

Before the
Federal Communications Commission
Washington, D.C. 20554

OCT 16 1998

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

**COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the incumbent LEC-provided access lines in the U.S. These companies are subject to the overly-detailed regulations contained in Part 61 of the Commission's rules.

In a *Notice of Proposed Rulemaking (Notice)* released July 24, 1998, the Commission proposes minor modifications to the current Part 61 rules. These proposed changes do not meet the Commission's obligation under Section 11 of the Telecommunications Act of 1996 to review all of its regulations every two years to determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service and to repeal or modify any regulation it determines to be no longer necessary in the public interest. This requirement is intended to assist the Commission as it develops the pro-competitive, deregulatory national telecommunications policy as required in

that Act. While the Commission has made great strides in eliminating any remaining barriers to entry in local telecommunications markets, it has not yet proposed any meaningful deregulatory initiatives. Its micromanagement of incumbent LEC business operations, to the detriment of the public interest, has not decreased.

In a Petition for Rulemaking filed September 30, 1998, USTA provided the Commission with its comprehensive review of Part 47 of the Code of Federal Regulations as required by Section 11. USTA developed general principles for the purpose of conducting a public interest analysis. Included was an economic analysis of the public interest benefits of economic deregulation prepared by William Taylor of National Economic Research Associates and Robert Hahn of the American Enterprise Institute.

As USTA recommended in its petition, the Commission must ensure that its rules reflect current and evolving technology, enhance consumer welfare, promote administrative efficiency and furthers competition, not competitors. In order to do this, USTA recommended that the Commission analyze the purpose of the regulation and determine whether the regulation supports the pro-competitive, deregulatory policy. The Commission should also examine the relevant market conditions, assess the economic impacts of the regulation on the regulated entity and address the public interest benefit of eliminating the regulation. In a pro-competitive, deregulatory telecommunications environment, the assumption should be that regulation should be eliminated and parties seeking to retain regulation should bear the burden of showing that the regulation must be maintained.

The current tariffing rules must be streamlined. The current requirements give competitors advance notice of services and prices and the legal opportunity to delay new services

while they prepare their own market response. Since competitors of incumbent LECs can file tariffs on one day's notice with no cost support, their market response can be made available long before the incumbent LEC's initial tariff even becomes effective. The incumbent has no ability to compete for customers under these rules. The ability of competitors to game the current rules distorts the competitive process and denies consumers the full benefits of competition.

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. 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.¹ 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

¹Tariff Filing Requirements for Nondominant Common Carriers, CC Docket No. 93-36, *Memorandum Opinion and Order*, 8 FCC Rcd 6752, 6761 (1993).

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."²

A matrix describing USTA's Part 61, Part 69 and streamlined price cap rules changes and the rules language is attached hereto. The rules incorporate some of the Commission's proposals. USTA discusses specific rules changes below.

Contract-Based Tariffs.

In order to create a more level playing field, USTA's proposed rules changes would allow incumbent LECs 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 have 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

²Richard Schmalensee and William Taylor, "The Need for Carrier Access Pricing Flexibility in Light of Recent Marketplace Developments: A Primer," USTA Comments, RM No. 9210, at Attachment p. 5. [Schmalensee and Taylor].

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.³

The Part 61 rules should be revised to provide incumbent LECs with the opportunity to file contract-based tariffs.

Electronic Filing.

USTA's revised Part 61 rules incorporate provisions regarding electronic tariff filings.

Posting.

USTA recommends that the rules regarding posting be eliminated as no longer required. Particularly since interstate tariffs will be available on the Internet, the public interest is not served by requiring incumbent LECs to post tariffs in their business offices. USTA's revised Part 61 is consistent with the Commission's proposal that carriers make available information regarding their tariffs and that carriers provide a telephone number for public inquiries about tariffs.

Effective Period Required Before Changes.

USTA's revised Part 61 eliminates Section 61.59 which requires that tariffs be in effect for thirty days before any changes can be made. This section is inconsistent with Section 204(a)(3) of the Act which allows carriers to file a new or revised charge, classification, regulation or practice on a streamlined basis.

³*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.

Reorganization of Part 61.

In its rulemaking proposal, USTA recommended that the current Part 61 rules be reorganized to contain only tariffing requirements. Rules relating to rate of return regulation would be moved to Part 69 and would only apply to rate of return carriers. Rules relating to price cap regulation would be consolidated in a new Part XX and would only apply to price cap carriers. This reorganization ensures that the tariffing requirements which apply to all carriers are in one part of the rules, and specific regulatory requirements relating to rate of return and price cap regulation are in separate parts of the rules.

Notice Requirements.

USTA's revised Part 61 rules change the notice periods to be consistent with Section 204(a)(3) of the Act. 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. 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.

For carriers under rate of return regulation, USTA proposes that all such carriers serving less than two percent of the nation's subscriber access lines 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 of return carriers filing 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.

USTA also expands the optional tariff requirements under the current Part 61.39 rules 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 revised 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 proposal would modify the rules to allow telephone companies involved in mergers that wish to have more than 50,000 common lines reenter the common line pool to do so by filing an application with the Commission.

Finally, USTA recommends changing the notice period for tariff filings to make corrections from three days' notice to one day's notice, extending special permission grants from sixty days to ninety days and permitting tariff references to any other tariff filed with the Commission or to any technical publication, eliminating the rules for optional incentive

regulation and eliminating 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.

Revisions to Price Cap Rules.

Pursuant to USTA's comprehensive biennial review proposal, the price cap rules would be moved to a new Part XX which only includes price cap rules. The new Part includes existing sections of the current Parts 61 and 69 to combine price management and appropriate access charges for incumbent LECs subject to price cap regulation. The new rules incorporate a streamlined basket and band structure, eliminate the codified rate structure, eliminate the CCL charge and revise the SLC and PICC calculations. A new subpart includes rules to initiate the market-based approach to access pricing by allowing price cap LECs greater flexibility based upon a demonstration that appropriate competitive triggers have been met. The proposed rules are attached hereto.

Revisions to Part 69 Rules.

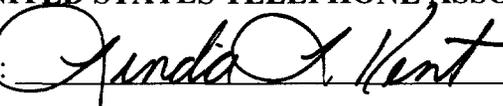
Part 69 is modified to be applicable only to rate of return incumbent LECs. A description of the rules changes and the rules language is attached. The revised rules eliminate the public interest filing requirement for new service tariff filings which only serves to delay incumbent LEC provision of new services. It also streamlines the access structure into four elements: Transport, Switching, Common Line and Other. The Transport, Switching and Other elements do not contain codified subelements. The EUCL and PICC structure is simplified with no

distinction between primary and nonprimary residence lines and the rates would be based on nationwide average prices charged by price cap LECs. The revised rules also provide pricing flexibility by establishing a zone pricing plan for charges associated with the Transport, Switching and Common Line elements. A new Subpart F establishes competitive triggers and allows for additional pricing flexibility for rate of return incumbent LECs.

A comprehensive review of the Part 61 and associated rules required to comply with Section 11 of the Act reveals that these rules must be eliminated or streamlined as described above. The unwarranted micromanagement of incumbent LEC business operations must not continue. Removing regulatory burdens will permit these carriers to serve their customers in the most efficient and effective manner, will provide the appropriate incentives to encourage investment in the telecommunications infrastructure necessary for the provision of advanced services to all consumers, promote consumer welfare, reduce administrative burdens and will enhance the development of economically efficient and fair competition.

Respectfully submitted,

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PART 61

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

Rule	Action	Justification
61.2	<u>Clear and explicit explanatory statements.</u> Section deleted.	Section adds no value.
61.3 now 61.2	<u>Definitions.</u> Definitions associated with price cap regulation are deleted and moved to Part XX. Contract based tariff language modified to be a contract between Carrier and customer.	All price cap regulation rules moved to new Part XX. Contract based tariff language change allows additional flexibility for ILECs to offer contract based tariffs in response to RFPs.
	GENERAL RULES Title deleted.	Title no longer necessary.
	GENERAL RULES FOR DOMESTIC AND INTERNATIONAL NONDOMINANT CARRIERS Replace title with: GENERAL RULES FOR COMMON CARRIERS	The general rules that are the same for all carriers have been consolidated into this one section.
61.20	<u>Detariffing of interstate, domestic, interexchange services.</u> Section deleted.	Specific nondominant IXC general tariff rules are no longer necessary.
61.21 now 61.10	<u>Method of filing publications.</u> Moved International carrier requirements from 61.21(b)(2) to new 61.11(a)(2) (new International Carrier section). Reference to Tariff Review Branch changed to Tariff and Pricing Analysis Branch.	Moved specific reference to International carrier requirements to new 61.11 to consolidate rules regarding International's. This paragraph consolidates all "method of filing publications" into this section. Bureau changed title of organization responsible for tariffs.

Rule	Action	Justification
61.22 now 61.11	<p>Cover Letters. All cover letter information consolidated into this paragraph, including International from 61.21(b)(2). Exception of 61.32(b) (fees) removed.</p>	Consolidated cover letter rules into this one paragraph. Exception regarding fees was redundant, and therefore eliminated.
	<p>SPECIFIC RULES FOR DOMESTIC AND INTERNATIONAL NONDOMINANT CARRIERS Replace Title with: SPECIFIC RULES FOR TARIFF PUBLICATIONS</p>	Title change reflects correct application of the rules to all common carriers, not just nondominant carriers.
61.23	<p>Composition of Tariffs. Section deleted.</p>	Specific non-dominant IXC rules no longer necessary.
61.24 now 61.15	<p>Notice Requirements Sections 61.24 and 61.58 consolidated into 61.15. Tariff filings making corrections changed from a three-day notice period to a one-day notice period. Nondominant tariff filing notice period corrected from 14 days to 1 day. Moved paragraph 69.3(h) to 61.15(c)(1) and revised language for annual price cap filings. Annual Tariff Filing 90 day notice period changed to 7 or 5 days to comply with Section 204(a)(3) of the Act. Revise 61.15(c)(2) notice period for filings where API does not exceed PCI to be consistent with Section 204(a)(3).</p>	Consolidates notice requirements for tariff publications of all common carriers in this section. Three-day notice period for corrections adds no value to the process. One day is sufficient. Corrects notice requirement language for nondominant carriers and price cap LECs.

Rule	Action	Justification
61.15	<p><u>Notice Requirements</u> Revise 61.15(c)(3) notice period for above band tariff filings from 120 days to 45 days.</p>	120 days for above band filings excessive. 45 days is more reasonable.
61.15	<p><u>Notice Requirements</u> Delete Sections 61.15(c)(4), (5), (6) and (7).</p>	Lower SBI limit rules are obsolete. New services are no longer subject to price cap regulation. New services will be subject to streamlined tariff rules (204(a)(3)) with no cost support requirements and by definition are in the public interest. Restructures will be subject to Section 204(a)(3).
61.15	<p><u>Notice Requirements</u> Revise 61.15(e) to replace OIR with Section 61.70 requirements. Revise 61.15(f) language for Section 61.71 tariffs to be consistent with Section 204(a)(3).</p>	Deleted OIR rules and revised ROR notice periods to be consistent with Section 204(a)(3) of the Act.
61.32 now 61.10	<p><u>Method of Filing Publications</u> Moved from nondominant IXC's section to new consolidated "Method of Filing Publication" section.</p>	Consolidated general rules for all common carriers into paragraph 61.10.
61.33 now 61.12	<p><u>Letters of Transmittals.</u> This paragraph reorganized for a more logical flow. Paragraph 61.33 (b) eliminated, consolidated and moved into new 61.71 section. Eliminate references to contract based tariffs. Reference to Tariff Review Branch changed to Tariff and Pricing Analysis Branch.</p>	Consolidated general rules for all common carriers. Specific tariff rules related to contract based tariffs are unnecessary and burdensome to LEC's. Having a special process and transmittal number for contract-based tariffs adds no value, and requires separate procedures for the LECs.

Rule	Action	Justification
61.35 now 61.42	<p><u>Delivered free of charge.</u> Moved to 61.42 for more logical flow. No change in content.</p>	Section renumbered in the reorganization of all tariff requirements.
61.36 now 61.43	<p><u>Tariff publication not returned.</u> Moved to 61.43 for more logical flow. No change in content.</p>	Section renumbered in the reorganization of all tariff requirements.
61.38 now 61.70	<p><u>Supporting information to be submitted with letters of transmittal.</u> Moved to 61.70, under Rate of Return regulation. Revised applicable carrier language to be those LECs serving less than 2% of the nation's access lines. Revised and greatly reduced cost support requirements and information for tariffs filed pursuant to Section 204(a)(3) of the Act. Language added to state that a zone pricing plan must be filed before introducing zones in a tariff. Eliminated additional supporting material requirements for certain tariff rate increases.</p>	Consolidated all ROR regulation into one section. Applicable carrier language revised to be consistent with Section 251(f)(2) of the Act. Cost support requirements reduced to be consistent with section 204(a)(3) of the Act and to eliminate unnecessary requirements.

Rule	Action	Justification
61.39 now 61.71	<p><u>Optional Supporting information to be submitted with letters of transmittal...</u> Moved to 61.71, under Rate of Return regulation. Revised applicable carrier language to be those LECs serving less than 2% of the nation's access lines. Revised section to refer to SLC and PICC ceilings established in revised Part 69. CCL rate formulas revised to clarify that they recover the revenue requirement not recovered by SLCs and PICCs.</p>	<p>Consolidated all ROR regulation into one section. Applicable carrier language revised to be consistent with Section 251(f)(2) of the Act. Revisions made to be consistent with changes to Part 69 to SLCs and to add PICCs, with CCL recovering remaining revenue, per USTA ROR Access Reform Team proposals.</p>
61.40	<p><u>Private Line rate structure.</u> Section deleted.</p>	<p>Rules are obsolete. Previously applied to AT&T.</p>
61.41	<p><u>Price cap requirements generally.</u> Section deleted and incorporated in new XX.1 rules. All references to dominant IXCs are eliminated.</p>	<p>All price cap regulation rules moved to Part XX. Eliminate obsolete language.</p>
61.42	<p><u>Price cap baskets and service categories.</u> Section deleted and incorporated into new XX.102 rules. All references to dominant IXCs are eliminated.</p>	<p>All price cap regulation rules moved to Part XX. Eliminate obsolete language.</p>
61.43	<p><u>Annual Price Cap filing required.</u> Section deleted and incorporated into 61.15.</p>	<p>The filing notice requirements are now incorporated in 61.15(c).</p>
61.44	<p><u>Adjustments to the PCI for Dominant Interexchange Carriers.</u> Section deleted. All references to dominant IXCs are eliminated.</p>	<p>Dominant IXC price cap rules are obsolete.</p>

Rule	Action	Justification
61.45	<p><u>Adjustments to PCI for Local Exchange Carriers.</u> Section deleted and incorporated into new XX.104 rules.</p>	All price cap regulation rules moved to Part XX.
61.46	<p><u>Adjustments to API.</u> Section deleted and incorporated into new XX.105 rules.</p>	All price cap regulation rules moved to Part XX.
61.47	<p><u>Adjustments to SBI; pricing bands.</u> Section deleted and incorporated into new XX.106 rules.</p>	All price cap regulation rules moved to Part XX.
61.48	<p><u>Transition rules for price cap formula calculations.</u> Section deleted. All references to dominant IXCs are eliminated. Transition rules for price cap LECs eliminated.</p>	Dominant IXC price cap rules and transition rules for price cap LECs are obsolete.
61.49	<p><u>Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.</u> Section deleted. All references to dominant IXCs are eliminated. Cost support/tariff supporting material requirements eliminated.</p>	Dominant IXC price cap rules are obsolete. Tariff cost support requirements are cumbersome and unnecessary.
New	<p><u>ELECTRONIC TARIFF FILINGS</u> Title added.</p>	Add Title for new Electronic Tariff Filings section.
New 61.44	<p><u>Scope.</u> Add electronic tariff filing requirements.</p>	Complies with Commission requirements for tariffs to be filed electronically.

Rule	Action	Justification
New 61.45	<u>Method of filing publications.</u> Add electronic tariff filing requirements.	Complies with Commission requirements for tariffs to be filed electronically.
New 61.46	<u>Letters of transmittal and cover letters.</u> Add electronic tariff filing requirements.	Complies with Commission requirements for tariffs to be filed electronically.
New 61.47	<u>Base Documents.</u> Add electronic tariff filing requirements.	Complies with Commission requirements for tariffs to be filed electronically.
New 61.48	<u>Method of filing applications for special permission.</u> Add electronic tariff filing requirements.	Complies with Commission requirements for tariffs to be filed electronically.
61.50	<u>Scope: Optional incentive regulation for rate of return LECs.</u> Section deleted.	Deleted OIR rules for ROR ILECs to incorporate recommendation from the FCC Part 61 Biennial Review NPRM (CC Docket No. 98-131).
New 61.50	<u>Filing of access service tariffs.</u> Moved Section 69.3 to this new section. References to OIR rules are eliminated.	Consolidated all filing of access tariff requirements into Part 61. Deleted OIR rules for ROR ILECs to incorporate recommendation from the FCC Part 61 Biennial Review NPRM (CC Docket No. 98-131).
61.51	<u>LEC filing requirements pursuant to section 204(a)(3) of the Communications Act.</u> Section deleted and incorporated into Section 61.15.	All tariff filing notice requirements incorporated into 61.15.
61.52 now 61.14	<u>Form, size, type, legibility, etc.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.

