

radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

145. Interexchange Carriers. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of interexchange carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with Telecommunications Relay Services (TRS). According to our most recent data, 97 companies reported that they were engaged in the provision of interexchange services.<sup>393</sup> Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of interexchange carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 97 small entity interexchange carriers that may be affected by the decisions and rules adopted in this Order.

146. Resellers. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies. The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 206 companies reported that they were engaged in the resale of telephone services.<sup>394</sup> Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 206 small entity resellers that may be affected by the decisions and rules adopted in this Order.

147. In addition, the rules adopted in this Order may affect companies that analyze information contained in tariffs. The SBA has not developed a definition of small entities specifically applicable to companies that analyze tariff information. The closest applicable definition under SBA rules is for Information Retrieval Services (SIC Category 7375). The Census Bureau reports that, at the end of 1992, there were approximately 618 such firms

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<sup>393</sup> Federal Communications Commission, CCB, Industry Analysis Division, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier) (Feb. 1996).

<sup>394</sup> Id.

classified as small entities.<sup>395</sup> This number contains a variety of different types of companies, only some of which analyze tariff information. We are unable at this time to estimate with greater precision the number of such companies and those that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 618 such small entity companies that may be affected by the decisions and rules adopted in this Order.

148. Finally, as discussed above, some commenters contend that the rules proposed in the Notice would increase the cost of interstate, domestic, interexchange telecommunications services to small businesses.<sup>396</sup> We assume that most, if not all, small businesses purchase interstate, domestic, interexchange telecommunications services. As a result, our rules in this Order would affect virtually all small business entities. SBA guidelines to the SBREFA state that about 99.7 percent of all firms are small and have fewer than 500 employees and less than \$25 million in sales or assets. There are approximately 6.3 million establishments in the SBA database.<sup>397</sup> The SBA data base does include nonprofit establishments, but it does not include governmental entities. SBREFA requires us to estimate the number of such entities with populations of less than 50,000 that would be affected by our new rules.<sup>398</sup> There are 85,006 governmental entities in the nation.<sup>399</sup> This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,566, or 96 percent, have populations of fewer than 50,000.<sup>400</sup> The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 96 percent, or 81,600, are small entities that would be affected by our rules.

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<sup>395</sup> U.S. Small Business Administration 1992 Economic Census Industry and Enterprise Report, Table 2D, SIC Code 7375 (Bureau of the Census data adapted by the Office of Advocacy of the U.S. Small Business Administration).

<sup>396</sup> See supra para. 46.

<sup>397</sup> A Guide to the Regulatory Flexibility Act, U.S. Small Business Administration, Washington D.C., at 14 (May 1996).

<sup>398</sup> 5 U.S.C. § 601(5).

<sup>399</sup> 1992 Census of Governments, Bureau of the Census, U.S. Department of Commerce.

<sup>400</sup> Id.

**D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

149. In this section of the FRFA, we analyze the projected reporting, recordkeeping, and other compliance requirements that may apply to small entities as a result of this Order.<sup>401</sup> As a part of this discussion, we mention some of the types of skills that will be needed to meet the new requirements.

150. Nondominant interexchange carriers, including small nondominant interexchange carriers, will be required to cancel all of their tariffs for interstate, domestic, interexchange services on file with the Commission within nine months. As a result, nondominant interexchange carriers will need to establish legal relationships with their customers in an alternative way, for example, by issuing short, standard contracts that contain their basic rates, terms and conditions for service. This change in the manner of conducting their business may require the use of technical, operational, accounting, billing, and legal skills.

151. As discussed in section II.C, we are requiring nondominant interexchange carriers to make information on current rates, terms, and conditions for all of their interstate, domestic, interexchange services available to the public in at least one location during regular business hours. We will also require carriers to inform the public that this information is available when responding to consumer inquiries or complaints and to specify the manner in which the consumer may obtain the information. We further require nondominant interexchange carriers to maintain, for a period of two years and six months, the information provided to the public, as well as documents supporting the rates, terms, and conditions for all of their interstate, domestic, interexchange offerings, that they can submit to the Commission upon request. Nondominant interexchange carriers will need to maintain the foregoing records in a manner that allows carriers to produce such records within ten business days of receipt of a Commission request. In addition, nondominant interexchange carriers will be required to file with the Commission, and update as necessary, the name, address, and telephone number of the individual, or individuals, designated by the carrier to respond to Commission inquiries and requests for documents. Compliance with these requests may require the use of accounting, billing, and legal skills.

