IV. SPECIFIC PRINCIPLES SHOULD GUIDE COMMISSION REVIEW OF ITS RULES.

The 1996 Act certainly contemplates that as markets are opened to increased competition, the public interest may no longer be served by the continuation of Commission regulations. However, Section 11 does not include specific guidelines. As the Commission continues its work implementing the pro-competitive, de-regulatory policy to shepherd the telecommunications industry into the new millennium, there are specific principles which should guide its review of current rules as well as its consideration of future rules. These principles must reflect a change in focus for the Commission. As required by the Act, the Commission should look first to competition to control prices and ensure service quality. Second, duplicating the oversight or jurisdiction of other government agencies should be avoided. At the federal level, for example, the Commission need not be involved in antitrust issues or advertising and fair trade practices which are the province of the Department of Justice and the Federal Trade Commission respectively. The Telecommunications Act of 1996 did not alter the Federal/State regulatory scheme. In many cases, the Act specifies the responsibilities of each. Duplicative government oversight adds to the costs of regulatory compliance and creates delay and uncertainty.

Third, every proposed regulation should be subject to a cost/benefit analysis to ensure that the costs of the regulation do not outweigh the benefits. The Commission should analyze any proposal to identify the costs of compliance and to determine who ultimately pays the costs. For example, the Unfunded Mandates Reform Act of 1995 which requires federal agencies to prepare written assessments of the costs and benefits of significant regulatory actions that may result in the expenditure by state and local governments or the private sector of at least $100 million annually, requires that an agency consider a reasonable number of regulatory alternatives and select the least costly, most cost-effective or least burdensome alternative that achieves the rule's objective. Despite the fact that independent agencies like the Commission were exempted from that law, such review should be employed by the Commission.

USTA developed the following criteria in an effort to reflect the new focus discussed above. USTA recommends that the Commission consider these criteria as it reviews each of its rules:

1. *The purpose of the regulation.* USTA agrees with Commissioner Furchtgott-Roth that the Commission should examine the original purpose for the regulation and how the regulation furthers that purpose in order to determine if the reason for the regulation remains valid. Further, the Commission must assess each regulation in relation to the Telecommunications Act of 1996 to ensure that the regulation relates to and furthers the implementation of the pro-competitive, de-regulatory national telecommunications policy. If the purpose of the regulation is no longer relevant or if the regulation does not relate to the Act, the regulation should be eliminated or modified.

2. *The relevant market conditions.* The Commission should also examine the conditions in the relevant market when the regulation was promulgated and compare its findings to conditions in the relevant market in 1998 in order to determine if meaningful economic competition will be furthered by the regulation. For example, the Commission should consider whether the relevant market is open to competition or if statutory or other regulatory barriers to entry exist. The Commission should consider whether new entrants are bound by similar

restrictions. Further, as Commissioner Furtchgott-Roth suggested, the Commission should assess whether changes in the interstate market affect the purpose of the regulation. If market conditions have changed, the regulation should be modified to reflect current market conditions or eliminated if the market obviates the need for the regulation.

3. *The economic impacts of the regulation on the regulated entity.* USTA recommends that the Commission undertake a cost/benefit analysis of each regulation to ensure that the costs do not outweigh the benefits. The benefits and costs should be quantified when possible. If the costs of regulation outweigh the benefits, the regulation should be modified or eliminated.

4. *The public interest benefit in eliminating the regulation.* As noted above, the purpose of the Telecommunications Act of 1996 is to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies. USTA believes that the statute requires the Commission to implement a national telecommunications policy which facilitates competition, seeks to deregulate currently regulated entities and to speed delivery of advanced telecommunications services to all consumers. Thus, regulations which inhibit the ability of carriers to invest in the telecommunications infrastructure and to provide new services to consumers must be eliminated.

USTA has used these criteria to examine all of the rules and regulations applicable to wireline, incumbent LECs and, as explained below, recommends the elimination or modification of certain rules. In its examination of the rules, USTA found many which were promulgated at a time when local and long distance services were provided by one company. Some of the current rules, holdovers from rate of return regulation, fail to reflect the fact that some of the largest incumbent LECs are subject to price cap regulation. Many of the rules impose reporting and record keeping requirements which do not make sense given that there are no barriers to entry in the markets where incumbent LECs traditionally have provided service. USTA's compilation of the regulations which meet the Section 11 standard are explained below.

V. CURRENT REGULATIONS WHICH MUST BE ELIMINATED OR MODIFIED PURSUANT TO SECTION 11 OF THE TELECOMMUNICATIONS ACT OF 1996.

