

found in Tariff FCC No. — issued by — (If the concurring carrier has ceased operations, the revocation notice must so indicate)

(Name of carrier) _____

By _____

(Title) _____

APPLICATIONS FOR SPECIAL PERMISSION

§ 61.34 Scope.

Sections 61.35 and 61.36 set forth the procedures to be followed by a carrier applying for a waiver of any of the rules in this part.

§ 61.35 Terms of applications and grants.

Applications for special permission must contain:

- (a) A description of the tariff publication proposed to be put into effect;
- (b) A statement citing the specific rules and the grounds on which waiver is sought;
- (c) A showing of good cause; and
- (d) A statement as to the date and method of filing the original of the application for special permission as required by § 61.36(b) and the date and method of filing the copies required by § 61.36 (a) and (c).

If a carrier elects not to use the authority granted within ninety days of its effective date, the original grant will be automatically cancelled by the Commission.

§ 61.36 Method of filing applications.

- (a) An application for special permission must be addressed to "Secretary, Federal Communication Commission, Washington, DC 20554." The date on which the application is received by the Secretary of the Commission (or the Mail Room where submitted by mail) is considered the official filing date.
- (b) In addition, for all special permission applications requiring fees as set forth at part 1, subpart G of this chapter, the issuing carriers must submit the original of the application letter (without attachments), FCC Form 155, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105. The carrier should submit these fee materials on the same date as the submission in paragraph (a).
- (c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the

issuing carrier must send a copy of the application letter with all attachments to the Secretary, Federal Communications Commission and a separate copy with all attachments to the Chief, Tariff and Pricing Analysis Branch. If a carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from FCC tariff numbers, bear the signature of the officer or agent of the carrier, and be in the following format:

Application No. _____

(Date) _____

Secretary Federal Communications Commission
Washington, DC 20554.

Attention: Common Carrier Bureau (here provide the statements required by § 61.152).

(Exact name of carrier) _____

(Name of officer or agent) _____

(Title of officer or agent) _____

ADOPTION OF TARIFFS AND OTHER DOCUMENTS OF PREDECESSOR CARRIERS

§ 61.37 Adoption notice.

When a carrier's name is changed, or its operating control transferred from one carrier to another in whole or in part, the successor carrier must file tariff revisions to reflect the name change. The successor carrier may either immediately reissue the entire tariff in its own name, or immediately file an adoption notice. Within 35 days of filing an adoption notice, the successor must reissue the entire tariff in its own name. The reissued tariff must be numbered in the series of the successor carrier, and must contain all original pages without changes in regulations or rates. The transmittal letter must state the tariff is being filed to show a change in the carrier's name pursuant to § 61.37 of the Commission's Rules. The adoption notice, if used, must read as follows:

The (Exact name of successor carrier or receiver) here adopts, ratifies and makes its own in every respect, all applicable tariffs and amendments filed with the Federal Communications Commission by (predecessor) prior to (date).

§ 61.38 Changes to be incorporated in tariffs of successor carrier.

When only a portion of properties is transferred to a successor carrier, that carrier must incorporate in its tariff the rates applying locally between points on the transferred portion. Moreover, the predecessor carrier must simultaneously cancel the corresponding rates from its tariffs, and reference the FCC number of the successor carrier's tariff containing the rates that will thereafter apply

SUSPENSIONS

§ 61.39 Carrier to file supplement when notified of suspension.

If a carrier is notified by the Commission that its tariff filing has been suspended, the carrier must file immediately a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

§ 61.40 Contents of supplement announcing suspension.

(a) A supplement announcing a suspension by the Commission must specify the term of suspension imposed by the Commission.

(b) A supplement announcing a suspension of either an entire tariff or a part of a tariff publication, must specify the applicable tariff publication effective during the period of suspension.

§ 61.41 Vacation of suspension order; supplements announcing same; etc.

If the Commission vacates a suspension order, the affected carrier must issue a supplement or revised page stating the Commission's action as well as the lawful schedules.

MISCELLANEOUS

§ 61.42 Delivered free of charges.

Tariff publications must be delivered to the Commission free from all charges, including claims for postage.

§ 61.43 Tariff publications not returned.

Tariff publications will not be returned.

