Frontier Corporation

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February 27, 1998

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BY OVERNIGHT MAIL

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

Re: CC Docket No. 97-250

Dear Mr. Caton:

Enclosed for filing please find an original plus six (6) copies of the Direct Case of the Frontier Telephone Companies in the above docketed proceeding.

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

Very truly yours,

Michael J. Shortley, III

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

In the Matter of	)	
	)	CC Docket No. 97-250
Tariffs Implementing	)	
Access Charge Reform	)	

DIRECT CASE OF THE FRONTIER TELEPHONE COMPANIES

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February 27, 1998

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Summary

In this Direct Case, Frontier demonstrates that, in its access reform tariff filings, it complied in all material respects with the Commission's directives contained in its *Access Reform Order* and accompanying rules changes. In most respects, the *Designation Order* suffers from a consistent flaw in reasoning. The Commission saw results that it did not anticipate and is now attempting to rewrite the rules retrospectively after the game is over. That is a course of conduct in which the Commission may not and should not engage.

First, Frontier correctly calculated its primary and non-primary residential lines. The Commission supplied no definition and Frontier, therefore, adopted a system that was already in use and that produces accurate line counts.

Second, Frontier correctly calculated its exogenous costs associated with the line port and end office trunk port elements. The *Designation Order* confuses revenues and costs. The *Access Reform Order* directed exchange carriers to shift *costs*, not *revenues*. By calculating costs on the basis of Part 69 revenue requirements, Frontier complied with this directive. That ends the discussion in the context of a tariff investigation.

Third, Frontier properly calculated its COE maintenance and marketing expense exogenous costs. It allocated its COE maintenance expense exogenous change at the basket level and its marketing expense exogenous

change at the band level. These procedures fully complied with the Commission's pre-filing directives.

Fourth, Frontier properly calculated its tandem-switched transport rates. In this respect, the Commission most directly saw an undesirable and unanticipated outcome. Nonetheless, the Commission's methodology was clearly articulated and followed by Frontier. The Commission's surprise, however, provides no basis for rewriting the rules retroactively.

Fifth, Frontier properly removed facilities costs from the TIC. This affects only Frontier's Tier 2 exchange carriers. Nonetheless, the alternative methodology proposed by AT&T is unnecessarily complex and confusing. It also produces counter-intuitive results.

Sixth, Frontier properly calculated its universal service exogenous cost adjustment. In developing this adjustment, Frontier utilized revenues that it reported on Form 457. Since Frontier's universal service support obligation is based upon end-user revenues reported on Form 457, it makes perfect sense to utilize these revenues to calculate universal service exogenous costs.

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In the Matter of	)	
	)	**CC Docket No. 97-250**
Tariffs Implementing	)	
Access Charge Reform	)	

DIRECT CASE OF THE FRONTIER TELEPHONE COMPANIES

Introduction

Frontier Telephone of Rochester, Inc. ("FTR"), its Tier 2 affiliates that concur in its Tariff FCC No. 1 ("Frontier Tier 2 LECs" or "Tier 2's"), and Frontier Communications of Minnesota, Inc. and Frontier Communications of Iowa, Inc. (collectively "MN & IA") (all of whom collectively are referred to herein as the "Frontier Telephone Companies" or "Frontier") submit this Direct Case in response to the Commission's *Designation Order*[1] initiating this proceeding.

The *Designation Order* designates issues for investigation for all price cap exchange carriers and for specifically named exchange carriers. The Frontier Telephone Companies were not cited for any company-specific issues. Accordingly, the issues addressed by this Direct Case include non-primary residential line counts; the methodology for calculating exogenous cost changes for line ports and end office trunk ports; Central Office Equipment ("COE") maintenance expense and marketing

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1 Tariffs Implementing Access Charge Reform, CC Docket No. 97-250, *Order Designating Issues for Investigation and Order on Reconsideration*, DA 98-151 (Common Carrier Bureau January 28, 1998) ("*Designation Order*"). The *Order on Reconsideration* portion of the *Designation Order* is not applicable to the Frontier Telephone Companies.

cost exogenous adjustments; tandem-switched transport rates; the removal of costs from the Transport Interconnection Charge ("TIC"); and universal service support exogenous adjustments. In each case, the Frontier Telephone Companies complied fully with applicable Commission rules and directives. Accordingly, as to the Frontier Telephone Companies, the Commission should terminate this investigation.