152. We further require nondominant providers of interstate, domestic, interexchange telecommunications services to file annual certifications signed by an officer of the company under oath that the company is in compliance with its statutory geographic rate averaging and rate integration obligations. Compliance with these requests may require the use of accounting and legal skills.

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<sup>401</sup> See 5 U.S.C. § 604(a)(4).

**E. Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives**

153. In this section, we describe the steps taken to minimize the economic impact of our decisions on small entities and small incumbent LECs, including the significant alternatives considered and rejected.<sup>402</sup> To the extent that any statement contained in this FRFA is perceived as creating ambiguity with respect to our rules or statements made in preceding sections of this Order, the rules and statements set forth in those preceding sections shall be controlling.

154. We believe that our actions to adopt complete detariffing will facilitate the development of increased competition in the interstate, domestic, interexchange market, thereby benefitting all consumers, some of which are small business entities. Absent filed tariffs, the legal relationship between carriers and customers will much more closely resemble the legal relationship between service providers and customers in an unregulated environment. As set forth in section II.B above, we reject suggestions that we should permit carriers to voluntarily file tariffs. We believe that detariffing on a permissive basis would not definitively eliminate the possible invocation of the "filed-rate" doctrine and would create the risk of price signalling. We believe that only with complete detariffing can we definitively eliminate these possible anticompetitive practices and protect consumers, some of which are small business entities.

155. As discussed above,<sup>403</sup> we also reject suggestions that we should limit our decision to forbear by differentiating among interstate, domestic, interexchange services, among nondominant interexchange carriers, or among types of information contained in tariffs for such services. We do not believe that there is a sound basis for limiting forbearance to certain interstate, domestic, interexchange services, such as individually negotiated service arrangements. We find that the competitive benefits of not permitting nondominant interexchange carriers to file tariffs for interstate, domestic, interexchange services, discussed above,<sup>404</sup> apply equally to all segments of the interstate, domestic, interexchange services market. Moreover, as discussed above,<sup>405</sup> we reject the argument that detariffing mass market services offered to residential and small business customers will lead to substantially higher transactions costs. Similarly, we are not persuaded that the public interest benefits differ depending on the type of tariffed information that is at issue. The public interest benefit of removing carriers' ability to invoke the "filed-rate" doctrine applies equally with respect to

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<sup>402</sup> See *id.* at § 604(a)(5).

<sup>403</sup> See *supra* paras. 41, 42, 63.

<sup>404</sup> See *supra* paras. 53, 54.

<sup>405</sup> See *supra* para. 57.

terms and conditions as to rates.<sup>406</sup> In addition, permitting or requiring large nondominant interexchange carriers to file tariffs would not eliminate the risk of tacit price coordination among such carriers, and would raise the possibility that such carriers' tariffed rates would become a price umbrella.<sup>407</sup> Finally, we agree with AT&T that there is no basis to differentiate among nondominant interexchange carriers, because all such carriers are unable to exercise market power in the interstate, domestic, interexchange market.<sup>408</sup>

156. In order to minimize the burden on nondominant interexchange carriers, and in particular small, nondominant interexchange carriers that may have fewer resources, we do not require nondominant interexchange carriers to make rate and service information available to the public in any particular format, or at any particular location. We reject the suggestion that we should require nondominant interexchange carriers to provide information on their interstate, domestic, interexchange services at a central clearinghouse or on-line, because we found that mandating such a requirement would be unduly burdensome at this time. Rather, we will require only that a carrier make such information available to the public in at least one location during regular business hours.<sup>409</sup>

157. The decision to impose disclosure requirements will also allow businesses, including small business entities, that audit and analyze information contained in tariffs to continue. Our decision not to require nondominant interexchange carriers to provide information on their interstate, domestic, interexchange services at a central clearinghouse or on-line may impose an additional collection cost on these businesses. We find, however, that mandating such a requirement would be unduly burdensome on nondominant interexchange carriers, including small nondominant interexchange carriers.