ELECTRONIC TARIFF FILINGS

§ 61.44 Scope

(a) This section applies to all tariff publications of carriers required to file tariff publications electronically, and documents, other than tariff publications, filed by parties permitted, but not required to file electronically

(b) All Incumbent Local Exchange Carriers are required to file tariff publications electronically.

(c) All tariff publications shall be filed in a manner that is compatible and consistent with the technical requirements of the Electronic Tariff Filing System.

(d) All Incumbent Local Exchange Carriers must file tariff publications using the Electronic Tariff Filing System for all tariff publications filed on or after July 1, 1998.

§ 61.45 Method of filing publications.

(a) Publications filed electronically must be addressed to "Secretary, Federal Communications Commission, Washington, DC 20554." The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in Section 1.4(e)(2) of this chapter, the filing will be date and time stamped as of the opening of the next business day. The foregoing applies except in cases where the Electronic Tariff Filing System experiences system difficulties such that publications cannot be filed electronically. In such cases and upon timely notification to the Tariff and Pricing Analysis Branch, the filing will be date and time stamped with the current business date. In all other cases, the issuing carrier must revise the transmittal letter to reflect the correct issue and effective date. No additional filing fees will be required by the issuing carrier and no additional changes to the original publication are permitted.

(b) In addition, except for issuing carriers filing fees electronically, for all tariff publications requiring fees as set forth in Part 1, Subpart G of this chapter, issuing carriers must submit the transmittal letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting tariff fees electronically should submit a copy of the Form 159, and the transmittal letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved". Issuing carriers should submit these fee materials on the same day as the transmission in paragraph (a) of this section.

(c) Carriers that are required to file publications electronically may not file those publications on paper or other media unless specifically required to do so by the Commission.

(d) Carriers that are required to file publications electronically need only transmit one set of files to the Commission. No other copies are required to be filed with the Commission.

(e) Carriers that are required to file publications electronically must continue to comply with the format requirements set forth in Part 61

(f) Parties permitted to file documents electronically in tariff proceedings may not, when filing electronically, file paper copies with the Commission otherwise required for non-electronic filing.

§ 61.46 Letters of transmittal and cover letters.

(a) All tariff publications filed with the Commission electronically must be accompanied by a letter of transmittal. All letters of transmittal must:

- (1) concisely explain the nature and purpose of the filing;
- (2) specify whether supporting information is required for the new tariff or tariff revision, and specify the Commission rule or rules governing the supporting information requirements for the filing; and
- (3) contain a statement indicating the date and method of filing of the original of the transmittal letter as required by § 61.45(b).

(b) Carriers filing tariffs electronically pursuant to the notice requirements of Section 204(a)(3) of the Communications Act shall display prominently, in the upper right hand corner of the letter of transmittal, a statement that the filing is made pursuant to that Section and whether the tariff is filed on 7 or 15 days' notice.

(c) Any carrier filing a new or revised tariff made on 15 days' notice or less shall include in the letter of transmittal, the name, room number, street address, telephone number, and facsimile number of the individual designated by the filing carrier to receive personal or facsimile service of petitions against the filing as required under § 1.773(a)(4) of this chapter

(d) The letter of transmittal must specifically reference by number any special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication and may not be requested in the transmittal letter.

(e) The letter of transmittal must be substantially in the format established in § 61.12(e) and § 61.12(f).

(f) All submissions of documents other than Base Documents must be accompanied by a cover letter that concisely explains the nature and purpose of the filing. Publications submitted under this paragraph are not required to submit a filing fee.

§ 61.47 Base Documents.

(a) The Base Document is a complete tariff which incorporates all effective revisions, as of the last day of the preceding month. The Base Document should be identified in the electronic submission as a new Base Document.

(b) Initially, carriers that currently have tariffs on file with the Commission must file a Base Document within five business days of the initiation of mandatory electronic filings.

(c) Subsequently, if there are revisions that become effective up to and including the last day of the preceding month, a new Base Document must be submitted within the first five business days of the current month that will incorporate those revisions.

§ 61.48 Method of filing applications for special permission.

