹ Advertising and similar costs incurred to provide notice of price changes could deter carriers from making modest price decreases that would otherwise benefit consumers.

²⁰ Access code calling is also an important means of allowing customers to sample other carriers' services, or to use such services in specific circumstances (e.g., to take advantage of promotional offers or to obtain lower rates for calls to particular destinations).