Argument

I. FRONTIER CORRECTLY CALCULATED ITS NON-PRIMARY RESIDENTIAL LINES.

Frontier's billing system designates one line on each account at a given billing address as the main line and all other lines on the same account as auxiliary lines. This is an administrative distinction that predates the Commission's orders regarding primary and non-primary lines. Frontier's definition of primary and non-primary lines track this distinction. The main line on a residential account is defined as the primary line and the auxiliary lines are non-primary. Typically, the first line installed becomes the main line. However, the subscriber may choose to designate a specific line as the main (primary) line regardless of order of installation.

Frontier believes that its definition of primary and non-primary lines is reasonable. It is easily understood by subscribers at a time when many subscribers are confused about the changes implemented by the Commission effective January 1, 1998. It is equivalent to the per address, per account methodology that many exchange carriers have proposed in the Commission's proceeding on defining primary lines. Most importantly, it can be implemented with certainty in the time frame required.

It is significant that the Commission has not adopted a definition of either primary lines or non-primary lines even though both the Access Charge Reform and Universal Service proceedings use this concept effective January 1, 1998. On September 5, 1997, the Commission released a *Notice of Proposed Rulemaking*[2] in its attempt to define primary lines. Although the comment cycle on this notice closed on October 9, 1997, the Commission was not able to either issue a definition of primary lines or issue a Further Notice of Proposed Rulemaking asking for more information before the end of 1997. Some of the suggested definitions in the *Primary Line NPRM* would be problematic and expensive to implement. Given that there is no sanctioned definition, Frontier chose to use the easiest definition to implement in billing. Fairness dictates that Frontier's definition should be allowed to stand without retroactive penalty until the Commission determines its own official definition of primary lines. Exchange carriers should not be required to predict the outcome of an open rulemaking procedure for a tariff filing.[3]

As required by the *Designation Order*,[4] Frontier provides quantification of the primary residential lines, single line business lines, non-primary residential lines, and BRI ISDN lines included in its access reform filings. This quantification is shown on Exhibit 1. The primary residential lines shown include lines counted in the access

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2 Defining Primary Lines, CC Dkt. 97-181, *Notice of Proposed Rulemaking*, FCC 97-316 (Sept. 5, 1997) ("*Primary Line NPRM*").

3 The most fair and sensible thing that the Commission could have done would have been to defer the effective date of rates for non-primary lines until after a definition is adopted. The current investigation results in part because the Commission chose not to do so.

4 *Designation Order*, ¶17.

reform filings as Lifeline lines. The quantities shown represent total lines (*i.e.*, 12 months of demand) rather than average lines. This is consistent with the demand shown on form RTE-1 of the Tariff Review Plan (TRP). All of the quantities shown except the distinction between primary residential and single line business lines were available on the exhibits associated with Frontier's access reform filings.

Exhibit 2 shows the information required for the worksheet on page 1 of Appendix B of the *Designation Order.* Because there was a slight variance in methodology, the information is displayed separately with the methods used by FTR and the Tier 2's shown on page 1 of Exhibit 2 and the methods used by MN & IA shown on page 2 of Exhibit 2.