(a) An application for special permission filed electronically must be addressed to "Secretary, Federal Communications Commission, Washington, DC 20554." The Electronic Tariff Filing System will accept filings 24 hours a day, seven days a week. The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in Section 1.4(e)(2) of this chapter, the filing will be date and time stamped as of the opening of the next business day. The foregoing applies except in cases where the Electronic Tariff Filing System experiences system difficulties such that applications cannot be filed electronically. In such cases and upon timely notification to the Tariff and Pricing Analysis Branch, the filing will be date and time stamped with the current business date. In all other cases, the issuing carrier must revise the application letter to reflect the correct issue date. No additional filing fees will be required by the issuing carrier and no additional changes to the original application are permitted.

(b) In addition, except for issuing carriers filing fees electronically, for special permission applications requiring fees as set forth in Part 1, Subpart G of this chapter, issuing carriers must submit the application letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting filing fees electronically should submit a copy of the Form 159 and the application letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved". Issuing carriers should submit these fee materials on the same day as the transmission in paragraph (a) of this section.

§ 61.49 [Reserved]

INCUMBENT LOCAL EXCHANGE CARRIER RATE OF RETURN REGULATION

§ 61.50 Filing of access service tariffs.

(a) Except as provided in paragraph (g) of this section, a tariff for access service shall be filed with this Commission for a two-year period. Such tariffs shall be filed with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.

(b) The requirements imposed by paragraph (a) of this section shall not preclude the filing of revisions to those annual tariffs that will become effective on dates other than July 1.

(c) Any access service tariff filing, the filing of any petitions for rejection, investigation or suspension and the filing of any responses to such petitions shall comply with the applicable rules of this Commission relating to tariff filings.

(d) The Association shall file a tariff as agent for all telephone companies that participate in an Association tariff.

(e) A telephone company or group of telephone companies may file a tariff that is not an Association tariff. Such a tariff may cross-reference the Association tariff for some access elements and include separately computed charges of such company or companies for other elements. A telephone company or group of affiliated telephone companies may elect to file its own tariff, including its own carrier common line tariff, for one or more of its study areas (for purposes of this subsection, the "subject study areas") without filing such tariff(s) for all of its study areas. Any such tariff must comply with the requirements hereinafter provided:

(1) Such a tariff must cross-reference Association charges for the Carrier Common Line and End User Common Line element or elements if such company or companies participate in the pooling of revenues and revenue requirements for such elements.

(2) Such a tariff that cross-references an Association charge for any end user access element must cross-reference Association charges for all end user access elements;

(3) Such a tariff that cross-references an Association charge for any carrier's carrier access element other than the Carrier Common Line element must cross-reference Association charges for all carrier's carrier access charges other than the Carrier Common Line element;

(4) Except for charges subject to price cap regulation, any charge in such a tariff that is

not an Association charge must be computed to reflect the combined investment and expenses of all companies that participate in such a charge:

(5) [Reserved]

(6) A telephone company or companies that elect to file such a tariff, including a Carrier Common Line tariff, shall notify the Association not later than December 31 of the preceding year, if such company or companies did not file such a tariff in the preceding annual period or cross-reference Association charges in such preceding period that will not be cross-referenced in the new tariff.

(7) Zone pricing consistent with § 69.130 of this chapter is permitted in the subject study areas;

(8) Such a tariff shall not contain charges included in the Billing and Collection Category.

(9) A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff under the effective date of these rules will not be eligible for long term support pursuant to § 54.303 of this chapter in the subject study areas.

(10) Any data supporting a tariff that is not an Association tariff shall be consistent with any data that the filing carrier submitted to the Association.

(11) Any changes in Association common line tariff participation and Long Term Support resulting from the merger or acquisition of telephone properties are to be made effective on the next annual access tariff filing effective date following consummation of the merger or acquisition transaction, in accordance with the provisions of this subsection.

(f) A tariff for access service provided by a telephone company that may file an access tariff pursuant to § 61.71 may be filed for a biennial period with a scheduled effective date of July 1 of any odd numbered year. An eligible telephone company that does not elect to file an access tariff pursuant to the § 61.71 procedures may elect to file a biennial tariff pursuant to this section. For purposes of computing charges for access elements other than common line elements to be effective on July 1 of any even-numbered year, the Association may compute rate changes based upon statistical methods which represent a reasonable equivalent to the cost support information otherwise required under this Part.