#### F. Report to Congress

158. The Commission shall send a copy of this FRFA, along with this Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

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<sup>406</sup> See supra para. 55.

<sup>407</sup> See F.M. Scherer and David Ross, Industrial Market Structure and Economic Performance 248-61 (3d ed. 1990).

<sup>408</sup> AT&T Reply at 9-10.

<sup>409</sup> Although we do not require carriers to make such information available to the public at more than one location, we encourage carriers to consider ways to make such information more widely available, for example, posting such information on-line, mailing relevant information to consumers, or responding to inquiries over the telephone.

## VI. FINAL PAPERWORK REDUCTION ANALYSIS

159. As required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13,<sup>410</sup> the Notice invited the general public and the Office of Management and Budget (OMB) to comment on proposed changes to the Commission's information collection requirements contained in the Notice.<sup>411</sup> The changes to our information collection requirements proposed in the Notice included: (1) the elimination of tariff filings by nondominant interexchange carriers for interstate, domestic, interexchange telecommunications services;<sup>412</sup> (2) the requirement that nondominant interexchange carriers maintain at their premises price and service information regarding their interstate, interexchange offerings that they can submit to the Commission upon request;<sup>413</sup> (3) the requirement that providers of interexchange services file certifications with the Commission stating that they are in compliance with their statutory rate integration and geographic rate averaging obligations under Section 254(g) of the Communications Act;<sup>414</sup> and (4) the requirement that interexchange carriers advertise the availability of discount rate plans throughout the entirety of their service areas.<sup>415</sup>

160. On June 12, 1996, OMB approved all of the proposed changes to our information collection requirements in accordance with the Paperwork Reduction Act.<sup>416</sup> In approving the proposed changes, OMB "strongly recommend[ed] that the [Commission] investigate potential mechanisms to provide consumers, State regulators, and other interested parties with some standardized pricing information," which "could be provided as part of the certification process or could be made available to the public in other ways."<sup>417</sup>

161. In this Order, we adopt several of the changes to our information collection requirements proposed in the Notice. Specifically, we have decided to: (1) eliminate tariff filings by nondominant interexchange carriers for interstate, domestic, interexchange telecommunications services;<sup>418</sup> (2) require that nondominant interexchange carriers maintain

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<sup>410</sup> 44 U.S.C. §§ 3501 *et seq.*

<sup>411</sup> Notice, 11 FCC Rcd at 7193-94.

<sup>412</sup> Id. at 7157-63.

<sup>413</sup> Id. at 7162-63.

<sup>414</sup> Id. at 7178, 7182.

<sup>415</sup> Id. at 7179.

<sup>416</sup> Notice of Office of Management and Budget Action, OMB No. 3060-0704 (June 12, 1996).

<sup>417</sup> Id.

<sup>418</sup> See supra para. 77.

at their premises price and service information regarding their interstate, interexchange offerings that they can submit to the Commission upon request;<sup>419</sup> and (3) require that providers of interexchange services file certifications with the Commission stating that they are in compliance with their statutory rate integration and geographic rate averaging obligations under Section 254(g) of the Communications Act.<sup>420</sup> We have also decided to require nondominant interexchange carriers to file with the Commission, and update as necessary, the name, address, and telephone number of the individual, or individuals, designated by the carrier to respond to Commission inquiries and requests for documents.<sup>421</sup> In order to implement detariffing, we order all nondominant interexchange carriers to cancel their tariffs for interstate, domestic, interexchange services on file with the Commission within nine months of the effective date of this Order and not to file any such tariffs thereafter.<sup>422</sup> We also order carriers that have on file with the Commission "mixed" tariff offerings that contain services subject to detariffing pursuant to this Order, to comply with this Order either by: (1) cancelling the entire tariff and refile a new tariff for only those services subject to the tariff filing requirements; or (2) issuing revised pages cancelling the material in the tariffs that pertain to those services subject to forbearance.<sup>423</sup> In addition, we have decided to require nondominant interexchange carriers to file with the Commission, and update as necessary, the name, address, and telephone number of the individual, or individuals, designated by the carrier to respond to Commission inquiries and requests for documents.<sup>424</sup> Finally, consistent with OMB's recommendation that we consider mechanisms to make pricing information available to interested parties, we have decided, for purposes of enforcing Section 254(g), to require nondominant interexchange carriers to disclose to the public rate and service information concerning all of their interstate, domestic, interexchange offerings.<sup>425</sup> Implementation of these requirements will be subject to approval by OMB as prescribed by the Paperwork Reduction Act.

