



PUBLIC NOTICE

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COMMISSION ASKS PARTIES TO UPDATE AND REFRESH RECORD ON MANDATORY DETARIFFING OF CLEC INTERSTATE ACCESS SERVICES

DA 00-1268
 CC Docket Nos. 96-262 and 97-146

COMMENTS: July 12, 2000
REPLY COMMENTS: July 24, 2000

The Commission has sought comment in two rulemaking dockets regarding the regulatory or market-based approaches that would ensure that competitive local exchange carrier (CLEC) rates for interstate access are reasonable.¹ Among the proposals discussed in these proceedings, the Commission invited interested parties to comment on whether mandatory detariffing of CLEC interstate access service rates would provide a market-based deterrent to excessive terminating access charges.² This Public Notice invites parties to update and refresh the records of these proceedings regarding mandatory detariffing of CLEC interstate access services.

On April 28, 2000, the court of appeals upheld the Commission's 1996 order requiring detariffing for interstate, domestic, interexchange services of nondominant interexchange carriers.³ On May 1, 2000, the court lifted the stay of the *LXC Detariffing Order* and the rules adopted in the order became effective.⁴ In light of the court's ruling, we invite parties to update

¹ *Access Charge Reform*, CC Docket No. 96-262, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, 11 FCC Rcd 21354 (1996) (*NPRM*); *Access Charge Reform*, CC Docket No. 96-262, Fifth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 14221 (1999) (*Further NPRM*); *Hyperion Telecommunications, Inc. and Time Warner Petitions for Forbearance, Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers*, CC Docket No. 97-146, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 12 FCC Rcd 8596 (1997) (*Hyperion Order and NPRM*). See also *Common Carrier Bureau Seeks Comment on the Requests for Emergency Temporary Relief of the Minnesota CLEC Consortium and the Rural Independent Competitive Alliance Enjoining AT&T Corp. from Discontinuing Service Pending Final Decision*, CC Docket No. 96-262, Public Notice, DA 00-1067 (Com.Car.Bur., May 15, 2000).

² *NPRM*, 11 FCC Rcd at 21475; *Further NPRM*, 14 FCC Rcd at 14343; *Hyperion Order and NPRM*, 12 FCC Rcd at 8613.

³ *MCI WorldCom v. FCC*, 209 F.3d 760 (D.C. Cir. 2000); *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket No. 96-61, Second Report and Order, 11 FCC Rcd 20730 (1996) (*LXC Detariffing Order*).

⁴ *MCI WorldCom v. FCC*, No. 96-1459, slip op. (D.C. Cir., May 1, 2000).

and refresh the record regarding mandatory detariffing of CLEC interstate access services.

Specifically, commenters should discuss whether and, if so, how mandatory detariffing: (1) addresses any market failure to constrain terminating access rates; (2) provides a market-based solution to excessive terminating charges by encouraging parties to negotiate terminating access charges; (3) provides the same benefits identified in the *Hyperion Order and NPRM* for permissive detariffing; (4) offers additional public interest benefits beyond permissive detariffing; (5) precludes the use of the filed rate doctrine to nullify contractual arrangements; (6) reduces the administrative burden on the Commission of maintaining tariffs; and (7) reduces the economic burden on the non-ILECs of filing tariffs.

This matter shall be treated as a “permit but disclose” proceeding in accordance with the Commission’s *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission’s rules, 47 C.F.R. § 1.1206(b).

Interested parties are requested to provide comments on or before July 12, 2000. Reply comments may be filed no later than July 24, 2000. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies.⁵

Comments filed through ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties also may submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail message to ecfs@fcc.gov and include “get form <your e-mail address>” in the body of the message. A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing with the Commission’s Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 - 12th Street, S.W., TW-A325, Washington, D.C. 20554. In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission’s duplicating contractor, at its office at 1231 - 20th Street, N.W., Washington, D.C. 20036, and one copy with the Chief, Competitive Pricing Division, 445 – 12th Street, S.W., TW – A225, Washington, D.C. 20554.

For additional assistance, contact Josephine Scarlett, Competitive Pricing Division, Common Carrier Bureau (202) 418-1520.

⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998).