

FEDERAL RESERVE SYSTEM

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

In the Matter of)
Rye Telephone Company, Inc. and)
U S WEST Communications, Inc.) CC Docket No. 96-45
Joint Petition for Waiver of)
Definition of "Study Area" Contained in the)
Part 36 Appendix-Glossary of the)
Commission's Rules)
Rye Telephone Company, Inc.)
Petition for Waiver of Section 61.41(c)(2) of the)
Commission's Rules)

MEMORANDUM OPINION AND ORDER

Adopted: July 17, 2000

Released: July 18, 2000

By the Deputy Chief, Accounting Policy Division:

I. INTRODUCTION

1. In this Order, we grant requests from Rye Telephone Company, Inc. (Rye) and U S WEST Communications, Inc. (U S WEST) for a waiver of the definition of "study area" contained in the Part 36 Appendix-Glossary of the Commission's rules. This waiver will permit U S WEST to alter the boundaries of its Colorado study area to remove 94 access lines in the Pueblo exchange. This waiver will also permit Rye to alter the boundaries of its existing Colorado study area to include the 94 access lines it is acquiring from U S WEST. We also grant Rye's request for waiver of section 61.41(c)(2) of the Commission's rules to permit Rye to continue operating under rate-of-return regulation after acquiring U S WEST access lines that are currently under price cap regulation.

1 See U S WEST Communications, Inc. and Rye Telephone Company, Inc., Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules and Waiver of the Commission's Detailed Information Filing Guidelines for Part 36 Study Area Waiver Requests, CC Docket No. 96-45 (filed Oct. 15, 1999) (Petition). In a separate petition, Rye and U S WEST also request a full refund and waiver of the fee for filing waiver petitions. See U S WEST Communications, Inc. and Rye Telephone Company, Inc., Petition for Waiver of Filing Fee, CC Docket No. 96-45 (filed Oct. 15, 1999). Section 1.1117(c) of the Commission's rules requires that the Managing Director act upon petitions for fee waivers. 47 C.F.R. § 1.1117(c). Therefore, we have forwarded to the Managing Director a copy of that petition and will forward to the Managing Director a copy of this Order.

II. STUDY AREA WAIVER

A. Background

2. Study Area Boundaries. A study area is a geographic segment of an incumbent local exchange carrier's (LEC's) telephone operations. Generally, a study area corresponds to an incumbent LEC's entire service territory within a state. Thus, incumbent LECs operating in more than one state typically have one study area for each state. When a carrier acquires additional entire study areas in a given state, however, the carrier may operate more than one study area in that state. The Commission froze all study area boundaries effective November 15, 1984,² and an incumbent LEC must apply to the Commission for a waiver of the study area boundary freeze if it wishes to sell or purchase additional exchanges.

3. Transfer of Universal Service Support. Section 54.305 of the Commission's rules provides that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost universal service support for which the acquired exchanges were eligible prior to their transfer.³ For example, if a rural carrier purchases an exchange from a non-rural carrier that receives support based on the Commission's new universal service support mechanism for non-rural carriers,⁴ the loops of the acquired exchange shall receive the same per-line support as calculated under the new non-rural mechanism, regardless of the support the rural carrier purchasing the exchange may receive for any other exchanges.⁵ Section 54.305 is meant to discourage carriers from transferring exchanges merely to

² 47 C.F.R. § 36 app. (defining "study area"). See *MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Recommended Decision and Order, 49 Fed. Reg. 48325 (1984); Decision and Order, 50 Fed. Reg. 939 (1985); see also *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, Notice of Proposed Rulemaking, 5 FCC Rcd 5974 (1990).

³ 47 C.F.R. § 54.305.