(g) The following rules apply to telephone company participation in the Association common line pool for telephone companies involved in a merger or acquisition.

(1) Any Association common line tariff participant that is party to a merger or

acquisition may continue to participate in the Association common line tariff.

(2) Any Association common line tariff participant that is party to a merger or acquisition may include other telephone properties involved in the transaction in the Association common line tariff, provided that the net addition of common lines to the Association common line tariff resulting from the transaction is not greater than 50,000, and provided further that, if any common lines involved in a merger or acquisition are returned to the Association common line tariff, all of the common lines involved in the merger or acquisition must be returned to the Association common line tariff.

(3) Telephone companies involved in mergers or acquisitions that wish to have more than 50,000 common lines reenter the Association common line pool may do so if they file with the Commission a reentry application, subject to the following conditions. Reentry may occur on the thirty-first (31st) day after such filing unless:

(i) The Commission requests additional time or information to process the application prior to the expiration of the thirty-day period; or

(ii) A party, in a timely manner, opposes the application or seeks conditional approval of the application.

(h) The following rules apply to the withdrawal from Association tariffs under the provision of paragraph (e)(6) or (e)(9) of this section or both by telephone companies electing to file price cap tariffs.

(1) In addition to the withdrawal provisions of paragraphs (e)(6) and (9) of this section, a telephone company or group of affiliated telephone companies that participates in one or more Association tariffs during the current tariff year and that elects to file price cap tariffs effective July 1 of the following tariff year, shall give the Association at least 6 months' notice that it is withdrawing from all Association tariffs, subject to the terms of this Rule, to participate in price cap regulation

(2) The Association shall maintain records of such withdrawals sufficient to discharge its obligations under these Rules and to detect efforts by such companies or their affiliates to rejoin any Association tariffs in violation of the provisions in paragraph (h)(4) of this section.

(3) Notwithstanding the provisions of paragraphs (e) (3), (6) and (9) of this section, in the event a telephone company withdraws from all Association tariffs for the purpose of filing price cap tariffs, such company shall exclude from such withdrawal all "average schedule" affiliates and all affiliates so excluded shall be specified in the withdrawal. However, such company may include one or more "average schedule" affiliates in price cap regulation tariffs provided that each price cap affiliate relinquishes "average schedule" status and withdraws from all Association tariffs and any tariff filed pursuant to § 61.71(b)(2) of this chapter. See generally, §§ 69.605(c), 61.71(b) of this chapter;

MTS and WATS Market Structure; Average Schedule Companies, Report and Order, 103 FCC 2nd 1026-1027 (1986).

(4) If a telephone company elects to withdraw from Association tariffs and thereafter becomes subject to price cap regulation, neither such telephone company nor any of its withdrawing affiliates shall thereafter be permitted to participate in any Association tariffs.

§ 61.70 Supporting information to be submitted with letters of transmittal

(a) *Scope.* Local exchange carriers serving fewer than 2% of the nation's subscriber access lines may submit Access Tariff filings pursuant to either this section or § 61.71. However, the Commission may require any carrier to submit such information as may be necessary for a review of a tariff filing.

(b) *Explanation and data supporting either changes or new tariff offerings.*

(1) *For new service tariffs filed pursuant to section 204(a)(3) of the Communications Act.* The material to be submitted for a tariff offering a new service, must include an explanation of the new matter, the reasons for the filing and the basis of ratemaking employed.

(2) *For tariffs filed pursuant to section 204(a)(3) of the Communications Act.* The material to be submitted for a tariff change which affects rates or charges, must include an explanation of the changed matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed matter.

(i) For a tariff change, the carrier must submit a brief description of the costs for all elements for the most recent 12 month period and projected costs for a representative 12 month period. The description should include an estimate of the effect during the representative period of the changed matter on the traffic and revenues from the service to which the changed matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues.

(3) For a tariff filing that introduces or changes a contribution charge for special access and expanded interconnection, as defined in § 69.111 of this chapter, the carrier must submit information sufficient to establish that the charge has been calculated in a manner that complies with the Commission order authorizing the contribution charge.