For all the Frontier Telephone Companies, data was drawn from billing records. In the case of FTR and the Tier 2's, individual lines were counted for the historical period from January through December 1996. These lines were classified as residential, single line business, or multi-line business according to the pre-existing rules for billing the End User Common Line Element. BRI ISDN lines were separately identified from the USOCs used to bill the lines. The overwhelming majority of BRI ISDN lines had been counted as multi-line business for End User Common Line purposes. Because there was no historical billing associated with non-primary residential lines, a point in time search of the entire billing system was done for FTR and the Tier 2's. For FTR, primary and non-primary residential lines (as defined above) were identified for this point in time.[5] A ratio of non-primary to total residential lines was

5 The point in time used was October 1, 1997.

developed and applied to the historical 1996 residential lines to determine the 1996 non-primary residential lines. This quantity was subtracted from the 1996 total residential lines to yield 1996 primary residential lines. In the case of the Tier 2's, only non-primary residential lines were identified by a point in time[6] search of the entire billing system. The non-primary lines so identified were multiplied by twelve and used as historical demand. This quantity was subtracted from the 1996 total residential lines to yield 1996 primary residential lines.

In the case of MN & IA, total residential plus single line business lines were determined by dividing 1996 monthly billed revenues generated from the residential/single line business End User Common Line rates by the rates in effect at bill time. This process yielded total lines for the historical year. Non-primary lines were identified by doing a point in time[7] search of the entire billing system. The resulting number of lines were multiplied by twelve and used as historical demand. Total primary residential plus single line business lines were determined for the access reform filing by subtracting the identified non-primary residential lines from the total residential plus single line business lines. Single line business lines were identified by doing a point in time[8] search of the entire billing system. A ratio between single line business lines and total residential plus single line business lines was developed and applied to the historical 1996 primary residential and single line business lines to determine single line

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6 The point in time used was May 14, 1997.

7 The point in time used was May 14, 1997.

8 The point in time used was February 10, 1998. MN & IA saw no need to separately identify single line business lines prior to the release of the *Designation Order*.

business lines. Primary residential lines were then determined by subtracting single line business lines from total primary residential and single line business lines. MN & IA currently do not have any BRI ISDN lines.

All of the Frontier Telephone Companies split non-primary from primary lines in the same manner. First, residential accounts with multiple lines at the same billing address were identified. Then, the main line as shown in the billing system was designated the primary line, while the auxiliary lines shown in the billing system were assigned non-primary status. On Exhibit 2, Frontier shows this as an order of "L3 A2 A6" because the first installed line will be shown as the primary line in the billing system absent any action by the subscriber.

Exhibit 3 shows the information required for the worksheet on page 5 of Appendix B of the *Designation Order*. The purpose of this worksheet is to show the application of an exchange carrier's definitions of primary and non-primary residential lines to the sample data provided by the Commission. Frontier has completed this worksheet using its definition of the first line installed as primary.

II. FRONTIER CORRECTLY CALCULATED ITS LINE PORT AND END OFFICE TRUNK PORT EXOGENOUS COSTS.

The methodology used to calculate exogenous cost changes for line ports and end office trunk ports became an issue designated for investigation primarily because AT&T and MCI "argue that price cap exchange carriers should have applied their port cost percentages to their local switching revenues under price caps, which are substantially higher than the exchange carriers' ARMIS revenue requirements."[9] The

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9 *Designation Order,* ¶41, referencing AT&T and MCI pleadings.

Commission correctly notes that the *Access Reform Order*[10] directs exchange carriers to assign port costs to the Common Line basket or the newly created Trunk Ports band. The Commission also correctly observes that exchange carriers interpreted costs to mean revenue requirements, while AT&T and MCI interpreted costs to mean price cap permitted revenues.[11] The Commission then "tentatively conclude that revenues, and not Part 69 revenue requirements, are the best measure of the costs recovered through a particular price cap element."[12]

While the Commission certainly has the authority to have required exchange carriers to utilize price cap allowable revenues as a measure of cost for purposes of calculating exogenous changes, the plain fact is that the Commission did not do so. Further, the use of revenues as a surrogate for exogenous cost changes resulting from a change in Part 69 rules is contrary to all historical precedent and a plain meaning of both the text of the *Access Reform Order* and the text of the rule changes relating to line port and trunk port costs.