The Telecommunications Act of 1996 was implemented to replace regulation with competition and marketplace forces. Section 11 requires the Commission to review all of its rules in furtherance of the pro-competitive, de-regulatory policy. USTA has examined all of the regulations in Volume 47 of the Code of Federal Regulations. As will be explained below, USTA recommends that the Commission take the following action.

Part 0 - COMMISSION ORGANIZATION.

USTA is not recommending any changes to the rules contained in Part 0 at this time. However, USTA expects that in transitioning to a competitive-based approach, the Commission will be able to streamline its organization accordingly. Further, once the transition is complete and the requirements that will permit competitive markets to develop are established, the Commission should eliminate and/or reduce its regulatory functions.

Part 1 - PRACTICE AND PROCEDURE.

While the Commission has been working hard to meet the deadlines imposed by the Telecommunications Act of 1996, some of the current procedures do not set specific deadlines for Commission action. This has created a logjam of unresolved issues before the Commission in the form of petitions for reconsideration and waivers of the Commission's rules. As a result, incumbent LEC provision of new services may be delayed indefinitely and issues arising from Commission orders may remain unresolved.[31] To the extent that such regulations are necessary, USTA urges the Commission to implement time limits to provide certainty and to ensure resolution of issues. Therefore, USTA recommends limiting the time in which the Commission may consider waiver requests, petitions for reconsideration and applications for review to one year. Under USTA's proposed rules change, if such filings are not denied within one year, they shall be deemed granted.

Using the proposed criteria, USTA believes that establishing deadlines for Commission action is consistent with the purpose of the rule, but will serve the public interest by providing certainty regarding Commission action and reducing regulatory delay.

PART 2 - FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS.

USTA does not recommend any changes in Part 2 at this time; however, USTA will continue to review these rules pursuant to the Commission's recent Notice of Proposed Rulemaking in GEN Docket No. 98-68.[32]

---

[31] There are over forty petitions for reconsideration of the Local Competition Order adopted in 1996 still pending at the Commission.

[32] 1998 Biennial Regulatory Review -- Amendment of Parts 2, 25, and 68 of the Commission's Rules to Further Streamline the Equipment Authorization Process for Radio Frequency Equipment, Modify the Equipment Authorization Process for Telephone Terminal Equipment, Implement Mutual Recognition Agreements and Begin Implementation of the Global Mobile Personal Communications by Satellite (GMPCS) Arrangements, *Notice of Proposed* Rulemaking, GEN Docket No. 98-68, FCC 98-92 (rel. May 18, 1998).

PART 3 - AUTHORIZATION AND ADMINISTRATION OF ACCOUNTING AUTHORITIES IN MARITIME AND MARITIME MOBILE-SATELLITE RADIO SERVICES.

USTA recommends no changes to Part 3.

PART 5 - EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST).

USTA recommends no changes to Part 5.

PART 11 - EMERGENCY ALERT SYSTEM (EAS).

USTA recommends no changes to the Part 11 rules.

PART 13 - COMMERCIAL RADIO OPERATORS.

USTA recommends no changes to Part 13.

PART 15 - RADIO FREQUENCY DEVICES.

USTA recommends no changes to the Part 15 rules.

PART 17 - CONSTRUCTION, MARKING, AND LIGHTING OF ANTENNA STRUCTURES.

In order to avoid unnecessary duplication, USTA proposes deleting a number of the rules contained in Part 17. While these rules are important to public safety, they duplicate rules promulgated by the Federal Aviation Administration (FAA) which also has jurisdiction over this issue. USTA recommends that the FAA maintain its jurisdiction. As depicted in the attached matrix, USTA proposes to eliminate Sections 17.7, 17.14, 17.21, 17.22, 17.23, 17.45, 17.46, 17.47, 17.48, 17.49, 17.50, 17.51, 17.53, 17.54, 17.55, 17.56 as these rules duplicate Part 77 of the FAA's rules. USTA also recommends deleting Sections 17.24 through 17.43 and 17.52 which were reserved and modifying Section 17.17 to delete the reference to Section 17.23.

Title III of the Communications Act of 1934 vests authority in the Commission to require the painting and/or illumination of antenna structures if such structures constitute or could constitute a menace to air navigation. While the purpose of the regulations serve a valid public interest, the standards are referenced from FAA Advisory Circulars, AC 70/7460-1H and AC 150/5345-43D. USTA believes that such duplication is unnecessary and that the rules pertaining to the specifications for painting, lighting, cleaning and maintenance of antenna structures which are also covered by the FAA Advisory Circulars should be eliminated. In addition, carriers must provide information on FCC Form 854 regarding antenna structures requiring notification to the FAA and structures which are exempt from such notification. Therefore, USTA proposes to eliminate the rules relative to such structures.

USTA recommends retaining rules relating to antenna farms, as well as Section 17.8, 17.9 and 17.10, because these rules are referenced in the FAA rules.

