49. Apart from any revisions to our rules that we may adopt in this proceeding, the availability of this alternative to interstate access service may force incumbent LECs to move their access charges to more economically efficient levels, and may necessitate relief from mandatory access charge rate structures that are not economically efficient. We seek in this proceeding to explore ways in which we can harness competitive forces to further our efforts to make our system of interstate access charges more economically rational and compatible with competitive local markets. We also seek to adopt rules and policies that will facilitate a smooth transition from the current system to one that can be sustained in competitive local markets.

## II. ACCESS REFORM FOR INCUMBENT LOCAL EXCHANGE CARRIERS

### A. Application of Reforms to Price Cap Carriers and Non-Price Cap Carriers

50. Because our access charge rules apply only to dominant LECs, the focus of this proceeding is reform of our access charge regime that currently applies to incumbent LECs.[82] Although many of the reforms we propose in this Notice may be desirable changes to our regulation of non-price cap incumbent LECs, we are limiting the scope of this proceeding to incumbent LECs subject to price cap regulation,[83] with limited exceptions discussed below.

51. We note that price cap regulation governs almost 91 percent of the interstate access charge revenues[84] and more than 92 percent of the total incumbent LEC access lines.[85] Currently, all ten of the incumbent LECs with more than two million access lines and 13 of the 17 non-NECA incumbent LECs with more than 50,000 access lines are subject to price cap regulation.[86] The remaining incumbent LECs are telephone companies subject to various forms of rate-of-return regulation.[87] Therefore, even though this proceeding applies only to

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[82] We consider in Section VIII.A., *infra*, whether to establish access charge rules for non-incumbent LECs, or competitive LECs, to the extent they provide terminating access service.

[83] These incumbent LECs are the seven Regional Bell Operating Companies (Ameritech, Bell Atlantic, BellSouth, NYNEX, Pacific Bell, SBC, US West), Citizens, Frontier, GTE, Aliant (formerly Lincoln), SNET, and United/Central.

[84] Universal Service Fund Data Collection, CC Docket No. 80-286, Universal Service Fund 1996 Submission of 1995 Study Results by NECA, Oct. 1, 1996.

[85] Data based on LECs' 1995 and 1996 Annual Access Tariffs filed with the Commission.

[86] Data based on LECs' 1995 and 1996 Annual Access Tariffs filed with the Commission.

[87] *See, e.g.*, Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation, CC Docket No. 92-135, 8 FCC Rcd 4545 (1993), *recon. pending*.

price cap incumbent LECs, it would nonetheless affect the vast majority of all access lines and interstate access revenues.

52. The need for access reform is most immediate for those incumbent LECs that may soon be subject to competition from the availability of unbundled network elements. These are primarily the price cap incumbent LECs. Many, if not all, non-price-cap incumbent LECs may be exempt from, or eligible for a modification or suspension of, the interconnection and unbundling requirements of the 1996 Act.[88] By contrast, all incumbent LECs that are ineligible for section 251(f) exemptions, suspensions, or modifications are incumbent price cap LECs.[89] Because the latter incumbent LECs must fulfill the section 251(b) and (c) duties to provide interconnection and unbundled elements to new entrants,[90] these incumbent LECs are likely to face significant competition in the interstate exchange access market from new entrants using unbundled network elements before the small and mid-sized rate-of-return incumbent LECs face such competition. Thus, we conclude that we should focus our efforts here on the immediate task of reforming the access charge regime for price cap incumbent LECs. We plan to initiate a separate proceeding in 1997 to undertake comprehensive review of our regulation of rate-of-return incumbent LECs. That inquiry will take up the issue of whether substantial changes in our Part 69 cost allocation rules for the development of access charges for rate-of-return carriers are needed.[91]

53. We propose, however, limited exceptions to our decision to confine this proceeding to price cap incumbent LECs. Specifically, we propose to apply to all incumbent LECs the rules discussed in Section VII.A, which addresses allocation of universal service support to the interstate revenue requirement, and Sections III.D and E, which propose reforms to the transport rate structure, including the TIC. Because rate-of-return incumbent LECs will collect revenues from the new universal service support mechanism, we need to

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[88] For example, section 251(f)(1) exempts rural telephone companies from the requirements of section 251(c)(2) until the rural telephone company has received a bona fide request for interconnection, services, or network elements, and the state commission determines that the exemption should be terminated. In addition, section 251(f)(2) permits LECs with fewer than two percent of the nation's subscriber lines to petition a state commission for a suspension or modification of any requirements of sections 251(b) and (c).

[89] *See, e.g.*, USTA Holding Company Report, 1996.

[90] Although several incumbent price cap LECs may be eligible to request suspension or modification under section 251(f)(2) *(e.g.*, Citizens, Frontier, Aliant, and SNET), we note that these LECs may not receive state approval of any such petition for suspension or modification. For example, the Connecticut Department of Public Utility Control recently rejected a SNET request pursuant to section 251(f)(2) for limited suspension of the application of section 251(c)(4)(A). Connecticut Department of Public Utility Control, Docket No. 96-03-19, Petition of the Southern New England Telephone Company for Suspension of Section 251(c)(4) of the Telecommunications Act of 1996, May 17, 1996.

[91] 47 C.F.R. Part 69, Subparts D and E.

determine in this proceeding how these payments should alter the access charges currently assessed by such incumbent LECs. Moreover, any changes we adopt to the TIC pursuant to the court's remand in *CompTel v. FCC*[92] should also apply to rate-of-return incumbent LECs because their transport rules were subject to the rates that were remanded by the court in that decision. In Section III.B, we seek comment on whether we should also apply our proposed changes to the common line rate structure to rate-of-return incumbent LECs. In Section VIII.C., we seek comment on updating the Part 69 access rules in light of various developments. We seek comment on these tentative conclusions regarding the scope of this proceeding. We further invite parties to comment on the effect of these proposals and tentative conclusions on small business entities, including small incumbent LECs and new entrants.[93]

## B. Applicability of Part 69 to Unbundled Elements

54. Pursuant to our jurisdiction over interstate access charges under section 201 of the Act, we tentatively conclude that unbundled network elements should be excluded from the Part 69 access charge regime, regardless of whether the carrier that purchases unbundled network elements uses those elements to provide local exchange services or exchange access services.[94] Thus, when using unbundled network elements to originate and terminate interstate calls, requesting carriers should not be required to pay the Part 69 access charges corresponding to those elements. The 1996 Act permits telecommunications carriers that purchase access to unbundled network elements from incumbent LECs to use those elements to provide all telecommunications services to customers, including access in order to originate and terminate interstate calls.[95] The 1996 Act in turn requires requesting carriers to pay cost-based rates to compensate incumbent LECs for all such use of the unbundled network elements.[96] Thus, the requesting carrier has already paid for the ability to originate and terminate interstate calls. Nothing in the text of the 1996 Act compels telecommunications

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[92] Competitive Telecommunications Association v. FCC, 87 F.3d 522 (D.C. Cir. 1996) (*CompTel v. FCC*).