⁴ On November 2, 1999, the Commission released two orders finalizing implementation plans for high-cost reform for non-rural carriers. *Federal-State Joint Board on Universal Service*, Ninth Report and Order and Eighteenth Order on Reconsideration, CC Docket No. 96-45, FCC 99-306 (rel. Nov. 2, 1999); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket No. 97-160, Tenth Report and Order (rel. Nov. 2, 1999). The new mechanism, which went into effect on January 1, 2000, does not apply to rural carriers. The new mechanism for non-rural carriers directs support to carriers based on the forward-looking economic cost of operating a given exchange. See 47 C.F.R. § 54.309. The Commission's forward-looking methodology for calculating high-cost support for non-rural carriers targets support to states where the statewide average forward-looking cost per line exceeds 135 percent of the national average forward-looking cost. See *id.* The total amount of support directed to non-rural carriers in a high-cost state equals 76 percent of the amount the statewide average forward-looking cost per line exceeds the national cost benchmark, multiplied by the number of lines served by non-rural carriers in the state. Carriers serving wire centers with an average forward-looking cost per line above the national cost benchmark shall be eligible to receive support. The amount of support provided to a non-rural carrier serving a particular wire center depends on the extent to which per-line forward-looking economic costs in that wire center exceed the national cost benchmark.

⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8942-43 (1997) (*First Report and Order*); as corrected by *Federal-State Joint Board on Universal Service*, Errata, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *affirmed in part, reversed in part and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

increase their share of high-cost universal service support, especially during the Commission's transition to universal service support mechanisms that provide support to carriers based on the forward-looking economic cost of operating a given exchange.⁶ High-cost support mechanisms currently include non-rural carrier forward-looking high-cost support,⁷ interim hold-harmless support for non-rural carriers,⁸ rural carrier high-cost loop support,⁹ local switching support,¹⁰ and Long Term Support (LTS).¹¹ To the extent that a carrier acquires exchanges receiving any of these forms of support, the acquiring carrier will receive the same per-line levels of support for which the acquired exchanges were eligible prior to their transfer.

4. As described in the Commission's recent order adopting an integrated interstate access reform and universal service proposal put forth by the members of the Coalition for Affordable Local and Long Distance Service (CALLS), beginning July 1, 2000, if a price cap LEC acquires exchanges from another price cap LEC the acquiring carrier will become eligible to receive interstate access universal service support for the acquired exchanges.¹² Because the interstate access universal service support mechanism is capped at \$650 million, transactions involving the transfer of support will not increase the mechanism's overall size.¹³ If a non-price cap LEC acquires exchanges from a price-cap LEC, per-line interstate access universal service support will not transfer.¹⁴

5. *The Petition for Waiver.* On October 15, 1999, Rye and U S WEST filed a joint petition

⁶ *Id.*

⁷ See 47 C.F.R. § 54.309.

⁸ In the event that support provided to a non-rural carrier in a given state is less under the forward-looking methodology, the carrier is eligible for interim hold-harmless support, which is equal to the amount of support for which the non-rural carrier would have been eligible under the Commission's existing high-cost support mechanism. See 47 C.F.R. § 54.311

⁹ Rural carriers receive high-cost loop support when their average cost per loop exceeds the nationwide average loop cost. See 47 C.F.R. §§ 36.601-36.622.

¹⁰ Incumbent LECs that are designated eligible telecommunications carriers and serve study areas with 50,000 or fewer access lines receive support for local switching costs. 47 C.F.R. § 54.301. Local switching support enables participants to assign a greater proportion of local switching costs to the interstate jurisdiction.

¹¹ Carriers that participate in the NECA common line pool are eligible to receive LTS. See 47 C.F.R. § 54.303. LTS supports interstate access rates for carriers that are members of the NECA pool, by reducing the amount of interstate-allocated loop costs that such carriers must recover through carrier common line charges. See *First Report and Order*, 12 FCC Rcd at 9163-9165.

¹² See *Access Charge Reform*, Sixth Report and Order in CC Docket No. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, FCC 00-103, at para. 225 (rel. May 31, 2000) (*Interstate Access Universal Service Order*).

¹³ See 47 C.F.R. § 54.801(a); see also *Interstate Access Universal Service Order* at para. 201.