Rule	Action	Justification
61.53 now 61.17	<u>Consecutive numbering.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.54 now 61.13	<u>Composition of tariffs.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.55 now 61.18	<u>Contract-based tariffs.</u> Reference to IXCs deleted.	Section renumbered in the reorganization of all tariff requirements. LECs are now provided the flexibility to file contract-based tariffs.
61.56 now 61.19	<u>Supplements.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.57 now 61.20	<u>Cancellations.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.58 now 61.15	<u>Notice requirements.</u> Incorporate into revised 61.15.	Consolidate notice requirements under "Specific Rules for Tariff Publications" section.
61.59	<u>Effective period required before changes.</u> Section deleted.	Deletes requirement that tariffs be in effect for 30 days before any changes are made.
61.67	<u>New or discontinued telephone and teletypewriter service points; mileages.</u> Section deleted.	Deletes obsolete rules.

Rule	Action	Justification
61.68 now 61.16	<u>Special notations.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.69 now 61.21	<u>Rejection.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.71	<u>Reissued matter.</u> Section deleted.	Deletes obsolete rules.
61.72 now 61.22	<u>Posting.</u> Change section title to: Public information requirements. Eliminated posting of tariffs. Revised language so that information on rates and a contact telephone number are provided.	Section renumbered in the reorganization of all tariff requirements. Section revised to incorporate recommendation from the FCC Part 61 Biennial Review NPRM (CC Docket No. 98-131).
61.73 now 61.23	<u>Duplication of rates or regulations.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.74 now 61.24	<u>References to other instruments.</u> Added language for reference to technical publications.	Section renumbered in the reorganization of all tariff requirements. Language added that allows tariffs to reference technical publications w/o filing a waiver. Also deletes obsolete rules.

Rule	Action	Justification
	CONCURRENCES	
61.131 now 61.28	<u>Scope.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.132 now 61.29	<u>Method of filing concurrences.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.133 now 61.30	<u>Format of concurrences.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.134 now 61.31	<u>Concurrences for through services.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.135 now 61.32	<u>Concurrences for other purposes.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.136 now 61.33	<u>Revocation of concurrences.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
	APPLICATIONS FOR SPECIAL PERMISSION	
61.151 now 61.34	<u>Scope.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.

Rule	Action	Justification
61.152 now 61.35	<u>Terms of applications and grants.</u> Deleted unnecessary language. Extended grant period to 90 days.	Section renumbered in the reorganization of all tariff requirements. Eliminates the reapplication for grants. Grant authority extended from 60 to 90 days.
61.153 now 61.36	<u>Method of filing applications.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
	ADOPTION OF TARIFFS AND OTHER DOCUMENTS OF PREDECESSOR CARRIERS	
61.171 now 61.37	<u>Adoption notice.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.172 now 61.38	<u>Changes to be incorporated in tariffs of successor carrier.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
	SUSPENSIONS	
61.191 now 61.39	<u>Carrier to file supplement when notified of suspension.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.192 now 61.40	<u>Contents of supplement announcing suspension.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.
61.193 now 61.41	<u>Vacation of suspension order; supplements announcing same; etc.</u> No change in content.	Section renumbered in the reorganization of all tariff requirements.

Rule	Action	Justification
New	RULES FOR NONDOMINANT COMMON CARRIERS Title added.	Add Title for new Nondominant Common Carrier rules.
New 61.80	<u>Retention of information concerning detriffed interexchange services.</u> Moved Section 42.11 to this new section.	Section 42.11 requirements for nondominant IXCs to maintain price and service information are moved to Part 61. The remainder of Part 42 is eliminated.

USTA BIENNIAL REVIEW PROPOSAL
CODE OF FEDERAL REGULATIONS
TITLE 47 - TELECOMMUNICATIONS
CHAPTER I
FEDERAL COMMUNICATIONS COMMUNICATION
PART 61 - TARIFFS

PART 61—TARIFFS

Sec.

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61.25 - 61.27 [Reserved]

CONCURRENCES

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- 61.37 Adoption notice.
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- 61.39 Carrier to file supplement when notified of suspension.
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- 61.42 Delivered free of charges.
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- 61.44 Scope.
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- 61.49 [Reserved]

INCUMBENT LOCAL EXCHANGE CARRIER RATE OF RETURN REGULATION

- 61.50 Filing of access service tariffs.
- 61.70 Supporting information to be submitted with letters of transmittal.
- 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.

RULES FOR NONDOMINANT COMMON CARRIERS

- 61.80 Retention of information concerning detariffed interexchange services.

§ 61.1 Purpose and application.

- (a) The purpose of this part is to prescribe the framework for the initial establishment of and subsequent revisions to tariff publications.
- (b) Tariff publications filed with the Commission must conform to the rules in this part. Failure to comply with any provisions of this part may be grounds for rejection of the non-complying publication.
- (c) No carrier required to file tariffs may provide any interstate or foreign communication service until every tariff publication for such communication service is on file with the Commission and in effect.

DEFINITIONS

§ 61.2 Definitions.

- (a) *Act*. The Communications Act of 1934 (48 Stat. 1004; 47 U.S.C. chapter 5), as amended.
- (b) *Association*. This term has the meaning given it in § 69.2(d).
- (c) *Change in rate structure*. A restructuring or other alternation of the rate components for an existing service.
- (d) *Charges*. The price for service based on tariffed rates.
- (e) *Commercial contractor*. The commercial firm to whom the Commission annually awards a contract to make copies of Commission records for sale to the public.
- (f) *Commission*. The Federal Communications Commission.
- (g) *Concurring carrier*. A carrier (other than a connecting carrier) subject to the Act which concurs in and assents to schedules of rates and regulations filed on its behalf an issuing carrier or carriers.
- (h) *Connecting carrier*. A carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with, such carrier.
- (i) *Contract-based tariff*. A tariff based on a service contract entered into between a carrier and another carrier or a customer.
- (j) *Corrections*. The remedy of errors in typing, spelling, or punctuations.
- (k) *Dominant carrier*. A carrier found by the Commission to have market power (i.e., power to control prices).
- (l) *Issuing carrier*. A carrier subject to the Act that publishes and files a tariff or tariffs with the Commission.
- (m) *Local Exchange Carrier*. Any person that is engaged in the provision of telephone exchange service or exchange access as defined in section 3(26) of the Act.
- (n) *New service offering*. A tariff filing that provides for a class or sub-class of service not previously offered by the carrier involved and that enlarges the range of service options available to ratepayers.
- (o) *Non-dominant carrier*. A carrier not found to be dominant.

- (p) *Other participating carrier.* A carrier subject to the Act that publishes a tariff containing rates and regulations applicable to the portion or through service it furnishes in conjunction with another subject carrier.
- (q) *Rate.* The tariffed price per unit of service.
- (r) *Rate increase.* Any change in a tariff which results in an increased rate or charge to any of the filing carrier's customers.
- (s) *Rate level change.* A tariff change that only affects the actual rate associated with a rate element, and does not affect any tariff regulations or any other wording of tariff language.
- (t) *Regulations.* The body of carrier prescribed rules in a tariff governing the offering of service in that tariff, including rules, practices, classifications, and definitions.
- (u) *Restructured service.* An offering which represents the modification of a method of charging or provisioning a service; or the introduction of a new method of charging or provisioning that does not result in a net increase in options available to customers.
- (v) *Supplement.* A publication filed as part of a tariff for the purpose of suspending or cancelling that tariff, or tariff publication and numbered independently from the tariff page series.
- (w) *Tariff.* Schedules of rates and regulations filed by common carriers.
- (x) *Tariff publication, or publication.* A tariff, supplement, revised page, additional page, concurrence, notice of revocation, adoption notice, or any other schedule of rates or regulations filed by common carriers.
- (y) *Tariff year.* The period from the day in a calendar year on which a carrier's annual access tariff filing is scheduled to become effective through the preceding day of the subsequent calendar year.
- (z) *Text change.* A change in the text of a tariff which does not result in a change in any rate or regulation.
- (aa) *United States.* The several States and Territories, the District of Columbia, and the possessions of the United States.

GENERAL RULES FOR COMMON CARRIERS

§ 61.10 Method of filing publications.

(a) Except as specified in § 61.44, publications sent for filing must be addressed to "Secretary, Federal Communications Commission, Washington, DC 20554." The date on which the publication 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 tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the cover 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 should submit these fee materials on the same date as the submission in paragraph (a) of this section.

(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 cover letter or transmittal letter with one diskette containing both the complete tariff and any attachments, as appropriate, to the Secretary, Federal Communications Commission. In addition, the issuing carrier must send one diskette of the complete tariff and a copy of the cover letter to the commercial contractor (at its office on Commission premises), and to the Chief, Tariff and Pricing Analysis Branch. The latter should be clearly labeled as the "Public Reference Copy." The issuing carrier should file the copies required by this paragraph so they will be received on the same date as the filings in paragraph (a) of this section.

§ 61.11 Cover letters.

(a)(1) All publications filed with the Commission must be accompanied by a cover letter, 8.5 by 11 inches (21.6 cm x 27.9 cm) in size. All cover letters should briefly explain the nature of the filing and indicate the date and method of filing of the original cover letter.

(2) International carriers must certify in their original cover letter that they are authorized under Section 214 of the Communications Act of 1934, as amended, to provide service, and reference the FCC file number of that authorization.

(b) A separate cover letter may accompany each publication, or an issuing carrier may file as many publications as desired with one cover letter.

NOTE: If a receipt for accompanying publication is desired, the cover letter must be sent in duplicate. One copy showing the date of the receipt by the Commission will then be returned to the sender.

§ 61.12 Letters of transmittal.

(a) Except as specified in § 61.10(b), all publications filed with the Commission must be accompanied by a letter of transmittal, A4 (21 cm x 29.7 cm) or 8.5 x 11 inches (21.6 cm x 27.9 cm) in size. All letters of transmittal must (1) concisely explain the nature and purpose of the filing; (2) specify whether supporting information under § 61.70 is required; (3) state whether copies have been delivered to the Commercial Contractor and Chief, Tariff and Pricing Analysis Branch, as required by § 61.10, and (4) contain a statement indicating the date and method of filing of the original of the transmittal letter as required by § 61.10(b), and the date and method of filing the copies as required by § 61.10 (a) and (c).

(b) Tariffs filed pursuant to 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 it is being filed on 7- or 15- days' notice.

(c) In addition to the requirements set forth in paragraph (a) of this section, 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) In addition to the requirements set forth in paragraphs (a), (b), and (c) of this section, 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 following format.

(Exact name of carrier in full) _____

(Post Office Address) _____

_____, 19__ . _____

(Date) _____

Transmittal No. ____

Secretary,

Federal Communications Commission

Washington, DC 20554

Attention: Common Carrier Bureau.

The accompanying tariff (or other publication) issued by _____, and bearing FCC No. _____, effective _____, 19__, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. (Here give the additional information required.)

(Name of issuing officer or agent) _____

(Title) _____

(f) A separate letter of transmittal may accompany each publication, or the above format may be modified to provide for filing as many publications as desired with one transmittal letter.

NOTE: If a receipt for accompanying publication is desired, the letter of transmittal must be sent in duplicate. One copy showing the date of receipt by the Commission will then be returned to the sender.

SPECIFIC RULES FOR TARIFF PUBLICATIONS

§ 61.13 Composition of tariffs.

(a) Tariffs must contain in consecutive order: A title page; check sheet; table of contents; list of concurring, connecting, and other participating carriers; explanation of symbols and abbreviations; application of tariff; general rules (including definitions), regulations, exceptions and conditions; and rates. If the issuing carrier elects to add a section assisting in the use of the tariff, it should be placed immediately after the table of contents.

(b) The title page of every tariff and supplement must show:

(1) *FCC number, indication of cancellations.* In the upper right-hand corner, the designation of the tariff or supplement as "FCC No. _____," or "Supplement No. _____ to FCC No. _____," and immediately below, the FCC number or numbers of tariffs or supplements cancelled thereby.

(2) *Name of carrier, class of service, geographical application, means of transmission.* The exact name of the carrier, and such other information as may be necessary to identify the carrier issuing the tariff publication; a brief statement showing each class of service provided; the geographical application; and the type of facilities used to provide service.

(3) *Expiration Date.* When the entire tariff or supplement is to expire with a fixed date, the expiration date must be shown in connection with the effective date in the following manner:

Expires at the end of _____ (date) unless sooner canceled, changed or extended.

(4) *Title and address of issuing officer.* The title and street address of the officer issuing the tariff or supplement in the format specified in § 61.14.

(5) *Revised title page.* When a revised title page is issued, the following notation must be shown in connection with its effective date:

Original tariff effective _____

(here show the effective date of the original tariff).

(c)(1) The page immediately following the title page must be designated as "Original page 1" and captioned "Check Sheet." When the original tariff is filed, the check sheet must show the number of pages contained in the tariff. For example, "Page 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages are added, they must be numbered in continuing sequence, and designated as "Original page ____." For example, when the original tariff filed has 150 pages, the first page added after page 150 is to be designated as "Original page 151," and the foregoing notation must be revised to include the added pages.

(2) If pages are to be inserted between numbered pages, each such page must be designated as an original page and must bear the number of the immediately preceding page followed by an alpha or numeric suffix. For example, when two new pages are to be inserted between pages 44 and 45 of the tariff, the first inserted page must be designated as Original page 44A or 44.1 and the second inserted page as Original page 44B or 44.2. Issuing carriers may not utilize both the alpha and numeric systems in the same publication.

(3) When pages are revised, when new pages (including pages with letter or numeric suffix as set forth above) are added to the tariff, or when supplements are issued, the check sheet must be revised accordingly. Revised check sheets must indicate with an asterisk the specific pages added or revised. In addition to the notation in (1), the check sheet must list, under the heading "The original and revised pages named below (and Supplement No. ____) contain all changes from the original tariff that are in effect on the date shown," all original pages in numerical order that have been added to the tariff and the pages which have been revised, including the revision number. For example:

Page	Number of revision except as indicated
Title	1st
1	*8th
3	5th
5A	*Orig.
10	*8th
151	Orig.
*New or Revised page.	

(4) Changes in, and additions to tariffs must be made by reprinting the page upon which a change or addition is made. Such changed page is to be designated as a revised page, cancelling the page which it amends. For example, "First revised page 1 cancels original page 1," or "Second revised page 2 cancels first revised page 2," etc. When a revised page omits rates or regulations previously published on the page which it cancels, but such rates or regulations are published on another page, the revised page must make specific reference to the page on which the rates or regulations will be

found. This reference must be accomplished by inserting a sentence at the bottom of the revised page that states "Certain rates (or regulations) previously found on this page can now be found on page ____." In addition, the page on which the omitted material now appears must bear the appropriate symbol opposite such material, and make specific reference to the page from which the rates or regulations were transferred. This reference must be accomplished by inserting a sentence at the bottom of the other page that states "Certain rates (or regulations) on this page formerly appeared on page ____."

(5) Rejected pages must be treated as indicated in § 61.23.

(d) *Table of contents.* The table of contents must contain a full and complete statement showing the exact location and specifying the page or section and page numbers, where information by subjects under general headings will be found. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(e) *Tariff User's guide.* At its option, a carrier may include a section explaining how to use the tariff.

(f) *List of concurring carriers.* This list must contain the exact name or names of carriers concurring in the tariff, alphabetically arranged, and the name of the city or town in which the principal office of every such carrier is located. If there are no concurring carriers, then the statement "no concurring carriers" must be made at the place where the names of the concurring carriers would otherwise appear. If the concurring carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(g) *List of connecting carriers.* This list must contain the exact name or names of connecting carriers, alphabetically arranged, for which rates or regulations are published in the tariff, and the name of the city or town in which the principal office of every such carrier is located. If there are no connecting carriers, then the statement "no connecting carriers" must be made at the place where their names would otherwise appear. If connecting carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(h) *List of other participating carriers.* This list must contain the exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located. If there is no such other carrier, then the statement "no participating carriers" must be made at the place where the names of such other carriers would otherwise appear. If such other carriers are numerous, their

names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference must be made in the tariff at the place where such names would otherwise appear. The names of concurring and connecting carriers properly listed in a tariff published by any other participating carrier need not be repeated in this list.

(i)(1) *Symbols, reference marks, abbreviations.* The tariff must contain an explanation of symbols, reference marks, and abbreviations of technical terms used. The following symbols used in tariffs are reserved for the purposes indicated below:

R to signify reduction.

I to signify increase.

C to signify changed regulation.

T to signify a change in text but no change in rate or regulation.

S to signify reissued matter.

M to signify matter relocated without change.

N to signify new rate or regulation.

D to signify discontinued rate or regulation.

Z to signify a correction.

(2) The uniform symbols must be used as follows.

(i) When a change of the same character is made in all or in substantially all matter in a tariff, it may be indicated at the top of the title page of the tariff or at the top of each affected page, in the following manner: "All rates in this tariff are increases," or, "All rates on this page are reductions, except as otherwise indicated."

(ii) When a change of the same character is made in all or substantially all matters on a page or supplement, it may be indicated at the top of the page or supplement in the following manner: "All rates on this page (or supplement) are increases," or, "All rates on this page (or supplement) are reductions except as otherwise indicated."

(3) Items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued, in the manner prescribed in § 61.13(i)(1). Items which have been in effect 30 days or more and are brought forward without change on revised pages must not be shown as reissued items.