[93] *See* Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*

[94] In the *Local Competition Order*, we determined that section 251 allows entrants to use unbundled network facilities to provide access services to customers they win from incumbent LECs, without having to pay access charges. *Local Competition Order* at para. 717. We also established a temporary transition mechanism that would permit incumbent LECs to recover a certain portion of access charges from purchasers of unbundled network elements based on usage of the unbundled local switching element. *Local Competition Order* at paras. 716-25. These provisions are among those that have been stayed by the Eight Circuit. *Iowa Utilities Board et. al v. FCC.*

[95] *Local Competition Order* at para. 356; *Local Competition Reconsideration Order*, 11 FCC Rcd at 13048-49.

[96] 47 U.S.C. § 252(d)(1)(A).

carriers that use unbundled elements to pay interstate access charges, nor limits these carriers' ability to use unbundled elements to originate and terminate interstate calls. Nothing in sections 201-205 of the Act requires a contrary result. We seek comment on this tentative conclusion. We also note that the Part 69 interstate access charge rules do not apply to the transport and termination of local traffic provided pursuant to section 251(b)(5).[97]

## III. RATE STRUCTURE MODIFICATIONS

### A. Overview

55. We tentatively conclude that several provisions in Part 69 of our rules compel incumbent LECs to impose charges for access services in a manner that does not accurately reflect the way those LECs incur the costs of providing those services. For example, generally the costs associated with the local loop are non-traffic-sensitive (NTS), but our rules require incumbent LECs to recover a portion of those costs through per-minute CCL charges. Similarly, at least some portion of the costs of local switching is NTS, but our rules require incumbent LECs to recover all local switching costs through per-minute charges. In these and other cases, our rate structure rules do not send accurate pricing signals to customers, and consequently, encourage inefficient use of telecommunications services. These inaccurate pricing signals encourage uneconomic bypass of incumbent LEC facilities and could very well skew or limit the development of competition in the markets for telecommunications services. Furthermore, these rates may not be sustainable in the long run if unbundled network elements are made available at cost-based prices and used to provide exchange access services.

56. We propose to revise our rate structure requirements for switched access service by eliminating some rate structure requirements, prescribing some new requirements, or a combination of both. We tentatively conclude that, regardless of which of the approaches to access reform discussed in Section IV we choose, establishing more economically rational rate structure rules is a necessary first step in the new procompetitive era. We seek through these changes to establish rate structures for interstate access services that send more accurate pricing signals to both consumers and competitors. Below, we invite comment on proposals for rate structure rule changes to be applicable to all price cap incumbent LECs. Specifically, we invite comment on rate structure rule changes for common line, local switching, and transport. We then seek comment on a number of proposals for phasing out the transport interconnection charge, and on establishing rate structure rules for SS7 signalling services. With the exception of the transport rule revisions considered in Section III.D, and the revisions to the TIC considered in Section III.E, we propose applying the rate structure rule changes discussed in Section III only to incumbent price cap LECs. As noted in Section II,

[97] *Local Competition Order* at para. 1034.

rate structure revisions for non-price cap incumbent LECs will be addressed in a separate proceeding.

## B. Common Line

### 1. Background

57. Common line costs are the costs associated with the line connecting the end user's premises with the local switch that have been assigned to the interstate jurisdiction through the jurisdictional separations process. These costs are not traffic-sensitive.[98] A portion of the incumbent LEC's common line costs are recovered through EUCL charges, also called SLCs. These charges currently are limited to the actual cost of the interstate portion of the local loop or $3.50 per month for residential and single line business users, and $6.00 per month for multi-line business users.[99] The remaining common line costs, if any, are recovered through carrier common line charges, which are per-minute rates imposed on access customers.[100]

58. The current common line rate structure, in which only a portion of common line costs are recovered through flat monthly rates, does not reflect the manner in which loop costs are incurred. As a result, the common line rate structure forces incumbent LECs to recover costs in an economically inefficient manner, and so may cause inefficient use of the network and uneconomic bypass, as discussed in Section III.A, above. Furthermore, in the original *Access Charge Order*, the Commission found that recovering NTS costs through flat monthly charges imposed on end users by incumbent LECs would promote optimal utilization of telecommunications facilities.[101] The Commission decided at that time, however, to place a limit on the SLC, and, consequently, required incumbent LECs to recover the remainder of their common line costs through per-minute CCL rates.[102] The current CCL charge has been uniformly criticized by both incumbent LECs and IXCs because it discourages efficient use of the network and encourages uneconomic bypass. We invite comment below on alternative common line rate structures.

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[98] *See, e.g.*, Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, 5 FCC Rcd 6786, 6793 (1990) (*LEC Price Cap Order*); Erratum, 5 FCC Rcd 7664 (Com. Car. Bur. 1990); *modified on recon.*, 6 FCC Rcd 2637 (1991) (*LEC Price Cap Reconsideration Order*); *aff'd sub nom.* National Rural Telecom Ass'n v. FCC, 988 F.2d 174 (D.C. Cir. 1993).

[99] *See* 47 C.F.R § 69.104.

[100] *See* 47 C.F.R § 69.105.

[101] *Access Charge Order*, 93 FCC 2d at 279.

[102] *Access Charge Order*, 93 FCC 2d at 284.

### 2. Alternative Methods of Recovery of CCL Portion of Subscriber Loop Costs

59. The Joint Board in its *Recommended Decision* recognized that the current, traffic-sensitive CCL charge structure is economically inefficient because the charge requires incumbent LECs to recover a non-usage-sensitive cost in part through a usage-sensitive charge.[103] The Joint Board suggested that the Commission change the existing rate structure so that incumbent LECs are no longer required to recover any of the NTS cost of the local loop from IXCs on a per-minute basis.[104] The Joint Board noted that it would be preferable for costs related to the loop to be recovered in a manner that is consistent with the manner in which the costs are incurred.[105] Because the cost of a loop generally does not vary with the minutes of use transmitted over the loop,[106] the Joint Board concluded that the current CCL charge that mandates recovery of a portion of loop costs through per-minute charges is an inefficient cost-recovery mechanism.

60. We seek comment on possible revisions to the current CCL charge structure so that incumbent price cap LECs are no longer required to recover any of the NTS costs of the loop from IXCs on a traffic-sensitive basis. One possible alternative, mentioned by the Joint Board, involves permitting incumbent LECs to recover the costs not recovered from SLCs through a flat, per-line charge paid by IXCs.[107] An administratively simple mechanism for recovery of such a flat-rate charge would be to assess it against each customer's presubscribed interexchange carrier (PIC). If carriers seek to pass on that charge to end users, however, such an approach might encourage end users not to select a PIC. To resolve this problem, the Joint Board suggested that the Commission allow incumbent LECs to collect the flat-rate charge that would otherwise be assessed against the PIC directly from any customer who elects not to choose a PIC.[108] We seek comment on this approach and invite parties to discuss the potential problem created when end-user customers have selected PICs but use other IXCs for Internet, fax, interexchange or other interstate services by "dialing-around" the PIC.

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[103] *Joint Board Recommended Decision* at para. 776.

[104] *Joint Board Recommended Decision* at para. 776.

[105] *Joint Board Recommended Decision* at para. 775.

[106] *Joint Board Recommended Decision* at para. 775, n.2480.

[107] *Joint Board Recommended Decision* at para. 776.

[108] *Joint Board Recommended Decision* at para. 776.