¹⁴ Section 54.801 of the Commission's rules states that if "all or a portion of a study area served by a price cap LEC is sold to an entity other than a price cap LEC, . . . then the support that would otherwise be provided under this subpart, had such study area or portion thereof not been sold, will not be distributed or collected." 47 C.F.R. § 54.801(b).

for waiver of the definition of “study area” contained in the Part 36 Appendix-Glossary of the Commission’s rules. U S WEST, an incumbent LEC that currently serves approximately 2,633,542 access lines in Colorado, seeks a waiver of the rule freezing study area boundaries to allow it sell to Rye 94 access lines in its Pueblo, Colorado exchange.¹⁵ Rye, an incumbent LEC that currently serves 1,931 access lines in Colorado,¹⁶ seeks a waiver of the rule freezing study area boundaries to allow the addition of U S WEST’s 94 access lines to its existing study area.¹⁷ On November 30, 1999, the Common Carrier Bureau (Bureau) released a public notice soliciting comments on the petition.¹⁸ No comments were filed.

B. Discussion

6. We find that good cause exists to waive the definition of study area contained in the Part 36 Appendix-Glossary of the Commission’s rules to permit U S WEST to remove the 94 access lines from its Colorado study area, and to permit Rye to combine the acquired access lines with its Colorado study area.

7. Generally, the Commission’s rules may be waived for good cause shown.¹⁹ As noted by the Court of Appeals for the D.C. Circuit, however, agency rules are presumed valid.²⁰ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.²¹ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²² Waiver of the Commission’s rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest. In evaluating petitions seeking a waiver of the rule freezing study area boundaries, the Commission traditionally has applied a three-prong standard: first, the change in study area boundaries must not adversely affect the universal service funds; second, no state commission having regulatory authority over the transferred exchanges may oppose the transfer; and third, the transfer must be in the public interest.²³ For the reasons discussed below, we conclude that Rye and U S WEST have satisfied these criteria and demonstrated that good cause exists

¹⁵ Petition at 1. *See also* NECA Universal Service Fund 1999 Submission of 1998 Study Results filed October 1, 1999 (NECA 1999 USF Filing).

¹⁶ *Id.*

¹⁷ Petition at 1.

¹⁸ *U S WEST Communications, Inc. and Rye Telephone Company, Inc., Filed Petition for Waiver of Sections 61.41(c), 69.3(e)(6), 69.3(g)(2) and the Definition of “Study Area” in Part 36 of the Commission’s Rules*, Public Notice, DA 99-2669 (rel. Nov. 30, 1999).

¹⁹ 47 C.F.R. § 1.3.

²⁰ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

²¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²² *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

²³ *See, e.g., U S WEST Communications, Inc., and Eagle Telecommunications, Inc., Petition for Waiver of the Definition of “Study Area” Contained in Part 36, Appendix-Glossary of the Commission’s Rules*, Memorandum Opinion and Order, 10 FCC Rcd 1771, 1772 (1995).

for a waiver of the Commission's study area freeze rule.

8. First, we find that Rye and U S WEST have demonstrated that the proposed changes in the study area boundaries will not adversely affect the universal service fund. Because, under our rules, carriers purchasing high-cost exchanges can only receive the same level of per-line support as the selling company was receiving for those exchanges prior to the sale, there can, by definition, be no adverse impact on the universal service fund resulting from this transaction.²⁴ Because U S WEST's Pueblo exchange currently is not eligible to receive any form of high-cost support, Rye also will not be eligible to receive support for the acquired access lines.²⁵ As a result of this transaction, access lines in Rye's pre-acquisition study area boundary will be eligible for different amounts of high-cost support than the 94 access lines being acquired from U S WEST. We, therefore, direct Rye to submit, as part of its annual USF data submission to the fund administrator, a schedule showing its methodology for excluding the costs associated with the 94 acquired access lines from the costs associated with its pre-acquisition study area. We also note that because Rye is not a price cap LEC,²⁶ it will not be eligible to receive interstate access universal service support for the acquired access lines.²⁷

9. Second, no state commission having regulatory authority over the transferred exchanges opposes the transfer. We note that an Administrative Law Judge of the Colorado Public Utilities Commission issued a Recommended Decision indicating that the Colorado Public Utilities Commission does not oppose grant of the requested study area waiver for U S WEST and Rye.²⁸

10. Finally, we conclude that the public interest is served by a waiver of the study area freeze rule to permit U S WEST to remove the access lines from its Colorado study area, and to permit Rye to include the access lines with its Colorado study area. Rye proposes to convert the transferred customers to a digital architecture, which will improve transmission quality and provide other benefits to the customers.²⁹ We note that the Colorado Public Utilities Commission has "found that the proposed rearrangements of the exchange areas will promote the public interest and welfare and will not adversely impact the public switched network of the local exchange provider or impact the provider's financial

²⁴ See 47 C.F.R. § 54.305.