In support of the historical precedent argument, the Commission directed "each LEC to include in its direct case a comprehensive list of all the exogenous cost adjustments it has made since it entered price cap regulation that had the purpose of reallocating costs among baskets, categories, rate elements, or between price cap and

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10 *First Report and Order* in CC Dockets 96-262, 94-1 and 95-72, adopted May 7, 1997 and released May 16, 1997, FCC 97-158 ("*Access Reform Order*").

11 See, *Designation Order*, ¶46.

12 *Designation Order*, ¶48.

non price cap services. Exchange carriers should list the method used in each instance."[13] Frontier attaches such a list as Exhibit 4.

The first exogenous adjustment that shifted costs between baskets occurred when the Commission changed the Part 69 rules allocating General Support Facilities (GSF) investment effective July 1, 1993. Prior to this date, General Support Facilities had been allocated based on total Central Office Equipment (COE), Information Origination/Termination equipment (IOT), and Cable and Wire Facilities (CWF), excluding CWF category 1.3. Effective July 1, 1993, GSF were allocated on the basis of COE, IOT, and total CWF including category 1.3. This change had the effect of shifting costs from the Traffic Sensitive and Special Access baskets to the Common Line basket. Frontier, and presumably all other exchange carriers, computed this exogenous cost by using the change in Part 69 revenue requirement, calculated at the authorized rate of return, caused by the change in Part 69 rules. This is consistent with all prior (and subsequent) exogenous cost changes caused by a change in Part 36 separations rules, where the costs shifted between jurisdictions have been computed in the interstate jurisdiction at the authorized interstate rate of return.

The next exogenous cost change which shifted costs between price cap and non-price cap services was caused by the deregulation of payphone customer premises equipment (CPE) as ordered by the Telecommunications Act of 1996 ("Telecom 96"). Because this was a change in the accounting treatment of investment (*i.e.*, a change

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13 Designation Order, ¶51.

under Parts 32 and 64 of the Commission's rules), the appropriate way to accurately identify the costs shifted would have been to run a Part 36 and Part 69 cost study using base year inputs modified to reflect the removal of the prospectively deregulated investment and expense, and compare this to the actual, historical Part 36 and Part 69 cost study. However, the Commission recognized that this would be a burdensome and time-consuming process and explicitly ordered exchange carriers to use:

> the following method to remove payphone costs from their CCL rates. First, price cap LECs should develop a common line revenue requirement using ARMIS costs for calendar year 1995. Second, price cap LECs are required to develop a payphone cost allocator equal to the payphone costs in Section 69.501(d) divided by total common line costs, based on 1995 ARMIS data. Each LEC is required to reduce its PCI in the common line basket by the payphone cost allocator minus one.[14]

The Commission subsequently refined the Common Line ratemaking methods that the exchange carriers were required to use, but left the above-cited method of determining the exogenous cost intact.[15]

The third exogenous cost change experienced by Frontier that arguably had the purpose of shifting costs among baskets was the TIC targeting exogenous cost change in the 1997 annual access tariff filings. Frontier believes that this change did not truly have the purpose of shifting costs among baskets, as it really was intended to allocate the ordered price cap reductions among baskets. Frontier includes this change on its

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14 *Report and Order* in CC Dockets 96-128 and 91-31, adopted and released September 20, 1996, FCC 96-333 ("*Payphone Order*"), ¶185.

15 See, *Order on Reconsideration* in CC Dockets 96-128 and 91-35, adopted and released November 8, 1996, FCC 96-439 ("*Payphone Reconsideration Order*"), ¶205.

list only because other parties may interpret the TIC targeting in the annual filing as fitting this criterion. This change was done by quantifying a revenue impact of the "GDP-PI - X" and "g" components of the price cap rules, and shifting that dollar amount from the Common Line and Traffic Sensitive baskets, targeted to the TIC. The methodology used for this exogenous change was explicitly ordered by the Commission.