PART 18 - INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT.

USTA recommends no changes in Part 18 at this time.

PART 19 - EMPLOYEE RESPONSIBILITIES AND CONDUCT.

USTA's review focused on rules applicable to incumbent local telephone companies; therefore USTA recommends no changes in Part 19

PART 20 - COMMERCIAL MOBILE RADIO SERVICES.

USTA recommends no changes in Part 20.

PART 21 - DOMESTIC PUBLIC FIXED RADIO SERVICES.

USTA recommends no changes in Part 21.

PART 22 - PUBLIC MOBILE SERVICES.

USTA recommends no changes in Part 22.

PART 23 - INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES.

USTA recommends no changes in Part 23.

PART 24 - PERSONAL COMMUNICATIONS SERVICES.

USTA recommends no changes in Part 24.

PART 25 - SATELLITE COMMUNICATIONS.

USTA recommends no changes in Part 25.

PART 26 - GENERAL WIRELESS COMMUNICATIONS SERVICE.

USTA recommends no changes in Part 26.

PART 27 - WIRELESS COMMUNICATIONS SERVICE.

USTA recommends no changes in Part 27.

PART 32 - UNIFORM SYSTEM OF ACCOUNTS FOR TELECOMMUNICATIONS COMPANIES.

While Section 220(a)(2) requires that the Commission prescribe a uniform system of accounts for use by telephone companies, the Act does not require the Commission to mandate the specific accounts and records to be kept. Therefore, USTA urges the Commission to set a firm date by which to complete the conversion to Generally Accepted Accounting Principles (GAAP) and permit carriers which already rely on GAAP for financial purposes to utilize GAAP for regulatory purposes. This is the only way the Commission can ensure that incumbent LECs are relieved from onerous accounting regulations and are permitted to utilize accounting procedures employed by other businesses.

In a pro-competitive, de-regulatory environment, the burdensome and costly accounting requirements imposed on incumbent LECs must be eliminated or significantly reduced. Other telecommunications providers are not subject to these same requirements and can establish accounting systems and processes to meet their business needs. Incumbent LECs should not be forced to bear the burden of maintaining a Commission-mandated set of accounts, but should be able to adopt accounts, methods and processes that meet professional accounting standards. Permitting incumbent LECs to utilize GAAP accounting will afford them the same flexibility to maintain records consistent with their business needs. Such records could still be available for whatever monitoring the Commission can demonstrate is required. The Commission can effectively monitor all telecommunications companies by reviewing data which is reported to the financial community and by bench marking incumbent LEC results against those of other companies.

In fact, companies that follow GAAP accounting are also required to adhere to internal controls as prescribed by the Foreign Corrupt Practices Act of 1997, the Securities and Exchange Commission and the Internal Revenue Service. The American Institute of Certified Public Accountants Statement on Auditing Standards No. 55 "Consideration of the Internal Control Structure in a Financial Statement Audit" also provides effective internal controls. A company's compliance with these internal control standards is evaluated annually by independent auditors as part of the field work done prior to the auditor's opinion on the company's financial statements. A company's annual financial statement also includes a Report of Management. This report acknowledges management's responsibility for internal control and attests to the existence of a strong control structure which provides reasonable assurance that assets are safeguarded from unauthorized use or disposition, that transactions are properly recorded and executed and that the financial records permit the preparation of reliable financial statements.

Competition and price cap regulation certainly provide effective constraints on the ability of incumbent LECs to cross subsidize.[33] There are also other safeguards which make the current Part 32 rules redundant and overly burdensome. These safeguards include financial and other reporting as well as internal and external audits and internal controls as noted above, ongoing tariff review at both the state and Federal level, federal and state complaint and enforcement procedures, activities of other agencies such as the Federal Trade Commission, SEC, Financial Accounting Standards Board, Department of Justice, state attorneys general and Federal and state statutes, including the Telecommunications Act of 1996 and antitrust laws. The current Part 32 rules are superfluous and only serve to further tilt the competitive advantage in favor of competitors who are free to enter and provide service without the Commission's restrictions.

The current Part 32 rules became effective on January 1, 1988. Ten years later, it is clear that the Part 32 rules no longer reflect current business operations of the incumbent LECs. In a recent report, the accounting firm of Arthur Andersen analyzed the Part 32 rules and found that the rules no longer accomplish their stated objectives. As explained by Arthur Andersen:

> Management no longer utilizes USOA [Uniform System of Accounts or Part 32] results to manage the business--in particular, the expenses as categorized under Part 32 do not present a clear picture of activities performed to produce a product or service. Thus, companies have designed management information systems

---

[33]Price cap regulation breaks the link between costs and rates. Once the rates for price capped services are established, prices are regulated by the price cap formula, not by the allocation of costs. Since prices are capped, changes in cost allocation do not affect prices. Thus, price cap carriers may charge the capped price whether or not its costs for the regulated service change. Under price cap regulation, the risk of cross subsidization is virtually non-existent.