61. The Competition Policy Institute (CPI) has suggested several other alternatives to the per-minute recovery of interstate NTS loop costs.[109] For example, interstate NTS loop costs may be recovered through "bulk billing," in which carriers are assessed a charge based upon their percentage share of interstate minutes of use or revenues. An additional possible approach to recovering interstate NTS loop costs is a "capacity charge" assessed on carriers based upon the number and type of trunks that they purchase from the incumbent LECs. Alternatively, LECs could assess a "trunk port charge" to each carrier based upon the number of trunk-side ports, or connections it has to the local switch. Another possibility is a "trunk port and line port" charge, which would be based upon the number of trunk-side ports and the number of line-side ports. We seek comment on these approaches to recovery of interstate NTS local loop costs and ask parties to propose other efficient recovery mechanisms. We invite parties to comment on whether any changes that we adopt to the recovery of interstate NTS local loop costs for price cap LECs should be extended to rate-of-return LECs, and the relationship of interstate NTS loop cost recovery under access charges to the *Joint Board Recommended Decision*. Interested parties should address how such an extension to rate-of-return LECs would affect small business entities, especially small incumbent LECs.[110]

62. Parties should also address whether, in the event that we eliminate the SLC cap for lines used by multi-line business customers and residential lines beyond the primary residential line as discussed below, we need to adopt an alternative mechanism for recovering common line costs currently recovered through the CCL charge imposed on such lines. We also seek comment, in conjunction with our market-based approach to access reform, on the circumstances under which we should grant LECs rate structure flexibility in their recovery of interstate common line costs from IXCs. Interested parties should also address the extent to which any proposed alternative recovery mechanism for recovering common line costs currently recovered through the CCL charge will affect small business entities, including small incumbent price cap LECs and new entrants.[111]

63. Finally, we seek comment on whether there are any limitations on our authority to assess flat-rated CCL charges on IXCs. In particular, we note that section 254(g) also requires IXCs to charge their subscribers in rural and high cost areas within a state the same rates they charge to their subscribers in urban areas in that state. Section 254(g) also requires IXCs to charge their subscribers in each state rates no higher than the rates charged to

[109] Ideas for Access Charge Reform, prepared by the Competition Policy Institute, Dec. 5, 1996, at 3-4.

[110] *See* Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*

[111] *See* Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*

subscribers in any other state.[112] Would this requirement preclude an IXC from charging its customers the flat monthly rate assessed for that line if the amount of that charge varied among states, or between urban and rural areas within a state? If so, do conditions exist sufficient to require the Commission to forbear from the application of section 254(g) to IXC recovery of flat-rate CCL charges? Parties should also address the effect of section 254(g) if CCL charges vary among the states, but end-user rates may not vary.

### 3. Alternative Methods of Recovery of SLC Portion of Subscriber Loop Costs

64. In its *Recommended Decision*, the Joint Board determined that eligible carriers should receive support for designated services carried on the initial connection to a customer's primary residence and single-line business customers.[113] The Joint Board, however, recommended that universal service support should not be provided for multi-line business or residential connections beyond the primary residential connection.[114] The Joint Board further concluded that the current $3.50 SLC cap for primary residential and single-line business lines should not be increased, but did not state that the SLC cap should be maintained for multi-line business or residential connections beyond the primary residential connection.[115] Loop costs not recovered from the current multi-line business SLCs, and SLCs for residential lines in addition to the primary connection, are recovered through usage-sensitive CCL charges, which in turn are recovered from toll users. Since end user customers of multi-line business and multiple-line residential services do not necessarily make large numbers of toll calls, the toll payments of these end users may not cover the portion of loop costs not recovered through the SLC. Moreover, toll rates are higher than they otherwise would be, which discourages demand for such services.

65. For these reasons, we propose to increase the cap on the SLC for the second and additional lines for residential customers and for all lines for multi-line business customers to the per-line loop costs assigned to the interstate jurisdiction. This would allow incumbent LECs to recover interstate common line costs for multi-line business customers and for

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[112] 47 U.S.C. § 254(g). *See also* Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as Amended, CC Docket No. 96-61, Report and Order, 11 FCC Rcd 9564 (1996).

[113] *Joint Board Recommended Decision* at paras. 90-91.

[114] *Joint Board Recommended Decision* at paras. 89-92.

[115] *Joint Board Recommended Decision* at para. 769. We note that the Joint Board recommended that, in the event the Commission assesses carriers' universal service contributions based on all telecommunications revenues regardless of jurisdictional classification, the SLC cap for primary residential and single-line-business local exchange subscribers, as well as the CCL charge, should be reduced after removal of LTS and pay telephone costs from the CCL rate element. *Id.* at para. 773.

residential connections beyond the primary residential connection in a manner consistent with the way costs are incurred. Alternatively, we could eliminate the cap for multi-line business customers and for residential connections beyond the primary connection, especially where the incumbent LEC has entered into interconnection agreements and taken other steps to lower barriers to actual or potential local exchange competition. Under that approach, we would not prohibit an incumbent LEC from charging a SLC for second and additional lines for residential customers and for all lines for multi-line business customers that exceeds the per-line loop costs assigned to the interstate jurisdiction. We emphasize that this proposal would not affect the current cap of $3.50 on the SLC that is charged to a residential customer's primary line and to a single-line business customer. We invite parties to comment on this proposal. We also invite parties to comment on whether any changes that we adopt to the cap on SLCs for price cap LECs should be extended to rate-of-return LECs, and the relationship of any such changes to the *Joint Board Recommended Decision*. Interested parties should address how applying such a cap on SLCs to rate-of-return LECs would affect small business entities, especially small incumbent LECs.[116]

66. In the event we decide to increase or eliminate the cap on SLCs for multi-line business lines and residential lines in addition to the primary line, we also solicit comment on whether we should establish a transition mechanism for this increase, whether such a transition could be implemented consistent with section 254, and if so, how long this transition period should be. We propose establishing no transition period if the increase in the SLC is less than one dollar, and establishing a three-year transition period if the increase is one dollar or more, but we invite comments on other alternatives in addition to these.

67. Finally, we seek comment on whether we should permit or require incumbent LECs to deaverage SLCs as part of the baseline rate structure that would be imposed on all incumbent price cap LECs.[117] In particular, we note that section 254(e) requires us to adopt only explicit support subsidies for universal service support. We seek comment on whether geographic averaging of SLCs is an implicit subsidy that is inconsistent with the requirements of section 254(e), and thus on whether we are required to deaverage SLCs.

[116] *See* Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*

[117] In Section V, *infra*, we also invite comment on whether we should permit incumbent LECs to deaverage SLCs, and other access charges, as part of any market-based approach to access reform that we may adopt.