(j) *Rates and general rules, regulations, exceptions and conditions.* The general rules (including definitions), regulations, exceptions, and conditions which govern the tariff must be stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the tariff must be specified. A special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate. Rates must be expressed in United States currency, per chargeable unit of service for all communication services, together with a list of all points of service to and from which the rates apply. They must be arranged in a simple and systematic manner. Complicated or ambiguous terminology may not be used, and no rate, rule, regulation, exception or condition shall be included which in any way attempts to substitute a rate, rule, regulation, exception or

condition named in any other tariff.

(k) The tariff must be submitted on a 3 1/2 inch (8.89 cm) diskette, formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette must be submitted in "read only" mode. The diskette must be clearly labelled with the carrier's name, Tariff Number, and the date of submission. The cover letter must be submitted on 8 1/2 by 11 inch (21.6 cm x 27.9 cm) paper, and must be plainly printed in black ink.

(l) The tariff must contain the carrier's name, the international Section 214 authorization FCC file number (when applicable), and the information required by Section 203 of the Act.

(m) Changes to a tariff must be made by refileing the entire tariff on a new diskette, with the changed material included. The carrier must indicate in the tariff what changes have been made.

§ 61.14 Form, size, type, legibility, etc.

(a) All tariff publications must be in loose-leaf form of size A4 (21 cm x 29.7 cm) or 8.5 x 11 inches (21.6 cm x 27.9 cm), and must be plainly printed in black print on white paper of durable quality. Less than 6-point type may not be used. Erasures or alterations in writing must not be made in any tariff publication filed with the Commission or in those copies posted for public convenience. A margin of no less than 2.5 cm (1 inch) in width must be allowed at the left edge of every tariff publication.

(b) Pages of tariffs must be printed on one side only, and must be numbered consecutively and designated as "Original title page," "Original page 1," "Original page 2," etc.

(1) All such pages must show, in the upper left-hand corner the name of the issuing carrier; in the upper right-hand corner the FCC number of the tariff, with the page designation directly below; in the lower left-hand corner the issued date; in the lower right-hand corner the effective date; and at the bottom, center, the street address of the issuing officer. The carrier must also specify the issuing officer's title either at the bottom center of all tariff pages, or on the title page and check sheet only.

(2) As an alternative, the issuing carrier may show in the upper left-hand corner the name of the issuing carrier, the title and street address of the issuing officer, and the issued date; and in the upper right-hand corner the FCC number of the tariff, with the page designation directly below, and the effective date. The carrier must specify the issuing officer's title in the upper left-hand corner of either all tariff pages, or on the title page and check sheet only. A carrier electing to place the information at the top of the page should annotate the bottom of each page to indicate the end of the material, e.g., a line, or the term "Printed in USA," or "End".

(3) Only one format may be employed in a tariff publication.

(c) Local exchange carriers shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and cost support documents, electronically in accordance with the requirements established by the Chief, Common Carrier Bureau.

§ 61.15 Notice requirements.

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(1) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission, but does not include the effective date. If a tariff filing proposes changes governed by more than one of the notice periods listed below, the longest notice period will apply. In computing the notice period required, all days including Sundays and holidays must be counted.

(2) Except for tariffs filed pursuant to section 204(a)(3) of the Communications Act, the Chief, Common Carrier Bureau, may require the deferral of the effective date of any tariff filing made on less than 120-days' notice, so as to provide for a maximum of 120-days' notice, or of such other maximum period of notice permitted by section 203(b) of the Communications Act, regardless of whether petitions under § 1.773 of this chapter have been filed.

(3) Tariff filings proposing corrections must be made on at least 1 days' notice. Corrections to tariff materials not yet effective cannot take effect before the effective date of the original material.

(4) This subsection applies only to dominant carriers. If the tariff publication would increase any rate or charge, or would effectuate and authorized discontinuance, reduction or other impairment of service to any customer, the offering carrier must inform the affected customers of the content of the tariff publication. Such notification should be made in a form appropriate to the circumstance, and may include written notification, personal contact, or advertising in newspapers of general circulation.

(b) *Non-dominant carriers.* Tariff filings of non-dominant carriers must be made on at least 1 days' notice.

(c) *Carriers subject to price cap regulation.* This paragraph applies only to carriers subject to price cap regulation. Such carriers must file tariffs according to the following notice periods.

(1) Local exchange carriers subject to price cap regulation shall file with this Commission a price cap tariff for access service for an annual period. Subject to § 61.15(d), such tariffs shall be filed to provide a minimum of 7 or 15 days' notice with a scheduled effective date of July 1. Such tariff filings shall be limited to changes in the Price Cap Indexes and rate level changes (with corresponding adjustments to the affected Actual Price Indexes and Service Band Indexes).

(2) Tariff filings that do not cause any API to exceed any applicable PCI pursuant to calculations provided for in § XX.105 of this part, and that do not cause any SBI to exceed its banding limitations established in § XX.106 of this part, shall be filed to provide a minimum of 7 or 15 days' notice pursuant to section 204(a)(3) of the Communications Act.

(3) Tariff filings that will cause any API to exceed its applicable PCI pursuant to calculations provided for in § XX.105 of this part, or that will cause any SBI to exceed its upper banding limitations established in § XX.106 of this part, must be made on at least 45 days' notice, or such other maximum period of notice permitted by section 203(b) of the Communications Act, regardless of whether petitions under § 1.773 of the Commission's Rules have been filed.

(4) Carriers may propose rate or other tariff changes more often than annually, consistent with the requirements of this section.

(d) *Tariffs filed pursuant to section 204(a)(3) of the Communications Act.* Local exchange carriers filing tariffs pursuant to section 204(a)(3) of the Communications Act may file the tariff on 7-days' notice if it proposes only rate decreases. Any other tariff filed pursuant to section 204(a)(3) of the Communications Act, including those that propose a rate increase or any change in terms and conditions of service other than a rate change, shall be filed on at least 15-days' notice.

(e) *Carriers filing pursuant to § 61.70.* A tariff for access service provided by a telephone company that may file an access tariff pursuant to § 61.70 shall be filed to provide a minimum of 7 or 15 days' notice pursuant to section 204(a)(3) of the Communications Act.

(f) *Carriers filing pursuant to § 61.71.* 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 and 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. Tariffs filed pursuant to § 61.71 shall be filed to provide a minimum of 7 or 15 days' notice pursuant to section 204(a)(3) of the Communications Act. 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 Part 61 of this chapter.

§ 61.16 Special notations.

(a) A tariff filing must contain a statement of the authority for any matter to be filed on less than the notice required in § 61.15. The following must be used:

Issued on not less than — days' notice under authority of — (specific reference to the special permission, decision, order or section of these rules).

If all the matter in a tariff publication is to become effective on less than the notice required in § 61.15, specific reference to the Commission authority must be shown on the title page. If only a part of the tariff publication is to become effective on less than the notice required in § 61.15, reference to the Commission authority must appear on the same page(s), and be associated with the pertinent matter.

(b) When a portion of any tariff publication is issued in order to comply with the Commission order, the following notation must be associated with that portion of the tariff publication:

In compliance with the order of the Federal Communications Commission in — (a specific citation to the applicable order should be made).

§ 61.17 Consecutive numbering.

Carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted. Supplements to a tariff must be numbered consecutively in a separate series.

§ 61.18 Contract-based tariffs.

(a) *Scope.* This section shall apply to offerings as defined in § 61.3(i).

(b) Composition of contract-based tariffs shall comply with § 61.13(b) through (i).

(c) Contract-based tariffs shall include the following:

- (1) The term of the contract, including any renewal options;
- (2) A brief description of each of the services provided under the contract;
- (3) Minimum volume commitments for each service;
- (4) The contract price for each service or services at the volume levels committed to by the customers;
- (5) A general description of any volume discounts built into the contract rate structure; and
- (6) A general description of other classifications, practices and regulations affecting the contract rate.

§ 61.19 Supplements.

A carrier may not file a supplement except to suspend or cancel a tariff publication.

§ 61.20 Cancellations.

The following paragraphs govern the cancellation of tariffs and supplements.

(a) *By tariff or supplement.* A carrier may cancel any tariff or supplement in whole or in part by another tariff or supplement. Cancellation of a tariff automatically cancels every supplement to that tariff, except a cancelling supplement.

(b) *By expiration.* A carrier may cancel a tariff or supplement in whole or in part by fixing a date on which the rates or regulations will expire.

(c) *Indication of.* (1) A carrier which cancels a tariff or supplement in whole by another tariff or supplement must comply with § 61.13(b)(1). Cancellation of tariffs or supplements in whole by expiration must be indicated as provided in § 61.13(b)(3). (2) Where a carrier issues a tariff, supplement, or revised page partially cancelling another tariff, supplement, or revised page, it must specifically state what portion of the other tariff publication is cancelled. Such other tariff or supplement must at the same time be correspondingly amended, effective on the same date. (3) When only a part of tariff or supplement is to expire, a carrier must show the expiration date on the same page, and associate it with the matter which is to expire. Changes in expiration date must be made pursuant to the notice requirements of § 61.15, unless otherwise authorized by the Commission. Expirations must be indicated as follows:

Expires at the end of _____
(date) unless sooner cancelled, changed or extended.

(d) *Rates and regulations to apply.* When a carrier cancels a tariff or supplement in whole or in part by another tariff or supplement, the cancelling publication must show where all rates and regulations will be found, or what rates and regulations will apply.

(e) *Omissions.* When a tariff or supplement cancelling a previous tariff or supplement omits points of origin or destination, rates or regulations, or routes, which were contained in such tariff or supplement, the new tariff or supplement must indicate the omission in the manner prescribed in paragraph (c) of this section. If such omissions effect changes in rates of regulations, that fact must be indicated by the use of the uniform symbols prescribed in § 61.13(i)(1).

(f) *Carriers ceasing operations.* When a carrier ceases operations without a successor, it must cancel its tariffs pursuant to the notice requirements of § 61.15, unless otherwise authorized by the Commission.

§ 61.21 Rejection.

When a tariff publication is rejected by the Commission, its number may not be used again. The rejected tariff publication may not be referred to as cancelled or revised. The publication that is subsequently issued in lieu of the rejected tariff publication must bear

the notation

In lieu of —, rejected by the Federal Communications Commission.

§ 61.22 Public information requirements.

(a) Issuing carriers must make available accurate and timely information pertaining to rates and regulations subject to tariff filing requirements.

(b) Issuing carriers must, at a minimum, provide a telephone number for public inquiries about information contained in its tariffs. The telephone number should be made readily available to all interested parties.

§ 61.23 Duplication of rates or regulations.

A carrier concurring in schedules of another carrier must not publish conflicting or duplicative rates or regulations.

§ 61.24 References to other instruments.

(a) A tariff publication filed with the Commission may make reference to any other tariff publication filed with the Commission or to technical publications.

§ 61.25 - 61.27 [Reserved]

CONCURRENCES

§ 61.28 Scope.

Sections 61.29 through 61.33 apply to a carrier which must file concurrences reflecting rates and regulations for through service provided in conjunction with other carriers and to a carrier which has chosen, as an alternative to publishing its own tariff, to arrange concurrence in an effective tariff of another carrier. Limited or partial concurrences will not be permitted.

§ 61.29 Method of filing concurrences.

A carrier proposing to concur in another carrier's effective tariff must deliver two copies of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must submit both copies of the concurrence to the Commission. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence.

§ 61.30 Format of concurrences.

(a) Concurrences must be issued in the following format:

CONCURRENCE

F.C.C. Concurrence No. _____
(Cancels F.C.C. Concurrence No. _____
(Name of Carrier _____)
(Post Office Address _____)
(Date) _____ 19__.

Secretary,

Federal Communications Commission, Washington, D.C. 20554.

This is to report that (name of concurring carrier) assents to and concurs in the tariffs described below. (Name of concurring carrier) thus makes itself a party to these tariffs and obligates itself (and its connecting carriers) to observe every provision in them, until a notice of revocation is filed with the Commission and delivered to the issuing carrier.

This concurrence applies to interstate (and foreign) communication:

1. Between the different points on the concurring carrier's own system;
2. Between all points on the concurring carrier's system and the systems of its connecting carriers; and
3. Between all points on the system of the concurring carrier and the systems of its connecting carriers on the one hand, and, on the other hand, all points on the system of the carrier issuing the tariff or tariffs listed below and the systems of its connecting carriers and other carriers with which through routes have been established.

(NOTE: Any of the above numbered paragraphs may be omitted or the wording modified to state the points to which the concurrence applies.)

TARIFF

(Here describe the tariff or tariffs concurred in by the carrier, specifying FCC number, title, date of issuance, and date effective. Example: A.B.C. Communications Company, Tariff FCC No. 1, Interstate Telegraph Message Service, Issued January 1, 1983, Effective April 1, 1983).

Cancels FCC Concurrence No. _____, effective _____, 19__.

(Name of concurring carrier) _____

By _____

(Title) _____

(b) No material is to be included in a concurrence other than that indicated in the above-prescribed form, unless specially authorized by the Commission. A concurrence in any tariff so described will be deemed to include all amendments and successive issues which the issuing carrier may make and file. All such amendments and

successive issues will be binding between customers and carriers. Between carriers themselves, however, the filing by the issuing carrier of an amendment or successive issue with the Commission must not imply or be construed to imply an agreement to the filing by concurring carriers. Such filings do not affect the contractual rights or remedies of any concurring carrier(s) which have not, by contract or otherwise, specifically consented in advance to such amendment or successive issue.

§ 61.31 Concurrences for through services.

A carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting or other participating carriers as provided in § 61.13 (f), (g) and (h). A concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

§ 61.32 Concurrences for other purposes.

When an issuing carrier permits an-other carrier to concur in its tariff, the issuing carrier's tariff must state the concurring carrier's rates and points of service.

§ 61.33 Revocation of concurrences.

A concurrence may be revoked by a revocation notice or cancelled by a new concurrence. A revocation notice or a new concurrence, if less broad in scope than the concurrence it cancels, must bear an effective date not less than 45 days after its receipt by the Commission. A revocation notice is not given a serial number, but must specify the number of the concurrence to be revoked and the name of the carrier in whose favor the concurrence was issued. It must be in the following format:

REVOCATION NOTICE

(Name of carrier _____)

(Post office address _____)

(Date) _____, 19—. Secretary,

Federal Communications Commission, Washing-ton, D.C. 20554.

Effective —, 19— FCC Concurrence No. —, issued by (Name of concurring carrier) in favor of (Name of issuing carrier) is hereby cancelled and revoked. Rates and regulations of (Name of concurring carrier) and its connected carriers will thereafter be

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:

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

where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

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 MOU₁ = *CCL MOU_b* ; and

CCL MOU₀ = 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:

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

where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

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 MOU₁ = 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:

$$h = \frac{CCL\ MOU_1 - 1}{CCL\ MOU_0}$$

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 for the most recent 12-month period;

$CCL\ MOU_1 = CCL\ MOU_b$; 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:

$$h = \frac{CCL\ MOU_1 - 1}{CCL\ MOU_0}$$

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
 $CCL\ MOU_o$ = 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 XX

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

Rule	Action	Justification
New	PART XX - RULES FOR INCUMBENT LOCAL EXCHANGE CARRIERS SUBJECT TO PRICE CAP REGULATION	New Part XX is created from existing sections of Part 61 and Part 69 to combine price management and appropriate access charges for Incumbent Local Exchange Carriers subject to price cap regulation.
New	Subpart A - General Creates new section. Also incorporates the following: <ol style="list-style-type: none"> 1. Eliminates study area averaging rule for price cap LECs. 2. Eliminates public interest petition filing requirement for price cap LECs. 	General rules for LECs subject to price cap regulation are duplicated and moved from Parts 61 and 69, and then revised. Section 61.41 moved to XX.1 and revised. Revisions made due to competitive environment and to incorporate previous USTA positions.

Rule	Action	Justification
New	<p>Subpart B - Price Cap Regulation and Computation of Charges for Price Cap LECs</p> <p>Creates new section and includes the following:</p> <ol style="list-style-type: none"> 1. Incorporates USTA proposed price cap basket/band structure: <ol style="list-style-type: none"> a. Network Services Basket <ol style="list-style-type: none"> i. Service Categories <ol style="list-style-type: none"> a. Tandem Switching and Transport b. Local Switching c. Database Services d. Common Line and Marketing ii. Pricing zones for Tandem Switching and Transport, Local Switching, Common Line and other service categories based upon equivalent demonstration. 2. Eliminates codified rate structure requirements for all price cap services. <ol style="list-style-type: none"> a. Models new language after special access rule (current 69.114). 3. Exogenous adjustments limited to those permitted or required by rule, waiver, or declaratory ruling. Includes LFAM. 4. Eliminates CCL charge and revises max. SLC calculation to be common line revenue per line. PICC charge revised to be difference between max. SLC and any SLC cap imposed. PICC caps deleted. 5. Residual TIC now recovered through a new flat-rated trunk port charge. 	<p>The following sections form Part 61 are consolidated in Part XX, Subpart B: 61.42, 61.45, 61.46 and 61.47. Subpart C is moved from Part 69 and consolidated in Part XX, Subpart B and then greatly revised. Revisions are made due to competitive environment and to incorporate previous USTA positions.</p>

Rule	Action	Justification
New	<p>Subpart C - Pricing Flexibility Creates new rules to allow price cap LECs, based upon demonstration that appropriate criteria (to be determined) have been satisfied, to:</p> <ol style="list-style-type: none"> 1. Offer Volume and Term discounts, including customer specific contracts. 2. Provide promotional offerings. 3. Offer optional service packages and arrangements. 4. Remove services from price cap regulation. 5. Be granted forbearance from regulation for services/areas. 	<p>Incorporates USTA Pricing Flexibility proposal contained in Schmalensee/Taylor paper.</p>

USTA BIENNIAL REVIEW PROPOSAL

CODE OF FEDERAL REGULATIONS

TITLE 47 - TELECOMMUNICATIONS

CHAPTER I

FEDERAL COMMUNICATIONS COMMISSION

PART XX - RULES FOR INCUMBENT LOCAL EXCHANGE CARRIERS

SUBJECT TO PRICE CAP REGULATION

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SUBJECT TO PRICE CAP REGULATION**

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Subpart A - General

§ XX.1 Application of Rules for Incumbent Local Exchange Carriers Subject to Price Cap Regulation.