> that focus on activity-based cost information (e.g., salaries and wages, by activity or service, versus buried cable expenses). The financial community for the most part no longer uses the financial results derived pursuant to Part 32... In light of the tremendous changes in the industry since its adoption in 1988, in many respects the USOA's stability has rendered it obsolete as an accounting system intended to reflect the current results of operations of subject carriers in a consistent and relevant manner.[34]

The Commission has authority under specific provisions of the Act to prevent cross subsidization and in Section 254(k) shall establish *any necessary* cost allocation rules, accounting safeguards and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services. However, the Act does not require the maintenance of the current Part 32 rules.

In CC Docket No. 98-81, USTA urged the Commission to permit incumbent LECs to adopt GAAP.[35] USTA also recommended the following rules changes which would facilitate the move to GAAP. These changes are included in the attached matrix and reflected in the attached rules.

1). Consolidate from Class A to Class B accounting and eliminate subaccounts and subsidiary records as well as jurisdictional difference accounts. Class B accounting is already used by small and, if adopted as proposed by the Commission in CC Docket No. 98-81, will be used by mid-sized incumbent LECs.[36] Class A accounting is not required for the Commission to

---

[34]Ex Parte Filing of Arthur Andersen LLP, *Accounting Simplification in the Telecommunications* Industry, CC Docket No. 98-81, July 15, 1998 at 2.

[35]1998 Biennial Regulatory Review--Review of Accounting and Cost Allocation Requirements, United States Telephone Association Petition for Rulemaking, CC Docket No. 98-81, ASD File No. 98-64, FCC 98-108, USTA Comments filed July 17, 1998.

[36]Despite the fact that the Class A accounts were established at a time when all LECs operated under traditional cost of service regulation, the Commission is now proposing to apply
(continued...)

meet any of its statutory obligations in the Act because of all of the other safeguards listed above. The Commission's separations rules are based on Class B accounts. In addition, incumbent LECs should not be forced into maintaining subaccounts or subsidiary records that do not serve a business purpose. Further, since Jurisdictional Difference Accounts do not contain Part 32 accounting dollars, these accounts should be eliminated. By adopting Class B accounting, the Commission can reduce the number of accounts from 261 to 109, the number of subaccounts from 12 to five and eliminate all of the 179 subsidiary records. These reductions, in turn, will allow incumbent LECs to reduce the administrative, financial and operational processes and systems that are required to implement the Part 32 requirements and provide them the same flexibility their competitors enjoy. The competitors of the incumbent LECs of course are not subject to the Part 32 requirements and are able to utilize GAAP accounting.

2). Streamline Property Records and Depreciation as defined in Section 32.2000. USTA recommends that the Commission replace the detailed instructions for Telecommunications Plant accounts with broader policy requirements. This level of detail is not necessary. Incumbent LECs should not be required to incur the costs to keep details which are not required for business purposes. Specifically, USTA urged the Commission to eliminate the detailed "how to" descriptions for each account; eliminate the requirement to file retirement unit lists and to rely instead on GAAP depreciation and retirement standards; allow incumbent LECs to determine when vintage level data is required; allow incumbent LECs to determine the applicable depreciation rate for each account based upon GAAP standards; eliminate 32.2000(g)(4) and (5); allow the use of GAAP internal controls and permit incumbent LECs to establish expense limits.

3). Eliminate the expense matrix as well as other mandated subsidiary records.

4). Eliminate the preliminary notification requirements in Part 32 and permit incumbent LECs to adopt new accounting standards concurrent with FASB. This would relieve incumbent LECs from being forced to maintain multiple sets of books to record differences between GAAP and Part 32.[37] For example, by eliminating Section 32.25 and permitting carriers to recognize extraordinary items, prior period adjustments and contingencies in conformance with GAAP without filing for Commission approval, the Commission can avoid duplication with the material items already disclosed in the Form 10-K and other financial reports.

5). Eliminate Section 32.26 and replace it with the GAAP standard for materiality as contained in the Statement of Financial Accounting Concept No. 2.

---

[36](...continued)
these outdated accounting requirements to only those incumbent LECs under price cap regulation. Such a proposal makes no sense.

[37]USTA proposes to eliminate notification requirements in Section 32.2(f), 32.13, 32.13(a)(3), 32.16, 32.25, 32.26, 32.1220(h), 32.2002(b), 32.2311(f), 32.1437, 32.4340, and 32.4361.

6). Replace the annual inventories with the GAAP requirements for periodic inventories.