### 4. Assessment of SLCs on Derived Channels

68. Integrated services digital network (ISDN) services permit digital transmission over ordinary local loops through the use of advanced hardware and software.[118] ISDN offers data transmission at higher speeds and with greater reliability than standard analog service. Most incumbent LECs currently offer two types of ISDN service, Basic Rate Interface (BRI) service and Primary Rate Interface (PRI) service. BRI service allows a subscriber to obtain two voice-grade-equivalent channels and a signalling/data channel over an ordinary local loop, which generally is provided over a single twisted pair of copper wires.[119] PRI service allows subscribers to obtain 23 voice-grade-equivalent channels and one data signalling channel over two pairs of twisted copper wires.[120] BRI service generally is used by individuals and small businesses, and PRI service generally is used by larger businesses. LEC services other than ISDN use derived channel technology to provide multiple channels over a single facility.[121] The LECs also use derived channel technologies within their networks, for example, to provide customers with individual local loops. In such situations, the end user generally is not aware that the LEC is using this technology.

69. In the *ISDN SLC NPRM*, we noted that the application of SLCs under our existing rules to ISDN services may discourage demand for these services, and we sought comment on

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[118] In order for a LEC to provide ISDN, it must have a digital switch in the central office serving the customer, and substitute an ISDN line or trunk card for the standard cards that would otherwise be used in the central office with the loop facilities serving the customer. The customer also must use special ISDN-capable customer premises equipment.

[119] The two voice-grade-equivalent channels, which are called bearer or B channels, can be used for voice local exchange service or for data transmission at speeds up to 64 kbps. The third channel is a 16 kbps data channel, called the delta or D channel, which is used for signalling and packet data services. The Bell Atlantic Telephone Companies Petition for Waiver of Section 69.104 of the Commission's Rules in Connection with ISDN Services (filed Feb. 10, 1995) at 4 n.8 (*Bell Atlantic Waiver Petition*).

[120] In the case of PRI ISDN, the 23 B channels and the D channel can transmit voice or data at speeds up to 64 kbps. When a customer has more than one PRI connection at a given location, all of the B channels can share a single D channel, permitting the customer to obtain 24 voice-grade-equivalent channels for each PRI connection after the first one. *Bell Atlantic Waiver Petition* at 4, n.8

[121] For example, NYNEX Telephone Companies (NYNEX) uses derived channel technology to provide FLEXPATH service, which provides a customer with 24 digital voice-grade-equivalent trunk channels over a T-1 facility between a suitably equipped central office and a digital PBX. PBX Conversion Service, another NYNEX offering, provides digital trunking capability, with up to 24 trunk access lines, between a customer's digital PBX and an analog-to-digital interface located at the central office switch. NYNEX's Data Over Voice service provides customers with a voice-grade channel and a data channel over a single copper pair. Memorandum Opinion and Order, NYNEX Telephone Companies Revisions to Tariff F.C.C. No. 1, 7 FCC Rcd 7938 n.11 (Com. Car. Bur. 1992), *aff'd on recon.*, 10 FCC Rcd 2247 (1995). Several other LECs provide similar services using derived channel technology. *See, e.g.*, Cincinnati Bell Comments at 6.

whether more than one subscriber line charge should be applied to ISDN services, and if so, how many charges.[122] Several parties submitted comments in response to that Notice, and those parties are listed in Appendix A.[123] All of the commenting parties except AT&T oppose our current rule that assesses a SLC per derived channel.[124] Almost all of the LECs, user groups, equipment manufacturers, IXCs, and other commenters support a rule that would assess a SLC for each pair of copper wires,[125] or a SLC for each ISDN facility.[126] Under such a rule, LECs would assess one SLC for BRI service and one or two SLCs for PRI service. Many parties, including at least one BOC, support assessing SLCs for ISDN based on the relative NTS costs of providing ISDN service compared to standard analog service.[127]

70. As shown in Table 2 below, the cost data submitted in response to the *ISDN SLC NPRM*[128] indicates that the ratio of NTS costs of BRI ISDN to standard analog service is approximately 1.24 to 1. The ratio of NTS costs of PRI ISDN to standard analog service, excluding NYNEX's data, is roughly 10.5 to 1. As shown in Table 3, NYNEX's data appear to be outliers and are therefore excluded from the calculation of the average ratio for PRI

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[122] End User Common Line Charges, CC Docket No. 95-72, Notice of Proposed Rulemaking, 10 FCC Rcd 8565 (1995) (*ISDN SLC NPRM*).

[123] We incorporate by reference in this proceeding all pleadings filed in response to the *ISDN SLC NPRM*, as listed in Appendix A. Citations to "Comments" or "Replies" in this Section of the Notice therefore refer to pleadings filed in response to the *ISDN SLC NPRM*. Parties may attach their *ISDN SLC NPRM* comments as appendices and incorporate them by reference.

[124] *Compare* AT&T Comments at 3-4 *with, e.g.*, America Online Comments at 8-10 (*citing* U.S. Industrial Outlook 1994, U.S. Department of Commerce at 25-1, January 1994, and citing *Bell Atlantic Waiver Petition* at 7-8, which estimates that requiring a SLC per derived channel would reduce demand for BRI service by about 60 percent and demand for PRI service by about 35 percent); Cable & Wireless Comments at 3-4; Microsoft Comments at 4; TCA Comments at 4; ITIC Reply at 3; Roseville Reply at 4; Northern Telecom Reply at 5; Bell Atlantic Reply at 3.

[125] *See, e.g.*, Roseville Comments at 2; TCA Comments at 1; Tennessee Public Service Commission Comments at 2-3.

[126] *See, e.g.*, Ameritech Comments at 2; BellSouth Comments at 4-5; Cincinnati Bell Comments at 3, 6; NTCA Comments at 1-2; NYNEX Comments at 16; Southwestern Bell Comments at 3; USTA Comments at 2; 3Com Reply at 6.

[127] The California Bankers' Clearing House Comments at 4; US West Comments at 4; AT&T Comments at 5; AT&T Reply at 5.

[128] In their responses, three of the BOCs, BellSouth, NYNEX, and Southwestern Bell, asked for confidential treatment of portions of the information submitted. NYNEX publicly filed the information we requested, but submitted as confidential additional information that contained more detailed cost data. The confidential data were not necessary to perform our analysis, and the following tables only include data that was filed on the public record. We have returned to the respective companies data for which confidential treatment was sought.

ISDN to standard analog service because the ratios of its outside plant and NTS costs for PRI ISDN to standard analog service are almost twice those of other incumbent LECs. Interested parties filed their comments in the *ISDN SLC* proceeding prior to the enactment of the 1996 Act. We ask for comment on the effect of the 1996 Act on determining how many SLCs should be applied to ISDN services. Finally, we solicit comment on whether mandatory rate structures or rate caps should be prescribed for ISDN service or other derived channel services.

**TABLE 2**
**Ratio of Costs of Standard Analog Service to BRI ISDN Service**

| | Outside Plant (loop only) costs | All NTS costs |
|---|---|---|
| Ameritech | 1:1.07 | 1:1.45 |
| Bell Atlantic | 1:1.01 | 1:1.36 |
| NYNEX | 1:0.85 | 1:1.23 |
| Pacific Bell | 1:1.05 | 1:1.13 |
| US West | 1:0.80 | 1:1.07 |
| | | |
| Average ratio of costs | **1:0.96*** | **1:1.24*** |

**TABLE 3**
**Ratio of Costs of Standard Analog Service to PRI ISDN Service**

| | Outside Plant (loop only) costs | Outside Plant (loop only) costs (excluding NYNEX) | All NTS costs | All NTS costs (excluding NYNEX data) |
|---|---|---|---|---|
| Ameritech | 1:5.68 | 1:5.68 | 1:8.9 | 1:8.9 |
| Bell Atlantic | 1:4.13 | 1:4.13 | 1:15.80 | 1:15.80 |
| NYNEX | 1:10.94 | excluded | 1:27.74 | excluded |
| Pacific Bell | 1:4.67 | 1:4.67 | 1:8.70 | 1:8.70 |
| US West | 1:5.33 | 1:5.33 | 1:10.60 | 1:10.60 |
| | | | | |
| Average ratio of costs | **1:6.5*** | **1:4.95*** | **1:15.13*** | **1:10.5*** |

*Averages may differ due to rounding.

