

1 service and such other information as may be required by rule or
2 regulation, and must identify that service as being
3 noncompetitive, transitionally competitive or competitive. If
4 the offeror is a noncompetitive or transitionally competitive
5 telecommunications company and it proposes such service as a
6 transitionally competitive or competitive telecommunications
7 service, the telecommunications service shall be treated as a
8 transitionally competitive telecommunications service until such
9 time as the commission finally determines the appropriate
10 classification. If the offeror is a competitive
11 telecommunications company and it proposes such service as a
12 competitive service, the competitive classification proposed by
13 the offeror of the service shall apply until such time as the
14 commission finally determines the appropriate classification.
15 Such final determination by the commission of the appropriate
16 classification of such service may be made by the commission
17 after the end of the maximum sixty-day suspension period, but any
18 such decision by the commission issued after the maximum
19 sixty-day suspension period shall be prospective in nature. The
20 commission shall expedite proceedings under this subsection in
21 order to facilitate the rapid introduction of new
22 telecommunications products and services into the marketplace.
23 [Until September 30, 1996,] The commission shall not suspend any
24 proposed rate or charge for any telecommunications service which
25 a telephone cooperative proposes to provide within an exchange or
26 within a local calling scope as determined by the commission
27 other than charges for exchange access service.

28 5. Unless the commission otherwise orders, any change in

1 rates or charges, or change in any classification or tariff
2 resulting in a change in rates or charges, for any telephone
3 cooperative shall be filed, on an informational basis, with the
4 commission at least thirty days prior to the date for
5 implementation of such change. [Provided, however,] Nothing
6 contained in this section shall be construed as conferring
7 jurisdiction upon the commission over the rates charged by a
8 telephone cooperative for providing telecommunications service
9 within an exchange or within a local calling scope as determined
10 by the commission, except for exchange access service.

11 6. If after notice and hearing, the commission determines
12 that a telecommunications company has violated the requirements
13 of section 392.200 or this section, it may revoke the certificate
14 of service authority under which that telecommunications company
15 operates and shall direct its general counsel to initiate an
16 action under section 386.600, RSMo, to recover penalties from
17 such telecommunications company in an amount not to exceed the
18 revenues received as a result of such violation multiplied by
19 three or the gross jurisdictional operating revenues of that
20 company for the preceding twelve months, the provisions of
21 section 386.370, RSMo, notwithstanding.

22 392.249. 1. The commission shall have the authority to
23 ensure that rates, charges, tolls and rentals for
24 telecommunications services are just, reasonable and lawful by
25 employing price cap regulation. As used in this chapter, "price
26 cap regulation" shall mean establishment of maximum allowable
27 prices for telecommunications services offered by an incumbent
28 local exchange telecommunications company, which maximum

1 allowable prices shall not be subject to increase except as
2 otherwise provided in this section.

3 2. A large incumbent local exchange telecommunications
4 company shall be subject to regulation under this section upon a
5 determination by the commission that an alternative local
6 exchange telecommunications company has been certified to provide
7 basic local telecommunications service and is providing such
8 service in any part of the large incumbent company's service
9 area. A small incumbent local exchange telecommunications
10 company may elect to be regulated under this section upon
11 providing written notice to the commission if an alternative
12 local exchange telecommunications company has been certified to
13 provide basic local telecommunications service and is providing
14 such service in any part of the small incumbent company's service
15 area, and the incumbent company shall remain subject to
16 regulation under this section after such election.

17 1. Except as otherwise provided in this section, the
18 maximum allowable prices established for a company under
19 subsection 1 of this section shall be those in effect on December
20 thirty-first of the year preceding the year in which the company
21 is first subject to regulation under this section. Tariffs
22 authorized under subsection 2 of this section shall be phased in
23 as provided under such tariffs as approved by the commission.

24 4. (1) Except as otherwise provided in subsections 8 and 9
25 of this section and section 192.248, the maximum allowable prices
26 for exchange access and basic local telecommunications services
27 of a small, incumbent local exchange telecommunications company
28 regulated under this section shall not be changed for a period of

1 twelve months after the date the company is subject to regulation
2 under this section. Except as otherwise provided in subsections
3 8 and 9 of this section and section 392.248, the maximum
4 allowable prices for exchange access and basic local
5 telecommunications services of a large, incumbent local exchange
6 telecommunications company regulated under this section shall not
7 be changed prior to January 1, 2000. Thereafter, the maximum
8 allowable prices for exchange access and basic local
9 telecommunications services of an incumbent local exchange
10 telecommunications company shall be annually changed by one of
11 the following methods:

12 (a) By the change in the telephone service component of the
13 Consumer Price Index (CPI-TS), as published by the United States
14 Department of Commerce or its successor agency for the preceding
15 twelve months, or

16 (b) Upon request by the company and approval by the
17 commission, by the change in the Gross Domestic Product Price
18 Index (GDP-PI), as published by the United States Department of
19 Commerce or its successor agency for the preceding twelve months,
20 minus the productivity offset established for telecommunications
21 service by the Federal Communication Commission and adjusted for
22 exogenous factors.