7). Eliminate the Jurisdictional Difference Accounts since these accounts do not include Part 32 amounts.

8). Consolidate the tax accounts.

Adopting USTA's recommendations listed above would provide the first step necessary to move to GAAP accounting. However, the Commission should establish a date certain by which all incumbent LECs would be permitted to utilize GAAP accounting.

PART 36 - JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES.

As noted above, the Commission has initiated a proceeding to examine the jurisdictional separations of costs.[38] As USTA noted in its comments filed in that proceeding, the jurisdictional separations of costs is required so long as incumbent LECs remain subject to Federal and state rate regulation. In fact, the Telecommunications Act of 1996 preserved the dual regulatory scheme whereby the Commission has authority to regulate interstate services and the state commissions have the authority to regulate intrastate services.[39] The primary purpose of jurisdictional separations is to assign costs to the appropriate jurisdiction wherein the company is permitted a meaningful opportunity to recover all prudently incurred costs.

However, maintenance of jurisdictional separations does not mean that the current complicated and burdensome separations rules could not be simplified. The current process is a

---

[38]Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, *Notice of Proposed Rulemaking*, CC Docket No. 80-286, FCC 97-354 (rel. Oct. 7, 1997).

[39]Section 1 and 2.

complex process and requires detailed studies of incumbent LECs' regulated costs. Despite the numerous studies, the jurisdictional allocation process often results from public policy decisions which traditionally were aimed at preserving universal service. USTA recommends that the separations rules can be simplified by freezing the jurisdictional allocations and categorization factors. This would provide for greater administrative simplicity and stability.

Specifically, USTA has proposed that all jurisdictional allocation percentages and category relationships be frozen immediately based on annual data as of December 31, 1997 for price cap LECs. For non-price cap LECs, only the jurisdictional allocation percentages would be frozen based on a three year average of data from 1994 through 1996. The specific rule language and a matrix of the Part 36 rules as included in USTA's December 10, 1997 comments are attached. These modifications meet the Joint Board's stated criteria that jurisdictional separations be competitively neutral, administratively simple and maintain cost causation principles. In addition, USTA's proposal avoids significant jurisdictional cost shifts and the associated impacts on customers, can be implemented immediately, introduces a degree of stability into the separations process which will facilitate planning for expenditures to maintain known relationships and will not impact other rules. USTA urges the Joint Board to address this issue and the Commission to implement it as soon as possible.

PART 41 - TELEGRAPH AND TELEPHONE FRANKS.

USTA concurs with the Commission's proposal to eliminate Part 41.[40] The Commission's tentative conclusions, "that the reality of competition and the discipline of

---

[40] 1998 Biennial Regulatory Review — Elimination of Part 41 Telegraph and Telephone Franks, CC Docket No. 98-119, *Notice of Proposed Rulemaking*, FCC 98-152 (rel. Jul.21, 1998).

competitive markets for interstate and international services obviates the need for any special record keeping or other regulatory requirements" are correct. USTA's analysis of the application of these rules revealed that the franking privilege is rarely if ever utilized and that the Part 41 rules are no longer necessary

PART 42 - PRESERVATION OF RECORDS OF COMMUNICATION COMMON CARRIERS.

Part 42 of the Commission's rules prescribes regulations governing the preservation of records by common carriers. Given the de-regulatory objective of the 1996 Act and the fact that carriers must retain records for legal and financial purposes, the Part 42 record retention rules are superfluous and unnecessary. So long as certain records are available for review by the Commission, carriers should be permitted to determine the most efficient manner in which to conduct their record keeping. Further, specific requirements regarding machine-readable format are outdated, as many carriers are keeping records in electronic format. Since carriers must already retain toll records for law enforcement purposes as required under 28 U.S.C. § 1732, there is no justification to maintain these rules. Therefore, USTA recommends that Sections 42.01 through 42.07 be eliminated. USTA does recommend that the Commission retain Section 42.11 regarding the public availability and retention of information concerning detariffed interexchange services. These rules do not contain specific requirements and are thus less onerous than the other sections contained in this part. However, these rules could be moved to Part 61 and the Commission could eliminate all of Part 42.

PART 43 - REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES.

USTA recommends that the Commission eliminate the majority of reports required in Part 43 of the Commission's rules. The Automated Reporting Management Information Systems (ARMIS) reports have outlived their usefulness, pose unnecessary and costly administrative burdens and provide an advantage to the competitors of incumbent LECs contrary to the de-regulatory, pro-competitive national telecommunications policy required by the 1996 Act. These reports are not needed to meet any statutory obligation contained in the Act. The tariff process provides the Commission with the information needed to ensure that rates are just and reasonable. Streamlined cost allocation manuals can be maintained to provide relevant information as will be discussed below. The time and expense required to compile, update and file these reports simply diverts resources from providing customers with the services they demand. The competitive information contained in the reports is used by competitors of incumbent LECs to give themselves an advantage in the marketplace since they do not have to provide such information.