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<sup>419</sup> See supra para. 87.

<sup>420</sup> See supra para. 83. In the Geographic Rate Averaging Order, we found it unnecessary to adopt a requirement that interexchange carriers advertise the availability of discount rate plans and promotions throughout the entirety of their service areas. Geographic Rate Averaging Order, 11 FCC Rcd at 9578-79.

<sup>421</sup> See supra para. 87.

<sup>422</sup> See supra para. 89.

<sup>423</sup> See supra para. 91.

<sup>424</sup> See supra para. 87.

<sup>425</sup> See supra paras. 84-86.

**VI. ORDERING CLAUSES**

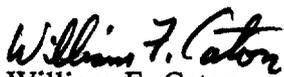
162. Accordingly, IT IS ORDERED that, pursuant to Sections 1-4, 10, 201, 202, 204, 205, 215, 218, 220, 226 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 160, 201, 202, 204, 205, 215, 218, 220, 226 and 254, the SECOND REPORT AND ORDER is hereby ADOPTED. The requirements adopted in this Second Report and Order shall be effective 30 days after publication in the Federal Register. The collections of information contained within are contingent upon approval by the Office of Management and Budget.

163. IT IS FURTHER ORDERED that Parts 42, 61 and 64 of the Commission's Rules, 47 C.F.R. §§ 42, 61, and 64 are AMENDED as set forth in Appendix B hereto.

164. IT IS FURTHER ORDERED that, AT&T SHALL DETARIFF 800 Directory Assistance and Analog Private Line Services within nine months of the end of its three-year commitment period established in Motion of AT&T Corp. to be Reclassified as a Nondominant Carrier, Order, 11 FCC Rcd 3271, 3305-07 (1995). During this commitment period, any tariff revisions that propose to increase the price of these services SHALL BE FILED on not less than five business days' notice, shall be within the limits established in the commitment and shall clearly identify such tariff transmittals as affecting the provisions of this commitment.

165. IT IS FURTHER ORDERED that, for the period of its commitment, AT&T SHALL NOTIFY its customers of changes to its low volume and low income calling plans not less than five business days' prior to such a change. AT&T SHALL PROVIDE five business days' notice of changes to its average residential interstate direct dial services under the circumstances specified in Motion of AT&T Corp. to be Reclassified as a Nondominant Carrier, Order, 11 FCC Rcd 3271, 3305-07 (1995).

FEDERAL COMMUNICATIONS COMMISSION

  
William F. Caton  
Acting Secretary

**APPENDIX A**  
**LIST OF PARTIES**  
(CC Docket No. 96-61)

**List of Commenters in CC Docket No. 96-61, Sections III, VII, VIII, IX (Tariff Forbearance, CPE Bundling, Contract Tariff, Other Issues)**