Frontier had no other exogenous cost changes that had the purpose of reallocating costs among services until the access reform filing that is the subject of this investigation. With two precedents to examine, Frontier has an example of a change in Part 69 rules that was implemented by calculating an exogenous cost to be Part 69 revenue requirement at authorized rate of return, and a change in Part 32 accounting deregulating investment, which was implemented by calculating an exogenous cost change using precise and explicit instructions provided by the Commission. The only reasonable interpretation of precedent is that Part 69 rule changes are reflected by exogenous cost changes calculated by computing a Part 69 revenue requirement at the authorized rate of return. While the Commission has the authority to order a different methodology, the Commission did not do so for the access reform filings. In the *Access Reform Order,* the Commission instituted a change in Part 69 cost allocation rules, stating "we reassign all line-side port costs from the Local Switching rate element to the Common Line rate elements."[16] This was implemented by changing portions of Part 69 of the Commission's rules. The revised rule dealing with Part 69 separation of costs

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[16] *Access Reform Order,* ¶125.

reads, "COE Category 3 (Local Switching Equipment) shall be assigned to the Local Switching element except as provided in paragraph (a) of this section;[17] and that, for telephone companies subject to price cap regulation set forth in Part 61 of this chapter, line-side port costs shall be assigned to the Common Line element."[18]

This language clearly shows that the Commission effected a shift from Local Switching to Common Line by changing the allocation of investment within Part 69. Frontier implemented this in the most straightforward fashion by shifting Part 69 revenue requirement at the authorized rate of return. This is consistent with all past exogenous changes caused by changes in either the Part 69 or the Part 36 rules. It is not reasonable to expect a price cap exchange carrier to interpret this exogenous cost shift in any other way.

A straightforward reading of the *Access Reform Order*, the rule language as revised by the *Access Reform Order*, and precedent all argue that this shift should be accomplished by moving Part 69 revenue requirements. The Commission may certainly decide that a percentage of revenue is the correct way to move Line Ports from Local Switching to Common Line; however, such a decision should be made on a prospective basis only, as it is in conflict with the plain meaning of both the *Access Reform Order* and precedent for exogenous cost changes caused by changes in Part 69 rules.

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[17] The cited paragraph (a) assigns COE attributable to transport to the Transport element.

[18] 47 CFR 69.306(d), as amended by the *Access Reform Order*.

In addition to being in conflict with the plain meaning of the *Access Reform Order*, shifting Line Ports as a percentage of Local Switching revenues presents a number of practical difficulties. At the same time as the reassignment of Line Port costs occurred, a number of other exogenous cost changes were occurring. The Local Switching band was directly affected by exogenous cost changes for SS7 ports (shifted from the Trunking basket) and DEM Weighting. The Local Switching band was also affected by basket-level exogenous changes to the Traffic Sensitive basket for TIC True-Up, shift of Marketing Expense to the Marketing basket, COE Maintenance Expense, changes in GSF allocation, and Equal Access Amortization. These changes all affect the allowable Local Switching revenues.

The exogenous costs changes for GSF and COE Maintenance expense were also caused by changes in Part 69 allocation rules. Frontier consistently implemented these changes by computing a change in Part 69 revenue requirement at the authorized rate of return. Because the changed allocations of GSF, COE Maintenance Expense, and Line Ports are interactive, Frontier computed these changes sequentially, calculating revenue requirements for the historical year under historical rules, with the changed GSF rules, with changed GSF and COE Maintenance rules, and with changed GSF, COE Maintenance, and Line Port rules. This procedure was clearly described in Frontier's Description and Justification. The calculation of exogenous cost changes for GSF and COE Maintenance was not challenged by any party.[19]

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[19] AT&T did argue that the COE maintenance exogenous change should be allocated to the TIC. While this argument is part of another issue being investigated, it should be noted that even AT&T did not fault the magnitude of the COE maintenance change, only its implementation within the price cap basket and band structure.