²⁵ As of July 1, 2000, the Commission required that high-cost support for non-rural carrier be targeted to the highest-cost exchanges. See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Nineteenth Order on Reconsideration, 14 FCC Rcd. 21664 (1999); see also 47 C.F.R. § 54.311(b) (describing the cascading technique for targeting interim hold-harmless support). The Pueblo exchange is not eligible to receive support under the Commission's cascading technique for targeting interim hold-harmless support. See Letter from Mark Brinton, U S WEST Communications, Inc., to Secretary, FCC, dated June 29, 2000.

²⁶ See *infra* discussion at paras. 17-20.

²⁷ See 47 C.F.R. § 54.801(b); see also *supra* discussion at para. 4.

²⁸ Petition at 5. Petitioners included a Recommended Decision issued by Administrative Law Judge William J. Fritzel of the Colorado Public Utilities Commission to the FCC marked as Attachment. See Colorado Public Utilities Commission, Recommended Decision of Administrative Law Judge William J. Fritzel Granting Joint Application to Transfer a Portion of Certificate of Public Convenience and Necessity from U S WEST to Rye Telephone Company, and Approving Tariff Filings by U S WEST and Rye Telephone Company, Docket No. 99A-112T, Decision No. R99-1013, dated Sep. 16, 1999 (Colorado PUC Order).

²⁹ *Id.* at 6.

integrity.”³⁰ Based on these facts and the findings of the Colorado Public Utilities Commission, we conclude that petitioners have demonstrated that grant of this waiver serves the public interest.

III. WAIVER OF THE COMMISSION’S PRICE CAP RULES

A. Background

11. Section 61.41(c) of the Commission's rules provides that any price cap telephone company subject to a merger, acquisition, or similar transaction shall continue to be subject to price cap regulation notwithstanding such transaction.³¹ In addition, when a non-price cap company acquires, merges with, or otherwise becomes affiliated with a price cap company or any part thereof, the acquiring company becomes subject to price cap regulation and must file price cap tariffs within a year.³² Moreover, LECs that become subject to price cap regulation are not permitted to withdraw from such regulation.³³ Under these rules, Rye’s acquisition of U S WEST’s 94 access lines would obligate it to become subject to price cap regulation for both its existing and acquired exchanges.

12. In the *LEC Price Cap Reconsideration Order*, the Commission explained that section 61.41(c) is intended to address two concerns regarding mergers and acquisitions involving price cap companies.³⁴ The first concern was that, in the absence of the rule, a LEC might attempt to shift costs from its price cap affiliate to its non-price cap affiliate, allowing the non-price cap affiliate to charge higher rates to recover its increased revenue requirement, while increasing the earnings of the price cap affiliate. The second concern was that, absent the rule, a LEC might attempt to game the system by switching back and forth between rate-of-return regulation and price cap regulation. For example, without such a rule, a price cap company may attempt to “game” the system by opting out of price cap regulation, building a large rate base under rate-of-return regulation so as to raise rates and then, after returning to price caps, cutting costs back to an efficient level, thereby enabling it to realize greater profits. It would not serve the public interest, the Commission stated, to allow a carrier alternately to “fatten up” under rate-of-return regulation and “slim down” under price cap regulation, because the rates would not decrease in the manner intended under price cap regulation.³⁵

³⁰ *Id.* at 6-7.

³¹ 47 C.F.R. § 61.41(c)(1).