Ad Hoc Coalition of Corporate Telecommunications Managers (Corporate Managers)  
Ad Hoc Telecommunications Users Committee, The California Bankers Clearing House Association, The New York Clearing House Association, ABB Business Services, Inc., and The Prudential Insurance Company of America (Ad Hoc Users)  
America's Carriers Telecommunication Association (ACTA)  
American Petroleum Institute (API)  
American Public Communications Council (APCC)  
American Telegram Corporation (American Telegram)  
Ameritech  
AMSC Subsidiary Corporation (AMSC)  
AT&T Corp. (AT&T)  
Association for The Study of Afro-American Life and History, Inc  
Audits Unlimited, Inc. (Audits Unlimited)  
BT North America Inc. (BT North America)  
Bell Atlantic Telephone Companies (Bell Atlantic)  
BellSouth Corp. (BellSouth)  
Business Telecom, Inc. (Business Telecom)  
Cable & Wireless, Inc. (Cable & Wireless)  
Capital Cities/ABC, Inc., CBS Inc., National Broadcasting Company, Inc., and Turner Broadcasting System, Inc. (Television Networks)  
Casual Calling Coalition  
Cato Institute  
Citizens for a Sound Economy Foundation (CSE)  
Chrysler Minority Dealers Association  
Compaq Computer Corporation (Compaq)  
Competitive Telecommunications Association (CompTel)  
Consumer Electronics Retailers Coalition  
Consumer Federation of America and Consumers Union (CFA\CU)  
Eastern Tel Long Distance Service, Inc. (Eastern Tel)  
Excel Telecommunications, Inc. (Excel)  
Frontier Corporation (Frontier)  
Fone Saver, LLC (Fone Saver)  
General Communication, Inc. (GCI)  
General Services Administration (GSA)  
GTE Service Corp. (GTE)  
Gerald Hunter (Hunter)  
Independent Data Communications Manufacturers Association (IDCMA)

Information Technology Association of America (ITAA)  
LCI International Telecom Corp. (LCI)  
LDDS World Com (LDDS)  
Louisiana Public Service Commission (Louisiana PSC)  
MCI  
MFS  
Dr. Robert Self dba Market Dynamics (Market Dynamics)  
MOSCOM Corporation (MOSCOM)  
National Association of Attorneys General, Consumer Protection Committee,  
Telecommunications Subcommittee (National Association of Attorneys General  
Telecommunications Subcommittee)  
National Association of Development Organizations -- Paragard -- United Homeowners  
Association -- National Hispanic Council on the Aging -- Consumers First -- National  
Association of Commissions for Women (National Association of Development  
Organizations)  
National Black Data Processors Association  
National Bar Association  
Network Analysis Center, Inc.  
NYNEX Telephone Companies (NYNEX)  
Office of the Ohio Consumers' Counsel (Ohio Consumers' Counsel)  
Pacific Telesis (PacTel)  
Pennsylvania Public Utility Commission (Pennsylvania PUC)  
SBC Communications Inc. (SBC)  
Scheraga and Sheldon Associates (Scheraga and Sheldon)  
Secretary of Defense  
Sprint Corporation (Sprint)  
State of Alaska (Alaska)  
Telecommunications Information Services (TIS)  
Telecommunications Management Information Systems Coalition  
Telecommunications Research and Action Center (TRAC)  
Telecommunications Resellers Association (TRA)  
Tennessee Attorney General  
URSUS Telecom Corp. (Ursus)  
United States Telephone Association (USTA)  
US West, Inc. (U.S. West)  
UTC  
WinStar Communications, Inc. (WinStar)  
XIOX Corporation (XIOX)

**List of Reply Commenters in CC Docket No. 96-61, Sections III, VII, VIII, IX (Tariff Forbearance, CPE Bundling, Contract Tariff, Other Issues)**

Ad Hoc Telecommunications Users Committee, The California Bankers Clearing House Association, The New York Clearing House Association, ABB Business Services, Inc., and The Prudential Insurance Company of America (Ad Hoc Users)

American Petroleum Institute (API)

AT&T Corp. (AT&T)

Bell Atlantic Telephone Companies (Bell Atlantic)

BellSouth Corp. (BellSouth)

Casual Calling Coalition

Citizens Utilities Company (Citizens Utilities)

Consumer Electronics Retailers Coalition

Eastern Tel Long Distance Service, Inc. (Eastern Tel)

Frontier Corporation (Frontier)

General Services Administration (GSA)

GTE Service Corp. (GTE)

Independent Data Communications Manufacturers Association (IDCMA)

Information Technology Association of America (ITAA)

LCI International Telecom Corp. (LCI)

LDDS World Com (LDDS)

Louisiana Public Service Commission (Louisiana PSC)

MCI

MFS

New York State Department of Public Service

NYNEX Telephone Companies (NYNEX)

Office of the Ohio Consumers' Counsel (Ohio Consumers' Counsel)