Any scheme of moving Line Ports as a percentage of revenue would have to account for whether these changes occurred before or after the shift in Line Ports. Should Frontier have attempted to move Line Ports as a percentage of revenues it would have been necessary to make "intermediate" rates reflecting all other exogenous cost changes.[20] The percentage of revenues would then have to be computed from these intermediate rates. This would greatly increase the complexity of the filing. Had the Commission ordered exchange carriers to shift Line Ports as a percentage of revenue, it is likely that there would be an investigation on how "revenue" was calculated.

With respect to trunk ports, the *Access Reform Order* states, "Price cap LECs may recover the *costs* of each dedicated trunk port on a flat-rated basis from the purchaser of the dedicated trunk terminating at that port. ... price cap LECs must also establish a usage-sensitive rate element for recovery of the *costs* of shared trunk ports."[21] The revised rule dealing with rates for ports and local switching reads, in part:

> (1) Price cap local exchange carriers shall separate from projected annual revenues for the Local Switching element those *costs* projected to be incurred for ports . . . on the trunk side of the switch. Price cap local exchange carriers shall further identify the *costs* incurred for dedicated ports separately from costs incurred for shared ports.
>
> (i) Price cap local exchange carriers shall recover dedicated trunk port *costs* ... through flat-rated charges ...

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20 With the exclusion of DEM weighting, that was specifically ordered to take place after the Line Ports exogenous cost change. See, *Order on Reconsideration* in CC Dockets 96-262, 94-1, 91-213, and 95-72, adopted and released July 10, 1997, FCC 97-247, ¶6.

21 *Access Reform Order*, ¶127 (emphasis added).

> (ii) Price cap local exchange carriers shall recover shared trunk port *costs* ...through charges assessed upon purchasers of shared transport ...
>
> (2) Price cap local exchange carriers shall recover the projected annual *revenues* for the Local Switching element that are not recovered in subparagraph (1) through charges ... per access minute of use and assessed on all interexchange carries that use local exchange switching facilities ...[22]

As a threshold matter, the rule cited above refers to recovering trunk port "costs" through the new trunk port rate elements, but recovering any "revenues" not recovered through the trunk port rates through per-minute local switching rates. The use of the word "costs" for trunk port rates and "revenues" for the local switching rate within the same rule, written at the same time (and presumably by the same person or persons) clearly indicates that the rule is speaking of two different things. A reasonable interpretation of both the *Access Reform Order* and the revised rule cited above is that they required exchange carriers to identify port costs, move these costs to the new Trunk Ports band, and recover the remaining revenue through the per minute Local Switching rate.

Frontier implemented the exogenous cost change for Trunk Ports by identifying unit investment for trunk ports and converting this unit investment into revenue requirement at the authorized rate of return. This unit revenue requirement was then multiplied by historical demand quantities to arrive at total costs for dedicated trunk ports and shared trunk ports. As a practical matter, Frontier was not able to separately

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[22] 47 CFR 69.106(f)(1) and (2), as amended by the *Access Reform Order* (emphasis added).

identify dedicated trunk port costs from shared trunk port costs, as required by the above-cited rule, in any other way.

After reaching its tentative conclusion that revenues instead of revenue requirements are the best measure of cost, the Commission allows for the possibility that this is incorrect: "If, after reviewing the record in response to this designation order, we conclude that the *Access Charge Reform Order* required that exchange carriers use revenue requirement, we tentatively conclude that actual basket earnings must be used to calculate that revenue requirement."[23] This tentative conclusion is not supportable. Nowhere in the portions of the *Access Reform Order* is there any clue that exchange carriers should use anything other than the authorized rate of return in computing Part 69 revenue requirements used for exogenous changes. In no past proceeding has the Commission ordered exchange carriers to utilize basket-level rate of return for any purpose in price cap regulation. It is beyond belief that exchange carriers should have been expected to predict that the Commission would interpret the *Access Reform Order* in this manner. Simply put, the Commission cannot announce an unexpected, post hoc change in practice and then force exchange carriers to adopt that change retroactively. Rule changes with retrospective effect are disfavored, to say the least.[24]

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23 *Designation Order* , ¶49.