## C. Local Switching

71. The local switch connects a call coming in on one line or trunk to another line or trunk connected to the switch. A local switch consists of line and trunk cards, and an analog or digital switching system. Line cards provide interfaces between subscriber lines and the switch. Trunk cards or "ports" provide interfaces between the switch and interoffice trunks. Because line cards, as well as trunk cards, are deployed within the central office, they are accounted for in the switching accounts of the USOA. These costs are therefore included in the switching category for separations and cost allocation purposes. The central processing portion of the switch performs the routing function based on the telephone numbers dialed by the end user placing the call.

### 1. Non-Traffic-Sensitive Charges

72. Currently, Section 69.106 of our rules requires incumbent LECs to charge per-minute rates for local switching.[129] A significant portion of local switching costs, however, likely do not vary with usage. For example, the costs associated with line cards or line-side ports appear to vary with the number of loops connected to the switch, not with the level of traffic over the loops. We tentatively conclude that it is more reasonable and economically efficient to recover dedicated line card costs through flat charges.[130] We solicit comment on establishing a flat rate element for NTS local switching costs. We also invite commenters to recommend methods of identifying line card costs and other NTS local switching costs.

73. The central processing portion of the switch, and many trunk-side ports, are shared local switching facilities because they are used to carry the traffic of several access customers, and so should be priced on a usage-sensitive basis. By contrast, because trunks for dedicated transport service are dedicated to individual IXCs, ports for dedicated transport service also appear dedicated to individual customers, and, consequently, the charges for such facilities should be flat-rated. While flat rates appear reasonable for recovering costs associated with dedicated ports and line cards, it is not clear what rate structure would best reflect the manner in which incumbent LECs incur costs associated with shared local switching facilities. If all shared local switching costs are driven by the number of lines and trunks served by the switch, flat rates would appear appropriate.[131] On the other hand, usage-

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[129] *See* 47 C.F.R. § 69.106.

[130] *See* Letter from Anthony Alessi, Federal Relations Director, Ameritech, to William F. Caton, Acting Secretary, FCC, Dec. 6, 1996 (*Ameritech December 6 Letter*), at 8.

[131] We sought comment on this approach in the *Local Competition NPRM*, noting that the Illinois Commerce Commission was considering a "local switching platform" approach for local switching prices at the time we adopted that Notice. *Local Competition NPRM* at paras. 100, 153. We concluded that a state could reasonably find that capacity-based flat rates reasonably reflect the costs of shared facilities. *Local Competition*

sensitive charges might better reflect the way incumbent LECs incur costs for shared local switching facilities. Finally, a combination of flat-rate and usage-sensitive charges may best reflect cost causation principles. AT&T and MCI have argued that a substantial portion of local switching costs are non-usage-sensitive, and the local switching rate structure, therefore, should include both usage-sensitive and non-usage-sensitive rate elements.[132] Ameritech has stated that, for a majority of the switches in its network, more than 40 percent of switching costs are NTS.[133] We seek comment generally on this analysis, and on how we should establish an appropriate, efficient rate structure for switching. We note that states may be considering this same issue in the context of establishing rates for unbundled local switching, and we seek comment on, and analysis of how, states are addressing these issues under Section 252.

### 2. Traffic-Sensitive Charges

74. In the following paragraphs, we seek comment on a number of specific proposals for rate structures governing rates designed to recover usage-sensitive local switching costs. Interested parties should discuss which of these rate structure proposals most accurately reflect traffic-sensitive local switching costs, and whether we should permit or require incumbent LECs to assess these traffic-sensitive charges. Parties advocating a particular rate structure should address all the issues raised by that approach. We also invite parties to propose other rate structures.

#### a. Call-Setup Charges

75. Call setup is the process of establishing a transmission path over which a phone call will be routed. We could permit or require incumbent LECs to develop call-setup charges if we find that usage-sensitive charges might better reflect the way they incur certain costs for shared local switching facilities. The per-minute rate structure prescribed by Part 69 for local switching does not separately address costs that incumbent LECs may incur for call setup and takedown. Call-setup costs would be incurred for each call regardless of its duration or whether it is completed. Because no separate charge exists for call setup, incumbent LECs must recover these costs through the per-minute local switching charges, or possibly through other rate elements.[134] Thus, longer-duration calls recover a greater portion

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*Order* at para. 757.

[132] *Local Competition Order* at para. 799.

[133] Access Reform Recommendation, Ameritech, Oct. 9, 1996, at Attachment. For 5ESS switches, however, Ameritech asserts that only three percent of local switching costs are not traffic-sensitive. *Id.*

[134] It is possible that some SS7 call-setup costs are currently recovered through the TIC.

of call-setup costs than shorter calls even if they do not impose greater call-setup costs. A per-call rate element for call setup would more rationally reflect these costs.

76. In the past, the Commission has rejected incumbent LEC petitions for waiver of Part 69 for purposes of imposing a call-setup charge, on the grounds that such proposals should be considered in a broader rulemaking.[135] Accordingly, we now seek comment on whether we should permit or require incumbent LECs to include a call-setup charge in their local switching rate structures. We also request comment on the extent to which the current local switching rate element recovers costs that vary with the number of calls, rather than their duration. Should a call-setup charge apply to all call attempts, or only to completed calls? We seek comment on whether incumbent LECs incur different call-setup costs depending on whether a call is delivered via direct-trunked or tandem-switched transport service, and on the different costs incurred when multifrequency (MF) and SS7 signalling are used for call setup. Finally, we invite comment on whether any of these cost differences should be reflected by establishing different charges for different kinds of call setup. To the extent that parties support a separate charge for SS7 call setup, those parties should explain how such a charge would be consistent with the rate structure for other SS7 services we discuss below.

#### b. Peak and Off-Peak Pricing

77. We could direct or allow incumbent LECs to develop peak and off-peak pricing for shared local switching facilities. When incumbent LECs select the types of switches that they will deploy in their networks, they base their decisions on the anticipated peak demand.[136] Thus, incumbent LECs arguably should be permitted to establish separate rate elements for local switching provided during peak periods and off-peak periods. The peak prices would be per-minute rates, and designed to recover the costs of additional capacity that an incumbent LEC must install to meet the peak demand. Because off-peak traffic requires no additional capacity, the costs of this traffic are lower, and accordingly, the access charges for that traffic should be lower as well.