Pacific Telesis (PacTel)

Pennsylvania Public Utility Commission (Pennsylvania PUC)

Sprint Corporation (Sprint)

Telecommunications Management Information Systems Coalition

Telecommunications Research and Action Center (TRAC)

Telecommunications Resellers Association (TRA)

US West, Inc. (U.S. West)

WinStar Communications, Inc. (WinStar)

XIOX Corporation (XIOX)

**List of Commenters in CC Docket No. 96-61, Sections IV, V, VI (Market Definition, Separation Requirements, Rate Averaging and Rate Integration)**

Alabama Public Service Commission (Alabama PSC)\*

America's Carriers Telecommunication Association (ACTA)

American Petroleum Institute (API)

American Public Communications Council (APCC)

**Ameritech****AMSC Subsidiary Corporation (AMSC)****AT&T Corp. (AT&T)****Bell Atlantic Telephone Companies (Bell Atlantic)****BellSouth Corp. (BellSouth)****Cable & Wireless, Inc. (Cable & Wireless)****Columbia Long Distance Service, Inc. (CLDS)****Competitive Telecommunications Association (CompTel)****Commonwealth of the Northern Mariana Islands****Florida Public Service Commission (Florida PSC)\*****Frank Collins****Frontier Corporation (Frontier)****General Communication, Inc. (GCI)****General Services Administration (GSA)****GTE Service Corp. (GTE)****Governor of Guam & the Guam Telephone Authority****Guam Public Utility Commission (Guam PUC)****Harvey William Ward (Ward)****Iowa Utilities Board****IT&E Overseas, Inc.****JAMA Corporation****John Stauralakis, Inc.****Kevin Loflin (Loflin)****Kristine Stark (Stark)****LDDS WorldCom (LDDS)****Louisiana Public Service Commission (Louisiana PSC)****MCI****MFS****Michael Sussman (Sussman)****Missouri Public Service Commission (Missouri PSC)\*****National Association of Regulatory Utilities Commissioners (NARUC)\*****NYNEX Telephone Companies (NYNEX)****Office of the Ohio Consumers' Counsel (Ohio Consumers' Counsel)****Pacific Telesis Group (PacTel)****Paul Lee (Lee)****Peggy Orlic (Orlic)****Pennsylvania Office of Consumer Advocate\*****Pennsylvania Public Utility Commission (Pennsylvania PUC)****Public Utilities Commission of Ohio****Rural Telephone Coalition****Scherer Communications Group****SBC Communications, Inc. (SBC)****Southern New England Telephone Company (SNET)****Sprint Corporation (Sprint)**

State of Alaska (Alaska)  
State of Hawaii (Hawaii)  
TCA, Inc.  
TDS Telecommunications Corp.  
Telecommunications Resellers Association (TRA)  
United States Telephone Association (USTA)  
U.S. West, Inc. (U.S. West)  
Vanguard Cellular Systems, Inc.  
Washington Utilities & Transportation Commission  
Zankle Worldwide Telecom (ZWT)\*

**List of Reply Commenters in CC Docket No. 96-61, Sections IV, V, VI (Market Definition, Separation Requirements, Rate Averaging and Rate Integration)**

ALLTEL Corporate Services, Inc.  
Ameritech  
AT&T Corp. (AT&T)  
Bell Atlantic Telephone Companies (Bell Atlantic)  
BellSouth Corp. (BellSouth)  
Citizens Utilities Company (Citizens Utilities)  
Commonwealth of the Northern Mariana Islands  
Competitive Telecommunications Association (CompTel)  
General Communication, Inc. (GCI)  
General Services Administration (GSA)  
GTE Service Corp. (GTE)  
Governor of Guam & the Guam Telephone Authority  
Guam Public Utility Commission (Guam PUC)  
LDDS WorldCom (LDDS)  
MCI  
MFS  
Missouri Office of the Public Counsel  
New York State Department of Public Service  
NYNEX Telephone Companies (NYNEX)  
Office of the Ohio Consumers Counsel (Ohio Consumers' Counsel)  
PCI Communications, Inc.  
Rural Telephone Coalition  
SBC Communications Inc. (SBC)  
Sprint Corporation (Sprint)  
State of Alaska (Alaska)  
State of Hawaii (Hawaii)  
Telecommunications Resellers Association (TRA)  
United States Telephone Association (USTA)  
U.S. West, Inc. (U.S. West)  
Vanguard Cellular Systems, Inc.