24 See *Bowen v. Georgetown University Hospital,* 488 U.S. 204 (1988).

In the *Designation Order*, the Commission articulates a belief "that the best method for moving rate elements or services out of a basket or service category would be one that left exactly zero permitted revenues in the basket or service category after all services or rate elements were removed." *Designation Order,* ¶49. While this is a reasonable conclusion, it can only be applied prospectively.

The Commission goes on to "tentatively conclude that common line rate development should be done in the following manner. Price cap LECs should use local switching revenues for the purpose of determining the amount of exogenous cost adjustments to the Traffic-Sensitive and Common Line baskets, but price cap LECs should use their Part 69 revenue requirements to recalculate their BFP, because the BFP is still calculated pursuant to fully-distributed embedded costs and revenue requirements."[25] However, exchange carriers could not have taken this approach and correctly filled out the Tariff Review Plan as ordered for that filing, because the exogenous cost change for Line Ports was specifically used on Form CAP-1 in the calculation of Subscriber Line Charges. The Commission may not penalize exchange carriers for failing to follow a procedure that does not comply with the Commission's own Tariff Review Plan.

III. FRONTIER CORRECTLY CALCULATED ITS COE MAINTENANCE AND MARKETING EXPENSE EXOGENOUS CHANGES.

The issue of COE maintenance expense arises because of an ambiguity in the *Access Reform Order*. The exogenous change arises from a change in Part 69 allocation rules. The Commission concluded that the former rules resulted in a misallocation of COE expense, which can "be corrected by modifying section 69.401 of our rules to provide that the COE expenses assigned to the interstate jurisdiction be allocated on the basis of the allocation of the specific type of COE investment being

[25] *Designation Order*, ¶52.

maintained, and we make the correction here. This will shift some costs to local switching from common line and transport, and result in more cost-based rates."[26] The language used by the Commission refers to Part 69 elements (*e.g.*, "transport") rather than Part 61 baskets or bands (e.g., "trunking" or "TIC"). This paragraph is found in a section titled "Reallocation of costs in the TIC."[27] However, a close reading of the various costs discussed reveals that for every cost discussed in this section except COE expense, exchange carriers are specifically directed remove costs from the TIC.

Given that clear language directing carriers to target exogenous cost changes to the TIC is present for numerous changes articulated in the *Access Reform Order* but absent from the COE expense change, Frontier concluded that the Commission intended the COE expense exogenous cost change to be implemented at the basket level.

The language on marketing expense is even clearer. In the *Access Reform Order*, the Commission concluded that it is appropriate for exchange carriers to recover marketing expense from interexchange and special access rates:

> Marketing expenses must be removed from all other rate elements by means of downward exogenous adjustments to the PCIs for common line, traffic sensitive, and trunking baskets. With respect to the trunking basket, the exogenous adjustment shall not reflect the amount of any Account 6610 expenses allocated to special access services. The service band indices (SBIs) within the trunking basket shall be decreased based on the amount of Account 6610 marketing expenses allocated to switched services in each service

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[26] *Access Reform Order*, ¶223.

[27] This section heading is found just before ¶214 of the *Access Reform Order*.

> category to reflect the exogenous adjustment to the PCI for the trunking basket.[28]

Frontier distributed the marketing expense exogenous change to the trunking baskets among the various bands in proportion to the switched access revenues contained in those bands. Because it is not possible to develop a Part 69 revenue requirement at the band level within the trunking basket, this is the most reasonable way to determine "the amount of Account 6610 marketing expenses allocated to switched services in each service category."

