

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

007 13 1998

In the Matter of)
)
1998 Biennial Regulatory Review --) CC Docket No. 98-131
Part 61 of the Commission's Rules)
and Related Tariffing Requirements)

COMMENTS

The National Exchange Carrier Association, Inc. (NECA)¹ herein files its comments regarding the Commission's *Notice of Proposed Rulemaking* (NPRM) in the above captioned matter.² The Commission has initiated a review of its Part 61 tariff rules (47 C.F.R. Part 61) in this proceeding, pursuant to section 11 of the Communications Act of 1934 (47 U.S.C. § 161). NECA generally agrees with the Commission's proposed revisions to the Part 61 rules, and suggests several additional changes that, if implemented, would reduce unnecessary regulatory burdens on carriers without harm to the public interest.

I. Commission Proposals

The Commission proposes adopting a new rule to reduce the minimum effective period for nondominant carriers' tariffs to 15 days, from the current 30, to allow these

¹ NECA is a private Delaware corporation, a not-for-profit association of over 1,300 local exchange carriers. Pursuant to the Commission's Part 69 rules (47 C.F.R. Part 69), NECA directly administers interstate access charge tariffs and revenue pools on behalf of its exchange carrier members, as well as various federal and state support programs, among its other activities.

² 1998 Biennial Regulatory Review -- Part 61 of the Commission's Rules and Related Tariffing Requirements, *Notice of Proposed Rulemaking*, FCC 98-164, CC Docket No. 98-131 (rel. Jul. 24, 1998) (NPRM).

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carriers to respond to market pressures more rapidly.³ This proposal, however, would leave the minimum effective period for dominant carriers' tariffs at 30 days because, according to the Commission, such carriers face little or no market pressure.⁴

The Commission should treat all carriers the same for purposes of this rule. The purpose of the rule requiring a minimum effective period is to limit rapid fluctuations in rates ("rate churn") that may confuse customers.⁵ There is no reason to believe, however, that dominant carriers are likely to change rates more frequently than once per month except in response to market pressures.⁶ Concerns about rate "churn" do not appear to justify differential treatment for dominant local exchange carriers in any event, because the interexchange carrier (IXC) customers served by dominant LECs under the relevant tariffs are sophisticated commercial telecommunications providers who are unlikely to become confused by mid-month rate changes. Thus, there does not appear to be any need to establish separate minimum rate periods for non-dominant and dominant ILECs.

Currently, the Commission's Part 61 rules include both the streamlined notice requirements mandated by the Communications Act and the Commission's original set of notice requirements, with different time periods.⁷ The Commission invites comment on a proposal to eliminate all the original notice requirements for dominant carriers in its rules, leaving only the Act's streamlined requirements.⁸

³ See NPRM at ¶ 8.

⁴ *Id.* at ¶ 9.

⁵ *Id.* at ¶ 8.

⁶ For example, carrier billing cycles are on a month-to-month basis. Mid-month rate changes require complex pro-rations for billing purposes. To avoid unnecessary administrative expenses, carriers generally seek to make tariff changes effective on the first day of a given month.

⁷ NPRM at ¶ 12, citing rule sections 61.51(b), and 61.58(a)(2), (c) and (d) as examples.

⁸ *Id.* at ¶ 12.

NECA supports this proposal. The current overlapping notice period rules are confusing and unnecessary. As the Commission recognizes, the current rules force carriers to file unnecessary waiver requests when they wish to file on notice periods exceeding those streamlined periods provided in the Act, but shorter than those provided in the original rules.⁹ These problems can and should be resolved by eliminating the original notice period rules and specifying that local exchange carriers may file their tariff on at least 7-days' notice if proposing a rate decrease, and at least 15-days' notice if proposing a rate increase.¹⁰

The Commission also proposes to allow tariffs to reference technical publications which describe engineering, specifications, or other technical aspects of a service offering provided certain conditions are satisfied.¹¹ NECA agrees that this proposal is in the public interest. The Commission should make clear, however, that the technical publications that may be referenced include electronic versions that may be accessed over the Internet.¹²

Finally, NECA agrees with the Commission's other proposals regarding reducing unnecessary or outdated tariff posting requirements and reorganization of certain Part 61 rules to make them easier to follow.¹³

⁹ *See id.*

¹⁰ This proposal is similar to what USTA has proposed in its recent petition. *United States Telephone Association Petition for Rulemaking – 1998 Biennial Regulatory Review*, Part 61 at 14 (fil. Sept. 30, 1998) (hereinafter USTA Petition).

¹¹ NPRM, Appendix at 34, proposed rule § 61.74(f).

¹² The Commission should also make explicit that the entity requesting the technical publication be the one to pay the copyright fee, if applicable, and not the issuing carrier.

¹³ NPRM at ¶¶ 5-7, 10-11.