78. We previously sought comment on peak and off-peak pricing in the *LEC/CMRS NPRM*,[137] and addressed those comments in the *Local Competition Order*.[138] We recognized

[135] Bell Atlantic Telephone Companies, Petition for Waiver of Sections 69.106 and 69.205 of the Commission's Rules to Permit a Call Setup Charge, Memorandum Opinion and Order, 4 FCC Rcd 7210 (Com. Car. Bur. 1989); US West Communications, Inc., Petition for Waiver of Part 69 of the Commission's Rules, Order, 7 FCC Rcd 4043 (Com. Car. Bur. 1992). Pacific Bell filed a similar petition on June 30, 1994.

[136] *See generally*, Engineering and Operations in the Bell System (2nd ed., 1983).

[137] Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket No. 95-185, Notice of Proposed Rulemaking, 11 FCC Rcd 5020, 5042 (1996).

in the *Local Competition Order* that there might be practical problems with a rate structure that had different peak and off-peak pricing.[139] Therefore, we did not mandate a peak-sensitive rate structure for unbundled network elements,[140] although we also did not preclude use of peak/off-peak pricing. Parties supporting requiring rather than merely permitting peak and off-peak pricing for local switching should explain why this rate structure is more suitable for access rates than it is for unbundled network elements.[141]

#### c. Current Rate Structure

79. As another alternative, we could retain the existing per-minute local switching rate structure. Because a significant portion of local switching costs may not vary with minutes of use, however, the existing rate structure may be less desirable than the other options discussed above. We invite parties supporting the current rate structure to explain why they believe that it adequately reflects the manner in which traffic-sensitive local switching costs are incurred.

## D. Transport

### 1. Background

80. Transport service is the component of interstate switched access service corresponding to the transmission and switching of traffic between incumbent LEC end offices and IXC POPs. Part 69 of our rules requires incumbent LECs to develop charges for transport service that may not reflect in some cases the manner in which they incur the costs of providing these services.[142] Thus, as we discussed with respect to local switching charges above, it may be necessary to revise our Part 69 rate structure requirements for transport services.

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[138] *See Local Competition Order* at para. 756.

[139] *See Local Competition Order* at para. 756.

[140] *See Local Competition Order* at para. 757.

[141] In 1986, the Commission concluded that peak and off-peak pricing might better reflect the manner in which incumbent LECs incur costs in providing traffic-sensitive access services. Nevertheless, because of the potential difficulties in determining the peak period, and other issues discussed in this section, the Commission did not require carriers to develop peak-sensitive access rate structures. Instead, the Commission stated that it would consider granting waivers of its Part 69 rules to permit incumbent LECs to develop voluntarily peak and off-peak pricing for traffic-sensitive access services, and would permit incumbent LECs to submit tariffs establishing such a rate structure at the same time they filed their petition for waiver. WATS-Related and Other Amendments of Part 69 of the Commission's Rules, CC Docket No. 86-1, Report and Order, FCC 86-115 (rel. Mar. 21, 1986), at paras. 35-37.

[142] *See* 47 C.F.R. §§ 69.110, 69.111, 69.112, 69.124.

81. Since December 1993, transport has been provided pursuant to interim rules[143] that replaced the "equal charge per unit of traffic" requirement of the *MFJ*.[144] We required incumbent LECs to establish flat rates for: (1) "entrance facilities," transport service from the IXC POP to the SWC, and (2) "direct-trunked transport," transport service from a SWC to an end office on dedicated facilities without switching at a tandem switch.[145] In addition, incumbent LECs were directed to establish usage-based charges for "tandem-switched transport," a transport service from the SWC to the end office that provides switching at a tandem switch. The tandem-switched transport service charge includes an interoffice transmission charge, and a charge for the tandem switch.[146]

82. The initial rate levels for direct-trunked transport were generally presumed reasonable if they were based on rates for comparable special access services.[147] The per-minute tandem-switched transport transmission charge was based on assumptions about average monthly DS1 and DS3 usage.[148] The charge for the tandem switch was initially set to recover 20 percent of the Part 69 tandem revenue requirement.[149] Finally, to make the restructure revenue neutral initially, we required incumbent LECs to establish a non-cost-based transport interconnection charge (TIC), to recover the revenue difference between what the LECs would have realized under the equal charge rate structure and what they would realize from the interim facility-based transport rates, including the remaining 80 percent of the tandem revenue requirement.[150]

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[143] Transport Rate Structure and Pricing, CC Docket No. 91-213, 7 FCC Rcd 7006 (1992) (*First Transport Order*); *recon.* 8 FCC Rcd 5370 (1993) (*First Transport Reconsideration Order*); *further recon.* 8 FCC Rcd 6233 (1993) (*Second Transport Reconsideration Order*); *further recon.* 10 FCC Rcd 3030 (1994) (*Third Transport Reconsideration Order*); *further recon.* 10 FCC Rcd 12979 (1995) (*Fourth Transport Reconsideration Order*).

[144] *See MFJ*, 552 F.Supp. at 233-34.

[145] *First Transport Order*, 7 FCC Rcd at 7009-10.

[146] *First Transport Order*, 7 FCC Rcd at 7010.

[147] *First Transport Order*, 7 FCC Rcd at 7034-35.

[148] *First Transport Order*, 7 FCC Rcd at 7036-37.

[149] *First Transport Order*, 7 FCC Rcd at 7037-38.

[150] *First Transport Order*, 7 FCC Rcd at 7038. The TIC is a non-facilities-based, usage-sensitive charge that currently accounts for some 70 percent of incumbent LEC transport revenues. In *CompTel v. FCC*, the court has directed the Commission to eliminate the TIC, or to provide a reasoned explanation for retention of this non-cost-based rate element. 87 F.3d at 532. The TIC is sometimes referred to as the Residual Interconnection Charge (RIC) or Residual Charge, because it was initially priced on a residual basis.

83. Subsequently, in the *First Transport Reconsideration Order*, the Commission required incumbent LECs to offer two pricing options for tandem-switched transport service. First, an IXC may purchase tandem-switched transport at usage-sensitive rates with any mileage component computed on the basis of the distance between the SWC and the end office, regardless of the actual physical routing. Second, an IXC may purchase direct-trunked transport between the SWC and the tandem office and usage-rated tandem-switched transport between the tandem office and the end office, with any tandem-switched transport mileage component computed on the basis of the distance between the tandem office and the end office.[151]

84. In this section, we seek comment on whether to revise the facility-based components of the transport rate structure. In the following section, we seek comment on phasing out the TIC. Unlike the other rate structure rules we consider in Section III, we contemplate imposing any rules adopted relating to the transport rate structure or the TIC on all incumbent LECs. We propose, for reasons articulated in the *First Transport Order*,[152] that the transport rate structure be divided into three parts: (1) charges for entrance facilities; (2) charges for direct-trunked transport service; and (3) charges for tandem-switched transport service. We seek comment on adopting this basic framework for the transport rate structure rules. In commenting on the transport issues in this section, parties should bear in mind the interrelationship of these issues with those relating to the TIC, which is discussed in Section III.E, below.