(4) For a tariff that introduces a system of density pricing zones, as described in § 69.130 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia*, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

(c) *Working papers and statistical data.*

(1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief Tariff and Pricing Analysis Branch, must be provided two

sets of working papers containing the information underlying the data supplied in response to paragraph (b)(2) of this section, and a clear explanation of how the working papers relate to that information.

(2) Statistical studies, if any, must be submitted and supported in the form prescribed in § 1.363 of the Commission's Rules.

(d) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.

(e) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the offering carrier must transmit to the customer a copy of the explanation and data, if any, required by paragraphs (b) and (c) of this section.

§ 61.71 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings effective on or after April 1, 1989, by local exchange carriers serving fewer than 2% of the nation's subscriber access lines.

(a) *Scope.* This section provides for an optional method of filing for any local exchange carrier which elects to issue its own Access Tariff for a period commencing on or after April 1, 1989, and which serves fewer than 2% of the nation's subscriber access lines. However, the Commission may require any carrier to submit such information as may be necessary for review of a tariff filing.

(b) *Explanation and data supporting tariff changes.* The material to be submitted to either a tariff change or a new tariff which affects rates or charges must include an explanation of the filing in the transmittal as required in this Part. The basis for ratemaking must comply with the following requirements. Except as provided in paragraph (b)(5) of this section, it is not necessary to submit this supporting data at the time of filing. However, the local exchange carrier should be prepared to submit the data promptly upon reasonable request by the Commission or interested parties.

(1) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Tariff Sensitive rates based on the following:

(i) For the first period, a cost of service study for Traffic Sensitive elements for the most recent 12 month period with related demand for the same period.

(ii) For subsequent filings, a cost of service study for Traffic Sensitive elements for the total period since the local exchange carrier's last annual filing, with related demand for the same period.

(2) For a tariff change, the local exchange company that is an average schedule carrier must propose Traffic Sensitive rates based on the following:

(i) For the first period, the local exchange carrier's most recent annual Traffic Sensitive settlement from the National Exchange Carrier Association pool.

(ii) For subsequent filings, an amount calculated to reflect the Traffic Sensitive average schedule pool settlement the carrier would have received if the carrier had continued to participate, based upon the most recent average schedule formulas approved by the Commission.

(3) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Common Line rates based on the following

(i) For the first biennial filing, the common line revenue requirement shall be determined by a cost of service study for the most recent 12-month period. Subscriber line charges ("SLCs") and presubscribed interexchange carrier charges ("PICCs") shall be based on cost and demand data for the same period, subject to the ceilings established in Part 69 of this chapter. Carrier common line rates shall be determined by the following formula:

$$\frac{CCL Rev Req}{CCL MOU_b * (1 + h/2)^2}$$

where:

$$h = \frac{CCL MOU_{t-1}}{CCL MOU_t}$$

And where:

CCL Rev Req = carrier common line revenue requirement for the most recent 12-month period, net of the amount to be recovered through SLCs and PICCs;

CCL MOU_b = carrier common line minutes of for the most recent 12-month period;

CCL MOU_t = *CCL MOU_b* ; and

CCL MOU_o = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be determined by a cost of service study for the most recent 24-month period. SLCs and PICCs shall be based on cost and demand data for the same period, subject to the ceilings established in Part 69 of this chapter. Carrier common line rates be determined by the following formula:

$$\frac{CCL Rev Req}{CCL MOU_b * (1 + h/2)^{5/2}}$$

where:

$$h = \frac{CCL MOU_{t-1}}{CCL MOU_t}$$

And where:

CCL Rev Req = carrier common line revenue requirement for the most recent 24-month period, net of the amount to be recovered through SLCs and PICCs;

CCL MOU_b = carrier common line minutes of for the most recent 24-month period;

CCL MOU_t = carrier common line minutes of use for the 12-month period; and

$CCL\ MOU_0$ = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(4) For a tariff change, the local exchange carrier which is an average schedule carrier must propose common line rates based on the following:

(i) For the first biennial filings, the common line revenue requirement shall be determined by the local exchange carrier's most recent annual Common Line settlement from the National Exchange Carrier Association. SLCs and PICCs shall be based on cost and demand data for the same period, subject to the ceilings established in Part 69 of this chapter. Carrier common line rates shall be determined by the following formula:

$$\frac{CCL\ Rev\ Req}{CCL\ MOU_b * (1 - h/2)^2}$$

where:

$$h = \frac{CCL\ MOU_{i-1}}{CCL\ MOU_i}$$

And where:

$CCL\ Rev\ Req$ = carrier common line settlement for the most recent 12-month period, net of the amount to be recovered through SLCs and PICCs;

$CCL\ MOU_b$ = carrier common line minutes of use for the most recent 12-month period;

$CCL\ MOU_i = CCL\ MOU_b$; and

$CCL\ MOU_0$ = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be an amount calculated to reflect the average schedule pool settlements the carrier would have received if the carrier had continued to participate in the carrier common line pool, based upon the average schedule Common Line formulas developed by the National Exchange Carrier Association for the most recent 24-month period. SLCs and PICCs shall be based on cost and demand data for the same period, subject to the ceilings established in Part 69 of this chapter. Carrier common line rates shall be determined by the following formula:

$$\frac{CCL\ Rev\ Req}{CCL\ MOU_b * (1 - h/2)^{5/2}}$$

where:

$$h = \frac{CCL\ MOU_{i-1}}{CCL\ MOU_i}$$

And where:

$CCL\ Rev\ Req$ = carrier common line settlement for the most recent 24-month period, net of the amount to be recovered through SLCs and PICCs;

$CCL\ MOU_b$ = carrier common line minutes of for the most recent 24-month period;
 $CCL\ MOU_1$ = carrier common line minutes of use for the 12-month period; and
 $CCL\ MOU_0$ = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(5) For End User Common Line charges included in a tariff pursuant to this Section, the local exchange carrier must provide supporting information for the two-year historical period with its letter of transmittal in accordance with § 61.70.

(c) *Maximum allowable rate of return.* Local exchange carriers filing tariffs under this section are not required to comply with §§ 65.700 through 65.701, inclusive, of the Commission's Rules, except with respect to periods during which tariffs were not subject to this section. The Commission may require any carrier to submit such information if it deems it necessary to monitor the carrier's earnings. However, rates must be calculated based on the local exchange carrier's prescribed rate of return applicable to the period during which the rates are effective.

(d) Rates for a new service that is the same as that offered by a price cap regulated local exchange carrier providing service in an adjacent serving area are deemed presumptively lawful, if the proposed rates, in the aggregate, are no greater than the rates established by the price cap local exchange carrier. Tariff filings made pursuant to this paragraph must include the following:

- (1) A brief explanation of why the service is like an existing service offered by a geographically adjacent price cap regulated local exchange carrier; and
- (2) Data to establish compliance with this subsection that, in aggregate, the proposed rates for the new service are no greater than those in effect for the same or comparable service offered by that same geographically adjacent price cap regulated local exchange carrier. Compliance may be shown through submission of applicable tariff pages of the adjacent carrier; a showing that the serving areas are adjacent; any necessary explanations and worksheets.

(e) Average schedule companies filing pursuant to this section shall retain their status as average schedule companies.

RULES FOR NONDOMINANT COMMON CARRIERS

§ 61.80 Retention of information concerning detariffed interexchange services.

(a) A nondominant interexchange carrier shall maintain, for submission to the Commission upon request, price and service information regarding all of the carrier's detariffed interstate, domestic, interexchange service offerings. The price and service information maintained for purposes of this paragraph (a) shall include, but not be limited to, the information that such carrier makes available to the public, as well as documents supporting the rates, terms, and conditions of the carrier's detariffed

interstate, domestic, interexchange offerings. The information maintained pursuant to this section shall be maintained in a manner that allows the carrier to produce such records within ten business days.