Further, there are many less burdensome alternatives for the Commission to consider. For example, the Commission itself, noting that reporting requirements are burdensome, stated that it would not impose additional reporting and would utilize surveys or statistical analysis to make the evaluations necessary under Section 254(c)(1) of the Act.[41] Other Sections of the Act, such as 260 and 276, provide the Commission with the authority to oversee certain incumbent LEC activities; however, none of them call for the excessive detail contained in the current rules.

---

[41]Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, (rel. May 8, 1997) at ¶ 107.

USTA recommended that the Commission issue a Notice of Inquiry applicable to all telecommunications carriers, not just incumbent LECs, to obtain information on local competition.[42] Relevant financial information can be obtained from the 10K form which all corporations file with the SEC. Annual shareholder reports could also be utilized. Service quality specifications are included in tariffs, service agreements and other publicly available sources. Further, when the Commission requires information, the Commission generally issues a data request.[43] That way it can limit the request to the specific information it requires. Such an approach ensures that the Commission receives pertinent information which is not contained in the ARMIS reports. The use of such alternatives to obtain data would be competitively neutral if applied to all service providers, would provide the Commission with relevant, public information and would significantly reduce administrative costs

At a minimum, USTA recommended streamlining these reports in its comments in CC Docket No. 98-117.[44] USTA proposed a single, annual report, ARMIS 43-00, to replace the current 43-01 through 43-04 reports required in Section 43.21 of the rules. This report would reduce the number of pages to be filed from 191 to 5. The new report would contain four Tables: Balance Sheet Investment, Income Statement, Footnotes and Accounts Payable to Affiliates. The format is consistent with the current 43-01, the SEC Form 10K and the annual shareholder

---

[42]USTA Comments, Local Competition Survey, CC Docket No. 91-141, CCB-IAD File No. 98-102, June 8, 1998.

[43]Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket No. 97-160, *Order*, DA 98-1576 (rel. August 7, 1998).

[44]1998 Biennial Regulatory Review — Review of ARMIS Reporting Requirements, CC Docket No. 98-117, *Notice of Proposed Rulemaking*, FCC 98-147 (rel. July 17, 1998).

reports. Specific changes are listed below and are included in the attached matrix and rules language. The new report:

--Eliminates cash flow information which is already available from existing external reports;

--Eliminates demand data from Table 2 of the 43-01 since interstate minutes of use and access lines are already reported in the Tariff Review Plan.

--Eliminates tables from the 43-02 which relate to rate of return regulation;

--Eliminates tables from the 43-02 involving transactions with affiliates;

--Eliminates the 43-02 plant and depreciation reserve tables;

--Reduces the Part 69 reporting categories currently contained in the 43-01 from sixteen to six;

--Maintains the Part 64 requirements for reporting nonregulated financials, but at a reduced level of detail;

--Eliminates the Joint Use Forecast and Actual Reports (495A and 495B); and,

--Maintains the Class B level of detail consistent with Part 36.

These changes reduce the volume and complexity of the current ARMIS reports, are consistent with the requirements of Section 11, minimize the reporting burden and maintain the quality and use of the information included in the reports. If, after weighing the cost and benefits of these requirements, the Commission determines that they must be continued, USTA urges the Commission to adopt the streamlined version described above.

USTA also recommended that the Commission eliminate the ARMIS network reports. These reports were developed to assist the Commission in monitoring service quality and infrastructure development when price cap regulation was first adopted. Price cap regulation has been in effect for almost a decade and quality of service has not deteriorated. Given their original purpose, it is time to eliminate them. As a transition, USTA also proposed streamlining the reports as follows:

1). Eliminate Table I of the 43-05. This report no longer serves any regulatory purpose. The market for switched and special access services is highly competitive. The customers of these services, primarily interexchange carriers and large corporations, closely monitor the services provided on a real-time basis and demand immediate corrective action if a problem should arise. In such a competitive market, there is no longer any need for the Commission to collect this data. Specifications regarding installation and repair intervals are already included in publicly available information, such as tariffs and service agreements. This Table is duplicative and also provides information which can be used by other providers to provide them with a competitive advantage.

2). Eliminate Table II of the 43-05. Local service is properly within the jurisdiction of the state regulatory commissions. This Table is beyond the scope of the Commission's authority and duplicates state requirements.

3). Eliminate Table III of the 43-05. The Commission has found that service quality has not declined under price cap regulation. There is no longer any need to report common trunk blockage.