85. We also seek comment here and in Section III.E on the issues remanded in *CompTel v. FCC*, in which the court remanded the Orders in which we established the transport rate structure rules.[153] The court held that we did not adequately explain our decision to require incumbent LECs to charge a non-cost-based TIC.[154] The court remanded our decision to set the tandem-based transport rate element to recover 20 percent of the Part 69 tandem revenue requirement and to allocate the remaining revenue requirement to the TIC, because the Commission did not adequately explain why 20 percent would be more equitable than some other allocation.[155] The court also found that we did not explain our decision to require incumbent LECs to allocate a greater proportion of overhead costs to the tandem-

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[151] *First Transport Reconsideration Order*, 8 FCC Rcd at 5372. *See also Third Transport Reconsideration Order*, 10 FCC Rcd at 3036 and 3037, Figure 2; 47 C.F.R. §§ 69.111, 69.112; *Transport Order*, 7 FCC Rcd at 7009 n.7, and 7077, Diagram 3.

[152] *First Transport Order*, 7 FCC Rcd at 7016-19.

[153] *CompTel v. FCC*, 87 F.3d at 532-33.

[154] *CompTel v. FCC*, 87 F.3d at 529-31.

[155] *CompTel v. FCC*, 87 F.3d at 531-32.

switched transport switching charge than to direct-trunked transport service rates.[156] We address the TIC issue in Section III.E below, and the other two remand issues in this section.

### 2. Entrance Facilities and Direct-Trunked Transport Services

86. For entrance facilities and direct-trunked transport service, we tentatively conclude that the transport rate structure rules should mandate flat-rated charges. These transport facilities appear to be dedicated to individual customers, and we believe that flat rates reflect the way incumbent LECs incur costs for dedicated facilities. We invite comment on this tentative conclusion. We also seek comment on whether incumbent LECs should be permitted to offer transport services differentiated by whether the LEC or the IXC is responsible for channel facility assignments.[157] In the past, Ameritech and Bell Atlantic have sought waivers of our Part 69 rules to offer such a switched access service, alleging that it would permit them to utilize the access network more efficiently.[158] We seek comment on whether any rules beyond those included in the interim rules are necessary to govern rate levels for these services.

### 3. Tandem-Switched Transport Services

#### a. Rate Structure

87. We present several options for the rate structure associated with tandem-switched transport service facilities. The first option would maintain the interim rate structure's treatment of the tandem-switched transport charge, which gives IXCs a choice of two pricing alternatives for purchase of tandem-switched transport service. IXCs may elect to pay a single usage-sensitive charge, with distance measured in airline miles from the SWC to the end office, if applicable. Alternatively, IXCs may choose a flat-rated charge for a dedicated facility from the SWC to the tandem office, and a usage-sensitive charge for tandem-switched

[156] *CompTel v. FCC*, 87 F.3d at 532-33.

[157] A channel facility assignment is the actual designation of the routing that a circuit takes within the LEC network.

[158] *See, e.g.*, Ameritech Operating Companies Petition for Waiver of Part 69.112 of the Commission's Rules to Provide Bulk Capacity Transport (filed April 14, 1993); Bell Atlantic Telephone Companies Petition for Waiver of Part 69.112(b) and (c) of the Commission's Rules To Offer Facilities Management Service (filed April 4, 1994).

transport service from the tandem office to the end office, with mileage computed separately for the two segments, if applicable.[159]

88. The second option would eliminate an IXC's ability to select the first choice and require incumbent LECs to assess flat-rated charges for the circuit between the SWC and the tandem, which typically is a dedicated circuit, and to apply usage-based rates to the tandem-to-end office link. This was the original transport rate structure the Commission established in 1983 in the *Access Charge Order*.[160]

89. In conjunction with either of the two options for pricing tandem-switched transport service transmission facilities, we could treat tandem switching similarly to one of our proposals for the local switching rate structure, discussed in Section III.C above. As with the end-office switch, the tandem switch may include equipment dedicated to particular customers, such as the network ports through which a particular IXC's traffic enters and leaves the tandem switch. Thus, we could require incumbent LECs to develop usage-sensitive charges for shared facilities (the tandem switching functions and the ports on the end office side of the tandem switch), and a flat-rated charge for the dedicated ports on the SWC side of the tandem switch. Alternatively, shared tandem switching costs may be driven by the number of trunks on the end-office side and the SWC side of the tandem switch, just as shared local switching costs may be driven by the number of lines and trunks connected to the switch.[161] If this is the case, then flat monthly rates may better reflect shared tandem switching costs. Parties are invited to comment on whether tandem switches differ in any fundamental way from end office switches with respect to the division of costs associated with shared and dedicated facilities.

90. In addition to any of the tandem-switched transport service options discussed above, we could permit or require incumbent LECs to develop peak load pricing for tandem-switched transport service. Most small IXCs use tandem-switched transport service for all or most of their access traffic, while larger IXCs may use tandem-switched transport service on relatively fewer routes, or may use it only to handle their overflow traffic during peak hours. Thus, some portion of tandem costs may be attributable to the need to accommodate this overflow traffic from direct-trunked transport facilities. We invite comment on whether to permit or require incumbent LECs to develop peak and off-peak pricing for tandem switching. We also invite comment on whether some portion of tandem switching costs should be

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[159] *First Transport Reconsideration Order*, 8 FCC Rcd at 5372. *See also* Local Exchange Carrier Switched Local Transport Restructure Tariffs, Petitions for Waiver or Clarification, Memorandum Opinion and Order, 11 FCC Rcd 14328 (Com. Car. Bur. 1996).

[160] *Access Charge Order*, 93 FCC 2d at 313.

[161] *See* Section III.C.1, *supra*.

recovered from direct-trunked transport service customers, if in fact a portion of tandem switching capacity is necessary to meet demand from direct-trunked transport customers during peak period. Parties advocating peak pricing should propose a method to determine the peak period. Because some access customers may use some SWC-side trunks and ports to carry overflow traffic, and the costs of those ports are not traffic-sensitive, flat rates may better recover the tandem-switched transport costs generated by that overflow traffic. We invite comment on this analysis.

91. We seek comment on the benefits and detriments of each of the above options for reforming the tandem-switched transport rate structure. Parties are specifically asked to discuss whether any of these options accurately reflect the way incumbent LECs incur tandem switching costs. For example, we seek comment on the extent to which tandem-switched and direct-trunked transport use the same or different physical routing, and in light of this, on whether the distance component of setting tandem-switched transport rates is most appropriately measured between the SWC and the end office, or in two charges, one for the SWC-to-tandem circuit and one for the tandem-to-end office circuit. We invite parties to identify and quantify the specific NTS costs associated with the tandem switch that they believe are currently recovered through the usage-sensitive tandem charge. We also invite parties to suggest additional options for the tandem-switched transport charge.

**b. Rate Levels**

92. We seek comment on how to establish a reasonable tandem switching charge in light of the court's remand.[162] The interim transport restructure rules, which the court remanded, required incumbent LECs to base their initial tandem switching charge on 20 percent of the interstate revenue requirement for tandem switching, with the remaining 80 percent to be recovered through the TIC.[163] Thus, both the tandem charge and some portion of the TIC were designed to recover the costs included in the tandem-switched transport revenue requirement. The Commission found in the *First Transport Order* that this revenue requirement included some SS7 signalling cost, in addition to tandem switching costs.[164] In Section III.E, below, we propose to reassign costs included in the TIC to those rate elements to which they are related, including the different transport rate elements. We seek comment on what costs are appropriately associated with the tandem switching function. Parties commenting on this issue should address how their proposals are consistent with the court's remand directives. We also ask parties to comment on whether, if we permit direct-trunked transport or entrance facility rate structure options based on whether the channel facility

[162] *CompTel v. FCC*, 87 F.3d at 531-32.