**APPENDIX B -- RULES****AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS**

Parts 42, 61 and 64 of Title 47 of the Code of Federal Regulations are amended as follows:

**PART 42 -- PRESERVATION OF RECORDS OF  
COMMUNICATION COMMON CARRIERS**

1. The authority citation for part 42 continues to read as follows:

**AUTHORITY:** Sec. 4(i), 48 Stat. 1066, as amended, 47 U.S.C. 154(i). Interprets or applies secs. 219 and 220, 48 Stat. 1077-78, 47 U.S.C. 219, 220.

2. New section 42.10 and a preceding centered heading are added to read as follows:

**Specific Instructions for Carriers Offering Detariffed Interexchange Services****§ 42.10 Public availability of information concerning detariffed interexchange services.**

A nondominant interexchange carrier shall make available to any member of the public, in at least one location, during regular business hours, information concerning its current rates, terms and conditions for all of its detariffed interstate, domestic, interexchange services. Such information shall be made available in an easy to understand format and in a timely manner. When responding to an inquiry or complaint from the public concerning rates, terms and conditions for such services, a carrier shall specify that such information is available and the manner in which the public may obtain the information.

3. New section 42.11 is added to read as follows:

**§ 42.11 Retention of information concerning detariffed interexchange services.**

(a) A nondominant interexchange carrier shall maintain, for submission to the Commission upon request, price and service information regarding all of the carrier's detariffed interstate, domestic, interexchange service offerings. The price and service information maintained for purposes of this subparagraph shall include, but not be limited to, the information that such carrier makes available to the public pursuant to section 42.10, as well as documents supporting the rates, terms, and conditions of the carrier's detariffed interstate, domestic, interexchange offerings. The information maintained pursuant to this subsection shall be maintained in a manner that allows the carrier to produce such records within ten business days.

(b) The price and service information maintained pursuant to this section shall be retained for a period of at least two years and six months following the date the carrier ceases to provide services pursuant to such rates, terms and conditions.

(c) A nondominant interexchange carrier shall file with the Commission, and update as necessary, the name, address, and telephone number of the individual(s) designated by the carrier to respond to Commission inquiries and requests for documents about the carrier's detariffed interstate, domestic, interexchange services.

#### PART 61 -- TARIFFS

4. The authority citation for part 61 continues to read as follows:

AUTHORITY: Secs. 1, 4(i), 4(j), 201-205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201-205, and 403, unless otherwise noted.

5. Section 61.3 is amended by revising paragraph (jj) to read as follows:

#### § 61.3 Definitions.

\* \* \* \* \*

(jj) Tariff publication, or publication. A tariff, supplement, revised page, additional page, concurrence, notice of revocation, adoption notice, or any other schedule of rates or regulations filed by common carriers.

\* \* \* \* \*

6. Sections 61.20 through 61.23 are redesignated as sections 61.21 through 61.24, and new section 61.20 is added to read as follows:

#### § 61.20 Detariffing of interstate, domestic, interexchange services.

Except as otherwise provided by Commission order, carriers that are nondominant in the provision of interstate, domestic, interexchange services shall not file tariffs for such services.

7. Section 61.72 is amended by revising introductory paragraph (a) and paragraph (b) to read as follows:

#### § 61.72 Posting.

(a) Offering carriers must post (i.e., keep accessible to the public) during the carrier's regular business hours, a schedule of rates and regulations for those services subject to tariff

filing requirements. This schedule must include all effective and proposed rates and regulations pertaining to the services offered to and from the community or communities served, and must be the same as that on file with the Commission. This posting requirement must be satisfied by the following methods:

\* \* \* \* \*

(b) The posting of rates and regulations for those services pursuant to paragraph (a) of this section shall be considered timely if they are available for public inspection at the posting locations within 15 days of their filing with the Commission.