(a) Charges for access services provided by incumbent local exchange carriers (ILECs) subject to price cap regulation shall be computed, assessed and collected as provided in this Part. Access service tariffs shall be filed and supported as provided under Part 61 of this chapter.

(b) Section XX.1 shall apply as follows:

(1) Only to such ILECs, as defined in Section 251(h)(1) and as specified by Commission Order and only to services offered in non-competitive areas.

(2) On an elective basis, to ILECs, other than those specified in paragraph (b)(1) of this section, that are neither participants in any Association tariff, nor affiliated with any such participants, except that affiliation with average schedule companies shall not bar a carrier from electing price cap regulation provided the carrier is otherwise eligible.

(c) If an ILEC, or any one of a group of ILEC affiliates, files a price cap tariff in one study area, that ILEC and its ILEC affiliates, except its average schedule affiliates, must file price cap tariffs in all their study areas.

(d) The following rules apply to ILECs subject to price cap regulation which are involved in mergers, acquisitions, or similar transactions.

(1) Any ILEC subject to price cap regulation that is a party to a merger, acquisition, or similar transaction shall continue to be subject to price cap regulation notwithstanding such transaction.

(2) Where an ILEC subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with an ILEC that is not subject to price cap regulation, the latter ILEC shall become subject to price cap regulation no later than one year following the effective date of such merger, acquisition, or similar transaction and shall accordingly file price cap tariffs to be effective no later than that date in accordance with the applicable provisions of Part 61.

(3) Notwithstanding the provisions of § XX.1(d)(2) above, when an ILEC subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with an ILEC that qualifies as an average schedule company, the latter company may retain its average schedule status or become subject to price cap regulation in accordance with § 61.51(e)(3) and the requirements referenced in that section.

§ XX.2 Definitions.

(a) *Access Minutes* or *Access Minutes of Use* is that usage of exchange facilities in interstate or foreign service for the purpose of calculating chargeable usage. On the originating end of an interstate or foreign call, usage is to be measured from the time the originating end user's call is delivered by the telephone company and acknowledged as received by the interexchange carrier's facilities connected with the originating exchange. On the terminating end of an interstate or foreign call, usage is to be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an interstate or foreign call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating end exchanges as applicable;

(b) *Access Service* includes services and facilities provided for the origination or termination of any interstate or foreign telecommunication;

(c) *Act*. The Communications Act of 1934 (48 Stat. 1004; 47 U.S.C. chapter 5), as amended.

(d) *Actual Price Index (API)*. An index of the level of aggregate rate element rates in a basket, which index is calculated pursuant to § XX.105.

(e) *Band*. A zone of pricing flexibility for a service category, which zone is calculated pursuant to § XX.106.

(f) *Base period*. For ILECs subject to price cap regulation, the 12-month period ending six months prior to the effective date of annual price cap tariffs. Base year or base period earnings shall not include amounts associated with exogenous adjustments to the PCI for the lower formula adjustment mechanism.

(g) *Basket*. Any class or category of tariffed service or charge:
(1) Which is established by the Commission pursuant to price cap regulation;
(2) The rates of which are reflected in an Actual Price Index;
and
(3) The related costs of which are reflected in a Price Cap Index.

(h) *Change in rate structure*. A restructuring or other alternation of the rate components for an existing service.

(i) *Charges*. The price for service based on tariffed rates.

(j) *Commission*. The Federal Communications Commission.

(k) *Concurring carrier*. A carrier (other than a connecting carrier) subject to the Act which concurs in and assents to schedules of rates and regulations filed on its behalf by an issuing carrier or carriers.

(l) *Connecting carrier*. A carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with, such carrier.

(m) *End Office* means the ILEC office from which the end user receives exchange service.

(n) *End User* means any customer of an interstate or foreign telecommunications service that is not a carrier except that a carrier other than an ILEC shall be deemed to be an "end user" when such carrier uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications services exclusively as a reseller shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller;

(o) *Expenses* include allowable expenses in the Uniform System of Accounts, Part 32, apportioned to interstate or international services pursuant to the Separations Manual and allowable income charges apportioned to interstate and international services pursuant to the Separations Manual;

(p) *GDP Price Index (GDP-PI)*. The estimate of the "Fixed Weight Price Index for Gross Domestic Product, 1997 Weights" published by the United States Department of Commerce, which the Commission designates by Order.

(q) *Incumbent Local Exchange Carrier (ILEC)*. Any carrier that is engaged in the provision of telephone exchange service or exchange access as defined in Section 251(h)(1) of the Act.

(r) *Line or Trunk* includes, but is not limited to, transmission media such as radio, satellite, wire, cable and fiber optic means of transmission;

(s) *Local interconnection trunk*. A trunk which connects the networks of two competing local exchange carriers for the purpose of exchanging switched traffic (originating and terminating).

(t) *Price Cap Index (PCI)*. An index of costs applying to carriers subject to price cap regulation, which index is calculated for the Network Services basket pursuant to § XX.104.

(u) *Price cap tariff*. Any tariff filing involving a service that is within the Network Services price cap basket, or that requires calculations pursuant to § XX.104, XX.105 and XX.106.

(v) *Productivity factor*. An adjustment factor used to make annual adjustments to the Price Cap Index to reflect the margin by which a carrier subject to price cap regulation is expected to improve its productivity relative to the economy as a whole.

(w) *Rate*. The tariffed price per unit of service.

(x) *Regulations*. The body of carrier prescribed rules in a tariff governing the offering of service in that tariff, including rules, practices, classifications, and definitions.

(y) *Restructured service*. An offering which represents the modification of a method of charging or provisioning a service; or the introduction of a new method of charging or provisioning that does not result in a net increase in options available to customers.

(z) *Service Band Index (SBI)*. An index of the level of aggregate rate element rates in a service category, which index is calculated pursuant to § XX.106.

(aa) *Service category*. Any group of rate elements subject to price cap regulation, which group may be subject to a band.

(bb) *Serving Wire Center* means the telephone company central office designated by the telephone company to serve the geographic area in which the interexchange carrier or other person's point of demarcation is located.

(cc) *Tariff*. Schedules of rates and regulations filed by common carriers.

(dd) *Tariff year*. The period from the day in a calendar year on which a carrier's annual access tariff filing is scheduled to become effective through the preceding day of the subsequent calendar year.

(ee) *United States*. The several States and Territories, the District of Columbia, and the possessions of the United States.

(ff) *WATS Access Line* means a line or trunk that is used exclusively for WATS service.

**Subpart B - Price Cap Regulation and Computation of
Charges for Price Cap Local Exchange Carriers**

§ XX.101 Applicability.

(a) This subpart shall apply only to local exchange carriers (LECs) which are subject to the price cap regulations set forth in this chapter.

(b) Each ILEC subject to price cap regulation shall exclude from the Network Services basket, described in § XX.102 below, such services or portions of such services as the Commission has designated or may hereafter designate by order; new services; and those services removed from price cap regulation pursuant to § XX.204.

§ XX.102 Price Cap Basket and Service Categories.

(a) Each local exchange carrier subject to price cap regulation shall establish a Network Services price cap basket with the following service categories:

(1) A service category for common line interstate access charges including those in §§ XX.108 and XX.109 of this chapter, and that portion of the interstate access charge described in § XX.111 of this chapter that recovers common line interstate access revenues;

(2) A service category for Database interstate access charges, including charges for the use of equipment or facilities that are associated with Information, Database access services, Line Information Database (LIDB), and Billing Name and Address (BNA) services.

(3) A service category for local switching interstate access charges for the use of equipment or facilities that are associated with local switching services and local switching trunk ports.

(4) A service category for tandem switching and transport interstate access charges and that portion of the interstate access charge described in § XX.110 of this chapter that recovers residual interconnection charge revenues;

(b) Pricing zones, as described in § XX.113, may be established for individual services or appropriate service categories.

§ XX.103 Exogenous Adjustments.

(a) Exogenous Adjustments are included as a term in Price Cap Index (PCI) and Service Band Index (SBI) formulas. The exogenous changes represented by the term "Δ Z" in the formula detailed in §§ XX.104 of this section shall be limited to those changes that the Commission shall permit or require by rule, rule waiver, or declaratory ruling.

(1) Subject to further order of the Commission, those exogenous changes shall include changes caused by:

(i) Retargeting the PCI to the level specified by the Commission for carriers whose base year earnings are below the level of the lower adjustment mark.

(2) Exogenous changes within the Network Services price cap basket shall be apportioned on a cost-causative basis between the appropriate service categories.

(b) ILECs subject to price cap regulation shall file adjustments to the PCI for the Network Services basket as part of the annual price cap tariff filing, and shall maintain an updated PCI to reflect the effect of any mid-year exogenous changes.

§ XX.104 Adjustments to the PCI for the Network Services Basket.

(a) Subject to paragraphs (b) and (c) of this section, adjustments to the ILEC Network Services basket PCI shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w(GDPPI - X) + \Delta Z/R]$$

where:

GDPPI = the percentage change in the GDPPI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year,

X = productivity factor of 6.5%,

ΔZ = the dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to PCI_{t-1} , measured at base period level of operations,
 R = base period quantities for each rate element "i", multiplied by the price for each rate element "i" at the time the PCI was updated to PCI_{t-1} ,
 w = $R(\text{access rate in effect at the time the PCI was updated to } PCI_{t-1} \text{ times base period demand}) + \Delta Z$, all divided by R ,
 PCI_t = the new PCI value, and
 PCI_{t-1} = the immediately preceding PCI value.

(b) The " $w(\text{GDPPI} - X)$ " component of the PCI formula shall be employed only in the adjustment made in connection with the annual price cap filing.

(c) In the event that a price cap tariff becomes effective, which tariff results in an API value (calculated pursuant to § XX.105) that exceeds the currently applicable PCI value, the PCI value shall be adjusted upward to equal the API value.

§ XX.105 Adjustments to the API for the Network Services Basket.

(a) Except as provided in paragraph (b) of this section, in connection with any price cap tariff filing proposing rate changes, the carrier must calculate an API for the Network Services basket pursuant to the following formula:

$$API_t = API_{t-1} \frac{\sum_i (r_t)_i}{\sum_i (r_{t-1})_i}$$

where:

API_t = the proposed API value,
 API_{t-1} = the existing API value,
 r_t = the proposed revenue for rate element "i",
 r_{t-1} = the existing revenue for rate element "i".

(b) Any price cap tariff filing proposing rate restructuring shall require an adjustment to the API pursuant to the general methodology described in paragraph (a) of this section. This adjustment requires the conversion of existing rates into rates of equivalent value under the proposed structure, and then the comparison of the existing rates that have been converted to reflect restructuring to the proposed restructured rates. This calculation may require use of carrier data and estimation

techniques to assign customers of the preexisting service to those services (including the new restructured service) that will remain or become available after restructuring.

**§ XX.106 Adjustments to SBIs in the Network Services Basket;
Service Bands.**

(a) In connection with any price cap tariff filing proposing changes in the rates of each affected service category or pricing zone, the price cap ILEC must calculate an SBI value for each affected service category or pricing zone pursuant to the following formula:

$$SBI_t = SBI_{t-1} \frac{\sum_i (r_t)_i}{\sum_i (r_{t-1})_i}$$

where:

SBI_t = the proposed SBI value,

SBI_{t-1} = the existing SBI value,

r_t = the proposed revenue for rate element "i" ,

r_{t-1} = the existing revenue for rate element "i" .

(b) Any price cap tariff filing proposing rate restructuring shall require an adjustment to the affected SBI pursuant to the general methodology described in paragraph (a) of this section in the same manner described in § XX.105(b).

(c) Service bands shall be established each tariff year for each affected service category and pricing zone within the Network Services basket as specified below. Each service band shall limit the pricing flexibility of the service category or pricing zone, as reflected in the SBI, to an annual increase of a specified percent (listed below), relative to the percentage change in the PCI for the Network Services basket, measured from the levels in effect on the last day of the preceeding tariff year. Service bands are not required at the service category level when pricing zones are implemented.

(1) No lower service band limit for all service categories and pricing zones.

(2) 10% upper service band limit for all service categories, except for common line, and for all pricing zones.

§ XX.107 Allowable Common Line Revenues

Allowable common line revenues are calculated as follows:

$$R_t = ((R_{t-1}) (PCI_t/PCI_{t-1}))$$

where:

R_t = the proposed revenue for the service category, and
 R_{t-1} = the existing revenue for the service category.

§ XX.108 End User Common Line Charges.

(a) A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service. Such charge shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) Except as provided in paragraphs (d) through (h) of this section, the maximum subscriber line rate or charge shall be computed:

(1) By dividing the allowable common line revenue, as calculated in § XX.107, by the total number of local exchange service subscriber lines in use during the the base period.

(2) Provided, however, that the charge for each local exchange service subscriber line shall not exceed \$9.00 as adjusted by the inflation factor computed under paragraph (j) of this section.

(c) The charge for each subscriber line associated with a public telephone shall be equal to the monthly charge computed in accordance with paragraph (b) of this section.

(d) Beginning January 1, 1998, the maximum monthly charge for each primary residential or single line business local exchange service subscriber line shall be the charge computed in accordance with paragraph (b) of this section, or \$3.50, whichever is lower.

(e) The maximum monthly charge for each non-primary residential local exchange service subscriber line shall be the lower of:

(1) The maximum charge computed in accordance with paragraph (b) of this section; or

(2) \$5.00. On January 1, 1999, this amount shall be adjusted by the inflation factor computed under paragraph (j) of this section, and increased by \$1.00. On July 1, 2000, and on each subsequent July 1 thereafter, this amount shall be adjusted by the inflation factor computed under paragraph (j) of this section, and increased by \$1.00.

(3) Where the ILEC provides a residential line to another carrier so that the other carrier may resell that residential line to a residence that already receives a primary residential line, the ILEC may collect the non-primary residential charge described in paragraph (e)(1) and (e)(2) above from the other carrier.

(f) The charge for each primary residential local exchange service subscriber line shall be the same as the charge for each single line business local exchange service subscriber line.

(g) A line shall be deemed to be a residential subscriber line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.

(h) A line shall be deemed to be a single line business subscriber line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular ILEC.

(i) No charge shall be assessed for any WATS access line.

(j) (1) On January 1, 1999:

(i) The ceiling for multi-line business subscriber lines under paragraph (b)(2) of this section will be adjusted to reflect inflation as measured by the change in GDPPI for the 18 months ending September 30, 1998.

(ii) The ceiling for non-primary residential subscriber lines under paragraph (e)(2) of this section will be adjusted to reflect inflation as

measured by the change in GDPPI for the 12 months ending September 30, 1998.

(2) On July 1, 2000, the ceiling for multi-line business subscriber lines and non-primary residential subscriber lines will be adjusted to reflect inflation as measured by the change in GDPPI for the 18 months ending on Dec 31, 1999.

(3) On July 1 of each subsequent year, the ceiling for multi-line business subscriber lines and non-primary residential subscriber lines will be adjusted to reflect inflation as measured by the change in GDPPI for the 12 months ending on Dec 31 of the year prior to the year the adjustment is made.

(k) (1) ILECs shall assess no more than one end user common line charge as calculated under the applicable method under paragraph (e) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) ILECs shall assess no more than five end user common line charges as calculated under paragraph (b) of this section for Primary Rate Interface ISDN service.

§ XX.109 Presubscribed Interexchange Carrier Charge (PICC).

(a) A charge expressed in dollars and cents per line may be assessed upon the subscriber's presubscribed interexchange carrier to recover the difference in the maximum subscriber line rate set forth in § XX.108(b)(1) and the maximum subscriber line rates set forth in §§ XX.108(b)(2), XX.108(d) and XX.108(e).

(b) If an end-user customer does not have a presubscribed interexchange carrier, the ILEC may collect the PICC directly from the end user.

(c) ILECs shall assess no more than one PICC as calculated under the applicable method under paragraph (a) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(d) ILECs shall assess no more than five PICCs as calculated under the applicable method under paragraph (a) of this section for Primary Rate Interface ISDN service.

(e) If an ILEC receives low income universal service support on behalf of a customer under § 54.403(d) of this chapter, and the subscriber elects toll blocking, then the ILEC shall not recover a primary residential presubscribed interexchange carrier charge from that end-user customer or its presubscribed interexchange carrier. Any amounts recovered under § 54.403(d) of this chapter by the ILEC shall be treated as if they were recovered through the presubscribed interexchange carrier charge.

§ XX.110 Interconnection Charge.

(a) ILECs may recover the residual interconnection charge through a flat-rated trunk port charge assessed upon interexchange carriers or competitive access providers, as appropriate.