4). Eliminate Table IV.A of the 43-05. After this Table was initiated, incumbent LECs are now required to file separate initial and thirty day service disruption reports on major service disruptions exceeding certain thresholds. The detail required by this Table serves no regulatory purpose and is also provided in summary form on Table IV. There is no need to duplicate this information.

5). Eliminate Table V of the 43-05. The Commission should keep track of the complaints it receives and the state commissions should keep track of the complaints they receive. There is no reason to impose this burden on incumbent LECs.

6). Eliminate the 43-06. In a pro-competitive telecommunications environment, reporting customer satisfaction surveys is unnecessary. This report has outlived its purpose and should be eliminated. Customers can register their dissatisfaction with an incumbent LEC by filing a complaint or switching to another carrier. Certainly competitors would never collect and report such information.

7). Eliminate Table I of the 43-07. The public network services included in this Table, touchtone, equal access and CCS7 are ubiquitous and there is no longer any need to report this information.

8). Eliminate Table II of the 43-07. As noted above, there is no longer any need to report on the deployment of fiber. Incumbent LECs deploy fiber based on business needs and competitive market circumstances. Table I of the 43-08 provides data regarding conversion from metallic cable to fiber cable. Such data should be sufficient.

9). Eliminate Tables III and IV of the 43-07. As the Bureau suggested, these tables no longer provide relevant data and are redundant. USTA agrees with the Bureau that these Tables should be eliminated.

10). Reduce the level of detail required in Table I of the 43-08. The detail required in Table I should be reduced by eliminating columns d through o.

11). Eliminate Table II of the 43-08. This Table no longer serves any regulatory purpose and should be eliminated.

12). Eliminate Table III of the 43-08. This Table is not appropriate in a pro-competitive telecommunications environment.

13). Eliminate Table IV of the 43-08. In a pro-competitive environment, such information should not be required to be filed by only one class of provider.

USTA also recommends that Section 43.43 of the rules, which addresses depreciation reporting, be deleted. In a separate filing, USTA will demonstrate that forbearance of Section 220(b) of the Communications Act of 1934 is long overdue and is required by Section 10 of the 1996 Act.[45]

PART 51 - INTERCONNECTION.

USTA has reviewed this section of the rules and recommends no changes at this time.

PART 52 - NUMBERING.

USTA has reviewed this part of the rules and recommends no changes at this time.

[45]USTA Petition for Forbearance From Depreciation Regulation of Price Cap Local Exchange Carriers, September 21, 1998.

PART 53 - SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES.

USTA has reviewed this part of the rules and recommends no changes at this time.

PART 54 - UNIVERSAL SERVICE.

USTA has reviewed this part of the rules and recommends no changes at this time.

PART 59 - INFRASTRUCTURE SHARING.

USTA has reviewed this part of the rules and recommends no changes at this time.

PART 61 - TARIFFS.

USTA recommends that the tariffing requirements in Part 61 of the Commission's rules be modified to be consistent with the streamlined tariff procedures contained in Section 204(a)(3) of the Act and to further streamline the detailed cost support requirements. In addition, USTA recommends that this section be reorganized. As depicted in the attached matrix, USTA proposes that Part 61 only contain tariff requirements. Rules associated with price cap regulation would be moved to a new Part XX and rules associated with rate of return regulation would be moved to Part 69.

The current tariff rules impose unnecessary costs on incumbent LECs and their customers by delaying the introduction of new services and/or price reductions and thereby creating uncertainty. They are also contrary to a pro-competitive environment. Competitors of incumbent LECs can use the tariff process to delay incumbent LEC offerings and provide themselves with advance knowledge of incumbent LEC offerings. They can respond even before the incumbent has a chance to make its offering. This activity distorts the competitive process and denies consumers the full benefits of competition. The Commission itself has found that significantly streamlined tariff filing requirements serve the public interest by promoting price competition. fostering service innovation, encouraging new entry into various segments of telecommunications markets and enabling firms to respond quickly to market trends.[46] Nondominant carriers, such as AT&T/Teleport, competitive local exchange carriers and MCI/WorldCom can file tariffs which are considered prima facie lawful on one day's notice with no cost support. The customers of incumbent LECs should not be denied the benefits of streamlined tariff filings.

Tariffing restrictions on incumbent LECs also have a detrimental impact on the operation of the market by failing to encourage economic efficiency. Unnecessary constraints on an incumbent LEC's pricing leads to losses in economic efficiency because incorrect market signals are provided to participants. "Moreover, incorrect market signals can lead to inefficient investments in the telecommunications network: e.g., when a customer decides to purchase from a competitor whose incremental cost is higher than the ILEC's but who, nevertheless, can charge a lower price because the ILEC is prevented from responding by tariff constraints. Such investment results in inefficient duplication of the telecommunications network which raises the cost of telecommunications services to all customers (because customers are not receiving the lowest possible price) and creates a burden (of recovering shared fixed and common costs over a smaller base of customers) for those customers remaining on the ILEC's network."[47]

---

[46]Tariff Filing Requirements for Nondominant Common Carriers, CC Docket No. 93-36, *Memorandum Opinion and Order*, 8 FCC Rcd 6752, 6761 (1993).