23 (2) The commission shall approve a change to a maximum
24 allowable price filed pursuant to paragraph (a) of subdivision
25 (1) of this subsection within forty-five days of filing of notice
26 by the local exchange telecommunications company. An incumbent
27 local exchange telecommunications company shall file a tariff to
28 reduce the rates charged for any service in any case in which the

1 current rate exceeds the maximum allowable price established
2 under this subsection.

3 (3) As a part of its request under paragraph (b) of
4 subdivision (1) of this subsection, a company may seek commission
5 approval to use a different productivity offset in lieu of the
6 productivity offset established by the Federal Communication
7 Commission. An adjustment under paragraph (b) of subdivision (1)
8 of this subsection shall not be implemented if the commission
9 determines, after notice and hearing to be conducted within
10 forty-five days of the filing of the notice of a change to a
11 maximum allowable price, that it is not in the public interest.
12 In making such a determination, the commission shall consider the
13 relationship of the proposed price of service to its cost and the
14 impact of competition on the incumbent local exchange
15 telecommunications company's interstate revenues from regulated
16 telecommunications services. Any adjustments for exogenous
17 factors shall be allocated to the maximum allowable prices for
18 exchange access and basic local telecommunications service in the
19 same percentage as the revenues for such company bears to such
20 company's total revenues from basic local, non-basic and exchange
21 access services for the preceding twelve months.

22 (4) For the purposes of this section, the term "exogenous
23 factor" shall mean a cumulative impact on a local exchange
24 telecommunications company's interstate regulated revenue
25 requirement of more than three percent, which is attributable to
26 federal, state or local government laws, regulations or policies
27 which change the revenue, expense or investment of the company,
28 and the term "exogenous factor" shall not include the effect of

1 ~~COMPENSATION OR THE REVENUES, EXPENSE OR INVESTMENT OF THE COMPANY~~
2 ~~NOR SHALL THE TERM INCLUDE ANY ASSESSMENT MADE UNDER SECTION~~
3 ~~192.248.~~

4 (5) An incumbent local exchange telecommunications company
5 may change the rates for its services, consistent with the
6 provisions of section 192.200, but not to exceed the maximum
7 allowable prices, by filing tariffs which shall be approved by
8 the commission within thirty days, provided that any such rate is
9 not in excess of the maximum allowable price established for such
10 service under this section.

11 5. Each telecommunications service of an incumbent local
12 exchange telecommunications company shall be classified as
13 competitive in any exchange in which at least one alternative
14 local exchange telecommunications company has been certified
15 under section 192.437 and has provided such local
16 telecommunications service in that exchange for at least five
17 years unless the commission determines, after notice and a
18 hearing, that effective competition does not exist in the
19 exchange for such service. The commission shall, from time to
20 time, on its own motion or motion by an incumbent local exchange
21 telecommunications company, investigate the state of competition
22 in each exchange where an alternative local exchange
23 telecommunication company has been certified to provide local
24 exchange telecommunications service and shall determine, no later
25 than five years following the first certification of an
26 alternative local exchange telecommunication company in such
27 exchange, whether effective competition exists in the exchange
28 for the various services of the incumbent local exchange

1 telecommunications company. If the commission determines that
2 effective competition exists in the exchange, the local exchange
3 telecommunications company may thereafter adjust its rates for
4 such competitive services upward or downward as it determines
5 appropriate in its competitive environment. If the commission
6 determines that effective competition does not exist in the
7 exchange, the provisions of paragraph (c) of subdivision (2) of
8 subsection 4 of section 192.200 and the maximum allowable prices
9 established by the provisions of subsections 4 and 11 of this
10 section shall continue to apply. The commission shall from time
11 to time, but no less than every five years, review the state of
12 competition in those exchanges where it has previously found the
13 existence of effective competition, and if the commission
14 determines, after hearing, that effective competition no longer
15 exists for the incumbent local exchange telecommunications
16 company in such exchange, it shall reimpose upon the incumbent
17 local exchange telecommunications company, in such exchange, the
18 provisions of paragraph (c) of subdivision (2) of subsection 4 of
19 section 192.200 and the maximum allowable prices established by
20 the provisions of subsections 4 and 11 of this section, and, in
21 any such case, the maximum allowable prices established for the
22 telecommunications services of such incumbent local exchange
23 telecommunications company shall reflect all index adjustments
24 which were or could have been filed from all preceding years
25 since the company's maximum allowable prices were first adjusted
26 pursuant to subsections 4 or 11 of this section.

27 6. Nothing in this section shall be interpreted to alter
28 the commission's jurisdiction over quality and conditions of

1 service or to relieve telecommunications companies from the
2 obligation to comply with commission rules relating to minimum
3 basic local and interexchange telecommunications service.

4 7. A company regulated under this section shall not be
5 subject to regulation under subsection 1 of section 192.240.