II. Additional Revisions Should be Made

Currently, the Commission's Part 61 rules require dominant carriers to inform affected customers of certain tariff changes, including rate increases or reductions in service, in a form "appropriate to the circumstance." Permissible forms may include written notification, personal contact, or advertising in newspapers of general circulation.¹⁴ Consistent with the Commission's reasoning for its proposed changes for tariff posting requirements, NECA suggests that the Commission clarify that electronic communications and Internet website postings may also be used as notifications where appropriate. In many cases such communications are the most efficient and effective means for communicating with interstate access customers.

The Commission's Part 61 rules also reserve certain alphabet letter "symbols" for use in identifying tariff changes.¹⁵ Certain of these coding requirements appear to provide unnecessary detail. NECA suggests a reduction in the number of coding options. The Commission should consider expanding the symbol "T" to signify any change in tariff text, and possibly eliminating "C" (signifying a changed regulation), "N" (signifying a new rate or regulation), "D" (signifying a discontinued rate or regulation) and "Z" (signifying a correction).¹⁶ This approach would eliminate unnecessary confusion and will further streamline the tariff process.

The Commission should retain the "I", "R" and "M" codes, but should clarify that, when a carrier enters the NECA tariff, there is no need to indicate whether individual

¹⁴ 47 C.F.R. § 61.58(a)(4).

¹⁵ 47 C.F.R. § 61.54(i)(1).

¹⁶ The Commission should also retain the "S" and "M" codes, but should consider limiting use of the "S" code to reissued rates.

rates are increasing or decreasing for that particular carrier. Since interstate access customers will continue to receive notice of changes in NECA rates, and will also receive notice as to which carriers are joining or exiting NECA's tariff, there should be no need for special studies or comparisons of individual company rates to NECA rates.¹⁷

Currently, the Commission's Part 61 rules require a carrier that is filing a tariff offering a new service to estimate projected effects of that new service on the traffic and revenues of existing service classifications.¹⁸ NECA proposes elimination of this requirement, except in cases where anticipated revenue for a new service is expected to exceed 10 percent of a carriers' total interstate revenues (or, in the case of the NECA pools, 10 percent of pool revenues).

NECA also agrees with one of USTA's recent proposals that rate-of-return carriers be permitted to file a tariff introducing a new service on a streamlined basis of 15 days' notice.¹⁹ Under the proposal, rates for new services would be presumed lawful if they do not exceed the rates for the same service offered by a price cap carrier in an adjacent serving area. Permitting rate-of-return carriers to introduce new services in this manner will reduce administrative inefficiency and promote competition.

In general, the effects of new service offerings on traffic and revenues from existing services are extremely difficult to calculate precisely. Existing rules requiring carriers to submit such estimates do not appear to serve any real purpose, except perhaps in cases where a new service can be expected to have substantial impacts. Limiting

¹⁷ NECA would, of course, continue to include "I" and "R" codes indicating whether rates for the pool as a whole have increased or decreased.

¹⁸ 47 C.F.R. § 61.38(b)(2).

¹⁹ USTA Petition at 41-42.

application of this rule, so as to require cross-elasticity estimates only in cases where a new service is expected to produce revenues in excess of 10 percent of total interstate revenues, will substantially reduce burdens on carriers and eliminate the need for unnecessarily expensive speculative studies.

Finally, although the NPRM proposes only changes to the Commission's Part 61 tariff rules, NECA suggests that the Commission clarify in this proceeding the application of certain provisions of its Part 69 rules relating to notification of NECA tariff participation. Sections 69.3(e)(6), (9) and 69.3(i) of the Commission's access charge rules currently require carriers to provide notice to NECA when they wish to enter or exit the NECA pools. The Commission often grants waivers of these rules to carriers seeking to enter or exit the tariff on shorter notice. In instances where carriers have obtained individual waivers to enter or exit the NECA pools, the Commission should clarify that there is no need for NECA itself to obtain any additional waivers, or to seek special permission to file tariff revisions that reflect the addition or deletion of these carriers.

III. Conclusion

The Commission should adopt the changes proposed in the NPRM, except that it should not continue to impose different minimum effective periods on rates filed by dominant carriers. It should also consider the additional revisions NECA proposes herein to simplify and streamline further existing tariffing rules.

Respectfully submitted,

NATIONAL EXCHANGE
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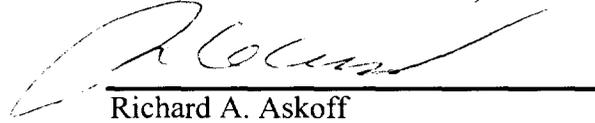
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October 16, 1998

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was served this 16th day of October, 1998, by hand delivery or by mailing copies United States Mail, first class postage paid, to the persons listed below.

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