[163] *First Transport Order*, 7 FCC Rcd at 7017-19.

[164] *First Transport Order*, 7 FCC Rcd at 7019.

assignment is done by the IXC or the LEC, a similar option should be available for tandem-switched transport. We ask parties to comment on the interrelationship of the rate level issue and how any decision on transport rate levels affects the options for phasing out the TIC that are discussed in the following section.

93. The court in *CompTel v. FCC* also directed us to explain why we permitted incumbent LECs to load a relatively large portion of their transport overhead costs to tandem-switched transport rates, and to base their direct-trunked transport overhead loadings on the lower overhead loading factors used for special access.[165] Our resolution of the transport overhead loadings issue remanded by the court is also affected by our treatment of the TIC. If we decide to reallocate costs currently recovered through the TIC to other rate elements, this could change the amount of overhead costs allocated to both direct-trunked transport and tandem-switched transport. It is possible that reallocating costs from the TIC to direct-trunked transport and tandem-switched transport charges would result in cost-based direct-trunked transport and tandem-switched transport charges, that is, direct-trunked transport and tandem-switched transport charges that recover a proportionate amount of overhead costs. Thus, reallocating costs from the TIC could contribute to correcting any imbalance in overhead cost allocations between transport rate elements. We invite parties to discuss what other regulatory requirements are necessary to comply with the court's mandate on transport service overhead loadings.

94. Furthermore, initial tandem-switched transport transmission rates were presumed reasonable if set as a weighted average of the per-minute cost of DS3 and DS1 rates calculated using 9000 minutes of use per month.[166] We note that USTA has alleged that the number of actual minutes traversing tandem circuits is significantly below 9000 minutes per month. We solicit comment on whether we should revise any transport rate structure requirement, either as a result of *CompTel v. FCC*, or for any other reason.

95. Finally, we solicit comment on the relationship between our transport rate structure rules and the market-based access reform proposals we discuss in Section IV, and on the relationship between the transport rate structure rules and the prescriptive access reform proposals we discuss in Section V. Is our goal of driving interstate access rates to forward-looking economic cost consistent with retaining rules governing transport rate level relationships? Is it possible to comply with the court's mandate with regard to the tandem switching charge and transport overhead cost allocations without retaining some rules governing transport rate level relationships?

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[165] *CompTel v. FCC*, 87 F.3d at 533.

[166] *First Transport Order*, 7 FCC Rcd at 7036-37.

## E. Transport Interconnection Charge

### 1. Background

96. Under our Part 36 separations rules, certain costs of the incumbent LEC network are assigned to the interstate jurisdiction. The Part 69 cost allocation rules allocate these costs among the various access and interexchange services, including transport. In the *First Transport Order*,[167] we restructured interstate transport rates for incumbent LECs. The restructure created facility-based rates for dedicated transport services based on comparable special access rates as of September 1, 1991, derived per minute tandem-switched transport transmission rates from those dedicated rates, established a tandem switching rate, and established a TIC that initially recovered the difference between the revenues from the new facility-based rates and the revenues that would have been realized under the preexisting "equal charge rule." The TIC was intended as a transitional measure that initially made the transport rate restructure revenue neutral for incumbent LECs and reduced any harmful interim effects on small IXCs caused by the restructuring of transport rates.[168] Approximately 70 percent of incumbent LEC transport revenues are generated through TIC charges, or approximately $2.9 billion out of $4.0 billion in transport revenues.

97. The TIC is a per-minute charge assessed on all switched access minutes, including those of competitors that interconnect with the LEC switched access network through expanded interconnection. The usage-rated TIC increases the per-minute access charges paid by IXCs and long-distance consumers, thus artificially suppressing demand for such services and encouraging customers to bypass the LEC switched access network, particularly through the use of switched facilities of providers other than the incumbent LEC. In addition, to the extent that any portion of the TIC should properly be included in LEC transport rates, other than the TIC, the TIC provides the LECs with a competitive advantage for their interstate transport services because incumbent LEC transport rates are priced below cost while the LECs' competitors using expanded interconnection must pay a share of incumbent LEC transport costs through the TIC.

98. Our goal in this proceeding is to establish a mechanism to phase out the TIC in a manner that fosters competition and responds to the court's remand. The resolution of the TIC issues is also related to the resolution of three other issues. First, the Universal Service Joint Board recently recommended establishing a universal service support mechanism. In Section VII.A, below, we seek comment on how any support amounts should be allocated to reduce interstate rates. Some of those support amounts may reduce the amount that would otherwise be recovered through the TIC. Second, the adoption of either the market-based or

[167] *First Transport Order*, 7 FCC Rcd 7006.

[168] *First Transport Order*, 7 FCC Rcd at 7038-40.

prescriptive approach to access reform will establish the extent to which incumbent LEC costs will be recovered through facility-based access charges. Third, if we conclude that incumbent LECs should be permitted to recover some embedded access costs for some period in a competitively neutral manner, as discussed in Section VII.B, below, some of those costs may be costs that are currently included in the TIC. Consequently, resolution of these issues may reduce the costs currently included in the TIC.

99. As we discuss more fully below, the costs now recovered in the TIC could be addressed in several different ways. Some incumbent LECs have urged us to give them significant pricing flexibility and allow market forces to discipline the recovery of the TIC, either alone, or in conjunction with a phase-out of the TIC. A second method of eliminating the TIC would be to quantify and correct all identifiable cost misallocations and other practices that result in costs being recovered through the TIC. A third approach would be a combination of these approaches. For example, we could address directly the most significant and readily-corrected misallocations, and then rely on a market-based approach to reducing what remains of the TIC. Finally, we could provide for the termination of the TIC over a specified time period, such as three years.

100. We address below some explanations for the amounts in the TIC, and then seek comment on possible means of reducing or eliminating the TIC.

### 2. Possible Sources of Costs in the TIC

101. In the Notice included in the *First Transport Order*, the Commission sought comment on the nature of the costs included in the TIC so that those costs could be reallocated.[169] Parties in the *Transport* proceeding and in more recent *ex parte* filings have offered various explanations of the composition of the costs included in the TIC. We summarize below several of the more significant explanations presented by the parties. Our discussion of these comments is divided into two parts. One group of comments describes the costs included in the TIC as the result of transport rate setting choices. The other group of comments describes the costs as related to potential cost misallocations.

#### a. Transport Rate Setting

102. *Tandem Switching and SS7 Costs.* In the *First Transport Order*, we concluded that the interim transport rate structure should include a tandem element that would initially recover 20 percent of the interstate revenue requirement associated with the tandem switch, while the remaining 80 percent of the interstate revenue requirement would be assigned to the TIC. We took this action because of our uncertainty about the specific sources of the costs that were in the tandem switching revenue requirement and because of our concern about

[169] *First Transport Order*, 7 FCC Rcd at 7038-39.