(b) To the extent that the ILEC has a non-service related TIC, the ILEC will target all price cap productivity factor reductions to this charge until it is eliminated.

(c) Targeting of productivity factor reductions will not be applied to tandem switching revenues recovered in the TIC.

§ XX.111 Marketing Expenses.

(a) ILECs shall recover interstate marketing expenses pursuant to § 32.6610 of this chapter by including these expenses in the common line service category.

§ XX.112 Connection Charges for Expanded Interconnection.

(a) Appropriate connection charges shall be established for the use of equipment and facilities that are associated with offerings of expanded interconnection for special access and switched transport services, as defined in Part 64, Subpart N of this chapter. To the extent that the same equipment and facilities are used to provide expanded interconnection for both special access and switched transport, the same connection charges shall be used.

(1) A cross-connect charge shall be established for the cross-connect cable and associated facilities connecting the equipment owned by or dedicated to the use of the interconnector with the ILEC's equipment and facilities used to provide interstate special or switched

access services. Charges for the cross-connect charge shall not be deaveraged within a study area that is used for purposes of jurisdictional separations.

(2) Charges associated with physical collocation or virtual collocation, other than the charge described in paragraph (a)(1) of this section and charges recovering the cost of the virtual collocation equipment described in § 64.1401(e)(1) of this chapter, may reasonably differ in different central offices.

(b) Connection charges shall be initially computed based upon the costs associated with the equipment and facilities that are included in such charges, including no more than a just and reasonable portion of the ILEC's overhead costs.

(c) Connection charges shall be assessed upon all interconnectors that use the equipment or facilities that are included in such charges.

(d) Except as provided in paragraphs (e) and (f) of this section, ILECs shall not offer direct-trunked transport rates based on term discounts or volume discounts for multiple DS3s or any other service with higher volume than DS3.

(e) Except in the situation set forth in paragraph (f) of this section, ILECs may offer term and volume discounts in direct-trunked transport charges within each study area, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in paragraph (a)(1) above) in offices in the study area that the ILEC has assigned to the lowest priced pricing zone (zone 1) under an approved pricing zone plan as described in § XX.113 of this section; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced pricing zone (zone 1).

(f) In study areas in which the ILEC has implemented pricing zones, but no offices have been assigned to the lowest priced pricing zone (zone 1), ILECs may offer term and volume discounts in direct-trunked transport charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as

described in paragraph (a)(1) above) in offices in the study area.

(g) Connection charges for expanded interconnection shall not be subject to price cap regulation.

§ XX.113 Pricing Zones.

(a) ILECs may establish a reasonable number of pricing zones within each study area for the Common Line, Local Switching, Tandem Switching and Transport service categories and for other service categories as appropriate.

(b) Pricing zones may vary by service or by service category.

(c) Such a system of pricing zones shall be designed to reasonably reflect cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones.

(d) The establishment of the same initial prices within the pricing zones in a study area shall be based on traffic density. The establishment of different initial prices within the pricing zones in a study area for End User Common Line charges shall be based upon a demonstration of costs.

(e) Pricing zones shall be established using the following criteria:

(1) Common Line and Local Switching: At least one local interconnection trunk is operational.

(2) Switched Transport: At least one interconnector has taken a cross-connect for Switched Transport.

(3) Special Access: At least one interconnector has taken a cross-connect for Special Access.

(4) Equivalent criteria must be demonstrated to establish pricing zones in other service categories.

Subpart C - Pricing Flexibility

§ XX.201 General.

(a) This section is applicable to price cap ILECs which have made a demonstration that the appropriate criteria described herein have been sufficiently satisfied so that pricing flexibility is warranted.

§ XX.202 Pricing Flexibility Criteria.

For services and areas for which an ILEC subject to price cap regulation complies with §§ XX.202(a), (b), (c), (d), (e) and (f) below, additional pricing flexibility shall be granted as described in §§ XX.203, XX.204 and XX.205 for those services and areas.

(a) [HERE DESCRIBE PHASE 1 CRITERIA AND CONDITIONS UPON WHICH CRITERIA HAVE BEEN SUFFICIENTLY SATISFIED]

(b) [HERE DESCRIBE PHASE 1 CRITERIA AND CONDITIONS UPON WHICH CRITERIA HAVE BEEN SUFFICIENTLY SATISFIED]

(c) [HERE DESCRIBE PHASE 2 CRITERIA AND CONDITIONS UPON WHICH CRITERIA HAVE BEEN SUFFICIENTLY SATISFIED]

(d) [HERE DESCRIBE PHASE 2 CRITERIA AND CONDITIONS UPON WHICH CRITERIA HAVE BEEN SUFFICIENTLY SATISFIED]

(e) [HERE DESCRIBE PHASE 3 CRITERIA AND CONDITIONS UPON WHICH CRITERIA HAVE BEEN SUFFICIENTLY SATISFIED]

(f) [HERE DESCRIBE PHASE 3 CRITERIA AND CONDITIONS UPON WHICH CRITERIA HAVE BEEN SUFFICIENTLY SATISFIED]

§ XX.203 Phase 1 Pricing Flexibility.

(a) Price cap ILECs which comply with §§ XX.202(a) and (b) shall be allowed to offer volume and term discounts (including customer-specific contracts), optional service packages and arrangements, and promotional offerings.

§ XX.204 Phase 2 Pricing Flexibility

(a) Price cap ILECs which comply with §§ XX.202(c) and (d) shall be allowed to remove such services and areas from price cap regulation.

§ XX.205 Phase 3 Pricing Flexibility

(a) Price cap ILECs which comply with §§ XX.202(e) and (f) shall be granted forbearance from regulation for such services and areas.

PART 69

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

Rule	Action	Justification
	PART 69 -ACCESS CHARGES FOR NON-PRICE CAP ILECS	Part 69 is modified to be applicable to non-price cap ILECs only. Appropriate portions of Part 69 are duplicated or removed and placed in new Part XX for price cap ILECs.
69.1 (a) & (b)	<u>Application of access charges.</u> Duplicate and include in Part XX. Revised to make applicable to ROR ILECs only.	Duplicate appropriate portions of Subpart A for price cap LECs in Part XX. Makes USTA ROR Access Reform Team recommendations.
69.1 (c)	<u>Application of access charges.</u> Section deleted.	All price cap rules incorporated into Part XX.
69.2	<u>Definitions.</u> Duplicate and include in Part XX.	Duplicate appropriate definitions for price cap LECs in Part XX.
69.2 (t), (u), (v), (w), (y), (bb)(1)(ii), (ll), (nn), (oo), (qq), (ss), (tt), (uu), (vv)	<u>Definitions.</u> Delete definitions. Revise (bb)(1) reference to MFJ.	Deletes obsolete definitions and changes MFJ to AT&T Consent Decree.
69.3	<u>Filing of access service tariffs.</u> Section deleted and incorporated in Part 61.15 and 61.50.	All tariff requirements are consolidated in Part 61 rules.
New 69.3	<u>Access elements.</u> Defines ROR ILEC access elements.	Makes USTA ROR Access Reform Team recommendations.

Rule	Action	Justification
69.4	<p><u>Charges to be filed.</u> Section deleted. Eliminates detail rate element codification, old USF requirements and public interest petition requirement for establishing new rate elements.</p>	Makes USTA Price Cap and ROR Access Reform Team recommendations.
New 69.4	<p><u>Services excluded from revenue requirement calculations.</u> Excludes contract services, special construction services and ICB services from revenue requirement calculations.</p>	Makes USTA ROR Access Reform Team recommendations.
69.5 (d)	<p><u>Persons to be assessed.</u> Deletes old USF requirements.</p>	Replaced by Part 54.
	<p><u>Subpart B - Computation of Charges for Non-Price Cap ILECs</u> Revise title to apply only to ROR ILECs.</p>	Part 69 applies exclusively to non-price cap ILECs.
69.101	<p><u>General.</u> Delete reference to Subpart C.</p>	All price cap rules incorporated into Part XX.
69.104 now 69.102	<p><u>End user common line for non-price cap incumbent local exchange carriers.</u> Section 69.104 deleted and replaced by 69.102 and is modeled after current section 69.152 for price cap LECs. Eliminates the distinction between primary and non-primary residence lines.</p>	Makes USTA ROR Access Reform Team recommendations.

Rule	Action	Justification
<p>New 69.103</p>	<p><u>Presubscribed interexchange carrier charge (PICC) for non-price cap incumbent local exchange carriers.</u> Adds new PICC rules for ROR ILECs. Modeled after current section 69.153. Eliminates the distinction between primary and non-primary residence lines.</p>	<p>Makes USTA ROR Access Reform Team recommendations.</p>
<p>69.105</p>	<p><u>Carrier common line for non-price cap local exchange carriers.</u> Revised and replaced by new per-minute CCL section based on current 69.154.</p>	<p>Makes USTA ROR Access Reform Team recommendations.</p>
<p>69.106</p>	<p><u>Local Switching.</u> Revised section includes charges to recover the Switching revenue requirement and provides greater flexibility. Deletes section (d), (e), (f) and (g) unnecessary requirements and price cap rules.</p>	<p>Makes USTA ROR Access Reform Team recommendations. All price cap rules incorporated into Part XX.</p>
<p>New 69.107</p>	<p><u>Transport Charges.</u> New section includes charges to recover the Transport revenue requirement.</p>	<p>Makes USTA ROR Access Reform Team recommendations.</p>
<p>69.108</p>	<p><u>Transport rate benchmark.</u> Section deleted. Detail rate element codification eliminated.</p>	<p>Makes USTA ROR Access Reform Team recommendations.</p>
<p>69.109</p>	<p><u>Information.</u> Section deleted. Detail rate element codification eliminated.</p>	<p>Makes USTA ROR Access Reform Team recommendations.</p>

Rule	Action	Justification
69.110	<u>Entrance Facilities.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.
69.111	<u>Tandem-switched transport and tandem charge.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.
69.112	<u>Direct-trunked transport.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.
69.113 now 69.108	<u>Non-premium charges for MTS-WATS equivalent services.</u> Revises and renumbers section. Eliminates price cap rules and references to deleted sections.	Makes USTA ROR Access Reform Team recommendations. All price cap rules incorporated into Part XX.
69.114	<u>Special access.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.
69.115 now 69.109	<u>Special access surcharges.</u> Section revised to eliminate detail rate element codification and obsolete requirements.	Makes USTA ROR Access Reform Team recommendations.
69.116	<u>Universal Service Fund.</u> Section deleted.	Replaced by Part 54.

Rule	Action	Justification
69.117	<u>Lifeline assistance.</u> Section deleted.	Replaced by Part 54.
69.118 now 69.110	<u>Traffic sensitive switched services.</u> Title changed to "Basic service elements for switched services." Section revised to eliminate detail rate element codification and obsolete requirements.	Makes USTA ROR Access Reform Team recommendations.
69.119	<u>Basic service element expedited approval process.</u> Section deleted. Eliminates unnecessary rule.	Makes USTA ROR Access Reform Team recommendations.
69.120	<u>Line information database.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.
69.121 now 69.111	<u>Connection charges for expanded interconnection.</u> Eliminates language referencing special access and switched transport.	Makes USTA ROR Access Reform Team recommendations.
69.123	<u>Density pricing zones for special access and switched transport.</u> Section deleted and replaced by 69.130, Zone Pricing.	Makes USTA ROR Access Reform Team recommendations.
69.124	<u>Interconnection charge.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.

Rule	Action	Justification
69.125	<u>Dedicated signalling transport.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.
69.126	<u>Nonrecurring charges.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.
69.127	<u>Transitional Equal Charge Rule.</u> Section deleted.	Deletes obsolete rule.
69.128	<u>Billing name and address.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.
69.129	<u>Signalling for tandem switching.</u> Section deleted. Detail rate element codification eliminated.	Makes USTA ROR Access Reform Team recommendations.
New 69.130	<u>Zone pricing.</u> Adds new zone pricing section.	Makes USTA ROR Access Reform Team recommendations.
	<u>Subpart C - Computation of Charges for Price Cap Local Exchange Carriers</u> Subpart deleted.	All price cap rules incorporated into Part XX.
69.151	<u>Applicability.</u> Section deleted.	All price cap rules incorporated into Part XX.
69.152	<u>End user common line for price cap local exchange carriers.</u> Section deleted.	All price cap rules incorporated into Part XX.

Rule	Action	Justification
69.153	<u>Presubscribed interexchange carrier charge (PICC).</u> Section deleted.	All price cap rules incorporated into Part XX.
69.154	<u>Per-minute carrier common line charge.</u> Section deleted.	All price cap rules incorporated into Part XX.
69.155	<u>Per-minute residual interconnection charge.</u> Section deleted.	All price cap rules incorporated into Part XX.
69.156	<u>Marketing expenses.</u> Section deleted.	All price cap rules incorporated into Part XX.
69.157	<u>Line port costs in excess of basic, analog service.</u> Section deleted.	All price cap rules incorporated into Part XX.
	Subpart D - Apportionment of Net Investment Subpart relettered as Subpart C.	Subpart relettered as a result of current Subpart C being deleted.
69.301 now 69.201	<u>General.</u> Revises the apportionment of net investment to be among the IX and B & C categories and the access elements - Common Line, Switching, Transport, and Other.	Makes USTA ROR Access Reform Team recommendations.

Rule	Action	Justification
69.302 now 69.202	<p>Net Investment. Revises the apportionment of net investment to be among the IX and B & C categories and the access elements - Common Line, Switching, Transport, and Others.</p>	Makes USTA ROR Access Reform Team recommendations.
69.303 now 69.203	<p><u>Information origination/termination equipment (IOT)</u> Revises the apportionment of IOT investment from the Special Access element to the Transport element.</p>	Makes USTA ROR Access Reform Team recommendations.
69.304 now 69.204	<p><u>Subscriber line cable and wire facilities.</u> Revises the assignment of private line and WATS access line investment from the Special Access element to the Transport element.</p>	Makes USTA ROR Access Reform Team recommendations.
69.305 now 69.205	<p><u>Carrier cable and wire facilities (C&WF).</u> Revises the assignment of C&WF investment to the IX category and to the Switching and Transport elements, as appropriate.</p>	Makes USTA ROR Access Reform Team recommendations.
69.306 now 69.206	<p><u>Central office equipment (COE).</u> Revises the apportionment of COE investment to the Switching and Transport elements and to the IX and B & C categories, as appropriate. Eliminates line side port cost assignment for price cap LECs. Changes reference to MFJ to the AT&T Consent Decree.</p>	Makes USTA ROR Access Reform Team recommendations. All price cap rules incorporated into Part XX.

Rule	Action	Justification
69.307 now 69.207	<p><u>General support facilities.</u> Revises the assignment of GSF investment to the IX and B & C categories and the Common Line, Switching, and Transport elements, as appropriate. Eliminates GSF assignment for price cap LECs.</p>	Makes USTA ROR Access Reform Team recommendations. All price cap rules incorporated into Part XX.
69.309 now 69.208	<p><u>Other investment.</u> Revises the apportionment of other investment to be among the IX and B & C categories and the access elements - Common Line, Switching, Transport, and Other.</p>	Makes USTA ROR Access Reform Team recommendations.
69.310 now 69.209	<p><u>Capital leases.</u> Revises the assignment of capital leases to the IX category and to the Common Line, Switching, and Transport elements.</p>	Makes USTA ROR Access Reform Team recommendations.
	<p><u>Subpart E - Apportionment of Expenses</u> Subpart relettered as Subpart D.</p>	Subpart relettered as a result of current Subpart C being deleted.
69.401 now 69.301	<p><u>Direct expenses.</u> Revises the apportionment of Direct expenses to be among the IX and B & C categories and the access elements - Common Line, Switching, Transport, and Other.</p>	Makes USTA ROR Access Reform Team recommendations.
69.402 now 69.302	<p><u>Operating taxes (Account 7200).</u> Revises the apportionment of operating taxes to be among the IX and B & C categories and the access elements - Common Line, Switching, Transport, and Other.</p>	Makes USTA ROR Access Reform Team recommendations.

Rule	Action	Justification
69.403 now 69.303	<p><u>Marketing expense (Account 6610).</u> Revises the apportionment of marketing expense to the IX category and to the Common Line, Switching, and Transport elements, as appropriate.</p>	Makes USTA ROR Access Reform Team recommendations.
69.404 now 69.304	<p><u>Telephone operator services expenses in Account 6620.</u> Revises the apportionment of operator services expenses to the IX category and to the Switching element.</p>	Makes USTA ROR Access Reform Team recommendations.
69.405 now 69.305	<p><u>Published directory expenses in Account 6620.</u> Revises the assignment of published directory expenses from the Information element to the Switching element.</p>	Makes USTA ROR Access Reform Team recommendations.
69.406 now 69.306	<p><u>Local business office expenses in Account 6620.</u> Revises the assignment of local business office expenses to the IX and B & C categories and to the Common Line, Switching, Transport, and Others elements, as appropriate.</p>	Makes USTA ROR Access Reform Team recommendations.
69.407 now 69.307	<p><u>Revenue accounting expenses in Account 6620.</u> Revises the assignment of revenue accounting expenses to the IX and B & C categories and to the Common Line, Switching, and Transport elements, as appropriate.</p>	Makes USTA ROR Access Reform Team recommendations.