6 8. An incumbent local exchange telecommunications company
7 regulated under this section may reduce intrastate access rates,
8 including carrier common line charges, subject to the provisions
9 of subsection 9 of this section, to a level not to exceed one
10 hundred and fifty percent of the company's interstate rates for
11 similar access services in effect as of December thirty-first of
12 the year preceding the year in which the company is first subject
13 to regulation under this section. Absent commission action under
14 subsection 10 of this section, an incumbent local exchange
15 telecommunications company regulated under this section shall
16 have four years from the date the company becomes subject to
17 regulation under this section to make the adjustments authorized
18 under this subsection and subsection 9 of this section. Nothing
19 in this subsection shall preclude an incumbent local exchange
20 telecommunications company from establishing its intrastate
21 access rates at a level lower than one hundred and fifty percent
22 of the company's interstate rates for similar access services in
23 effect as of December thirty-first of the year preceding the year
24 in which the company is first subject to regulation under this
25 section.

26 9. Other provisions of this section to the contrary
27 notwithstanding and no earlier than January 1, 1997, the
28 commission shall allow an incumbent local exchange

1 telecommunications company regulated under this section which
2 reduces its intrastate access service rates pursuant to
3 subsection 8 of this section to offset the revenue loss resulting
4 from the first year's access service rate reduction by
5 increasing its monthly maximum allowable prices applicable to
6 basic local exchange telecommunications services by an amount not
7 to exceed one dollar and fifty cents. A large incumbent local
8 exchange telecommunications company shall not increase its
9 monthly rates applicable to basic local telecommunications
10 service under this subsection unless it also reduces its rates
11 for intralATA interexchange telecommunications services by at
12 least ten percent. No later than one year after the date the
13 incumbent local exchange telecommunications company becomes
14 subject to regulation under this section, the commission shall
15 complete an investigation of the cost justification for the
16 reduction of intrastate access rates and the increase of maximum
17 allowable prices for basic local telecommunications service. If
18 the commission determines that the company's monthly maximum
19 allowable average statewide prices for basic local
20 telecommunications service after adjustment pursuant to this
21 subsection will be equal to or less than the long run incremental
22 cost, as defined in section 186.020, RSMo, of providing basic
23 local telecommunications service and that the company's
24 intrastate access rates after adjustment pursuant to this
25 subsection will exceed the long run incremental cost, as defined
26 in section 186.020, RSMo, of providing intrastate access
27 services, the commission shall allow the company to offset the
28 revenue loss resulting from the remaining three-quarters of the

1 total needed to bring that company's intrastate access rates to
2 one hundred and fifty percent of the interstate level by
3 increasing the company's monthly maximum allowable prices
4 applicable to basic local telecommunications service by an amount
5 not to exceed one dollar and fifty cents on each of the next
6 three anniversary dates thereafter; otherwise, the commission
7 shall order the reduction of intrastate access rates and the
8 increase of monthly maximum allowable prices for basic local
9 telecommunications services to be terminated at the levels the
10 commission determines to be cost-justified. The total revenue
11 increase due to the increase to the monthly maximum allowable
12 prices for basic local telecommunications service shall not
13 exceed the total revenue loss resulting from the reduction to
14 intrastate access service rates.

15 10. Any telecommunications company whose intrastate access
16 costs are reduced pursuant to subsections 8 and 9 of this section
17 shall decrease its rates for intrastate toll telecommunications
18 service to flow through such reduced costs to its customers. The
19 commission may permit a telecommunications company to defer a
20 rate reduction required by this subdivision until such
21 reductions, on a cumulative basis, reach a level that is
22 practical to flow through to its customers.

23 11. The maximum allowable prices for non-basic
24 telecommunications services of a small, incumbent local exchange
25 telecommunications company regulated under this section shall not
26 be changed until twelve months after the date the company is
27 subject to regulation under this section or, on an exchange-by-
28 exchange basis, until an alternative local exchange

1 telecommunications company is certified and providing basic local
2 telecommunications service in such exchange, whichever is
3 earlier. The maximum allowable prices for non-basic
4 telecommunications services of a large, incumbent local exchange
5 telecommunications company regulated under this section shall not
6 be changed until January 1, 1999 or, on an exchange-by-exchange
7 basis, until an alternative local exchange telecommunications
8 company is certified and providing basic local telecommunications
9 service in such exchange, whichever is earlier. Thereafter, the
10 maximum allowable prices for non-basic telecommunications
11 services of an incumbent local exchange telecommunications
12 company may be annually increased by up to eight percent for each
13 of the following twelve-month periods upon providing notice to
14 the commission and filing tariffs establishing the rates for such
15 services in such exchanges at such maximum allowable prices.
16 This subsection shall not preclude an incumbent local exchange
17 telecommunications company from proposing new telecommunications
18 services and establishing prices for such new services. An
19 incumbent local exchange telecommunications company may change
20 the rates for its services, consistent with the provisions of
21 section 192.200, but not to exceed the maximum allowable prices,
22 by filing tariffs which shall be approved by the commission
23 within thirty days, provided that any such rate is not in excess
24 of the maximum allowable price established for such service under
25 this section.

26 12. The commission shall permit an incumbent local exchange
27 telecommunications company regulated under this section to
28 determine and set its own depreciation rates which shall be used