In the *Designation Order*, the Commission directed exchange carriers "to provide supporting documentation justifying the amount that was removed from the TIC as COE maintenance and marketing expenses."[29] Frontier explained in its Description and Justification, in its reply comments, and again in this direct case that the COE maintenance expense change was implemented at the basket level. In compliance with the Commission's requirement to provide documentation of how much COE maintenance expense was removed from the TIC, Frontier submits Exhibit 5, which analyzes the effect on the TIC of the basket level exogenous cost changes made to the Trunking basket.

In its access reform tariff filings, Frontier provided documentation of how the marketing expense exogenous cost change was targeted to bands within the Trunking basket. For the sake of compliance with the requirement to provide such

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28 *Access Reform Order*, ¶323.

29 *Designation Order*, ¶67.

documentation with its direct case, Frontier summarizes the development of its marketing expense exogenous cost changes on Exhibit 6.

"Price cap LECs should explain their theory for determining the portion removed from the TIC."[30] As indicated in Frontier's Description and Justification, Frontier's reply comments, and discussed above, the COE maintenance exogenous change should be implemented at the basket level. This effectively allocates the change to the various bands, including TIC, within the Trunking basket in proportion to the revenues in each band. The marketing expense change is properly allocated to bands, including TIC, within the Trunking basket in proportion to the switched access revenues contained in these bands. The TIC and Tandem Switched Transport bands consist entirely of switched access revenues; the Voice Grade band, DS1 sub-band, and DS3 sub-band have contain switched access revenues for entrance facilities and direct trunked transport.

The Commission further states that, "we tentatively conclude that the price cap LECs must allocate these exogenous cost changes to the TIC as it existed prior to July 1, 1997."[31] This tentative conclusion is not supported by the text of the *Access Reform Order* or by any of the rules changed by *the Access Reform Order*. Further, it makes no sense to allocate a reduction in revenues on the basis of revenues that have already been removed.[32] The Commission did not express any hint that exchange carriers

30 *Id.*, ¶67.

31 *Designation Order*, ¶ 68.

32 In addition, exchange carriers have the further problem of how to compute a ratio using the June 30, 1997 TIC revenues. Are exchange carriers to allocate costs using all June 30, 1997 revenues, or using a mismatched set of June 30, 1997 TIC revenues and current revenues for the rest of the Trunking basket?

should use June 30, 1997 TIC revenues for allocation of exogenous costs in the *Access Reform Order*, and has not clearly articulated a method by which this could be done in the *Designation Order*. The Commission may not penalize exchange carriers for failure to use a methodology that was never ordered and is contrary to the plain meaning of the orders issued prior to the tariff filing.

IV. FRONTIER CORRECTLY CALCULATED ITS TANDEM-SWITCHED TRANSPORT RATES.

In the *Access Reform Order*, the Commission states:

> we conclude that rates for the common transport portion of tandem-switched transport must be set using a weighted average of DS1 and DS3 rates reflecting the relative numbers of DS1 and DS3 circuits in use in the tandem-to-end office link, and using the actual voice-grade switched access common transport circuit loadings, measured as total actual minutes of use, geographically averaged on a study-area-wide basis, that the incumbent LEC experiences based on the prior year's annual use.[33]

This conclusion is reinforced by language that directs:

> incumbent LECs to develop common transport rates based on the relative numbers of DS1 and DS3 circuits in use in the tandem-to-end office link, and using actual voice-grade circuit loadings, geographically averaged on a study-area-wide basis, that the incumbent LEC experiences based on the prior year's annual use. ... As they develop transport rates based on actual minutes of use, we require incumbent LECs to use any increase in common transport revenues to decrease the TIC.[34]

It was apparent that the Commission did not consider that any exchange carriers performing this calculation might realize a decrease in tandem transport rates.

[33] *Access Reform Order*, ¶206.

[34] *Access Reform Order*, ¶208.