Rule	Action	Justification
69.408 now 69.308	<p><u>All other customer services expense in Account 6620.</u> Revises the assignment of all other customer services expenses to the IX and B & C categories and to the Common Line, Switching, and Transport elements.</p>	Makes USTA ROR Access Reform Team recommendations.
69.409 now 69.309	<p><u>Corporate operations expenses (Accounts 6710 and 6720).</u> Revises the assignment of all corporate operations expenses to the IX and B & C categories and to the Common Line, Switching, and Transport elements.</p>	Makes USTA ROR Access Reform Team recommendations.
69.411 now 69.310	<p><u>Other expense.</u> Revises the assignment of all other expenses to the IX category and to the Common Line, Switching, and Transport elements.</p>	Makes USTA ROR Access Reform Team recommendations.
69.412 now 69.311	<p><u>Non participating company payments/receipts.</u> Revises reference to deleted USF rules in Part 69 to Part 54.</p>	Replaced by Part 54.
69.413	<p><u>Universal service fund expenses.</u> Section deleted.</p>	Replaced by Part 54.
69.414	<p><u>Lifeline assistance expenses.</u> Section deleted.</p>	Replaced by Part 54

Rule	Action	Justification
	Subpart F - Segregation of Common Line Element Revenue Requirement Subpart deleted.	The rules in this Subpart are obsolete or are replaced by new or revised common line rules for ROR ILECs. There is no longer a need to segregate CPE or inside wire costs for CCL. The assignment of the common line revenue requirement is now addressed in new Subpart B rules.
69.501	General. Section deleted.	Sections 69.501(b) and (c) are obsolete. There is no longer a need to segregate CPE or inside wire costs for CCL. The assignment of the common line revenue requirement for ROR ILECs is now addressed in new or revised sections 69.102, 69.103 and 69.105 in Subpart B.
69.502	Base factor allocation. Section deleted.	The end user common line revenue requirement for ROR ILECs is now addressed in section 69.102.
	Subpart G - Exchange Carrier Association Subpart relettered as Subpart E.	Subpart relettered as a result of current Subparts C and F being deleted.
69.600 now 69.401	Definitions. Changes USF references in Part 69 to Part 54.	Replaced by Part 54.
69.601 now 69.402	Exchange carrier association. Renumbers section. No change in content.	Section renumbered.
69.602 now 69.403	Board of directors. Renumbers section. No change in content.	Section renumbered.
69.603 now 69.404	Association functions. Renumbers section and changes USF references in Part 69 to Part 54.	Section renumbered. USF requirements replaced by Part 54.

Rule	Action	Justification
69.604 now 69.405	<u>Billing and collection of access charges.</u> Renumbers section and changes USF references in Part 69 to Part 54.	Section renumbered. USF requirements replaced by Part 54.
69.605 now 69.406	<u>Reporting and distribution of pool access revenues.</u> Renumbers section. No change in content.	Section renumbered.
69.606 now 69.407	<u>Computation of average schedule company payments.</u> Renumbers section. No change in content.	Section renumbered.
69.607 now 69.408	<u>Disbursement of carrier common line residue.</u> Renumbers section. No change in content.	Section renumbered.
69.608 now 69.409	<u>Carrier common line hypothetical net balance.</u> Renumbers section. Deletes reference to current Subpart F.	Section renumbered. Subpart F is deleted.
69.609 now 69.410	<u>End user common line hypothetical net balances.</u> Renumbers section. Deletes reference to current Subpart F.	Section renumbered. Subpart F is deleted.
69.610 now 69.411	<u>Other hypothetical net balances.</u> Renumbers section. No change in content.	Section renumbered.

Rule	Action	Justification
69.611	<u>Effect of optional alternative carrier common line tariff provisions and end user common line surcharges.</u> Section deleted.	Deletes obsolete rules.
69.612	<u>Long term and transitional support.</u> Section deleted.	Replaced by Part 54.
69.613	<u>Temporary administrator of universal service support mechanisms.</u> Section deleted.	Replaced by Part 54.
69.614	<u>Independent subsidiary Board of Directors.</u> Section deleted.	Replaced by Part 54.
69.615	<u>High Cost and Low Income Committee.</u> Section deleted.	Replaced by Part 54.
69.616	<u>Independent subsidiary functions.</u> Section deleted.	Replaced by Part 54.
69.617	<u>Schools and Libraries Corporation and Rural Health Care Corporation.</u> Section deleted.	Replaced by Part 54.
69.618	<u>Rural Health Care Corporation functions.</u> Section deleted.	Replaced by Part 54.
69.619	<u>Schools and Libraries Corporation functions.</u> Section deleted.	Replaced by Part 54.

Rule	Action	Justification
69.620	<u>Administrative expenses of independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation.</u> Section deleted.	Replaced by Part 54.
69.621	<u>Audits of independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation.</u> Section deleted.	Replaced by Part 54.
69.622	<u>Transition to the permanent Administrator.</u> Section deleted.	Replaced by Part 54.
New	<u>Subpart F - Competitive Responses by Non-Price Cap ILECs</u> Subpart F added.	Subpart F is added to address competition and to provide additional pricing flexibility and nondominance for ROR ILECs, as proposed by the USTA ROR Access Reform Team.
New 69.501	<u>Voluntary network opening by non-price cap incumbent local exchange carriers.</u> New section allows ROR ILECS to voluntarily open their network by publishing a list of UNEs consistent with Part 51 and by committing to provide LNP to any competitive entrant in a timely manner consistent with state approved interconnection agreements. ROR ILECs which comply with this new section will be allowed to tariff and price interstate services on an ICB basis and permitted to file contract-based tariffs.	New section addresses competition and provides additional pricing flexibility for ROR ILECs, as proposed by the USTA ROR Access Reform Team.

Rule	Action	Justification
<p>New 69.502</p>	<p><u>Regulatory status of non-price cap incumbent local exchange carriers subject to competition.</u> New section codifies the nondominant status of ROR ILECs which have obtained state-approved interconnection agreements.</p>	<p>New section provides nondominant status for ROR ILECs, as proposed by the USTA ROR Access Reform Team.</p>

USTA BIENNIAL REVIEW PROPOSAL

CODE OF FEDERAL REGULATIONS

TITLE 47 - TELECOMMUNICATIONS

CHAPTER I

FEDERAL COMMUNICATIONS COMMISSION

PART 69 - ACCESS CHARGES FOR NON-PRICE CAP ILECS

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Subpart A - General

§ 69.1 Application of access charges.

(a) This Part establishes rules for access charges for interstate or foreign access services provided by incumbent local exchange carriers not subject to price cap regulation.

(b) Charges for such access service shall be computed, assessed and collected and revenues from such charges shall be distributed as provided in this Part. Access service tariffs shall be filed and supported as provided under Part 61 of this chapter.

§ 69.2 Definitions.

For purposes of this part:

(a) "Access Minutes" or "Access Minutes of Use" is that usage of exchange facilities in interstate or foreign service for the purpose of calculating chargeable usage. On the originating end of an interstate or foreign call, usage is to be measured from the time the originating end user's call is delivered by the telephone company and acknowledged as received by the interexchange carrier's facilities connected with the originating exchange. On the terminating end of an interstate or foreign call, usage is to be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an interstate or foreign call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating end exchanges as applicable;

(b) "Access Service" includes services and facilities provided for the origination or termination of any interstate or foreign telecommunication;

(c) "Annual revenue requirement" means the sum of the return component and the expense component;

(d) "Association" means the telephone company association described in Subpart E of this Part;

(e) "Big Three Expenses" are the combined expense groups comprising: Plant Specific Operations Expense, Accounts 6110, 6120, 6210, 6220, 6230, 6310 and 6410; Plant Nonspecific Operations Expenses, Accounts 6510, 6530 and 6540, and Customer Operations Expenses, Accounts 6610 and 6620;

(f) "Big Three Expense Factors" are the ratios of the sum of Big Three Expenses apportioned to each element or category to the combined Big Three Expenses.

(g) "Cable and Wire Facilities" includes all equipment or facilities that are described as cable and wire facilities in the Separations Manual and included in Account 2410;

(h) "Carrier Cable and Wire Facilities" means all cable and wire facilities that are not subscriber line cable and wire facilities;

(i) "Central Office Equipment" or "COE" includes all equipment or facilities that are described as Central Office Equipment in the Separations Manual and included in Accounts 2210, 2220 and 2230;

(j) "Corporate Operations Expenses" include Executive and planning Expenses (Account 6710) and General and Administrative Expenses (Account 6720);

(k) "Customer Operations Expenses" include Marketing and Services expenses in Accounts 6610 and 6620, respectively;

(l) "Direct Expense" means expenses that are attributable to a particular category or categories of tangible investment described in Subpart C of this Part and includes:

(1) Plant Specific Operations expenses in Accounts 6110, 6120, 6210, 6220, 6230, 6310 and 6410;

(2) Plant Nonspecific Operations Expenses in Accounts 6510, 6530, 6540 and 6560;

(m) "End User" means any customer of an interstate or foreign telecommunications service that is not a carrier except that a carrier other than a telephone company shall be deemed to be an "end user" when such carrier uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications services exclusively as a reseller shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller;

(n) "Entry Switch" means the telephone company switch in which a transport line or trunk terminates;

(o) "Expense Component" means the total expenses and income charges for an annual period that are attributable to a particular element or category;

(p) "Expenses" include allowable expenses in the Uniform System of Accounts, Part 32, apportioned to interstate or international services pursuant to the Separations Manual and allowable income charges apportioned to interstate and international services pursuant to the Separations Manual;

(q) "General Support Facilities" include buildings, land, vehicles, aircraft, work equipment, furniture, office equipment and general purpose computers as described in the Separations Manual and included in Account 2110;

(r) "Information Origination/Termination Equipment" includes all equipment or facilities that are described as information origination/termination equipment in the Separations Manual and in Account 2310 except information origination/termination equipment that is used by telephone companies in their own operations;

(s) "Interexchange" or the "interexchange category" includes services or facilities provided as an integral part of interstate or foreign telecommunications that is not described as "access service" for purposes of this Part;

(t) "Line" or "Trunk" includes, but is not limited to, transmission media such as radio, satellite, wire, cable and fiber optic means of transmission;

(u) "Net Investment" means allowable original cost investment in Accounts 2001 through 2003, 1220 and 1402 that has been apportioned to interstate and foreign services pursuant to the Separations Manual from which depreciation, amortization and other reserves attributable to such investment that has been apportioned to interstate and foreign services pursuant to the Separations Manual have been subtracted and to which working capital that is attributable to interstate and foreign services has been added;

(v) "Operating Taxes" include all taxes in Account 7200;

(w) "Origination" of a service that is switched in a Class 4 switch or an interexchange switch that performs an equivalent function ends when the transmission enters such switch and "termination" of such a service begins when the transmission leaves such a switch, except that:

(1) Switching in a Class 4 switch or transmission between Class 4 switches that is not deemed to be interexchange for purposes of the AT&T Consent Decree, as defined in the Communications Act of 1934, will be "origination" or termination" for purposes of this Part, and

(2) "Origination" and "Termination" does not include the use of any part of a line, trunk or switch that is not owned or leased by a telephone company;

(x) "Origination" of any service other than a service that is switched in a Class 4 switch or a switch that performs an equivalent function ends and "termination" of any such service begins at a point of demarcation that corresponds with the point of demarcation that is used for a service that is switched in a Class 4 switch or a switch that performs an equivalent function;

(y) "Private Line" means a line that is used exclusively for an interexchange service other than MTS, WATS or an MTS-WATS equivalent service, including a line that is used at the closed end of an FX, WATS or CCSA service or any service that is substantially equivalent to a CCSA service;

(z) "Public Telephone" is a telephone provided by a telephone company through which an end user may originate interstate or foreign telecommunications for which he pays with coins or by credit card, collect or third number billing procedures;

(aa) "Return Component" means net investment attributable to a particular element or category multiplied by the authorized annual rate of return;

(bb) "Subscriber Line Cable and Wire Facilities" means all lines or trunks on the subscriber side of a Class 5 or end office switch, including lines or trunks that do not terminate in such a switch, except lines or trunks that connect an interexchange carrier;

(cc) "Telephone Company" or "local exchange carrier" as used in this part means an incumbent local carrier as defined in Sections 251(h)(1) of the 1934 Act as amended by the 1996 Act.

(dd) "Unit of Capacity" means the capability to transmit one conversation;

(ee) "WATS Access Line" means a line or trunk that is used exclusively for WATS service.

(ff) "Basic Service Elements" are optional unbundled features that enhanced service providers may require or find useful in the provision of enhanced services, as defined in Amendments of part 69 of the Commission's Rules relating to the Creation of Access Charge Subelements for Open Network Architecture, Report and Order, 6 FCC Rcd 4524 (1991).

(gg) "End Office" means the telephone company office from which the end user receives exchange service.

(hh) "Serving Wire Center" means the telephone company central office designated by the telephone company to serve the geographic area in which the interexchange carrier or other person's point of demarcation is located.

§ 69.3 Access elements

(a) Each local exchange carrier that is not subject to price cap regulation shall establish access elements as follows:

(1) A Transport access element which includes all rates for services related to the transmission of telecommunications signals between local exchange carrier locations, or between such locations and customer premises. Functions for which charges in this access element may be assessed include all interoffice transport, regardless of whether the transport facility is associated with a switching function; all facilities provided under interstate access tariffs between the local servicing office and a customer's premises; and any features associated with transport such as line conditioning.

(2) A Switching access element which includes all rates for services related to the processing of telecommunications signals at local exchange carrier locations, except for public policy elements. Functions for which charges in this access category may be assessed include switching, data base functions, signaling functions, measurement functions, operator and directory assistance functions, and other appropriate features and functions.

(3) A Common Line access element which includes the following subelement charges:

- (i) End User Common Line charge
- (ii) Special Access Surcharge
- (iii) Carrier Common Line charge
- (iv) Presubscribed Interexchange Carrier charge

(4) An Others access element which includes rates for access services that are not contained in the Transport, Switching or Common Line elements.

(b) As specified in Subparts C and D of this Part, investment and expense shall be assigned to the Transport, Switching, Common Line, and Others access categories for the purpose of developing an annual revenue requirement.

(c) Except as otherwise provided in this Part, Local exchange carriers may introduce subelements and associated charges for access services as appropriate.

§ 69.4 Services excluded from revenue requirement calculations

Local exchange carriers shall exclude from each access element revenue requirement such services or portions of such services as the Commission has designated or may hereafter designate by order, including but not limited to:

- (a) Special Construction services;
- (b) Individual Case Basis charges;
- (c) Services offered through contract-based tariffs.

§ 69.5 Persons to be assessed.

(a) End User charges shall be computed and assessed upon end users, and upon providers of public telephones, as defined in this subpart, and as provided in this Part.

(b) Carrier's carrier charges shall be computed and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services.

(c) Special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of interstate or foreign telecommunications to the extent that carrier's carrier charges are not assessed upon such interconnected usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and non-discriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services and WATS services pursuant to the provisions of § 69.109 of this part.

Subpart B - Computation of Charges for Non-Price Cap ILECs

§ 69.101 General.

Except as provided in § 69.1, charges for each access element shall be computed and assessed as provided in this Subpart.

§ 69.102 End user common line for non-price cap incumbent local exchange carriers.

(a) This section is applicable only to incumbent local exchange carriers that are not subject to price cap regulation. A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charge shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) Except as provided in subsections (d) through (i) of this section, the maximum single line rate or charge shall be computed by dividing one-twelfth of the projected annual Common Line revenue requirement by the projected average number of local exchange service subscriber lines in use during such annual period.

(c) The charge for each subscriber line associated with a public telephone shall be equal to the monthly charge computed in accordance with paragraph (b) of this section.

(d) The maximum monthly charge for each residential or single line business local exchange service subscriber line shall be the charge computed in accordance with paragraph (b) of this section, or \$3.50, whichever is lower.

(e) [Reserved]

(f) The charge for each residential local exchange service subscriber line and the charge for each single line business local exchange service subscriber line shall be the same.

(g) A line shall be deemed to be a residential subscriber line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.

(h) [Reserved]

(i) A line shall be deemed to be a single line business subscriber line if the subscriber pays a rate that is not described as a residential

rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.

(j) No charge shall be assessed for any WATS access line.

(k) The monthly per-line charge for multi-line business subscriber lines will be \$9.00, except that on July 1, 1999, and every year thereafter, this monthly per-line charge will be adjusted to equal the nationwide average monthly multi-line business subscriber line charge for all price cap local exchange carriers on December 31 of the preceding year.

(1) (1) Beginning January 1, 1998, non-price cap local exchange carriers shall assess no more than one end user common line charge as calculated under the applicable method under paragraph (d) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) Local exchange carriers shall assess no more than five end user common line charges as calculated under paragraph (b) of this section for Primary Rate Interface ISDN service.

(m) In the event the local exchange carrier charges less than the maximum end user common line charge for any subscriber lines, the local exchange carrier may not recover the difference between the amount collected and the maximum from carrier common line charges or PICCs.

§ 69.103 Presubscribed interexchange carrier charge (PICC) for non-price cap incumbent local exchange carriers.

(a) A charge expressed in dollars and cents per line may be assessed upon the subscriber's presubscribed interexchange carrier to recover the common line revenues permitted under the rate-of-return rules in this chapter that cannot be recovered through the end user common line charge established under § 69.102.

(b) If an end-user customer does not have a presubscribed interexchange carrier, the local exchange carrier may collect the PICC directly from the end user.