[47]Schmalensee and Taylor at 5.

USTA's proposal would allow incumbent LEC's to file contract-based tariffs. This particular reform is long overdue. Incumbent LECs should have the same opportunity as their competitors to respond to customer requests. Providing incumbent LECs with this opportunity will facilitate efficient pricing and provide more choices for customers in the form of more service options, more competitive prices and more service providers. This has proved to be the case in California where the state commission granted incumbent LECs the ability to enter into contracts:

> In our view, it is appropriate that the LECs should gave greater contracting flexibility in competitive areas. Firms compete in part on the basis of their ability to tailor their services to meet the needs of specific customers, and these customer-specific arrangements may also reduce the LECs' cost of serving the customer by eliminating services that the customer does not need but that are part of a tariffed package. And if the tailored price makes some contribution toward the fixed costs of operating the network, the LEC's other customers are better off than they would be if the LEC's competitor won the customer's business.[48]

For price cap LECs' annual filing to adjust rates for productivity, inflation and other exogenous events, tariffs would be filed on seven or fifteen days' notice pursuant to Section 204(a)(3). Adjustments to the PCI, API and SBI would be demonstrated. An above cap or above band filing would be made on 45 day's notice, reduced from 120 days, and would include a cost support showing. Any other streamlined tariff filings, including rate changes, would comply with the statutory requirements of Section 204(a)(3) supported by a demonstration that the basket and band indices have not been exceeded. New services would be removed from price cap regulation and filed on fifteen days' notice with no cost support.

---

[48]*In the Matter of Alternative Regulatory Frameworks for Local Exchange Carriers. And Related Matters,* Public Utilities Commission of the State of California, 1.87-11-033, September 15. 1994.

For carriers under rate of return regulation, USTA proposes that all such carriers serving less that two percent of the nation's subscriber access lines filing a tariff introducing a new service on a streamlined basis file on fifteen days' notice and include an explanation of the filing and the basis of the ratemaking employed. Rates for new services would be presumed lawful if they do not exceed the rates for the same service offered by a price cap LEC in an adjacent serving area.

Rate changes, including biennial tariffs, filed on a streamlined basis should also meet the statutory notice requirements and include an explanation of the changed matter, the reasons for the filing, the basis of the ratemaking employed and economic information to support the change, including a brief description of the costs for all elements for the most recent twelve month period and projected costs. When supporting data is requested for common line revenue requirements, the SLCs and PICCs would be based on cost and demand data subject to the ceilings established in Part 69.

The optional tariff requirements under the current Part 61.39 rules are expanded to include any carrier with less than two percent of the nation's access lines. Carriers utilizing this option would file an explanation and supporting data would be made available if requested by the Commission.

USTA's rules would also permit a rate of return carrier to file its own carrier common line tariff for one or more of its study areas without doing so for all of its study areas. Those carriers would not be eligible for long term support for those study areas.

In addition, USTA's rules allow telephone companies involved in mergers that wish to have more than 50,000 common lines reenter the common line pool may do so by filing an application with the Commission.

USTA's Part 61 rules also include the following:

--changes the notice period for tariff filings to make corrections from three days' notice to one day's notice;

--eliminates the requirement that tariffs must be in effect for thirty days before any changes can be made;

--permits tariff references to any other tariff filed with the Commission or to any technical publication;

--extends special permission grants from sixty days to ninety days;

--includes new rules for electronic tariff filings, including the electronic transfer of tariff filing fees;

--eliminates the requirement to maintain a copy of the tariff in the carrier's business office;

--eliminates the rules for optional incentive regulation; and,

--eliminates the rules for dominant interexchange carrier price cap regulation.

Relief from the detailed cost support requirements as described above is in the public interest. Current complaint procedures will continue to provide any party with the opportunity to challenge a tariff filing. These changes are essential to the establishment of a pro-competitive, de-regulatory telecommunications policy.

PART 62 - APPLICATIONS TO HOLD INTERLOCKING DIRECTORATES.

USTA recommends that this part of the rules be deleted in its entirety. Section 212 of the Communications Act of 1934 makes it unlawful for any person to hold the position of officer or director of more than one carrier subject to the Act unless the Commission grants an exception pursuant to Part 62. Promulgated in 1985, this part of the rules has outlived its purpose. As