³² 47 C.F.R. § 61.41(c)(2). See *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786, 6821 (1990), Erratum, 5 FCC Rcd 7664 (Com. Car. Bur. 1990) (*LEC Price Cap Order*), modified on recon., Order on Reconsideration, 6 FCC Rcd 2637 (1991) (*LEC Price Cap Reconsideration Order*), *aff’d sub nom. National Rural Telecom Ass’n v. FCC*, 988 F.2d 174 (D.C. Cir. 1993), petitions for further recon. dismissed, 6 FCC Rcd 7482 (1991), further modification on recon., *Amendments of Part 69 of the Commission’s Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture. Policy and Rules Concerning Rates for Dominant Carriers*, Report and Order and Order on Further Reconsideration and Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd 4524 (1991), further recon., Memorandum Opinion and Order on Second Further Reconsideration, 7 FCC Rcd 5235 (1992).

³³ 47 C.F.R. § 61.41(d).

³⁴ See *LEC Price Cap Reconsideration Order* at 2706.

³⁵ *Id.*

13. The Commission nonetheless recognized that narrow waivers of the price cap “all-or-nothing” rule might be justified if efficiencies created by the purchase and sale of exchanges outweigh the threat that the system might be subject to gaming.³⁶ Such waivers will not be granted unconditionally, however. Waivers of the all-or-nothing rule will be granted conditioned on the selling price cap company’s downward adjustment to its price cap indices to reflect the sale of exchanges.³⁷ That adjustment is needed to remove the effects of transferred exchanges from rates that have been based, in whole or in part, upon the inclusion of those exchanges in a carrier’s price cap indices.³⁸ In addition, waiver of the all-or-nothing rule has been granted subject to the condition that the acquiring carrier obtain prior Commission approval of any attempt to return to price cap regulation.³⁹

14. Rye is currently subject to rate-of-return regulation, while U S WEST is subject to price cap regulation. Rye seeks a waiver of section 61.41(c)(2) of the Commission’s rules to permit it to continue to be regulated under rate-of-return regulation after acquiring from U S WEST the 94 access lines that are currently under price cap regulation. Absent a waiver of the all-or-nothing price cap rules, all of Rye’s operations would become subject to price cap regulation no later than one year after acquiring the price cap access lines from U S WEST.

B. Discussion

15. For the reasons discussed below, we find that good cause exists for us to waive section 61.41(c)(2) of our rules, and that it would be in the public interest to grant Rye’s waiver request. As discussed previously, the courts have interpreted section 1.3 of the Commission’s rules to require a petitioner seeking a waiver of a Commission rules to demonstrate that special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.⁴⁰

16. Because Rye is significantly smaller than any of the carriers subject to mandatory price caps, we conclude that special circumstances support a waiver of section 61.41(c)(2) of our rules.⁴¹ In evaluating requests for waiver of section 61.41(c)(2) of our rules, the Bureau takes into account the company’s preferences and, in particular, the preferences of small carriers.⁴² After the proposed

³⁶ *Id.* at 2706 n. 207.

³⁷ See *Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, First Report and Order, 10 FCC Rcd 8961, 9104-06 (1995) (*LEC Price Cap Review Order*). The Price Cap Indices, which are the upper bounds for rates that comply with price cap regulation, are calculated pursuant to a formula specified in the Commission’s rules for price cap carriers. See 47 C.F.R. § 61.45.

³⁸ See *LEC Price Cap Review Order* at 9105-9106.

³⁹ See, e.g., *ALLTEL Corp. Petition for Waiver of Section 61.41 of the Commission’s Rules and Application for Transfer of Control*, CCB/CPD No. 99-1, Memorandum Opinion and Order, 14 FCC Rcd. 14191, 14202 (1999) (*ALLTEL/Aliant Merger Order*).

⁴⁰ See *supra* discussion at para. 9.

⁴¹ *Id.* at 14-15.