(c) The maximum monthly PICC for residential subscriber lines and single-line business subscriber lines shall be the lower of:

(1) One twelfth of the sum of projected annual common line revenues and residual interconnection charge revenues permitted under our rate-of-return rules divided by the projected average number of local exchange service subscriber lines in use during such annual period, minus the maximum subscriber line charge calculated pursuant to § 69.102(d); or

(2) Until July 1, 1999, the nationwide average monthly PICC for residential subscriber lines and single-line business subscriber lines charged by price-cap local exchange carriers as of July 1, 1998. On July 1, 1999, and every year thereafter, this amount shall be adjusted to be the nationwide average monthly PICC for residential subscriber lines and single-line business subscriber lines charged by price-cap LECs as of December 31 of the preceding year.

(d) To the extent that a non-price cap incumbent local exchange carrier cannot recover its full common line revenues and residual interconnection charge revenues permitted under this chapter through the recovery mechanisms established in §§ 69.102 and 69.103(c), that carrier may assess a PICC on multi-line business subscriber lines.

(1) The maximum monthly PICC for multi-line business lines shall be the lower of:

(i) One twelfth of the projected annual common line and residual interconnection charge permitted under this chapter, less the maximum amounts permitted to be recovered through the recovery mechanisms under §§ 69.102 and 69.103(c), divided by the total number of projected multi-line business subscriber lines in use during such annual period; or

(ii) Until July 31, 1999, the nationwide average monthly PICC for multi-line business subscriber lines charged by price-cap incumbent local exchange carriers as of July 1, 1998. On July 1, 1999, and every year thereafter, this amount shall be adjusted to be the nationwide average monthly PICC for multi-line business subscriber lines charged by price-cap incumbent local exchange carriers as of July 1 of the preceding year.

(e) [Reserved]

(f) (1) Non-price cap incumbent local exchange carriers shall assess no more than one PICC as calculated under the applicable method under paragraph (c) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) Non-price cap incumbent local exchange carriers shall assess no more than five PICCs as calculated under paragraph (d) of this section for Primary Rate Interface ISDN service.

(g) (1) The maximum monthly PICC for Centrex lines shall be one-ninth of the maximum charge determined under paragraph (d) of this section, except that if a Centrex customer has fewer than nine lines, the maximum monthly PICC for those lines shall be the maximum charge determined under paragraph (d) of this section divided by the customer's number of Centrex lines.

(2) In the event the monthly loop costs for a multi-line business line, as defined in § 69.102, exceed the maximum permitted End User Common Line charge, as set in § 69.102, the maximum monthly

PICC for a Centrex line determined under paragraph (g)(1) of this section shall be increased by the difference between the monthly loop costs defined in § 69.102 and the maximum permitted End User Common Line charge set in § 69.102. In no event, however, shall the PICC for a Centrex line exceed the maximum established under paragraph (d) of this section.

(h) If a local exchange carrier receives low income universal service support on behalf of a customer under § 54.403(d) of this chapter, then the local exchange carrier shall not recover a residential PICC from that end-user customer or its presubscribed interexchange carrier. Any amounts recovered under § 54.403(d) of this chapter by the local exchange carrier shall be treated as if they were recovered through the PICC.

§ 69.104 [Reserved]

§ 69.105 Per-minute carrier common line charge.

(a) Non-price cap incumbent local exchange carriers may recover a per-minute carrier common line charge from interexchange carriers, collected on originating access minutes and calculated using the weighing method set forth in paragraph (c) of this section. The maximum such charge shall be the per-minute rate that would recover annual common line revenues permitted less the maximum amounts allowed to be recovered under §§ 69.102 and 69.103; or

(b) To the extent that paragraph (a) of this section does not recover from interexchange carriers all permitted carrier common line revenue, the excess may be collected through a per-minute charge on terminating access calculated using the weighing method set forth in paragraph (c) of this section.

(c) For each Carrier Common Line access element tariff, the premium originating Carrier Common Line charge shall be set at a level that recovers revenues allowed under paragraphs (a) and (b) of this section. The non-premium charges shall be equal to 0.45 multiplied by the premium charges.

(d) For purposes of this section and § 69.108:

(1) A carrier or other person shall be deemed to receive premium access if access is provided through a local exchange switch that has the capability to provide access for an MTS-WATS equivalent service that is substantially equivalent to the access provided for MTS or WATS, except that access provided for an MTS-WATS equivalent service that does not use such capability shall not be deemed to be premium access until six months after the carrier that provides such MTS-WATS equivalent service receives actual notice that such equivalent access is or will be available at such switch;

(2) The term open end of a call describes the origination or termination of a call that utilizes exchange carrier common line plant (a call can have no, one, or two open ends); and

(3) All open end minutes on calls with one open end (e.g., an 800 or FX call) shall be treated as terminating minutes.

§ 69.106 Switching charges.

(a) Charges that are expressed in dollars and cents per access minute of use shall be assessed by local exchange carriers that are not subject to price cap regulation upon all entities that use local exchange carrier switching facilities for the provision of interstate or foreign services.

(b) The charges described in paragraph (a) of this section shall reasonably reflect the costs of switching facilities, and shall recover the projected annual revenue requirement for the Switching element, excluding any local switching support received by the carrier pursuant to § 54.301 of this chapter.

(c) If end users of an interstate or foreign service that uses local switching facilities pay message unit charges for such calls in a particular exchange, a credit shall be deducted from the Switching element charges to such carrier for access service in such exchange.

§ 69.107 Transport charges

(a) Charges that are expressed in dollars and cents per access minute of use and/or are flat-rated shall be assessed by local exchange carriers that are not subject to price cap regulation on all purchasers of transport services or facilities.

(b) Charges shall reasonably reflect the costs of transport services and facilities, and shall recover the projected annual revenue requirement for the Transport element.

§ 69.108 Non-premium charges for MTS-WATS equivalent services.

(a) Charges that are computed in accordance with this section shall be assessed upon interexchange carriers or other persons that receive access that is not deemed to be premium access as this term is defined in § 69.105(d)(1) in lieu of carrier charges that are computed in accordance with §§ 69.105 and 69.110.

(b) The non-premium charge for the Carrier Common Line element shall be computed by multiplying the premium charge for such element by .45.

(c) For telephone companies that are not subject to price cap regulation, the non-premium charge for the Switching element shall be computed by multiplying a hypothetical premium charge for such element by .45. The hypothetical premium charge for such element shall be computed by dividing the annual revenue requirement for such element by the sum of the projected premium access minutes for such period and a number that is computed by multiplying the projected non-premium minutes for such element for such period by .45.

(d) The non-premium charge for any BSEs for switching shall be computed by multiplying the premium charge for the corresponding BSEs by .45.

§ 69.109 Special access surcharges.

(a) Pending the development of techniques accurately to measure usage of exchange facilities that are interconnected by users with means of interstate or foreign telecommunications, a surcharge that is expressed in dollars and cents per line termination per month shall be assessed upon users that subscribe to private line services or WATS services that are not exempt from assessment pursuant to paragraph (d) of this section.

(b) The surcharge for such a period shall be twenty-five dollars (\$25.00) per line termination per month.

(c) A telephone company may propose reasonable and nondiscriminatory end user surcharges, to be filed in its federal access tariffs and to be applied to the use of exchange facilities which are interconnected by users with means of interstate or foreign telecommunication which are not provided by the telephone company, and which are not exempt from assessment pursuant to subsection (d) of this Section. Telephone companies which wish to avail themselves of this option must undertake to use reasonable efforts to identify such means of interstate or foreign telecommunication, and to assess end user surcharges in a reasonable and nondiscriminatory manner.

(d) No special access surcharges shall be assessed for any of the following terminations:

(1) The open end termination in a telephone company switch of an FX line, including CCSA and CCSA-equivalent ONALS;

(2) Any termination of an analog channel that is used for radio or television program transmission;

- (3) Any termination of a line that is used for telex service;
- (4) Any termination of a line that by nature of its operating characteristics could not make use of common lines; and
- (5) Any termination of a line that is subject to carrier usage charges pursuant to this Part.
- (6) Any termination of a line that the customer certifies to the exchange carrier is not connected to a PBX or other device capable of interconnecting a local exchange subscriber line with the private line or WATS access line.

§ 69.110 Basic service elements for switched services.

Telephone companies subject to the BOC ONA Order, 4 FCC Rcd 1 (1988) shall, and other telephone companies may, establish approved Basic Service Elements as provided in Amendments of Part 69 of the Commission's rules relating to the Creation of Access Charge Subelements for Open Network Architecture, Report and Order, 6 FCC Rcd 4524 (1991) and 800 data base subelements, as provided in Provision of Access for 800 Service, 8 FCC Rcd 907, CC Docket 86-10, FCC 93-53 (1993).

§ 69.111 Connection charges for expanded interconnection.

(a) Appropriate connection charge subelements shall be established for the use of equipment and facilities that are associated with offerings of expanded interconnection for special access and switched transport services, as defined in part 64, subpart N of this chapter

(b) Charges for subelements associated with physical collocation or virtual collocation, other than the subelements recovering the cost of the virtual collocation equipment described in § 64.1401(e)(1) of this chapter, may reasonably differ in different central offices.

(c) Connection charge subelements shall be computed based upon the costs associated with the equipment and facilities that are included in such subelements, including no more than a just and reasonable portion of the telephone company's overhead costs.

(d) Connection charge subelements shall be assessed upon all interconnectors that use the equipment or facilities that are included in such subelements.

§ 69.112 - 69.129 [Reserved]

§ 69.130 Zone pricing

(a) Local exchange carriers subject to rate-of-return regulation may establish a reasonable number of pricing zones for charges associated with the Transport, Switching, and Common Line elements within each study area that is used for the purposes of jurisdictional separations.

(1) Only one set of density pricing zones shall be established within each study area, to be used for the pricing of access elements pursuant to this section.

(2) Ceilings on SLCs and PICCs as established in §§ 69.102 and 69.103 of this chapter may not be exceeded in any zone within any subject study area; and

(3) Revenue forgone from zone prices for SLCs and PICCs below such ceilings cannot be recovered from universal service funding.

(b) Zone pricing must be revenue-neutral within each study area.

(c) Such a system of pricing zones shall be designed to reasonably reflect cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones.

Subpart C - Apportionment of Net Investment

§ 69.201 General.

(a) For purposes of computing annual revenue requirements for the access elements of non-price cap incumbent local exchange carriers, net investment as defined in § 69.2(u), shall be apportioned among the interexchange, billing and collection and access categories as provided in this subpart. For purposes of this subpart, the access category includes the following elements: Common Line, Switching, Transport and Others.

§ 69.202 Net investment.

(a) Investment in Accounts 2001, 1220 and Class B Rural Telephone Bank Stock booked in Account 1402 shall be apportioned among the interexchange category, billing and collection category and the Transport, Switching, and Common Line access elements as provided in this subpart.

(b) Investment in Accounts 2002, 2003 and to the extent such inclusions are allowed by this Commission, Account 2005 shall be apportioned on the basis of the total investment in Account 2001, Telecommunications Plant in Service.

(1) Central office equipment (COE) investment shall be apportioned among the interexchange category and appropriate access elements in the same proportions as total Accounts 2210, 2220 and 2230 COE assets combined;

(2) Cable and wire facilities (C&WF) investment shall be apportioned among the interexchange category and appropriate access elements in the same proportions as total Account 2410 C&WF assets;

(3) General support facilities investment shall be apportioned among the interexchange category, the billing and collection category and appropriate access elements on the basis of General support facilities investment in Account 2110; and

(4) Investment that is not COE, C&WF or General Support Facilities shall be apportioned among the interexchange category, the billing and collection category and appropriate access elements in the same proportions as the associated investment in Account 2001, Telecommunications plant in service.

§ 69.203 Information origination/termination equipment (IOT).

Investment in all other IOT shall be apportioned between the Transport and Common Line elements on the basis of the relative number of equivalent lines in use, as provided herein. Each interstate or foreign Special Access Line, excluding lines designated in § 69.109(d), shall be counted as one or more equivalent lines where channels are of higher than voice bandwidth, and the number of equivalent lines shall equal the number of voice capacity analog or digital channels to which the higher capacity is equivalent. Local exchange subscriber lines shall be multiplied by the interstate Subscriber Plant Factor to determine the number of equivalent local exchange subscriber lines.

§ 69.204 Subscriber line cable and wire facilities.

(a) Investment in local exchange subscriber lines shall be assigned to the Common Line element.

(b) Investment in interstate and foreign private lines and interstate WATS access lines shall be assigned to the Transport element.

§ 69.205 Carrier cable and wire facilities (C&WF).

(a) Carrier C&WF that is not used for "origination" or "termination" as defined in § 69.2 shall be assigned to the interexchange category.

(b) Carrier C&WF, other than WATS access lines, not assigned pursuant to paragraphs (a), or (c) of this section shall be assigned to the Transport element.

(c) Carrier C&WF that is used to provide transmission between the local exchange carrier's signalling transfer point and the local switch shall be assigned to the switching element.

§ 69.206 Central office equipment (COE).

(a) The Separations Manual categories shall be used for purposes of apportioning investment in such equipment except that any central office equipment attributable to local transport shall be assigned to the Transport elements.

(b) COE Category 1 (Operator Systems Equipment) shall be apportioned among the interexchange category and the access elements as follows: Category 1 that is used for intercept services shall be assigned

to the Switching element. Category 1 other than service observation boards, intercept and directory assistance services shall be assigned to the interexchange category. Service observation boards shall be apportioned among the interexchange category, and the Switching and Transport access elements based on the remaining combined investment in COE Category 1, Category 2 and Category 3.

(c) COE Category 2 (Tandem Switching Equipment) that is deemed to be exchange equipment for purposes of the AT&T Consent Decree shall be assigned to the Switching element. COE Category 2 which is associated with the signal transfer point function shall be assigned to the Switching element. All other COE Category 2 shall be assigned to the interexchange category.

(d) COE Category 3 (Local Switching Equipment) shall be assigned to the Switching element except as provided in paragraph (a) of this Section.

(e) COE Category 4 (Circuit Equipment) shall be apportioned among the interexchange category and the Common Line and Transport elements. COE Category 4 shall be apportioned in the same proportions as the associated Cable and Wire Facilities; except that any DS1/voice-grade multiplexer investment associated with analog local switches and assigned to the Transport element by this section shall be reallocated to the switching element.

§ 69.207 General support facilities.

(a) General purpose computer investment used in the provision of the Line Information Database service shall be assigned to the Switching element.

(b) General purpose computer investment used in the provision of the billing name and address service shall be assigned to the Switching element.

(c) For all local exchange carriers not subject to price cap regulation and for other carriers that acquire all of the billing and collection services that they provide to interexchange carriers from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Switching, and Transport elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

§ 69.208 Other investment.

Investment that is not apportioned pursuant to the foregoing paragraphs shall be apportioned among the interexchange category, the billing and collection category and the Transport, Switching, and Common Line elements in the same proportions as the combined investment that is apportioned pursuant to §§ 69.203 through 69.207.

§ 69.209 Capital leases.

Capital Leases in Account 2680 shall be directly assigned to the appropriate interexchange category or Transport, Switching, and Common Line elements consistent with the treatment prescribed for similar plant costs or shall be apportioned in the same manner as Account 2001.

Subpart D - Apportionment of Expenses

§ 69.301 Direct expenses.

(a) Plant Specific Operations Expenses in Accounts 6110 and 6120 shall be apportioned among the interexchange category, the billing and collection category and the Transport, Switching, and Common Line elements on the following basis:

(1) Account 6110 - Apportion on the basis of other investment apportioned pursuant to § 69.208.

(2) Account 6120 - Apportion on the basis of General and Support Facilities investment pursuant to § 69.207.

(b) Plant Specific Operations Expenses in Accounts 6210, 6220, and 6230, shall be apportioned among the interexchange category and Transport, Switching, and Common Line elements on the basis of the apportionment of the investment in Accounts 2210, 2220, and 2230, respectively.

(c) Plant Specific Operations Expenses in Accounts 6310 and 6410 shall be assigned to the appropriate investment category and shall be apportioned among the interexchange category and the Transport, Switching, and Common Line elements in the same proportions as the total associated investment.

(d) Plant Non Specific Operations Expenses in Accounts 6510 and 6530 shall be apportioned among the interexchange category, the billing and collection category, and the Transport, Switching, and Common Line elements in the same proportions as the combined investment in COE, IOT, and C&WF apportioned to each element and category.

(e) Plant Non Specific Operations Expenses in Account 6540 shall be assigned to the interexchange category.

(f) Plant Non Specific Operations Expenses in Account 6560 shall be apportioned among the interexchange category, the billing and collection category, and the Transport, Switching, and Common Line elements in the same proportion as the associated investment.

(g) Amortization of embedded customer premises wiring investment shall be deemed to be associated with § 69.203(b) IOT investment for purposes of the apportionment described in paragraph (c) of this Section.

§ 69.302 Operating taxes (Account 7200).

(a) Federal income taxes, state and local income taxes, and state and local gross receipts or gross earnings taxes that are collected in lieu of a corporate income tax shall be apportioned among the interexchange category, the billing and collection category and the Transport, Switching, and Common Line elements based on the approximate net taxable income on which the tax is levied (positive or negative) applicable to each element and category.

(b) All other operating taxes shall be apportioned among the interexchange category, the billing and collection category and the Transport, Switching, and Common Line elements in the same manner as the investment apportioned to each element and category pursuant to § 69.208 Other Investment.

§ 69.303 Marketing expense (Account 6610).