8. Section 61.74 is amended by adding new paragraph (d) to read as follows:

**§ 61.74 References to other instruments.**

\* \* \* \* \*

(d) A tariff for international services offered by a carrier that is subject to detariffing for domestic, interstate, interexchange services, may reference other documents or instruments concerning the carrier's detariffed domestic, interstate, interexchange service offerings. A tariff for international services may contain such a reference if, and only if, it is necessary to incorporate information regarding the carrier's detariffed domestic, interstate, interexchange services in order to calculate discounts and minimum revenue requirements for international services provided in combination with detariffed domestic, interstate, interexchange services. Notwithstanding any such reference to documents or instruments concerning the carrier's detariffed domestic, interstate, interexchange service offerings, a tariff for international services shall specify rates, terms and conditions for the international service.

**PART 64 --MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

9. The authority citation for part 64 is revised to read as follows:

**AUTHORITY:** Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 254, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, 254, unless otherwise noted.

10. New subpart S consisting of section 64.1900 is added to part 64 to read as follows:

**Subpart S -- Nondominant Interexchange Carrier Certifications Regarding Geographic Rate Averaging and Rate Integration Requirements**

64.1900 Nondominant interexchange carrier certifications regarding geographic rate averaging and rate integration requirements.

**Subpart S -- Nondominant Interexchange Carrier Certifications Regarding Geographic Rate Averaging and Rate Integration Requirements**

**§ 64.1900 Nondominant interexchange carrier certifications regarding geographic rate averaging and rate integration requirements.**

(a) A nondominant provider of interexchange telecommunications services, which provides detariffed interstate, domestic, interexchange services, shall file with the Commission, on an annual basis, a certification that it is providing such services in compliance with its geographic rate averaging and rate integration obligations pursuant to section 254(g) of the Communications Act of 1934, as amended.

(b) The certification filed pursuant to paragraph (a) of this section shall be signed by an officer of the company, under oath.

## Separate Statement of

Commissioner Rachelle B. Chong

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

By this action, the Commission exercises its new forbearance authority to implement a mandatory detariffing policy for interstate, domestic, non-dominant interexchange carriers. I support eliminating the tariff filings of interexchange carriers because I believe that we ought to treat the long distance market like any other competitive business. I am confident that consumers will be the ultimate beneficiaries of the many benefits, such as lower prices and more choices, that will flow from our new forbearance policy.

I write separately, however, to express my disagreement with the Commission's decision that in essence continues to restrict nondominant interexchange carriers from bundling customer premises equipment ("CPE") with interstate, interexchange services. I would have preferred that we follow the path set forth in our Notice that nondominant, interexchange carriers would be allowed to bundle CPE with interstate, interexchange services. The CPE bundling restriction was adopted during the era of the Bell System. At that time, this restriction made sense. It promoted consumer choice by protecting an emerging CPE industry from potential anticompetitive activity by a carrier that could leverage its monopoly market power in transmission services into its provision of CPE.

During the past decade and a half, we have witnessed a transformation in both the CPE and long distance markets. Vigorous competition now exists in the CPE market and the Commission has already determined that no domestic interexchange carrier has market power in the provision of long distance service.<sup>1</sup> Moreover, no interexchange carrier currently provides long distance service and CPE on a vertically integrated basis. In sum, I believe that the competitive nature of both of these markets has eroded the basic premise for the existence of the CPE bundling restriction established in the 1980's.

Finally, I question the wisdom of today's decision with respect to raising issues relating to our rule prohibiting bundling of *enhanced services* with interstate, interexchange services. I remain unconvinced that the *enhanced service/interstate, interexchange service* bundling issue should prevent us from moving forward to eliminate the *CPE/interstate, interexchange services* bundling restriction. I view the question of whether we should eliminate the prohibitions against bundling CPE and long distance services as separate and distinct from issues related to the bundling of enhanced services and long distance services. Unfortunately, today's decision may create an unnecessary and artificial linkage between these issues.

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<sup>1</sup> *Motion of AT&T Corp. to be Reclassified as a Nondominant Carrier*, Order, 11 FCC Rcd 3271 (1995).