⁴² See, e.g., *ALLTEL/Aliant Merger Order* at 14204-05. In fact, the Commission traditionally has been sensitive to the unique administrative burdens imposed on small telephone companies by the application of its rules. See, e.g., *id.* at 14204; *Minburn Waiver Order* at 14187. For example, in the *LEC Price Cap Order*, the Commission decided that small telephone companies would not be required to operate under a regulatory regime that was (continued....)

transaction, Rye will still be far smaller than any of the LECs subject to mandatory price caps,⁴³ and also will be significantly smaller than many other carriers that have been granted waivers of section 61.41(c)(2) of the Commission's rules.⁴⁴ Therefore, we believe that Rye presents special circumstances to support its waiver request.

17. We conclude that, in this case, waiver of section 61.41(c)(2) of the Commission's rules will serve the public interest. We agree with Rye that the circumstances surrounding Rye's acquisition of U S WEST's exchanges fail to give rise to the dangers of cost-shifting and gaming of the system.⁴⁵ Rye is not seeking to maintain separate affiliates under different systems of regulation, and, therefore, Rye will have no opportunity to shift costs between price cap and rate-of-return affiliates.⁴⁶ Moreover, to safeguard against possible gaming resulting from attempts to elect price cap regulation, we will require Rye to request prior Commission approval if it seeks to elect price cap regulation. At that time, the Commission can make a determination if the transaction raises concerns that the Commission sought to address in section 61.41 of its rules. We believe that requiring Rye to seek Commission approval before electing price cap regulation is sufficient to deter gaming in the future.

18. Consistent with past precedent,⁴⁷ we also require U S WEST to make a downward adjustment to its price cap indices to reflect the removal of the 94 access lines from its Colorado study area.

V. ORDERING CLAUSES

19. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 202 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 202, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the petition for waiver of Part 36, Appendix-Glossary, of the Commission's rules, filed by Rye Telephone Company, Inc. and U S WEST Communications, Inc., on October 15, 1999, IS GRANTED.

20. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 202 of the

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designed largely on the basis of the historical performance of the largest LECs. The Commission, therefore, limited the mandatory application of price cap regulation to the eight largest LECs -- the seven Regional Bell Operating Companies (RBOCs) and GTE. See *Price Cap Order* at 6818-19.

⁴³ After the proposed transaction, Rye will serve only 2,025 access lines in Colorado.

⁴⁴ See, e.g., *CenturyTel of Northwest Arkansas, LLC et al., Joint Petition for Waiver of Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules, Petition for Waiver of Sections 61.41(c) and 69.3(g)(2) of the Commission's Rules*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 00-1434 (rel. June 27, 2000) (approving the conversion of 214,270 access lines from price cap to rate-of-return regulation); *ALLTEL/Aliant Merger Order* (approving the conversion of approximately 300,000 access lines from price cap to rate-of-return regulation); *In the Matter of ALLTEL Service Corporation, Petition for Waiver of Section 61.41 of the Commission's Rules*, Order, 8 FCC Rcd 7054 (1993) (approving the conversion of approximately 285,000 access lines from price cap to rate-of-return regulation).

⁴⁵ Petition at 8-9.

⁴⁶ *Id.*

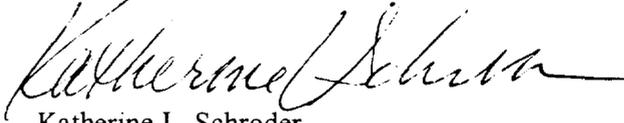
⁴⁷ See *Price Cap Review Order* at 9104-9106.

Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 202, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the petition for waiver of section 61.41(c)(2) of the Commission's rules, filed by Rye Telephone Company, Inc. IS GRANTED.

21. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 202 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 202, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that Rye Telephone Company, Inc. SHALL SUBMIT, as part of its annual USF data submission to the fund administrator, a schedule showing its methodology for excluding the costs associated with the 94 acquired access lines from the costs associated with its pre-acquisition study area.

22. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 202 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 202, and sections 0.91, 0.291, 1.3, and 61.43 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 61.43, that U S WEST Communications, Inc. SHALL ADJUST its price cap indices in its annual price cap filing to reflect cost changes resulting from this transaction, consistent with this Order.

FEDERAL COMMUNICATIONS COMMISSION



Katherine L. Schroder
Deputy Chief, Accounting Policy Division