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

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

PART 62

**USTA
BIENNIAL REVIEW PETITION
SEPTEMBER 30, 1998**

Rule No.	Action	Justification
Part 62	Delete	<p>Section 212 of the Telecommunications Act of 1934, as amended, makes it unlawful for any person to hold the position of officer or director of more than one carrier subject to the Act unless an exception is duly authorized under the regulations in 47 CFR 62. Part 62 provides a procedure to obtain such exception.</p> <p>The increase in competition, fiduciary duty requirements of officers and board members, the FCC ruling that AT&T is non-dominant, and other laws such as the Foreign Corrupt Practices Act and the Clayton Act, all serve to render Part 62 and Act Section 212 no longer useful. Exceptions to Part 62 already include certain cellular radio licensees, non-dominant carriers, and holding or parent companies. Both Part 62 and Act 212 are no longer useful and should be deleted.</p>

PART 63

**USTA
BIENNIAL REVIEW PETITION
SEPTEMBER 30, 1998**

Rule	Action	Justification
63.01	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.02	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.03	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.04	Delete	Temporary services are currently being evaluated in the testing and market trial proceeding under way as part of the Biennial Review and are also under the control of State Commissions. Emergency services are already covered in state jurisdictions and should not be required to be regulated in multiple jurisdictions. The rules cause unnecessary delays and increased regulatory costs.
63.05	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably

Rule	Action	Justification
		discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.06	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.07	Delete	In a competitive environment, dominant vs. non-dominant should be equal. No disparity should occur in treatment of either class of carrier.
63.08	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.52	Delete	Domestic authorizations no longer required. No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.60	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs.

Rule	Action	Justification
		In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.61	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.62	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.63	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.65	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.66	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.71	Delete	Discontinuance, outage, reduction, and impairment are already covered by

Rule	Action	Justification
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		state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.90	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.100	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.500	Delete	Examples are not required if filings are deleted as recommended in this section.
63.501	Delete	Examples are not required if filings are deleted as recommended in this section.
63.504	Delete	Examples are not required if filings are deleted as recommended in this section.
63.505	Delete	Examples are not required if filings are deleted as recommended in this section.
63.601	Delete	Examples are not required if filings are deleted as recommended in this section.

PART 64

**USTA
BIENNIAL REVIEW PETITION
SEPTEMBER 30, 1998**

Rule No.	Action	Justification
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Subpart A Traffic Claims	Delete	No longer necessary because companies maintain records consistent with applicable rules for IRS, SEC, etc. Requirement that claims be in writing should be a company policy, not federal requirement.
Subpart C Furnishing of Facilities to Foreign Governments for International Communication	Delete	Not required by the Act
Subpart E Use of Recording Devices by Telephone Companies	Delete	Not required by the Act
Subpart G Enhanced Service & CPE	Delete	Market conditions have changed such that the maintenance of this rule would impede the development of a truly competitive market.
Subpart H Candidates for Federal Office	Delete	This issue is more appropriately addressed in Federal election law.
Subpart T IXC Separate Affiliate for ITCs	Delete	Not required by the Act

RULE	ACTION	JUSTIFICATION
47 CFR 64.901(b)(4)	Simplify the process of allocating Central Office and Outside Plant accounts by no longer requiring usage forecasts.	Requiring such detailed and complicated processes is costly with no added public benefit. Other regulatory processes such as Parts 36 and 69 do not require such a detailed and complex three-year forecast process for allocating network investment.
47 CFR 64.901(c)	Move this rule from Part 64 to Part 54.	This rule comes from the Universal Service Section 254 of the Act and should be in Part 54 of the rules, not Part 64. A proxy model, not Part 64, is being used to identify who will receive High Cost support. For Lifeline, 254(k) has been cited as one of the Act's sections that requires carriers to pass Lifeline support directly to customers. The purpose of 254(k) is to govern what is done with the Universal Service support money, 254(k) was not intended to be a change to Part 64. The order changing Part 64 was issued without notice and comment procedures.
47 CFR 64.903(6)(b)	Streamline the CAM process. Eliminate the requirement to quantify CAM changes to time reporting procedures, affiliate transactions and cost apportionment table. Eliminate the 15-day pre-approval requirement. Change RAO 19 to no longer require a product matrix in Section II of the CAM. This requirement is over and above what is in the rules.	It is not the quantification, but the appropriateness of the change itself, that should be the basis upon which a CAM change is accepted or rejected. Small carriers on rate of return regulation are not required to file cost allocation manuals or to notify the Commission when allocators change. Tier 1 Carriers are required to file cost allocation manuals and to estimate the quantification of the allocation matrix changes. Many Tier 1 carriers are on price cap regulation which breaks the link between cost and price. Tier 1 carriers should no longer be required to expend resources to estimate the quantification of the matrix changes.