Marketing expense shall be apportioned among the interexchange category and the Transport, Switching, and Common Line elements in the same proportions as the combined investment that is apportioned pursuant to § 69.208.

§ 69.304 Telephone operator services expenses in Account 6620.

Telephone Operator Services expenses shall be apportioned among the interexchange category, and the Switching element based on the relative number of weighted standard work seconds. For those companies who contract with another company for the provision of these services, the expenses incurred shall be directly assigned among the interexchange category and the Switching element on the basis of the bill rendered for the services provided.

§ 69.305 Published directory expenses in Account 6620.

Published Directory expenses shall be assigned to the Switching element.

§ 69.306 Local business office expenses in Account 6620.

(a) Local business office expense shall be assigned as follows:

(1) End user service order processing expenses attributable to presubscription shall be apportioned among the Common Line,

Switching, and Transport elements in the same proportion as the investment apportioned to those elements pursuant to § 69.208.

(2) End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own interstate private line and special access service shall be assigned to the Transport element.

(3) End user service order processing, payment and collection, and billing inquiry expenses attributable to interstate private line service offered by an interexchange carrier shall be assigned to the billing and collection category.

(4) End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own interstate message toll service shall be assigned to the interexchange category. End user service order processing, payment and collection, and billing inquiry expenses attributable to interstate message toll service offered by an interexchange carrier shall be assigned to the billing and collection category. End user payment and collection and billing inquiry expenses attributable to End User Common Line access billing shall be assigned to the Common Line element.

(5) End user service order processing, payment and collection, and billing inquiry expenses attributable to TWX service shall be assigned to the Transport element.

(6) Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to private lines and special access shall be assigned to the Transport element.

(7) Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to interstate switched access and message toll, shall be apportioned among the Common Line, Switching and Transport elements in the same proportion as the investment apportioned to those elements pursuant to § 69.208.

(8) Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to billing and collection service shall be assigned to the billing and collection category.

§ 69.307 Revenue accounting expenses in Account 6620.

(a) Revenue accounting expenses that are attributable to End User Common Line access billings shall be assigned to the Common Line element.

(b) Revenue accounting expenses that are attributable to carrier's carrier access billing and collecting expense other than identified in paragraph (a), shall be apportioned among the Transport and Switching elements in the same proportion as the combined investment in COE, C&WF and IOT apportioned to those elements.

(c) All other Revenue Accounting Expenses shall be assigned to the billing and collection category.

§ 69.308 All other customer services expense in Account 6620.

All other customer services expenses shall be apportioned among the Interexchange category, the billing and collection category and the Transport, Switching, and Common Line elements based on the combined expenses in § 69.404 through § 69.407.

§ 69.309 Corporate operations expenses (Accounts 6710 and 6720).

All Corporate Operations Expenses shall be apportioned among the interexchange category, the billing and collection category and the Transport, Switching, and Common Line elements in accordance with the Big 3 Expense Factor as defined in § 69.2.

§ 69.310 Other expense.

Except as provided in § 69.311, expenses that are not apportioned pursuant to §§ 69.301 through 69.309 shall be apportioned among the interexchange category and the Transport, Switching, and Common Line elements in the same manner as § 69.208 Other investment.

§ 69.311 Non participating company payments/receipts.

For ILECs that are not association Common Line tariff participants, the payment or receipt of funds described in Part 54 shall be apportioned, respectively, as an addition to or a deduction from their common line revenue requirement.

Subpart E - Exchange Carrier Association

§ 69.401 Definitions.

High Cost and Low Income Committee. The term "High Cost and Low Income Committee" shall refer to a committee of the Board of Directors of the Administrator's independent subsidiary that will have the power and authority to bind the independent subsidiary's Board of Directors on issues relating to the administration of the high cost and low-income support mechanisms, as described in § Part 54.

Rural Health Care Corporation. The term "Rural Health Care Corporation" shall refer to the corporation created pursuant to Part 54 that shall administer specified portions of the universal service support mechanisms, as described in Part 54.

Schools and Libraries Corporation. The term "Schools and Libraries Corporation" shall refer to the corporation created pursuant to Part 54 that shall administer specified portions of the universal service support mechanisms, as described in Part 54.

§ 69.402 Exchange carrier association.

(a) An association shall be established in order to prepare and file access charge tariffs on behalf of all telephone companies that do not file separate tariffs or concur in a joint access tariff of another telephone company for all access elements.

(b) All telephone companies that participate in the distribution of Carrier Common Line revenue requirement, pay long term support to association Common Line tariff participants, or receive payments from the transitional support fund administered by the association shall be deemed to be members of the Association.

(c) All data submissions to the association required by this Title shall be accompanied by the following certification statement signed by the officer or employee responsible for the overall preparation for the data submission:

CERTIFICATION

I am (title of certifying officer or employee). I hereby certify that I have overall responsibility for the preparation of all data in the attached data submission for (name of carrier) and that I am authorized to execute this certification. Based on information known to me or provided to me by employees responsible for the preparation of the data in this submission, I hereby certify that the data have been examined and reviewed and are complete, accurate, and consistent with the rules of the Federal Communications Commission.

Date:

Name:

Title:

(Persons making willful false statements in this data submission can be punished by fine or imprisonment under the provisions of the U.S. Code, Title 18, Section 1001).

§ 69.403 Board of directors.

(a) For purposes of this Section, the association membership shall be divided into three subsets:

(1) The first subset shall consist of the telephone companies owned and operated by the seven Regional Bell Holding Companies;

(2) The second subset shall consist of all other telephone companies with annual operating revenues in excess of forty million dollars;

(3) The third subset shall consist of all other telephone companies. All commonly controlled companies shall be deemed to be one company for purposes of this Section.

(b) There shall be fifteen directors of the association.

(c) Until 1996, three directors shall represent the first subset, three directors shall represent the second subset, and nine directors shall represent the third subset. In 1996 and thereafter, two directors shall represent the first subset, two directors shall represent the second

subset, six directors shall represent the third subset, and five directors shall represent all three subsets.

(d) No director who represents all three subsets shall be a current or former officer or employee of the association or of any association member, or have a business relationship or other interest that could interfere with his or her exercise of independent judgment.

(e) Each subset shall select the directors who will represent it individually through an annual election in which each member of the subset shall be entitled to vote for the number of directors that will represent such member's subset.

(f) The association membership shall select the directors for the following calendar year who will represent all three subsets through an annual election in which each member of the association shall be entitled to one vote for each director position. There shall be at least two candidates meeting the qualifications in paragraph (d) of this section for each such director position:

(1) in any election in which the most recently elected director for such position is not a qualified candidate;

(2) if there has been no election for such position having more than one qualified candidate during the present and the two preceding calendar years; and

(3) in any election for which the ballot lists two or more qualified candidates.

(g) At least one director representing all three subsets shall be a member of each committee of association directors.

(h) For each access element or group of access elements for which voluntary pooling is permitted, there shall be a committee that is responsible for the preparation of charges for the associated access elements that comply with all applicable sections in this Part.

(i) Directors shall serve for a term of one year commencing January 1 and concluding on December 31 of each year.

§ 69.404 Association functions.

(a) The association shall not engage in any activity that is not related to the preparation of access charge tariffs or the collection and distribution of access charge revenues or the operation of a billing and collection pool on an untariffed basis unless such activity is expressly authorized by order of the Commission.

(b) Participation in Commission or court proceedings relating to access charge tariffs, the billing and collection of access charges, the distribution of access charge revenues, or the operation of a billing and collection pool on an untariffed basis shall be deemed to be authorized association activities.

(c) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to Part 54, will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer administer the Universal Service charge, including the direct billing to and collection of associated revenues on a monthly basis from interexchange carriers pursuant to Part 54 and the distribution of these revenues to qualified telephone companies based on their share of expenses assigned to the Universal Service Factor portion of the interstate allocation pursuant to § 36.631. Such functions shall be assumed by the independent subsidiary of the association as provided in Part 54. Commencing on January 1, 1998, the billing and collection of universal service support for high cost areas shall be performed in a manner consistent with § 54.709 of this chapter.

(d) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to Part 54, will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer administer the Lifeline Assistance charge, including the direct billing to and collection of associated revenues on a monthly basis from interexchange carriers pursuant to Part 54, and the distribution of these revenues to qualified telephone companies based on their share of expenses assigned to the Lifeline Assistance Fund pursuant to § 36.741 and of End User Common Line charges associated with the operation of Part 54. Such functions shall be assumed by the independent subsidiary of the association as provided in Part 54. Commencing on January 1, 1998, the billing and collection of Lifeline support shall be performed in a manner consistent with § 54.709.

(e) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to Part 54, will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer compute, in accordance with Part 54, the mandatory Long Term Support payment of telephone companies that are not association Common Line tariff participants, bill or collect the appropriate amounts on a monthly basis from such telephone companies, or distribute Long Term Support revenue among association Carrier Common Line tariff participants. Such functions shall be assumed by the independent subsidiary of the association as provided in Part 54. Commencing on January 1, 1998, the computation, billing, and collection of Long Term Support shall be performed in a manner consistent with § 54.303.

(f) The association shall also prepare and file an access charge tariff containing terms and conditions for access service and a form for the filing of rate schedules by telephone companies that choose to reference these terms and conditions while filing their own access rates.

(g) The association shall divide the expenses of its operations into two categories. The first category ("Category I Expenses") shall consist of those expenses that are associated with the preparation, defense, and modification of association tariffs, those expenses that are associated with the administration of pooled receipts and distributions of exchange carrier revenues resulting from association tariffs, those expenses that are associated with association functions pursuant to §§ 69.404(c)-(g), and those expenses that pertain to Commission proceedings involving Subpart D of Part 69 of the Commission's rules. The second category ("Category II Expenses") shall consist of all other association expenses. Category I Expenses shall be sub-divided into three components in proportion to the revenues associated with each component. The first component ("Category I.A Expenses") shall be in proportion to the Universal Service Fund and Lifeline Assistance revenues. The second component ("Category I.B Expenses") shall be in proportion to the sum of the association End User Common Line revenues, the association Carrier Common Line revenues, the association Special Access Surcharge revenues, the Long Term Support payments and the Transitional Support payments. The third component ("Category I.C Expenses") shall be in proportion to the revenues from all other association interstate access charges.

(h)(1) The revenue requirement for association tariffs shall not include any association expenses other than Category I.A Expenses.

(2) The revenue requirement for association tariffs shall not include any Association expenses other than Category I.B Expenses.

(3) The revenue requirement for association tariffs shall not include any association expenses other than Category I.C Expenses.

(4) No distribution to an exchange carrier of Universal Service Fund and Lifeline Assistance revenues shall include adjustments for association expenses other than Category I.A Expenses.

(5) No distribution to an exchange carrier of revenues from association End User Common Lines Or Carrier Common Line charges, Special Access Surcharges, or Long Term Support or Transitional Support payments shall include adjustments for association expenses other than Category I.B Expenses.

(6) No distribution to an exchange carrier of revenues from association interstate access charges other than End User Common

Line and Carrier Common Line charges and Special Access Surcharges shall include adjustments for association expenses other than Category I.C Expenses.

(7) The association shall separately identify all Category I.A, I.B and I.C Expenses in cost support materials filed with each annual association access tariff filing.

§ 69.405 Billing and collection of access charges.

(a) Telephone companies shall bill and collect all access charges except those charges specified in Part 54.

(b) All access charges shall be billed monthly.

§ 69.406 Reporting and distribution of pool access revenues.

(a) Access revenues and cost data shall be reported by participants in association tariffs to the association for computation of monthly pool revenues distributions in accordance with this Subpart.

(b) Association expenses incurred during the month that are allowable access charge expenses shall be reimbursed before any other funds are disbursed.

(c) Except as provided in paragraph (b) of this Section, payments to average schedule companies that are computed in accordance with § 69.407 shall be disbursed before any other funds are disbursed. For purposes of this Part, a telephone company that was participating in average schedule settlements on December 1, 1982, shall be deemed to be an average schedule company except that any company that does not join in association tariffs for all access elements shall not be deemed to be an average schedule company.

(d) The residue shall be disbursed to telephone companies that are not average schedule companies in accordance with §§ 69.408 through 69.411.

(e) The association shall submit a report on or before February 1 of each calendar year describing the association's cost study review process for the preceding calendar year as well as the results of that process. For any revisions to cost study results made or recommended by the association that would change the respective carrier's calculated annual common line or traffic sensitive revenue requirement by ten percent or more, the report shall include the following information:

(1) the name of the carrier;

- (2) a detailed description of the revisions;
- (3) the amount of the revisions;
- (4) the impact of the revisions on the carrier's calculated common line and traffic sensitive revenue requirements; and
- (5) the carrier's total annual common line and traffic sensitive revenue requirement.

§ 69.407 Computation of average schedule company payments.

(a) Payments shall be made in accordance with a formula approved or modified by the Commission. Such formula shall be designed to produce disbursements to an average schedule company that simulate the disbursements that would be received pursuant to § 69.408 by a company that is representative of average schedule companies.

(b) The association shall submit a proposed revision of the formula for each annual period subsequent to December 31, 1986, or certify that a majority of the directors of the association believe that no revisions are warranted for such period on or before December 31 of the preceding year.

§ 69.408 Disbursement of carrier common line residue.

(a) The association shall compute a monthly net balance for each member telephone company that is not an average schedule company. If such a company has a negative net balance, the association shall bill that amount to such company. If such a company has a positive net balance, the association shall disburse that amount to such company.

(b) The net balance for such a company shall be computed by multiplying a hypothetical net balance for such a company by a factor that is computed by dividing the Carrier Common Line residue by the sum of the hypothetical net balances for such companies.

(c) The hypothetical net balance for each company shall be the sum of the hypothetical net balances for each access element. Such hypothetical net balances shall be computed in accordance with § 69.409 - § 69.411.

§ 69.409 Carrier common line hypothetical net balance.

The hypothetical net balance shall be equal to a Carrier Common Line revenue requirement for each such company.

§ 69.410 End user common line hypothetical net balances.

(a) If the company does not participate in the association tariff for such element, the hypothetical net balance shall be zero.

(b) If the company does participate in the association tariff for such element, the hypothetical net balance shall be computed by multiplying an amount that is computed by deducting access revenues collected by such company for such element from an End User Common Line revenue requirement for such company by a factor that is computed by dividing access revenues collected by all such companies for such element by an End User Common Line revenue requirement for all such companies.

§ 69.411 Other hypothetical net balances.

(a) The hypothetical net balance for an access element other than a Common Line element shall be computed as provided in this Section.

(b) If the company does not participate in the association tariff for such element, the hypothetical net balance shall be zero.

(c) If the company does participate in the association tariff for such element, the hypothetical net balance shall be computed by deducting access revenues collected for such element from the sum of expense attributable to such element and the element residue apportioned to such company. The element residue shall be apportioned among such companies in the same proportions as the net investment attributable to such element.

(d) The element residue shall be computed by deducting expenses of all participating companies attributable to such element from revenues collected by all participating companies for such element.

Subpart F - Competitive Responses By Non-Price Cap ILECs

§ 69.501 Voluntary network opening by non-price cap incumbent local exchange carriers.

(a) This section applies only to non-price cap incumbent local exchange carriers (referred to herein for purposes of this section as non-price cap ILECs).

(b) A non-price cap ILEC may elect to open its network to competitive entry consistent with subsection (c) hereunder, before receiving a request from a telecommunications carrier pursuant to sections 251(b) or (c) of the Communications Act. Once a non-price cap ILEC provides notice of such network opening pursuant to subsection (d) hereunder, it shall be afforded competitive pricing flexibility as defined in subsection (e) hereunder.

(c) A non-price cap ILEC is considered to have elected to open its network to competitive entry for purposes of this section if, before receiving a request from a telecommunications carrier pursuant to sections 251(b) or (c) of the Communications Act:

(1) The non-price cap ILEC publishes a list of unbundled network elements consistent with the unbundling requirements of §§ 51.305 through 51.321 of this chapter (excluding §§ 51.305(a)(4), 51.311(c), 51.315(c)-(f), and 51.317), with prices therefore that are reasonably related to prices for such elements offered by similarly situated ILECs. Such unbundled network elements must be available to telecommunications carriers at the time of such publication.

(2) The non-price cap ILEC commits to provide local number portability to any competitive entrant in a timely manner consistent with a state commission's approval of an interconnection agreement between the non-price cap ILEC and that entrant pursuant to section 252 of the Communications Act.

(d) The non-price cap ILEC must notify the Commission, the affected state commission(s), and the general public in writing of its election to open its network as described in subsection (c) above. Notification to the Commission and the state commission(s) should include a copy of the publication described in subsection (c)(1) above and a general description of compliance with subsection (c) above.

(e) In all areas for which the non-price cap ILEC complies with subsections (c) and (d) of this section, it shall be permitted to engage in tariffing and pricing of interstate telecommunications services on an individual case basis, and it shall be permitted to file contract-based

tariffs for such services. For purposes of this section, a contract-based tariff is defined in § 61.2(i) of this chapter.

§ 69.502 Regulatory status of non-price cap incumbent local exchange carriers subject to competition

A non-price cap ILEC that has obtained state commission approval of one or more interconnection agreements in any portion of its service territory shall be treated as a nondominant carrier by the Commission. Such treatment shall be the same as that accorded to other nondominant local exchange carriers by the Commission prior to the effective date of this rule so that such non-price cap ILECs shall not be required to base tariffs on the rate of return principles described in this chapter.