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

In the Matter of	)	
	)	
Improved Regulation of Interstate Services Of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers	)	RM No. 10011

EXHIBIT 3

PROPOSED RULES

PLAN FOR IMPROVED REGULATION
OF
NON-PRICE CAP INCUMBENT
LOCAL EXCHANGE CARRIERS
AND INTEREXCHANGE CARRIERS

October 20, 2000

PROPOSED AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS

PART 36

Subpart F – Universal Service Fund

Section 36.601 is amended by adding to the end of subsection (c) the following:

§36.601(c)

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The indexed cap on the Universal Service Fund as described in this subsection shall no longer apply as of July 1, 2001. The Administrator shall recalculate the Universal Service Fund without such cap as of July 1, 2001.

Section 36.621(a)(4) is amended by deleting the third sentence in that subsection and all text thereafter and replacing it with the following:

§36.621(a)(4)

* * * * *

Total Corporate Operations Expense, for purposes of calculating universal service support payments, beginning July 1, 2001 shall be the actual average monthly per-line Corporate Operations Expense.

Section 36.622 is amended by adding the following new subsections (e) and (f):

§36.622

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(e) Beginning July 1, 2001, the National Average Unseparated Loop Cost per Working Loop shall be calculated pursuant to §36.621 and §36.622(a), without any of the caps formerly required in this part.

(f) The National Exchange Carrier Association shall calculate support for loop-related costs on a per-loop basis for study areas of Path A LECs, as defined in §61.3, that elect Path A incentive regulation for such study areas initially by adjusting such support as calculated for each such study area for the year prior to such election to reflect the annual percentage change in the GDP Price Index (GDP-PI), the estimate of the Chain-Type Price Index for Gross Domestic Product published by the United States Department of Commerce, and dividing such adjusted support by the study area's number of loops for the prior year reported pursuant to §36.611. After election of incentive regulation for a study area, a Path A LEC may provide the Administrator with data updated to the date of such election, and the Administrator will adjust support for loop-related costs based on such data coincident with its time schedule. For each year

subsequent to the year of election, the Administrator shall calculate per-line support for loop-related costs annually by adjusting the previous year's level of support to reflect the annual percentage change in the GDP-PI. The Administrator shall calculate the total annual support for loop-related costs for each such study area under incentive regulation by multiplying the adjusted per-loop support by the number of loops in that study area reported pursuant to §36.611.

The definition of *"Study Area"* in Part 36, Appendix-Glossary, is amended as follows:

Study Area

Study area boundaries shall be frozen as they are on November 15, 1984, except that Path A LECs and Path B LECs, as defined in §61.3, may alter study area boundaries when they acquire exchanges or lines from another telephone company, including a company subject to price cap regulation, so long as they notify the Common Carrier Bureau and the affected state regulatory commission or commissions of their intent to do so 30 days before the completion of such transaction. In such transaction with a Path A LEC or Path B LEC, the study area boundaries of a company subject to price cap regulation shall be adjusted accordingly.

PART 54

Subpart A – General Information

Section 54.5 is amended by inserting immediately before the phrase "*Rural area*" the following:

§54.5

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Path A incentive regulation. "Path A incentive regulation" is the form of regulation established in §61.62.

Path A LEC. A "Path A LEC" is an ILEC as defined in §61.3

Subpart D – Universal Service Support For High Cost Areas

Section 54.301 is amended by adding the following new subsection (g):

§ 54.301

* * * * *

(g) The Administrator shall calculate local switching support on a per-line basis for study areas of Path A LECs that elect Path A incentive regulation for such study areas initially by adjusting the local switching support for each such study area for the year prior to

such election to reflect the annual percentage change in the Department of Commerce's Gross Domestic Product–Chained Price Index (GDP-PI) and by dividing such adjusted support by its number of working loops for the prior year. After election of incentive regulation for a study area, a Path A LEC may provide the Administrator with data updated to the date of such election, and the Administrator will adjust local switching support based on such data coincident with its time schedule. For each year subsequent to the year of election, the Administrator shall calculate per-line local switching support annually by adjusting the previous year's level of support to reflect the annual percentage change in the GDP-PI. The Administrator shall calculate the total annual local switching support for each such study area under incentive regulation by multiplying the adjusted per-line local switching support by the number of working loops in that study area reported pursuant to §36.611.

Section 54.303(a) is amended by replacing the existing text with the following:

§54.303(a)

Beginning July1, 2001, an eligible telecommunications carrier that participates in the association pool shall receive Long Term Support.

Section 54.303(b) is amended by adding the following subsection (b)(5):

§54.303(b)

* * * * *

(5) The Administrator shall calculate Long Term Support on a per-line basis for study areas of Path A LECs that elect incentive regulation for such study areas initially by adjusting the Long Term Support for each such study area for the year prior to such election to reflect the annual percentage change in the GDP-PI and dividing such adjusted amount by its number of working loops for the prior year. For each year subsequent to the year of election, the Administrator shall calculate per-line Long Term Support annually by adjusting the previous year's level of support to reflect the annual percentage change in the GDP-PI. The Administrator shall calculate the total annual Long Term Support for each such study area under incentive regulation by multiplying the adjusted per-line Long Term Support by the number of working loops in that study area reported pursuant to §36.611.

Section 54.307(a)(1) is amended by adding the following to the end of that subsection:

§54.307(a)(1)

* * * * *

A Path A LEC's per-line support for purposes of this section shall be the effective per-line support per zone calculated in §54.321(b).

Subpart F of Part 54 is amended by adding new sections 54.319 and 54.321 as follows:

§54.319 Rate Averaging Support

(a) Beginning July 1, 2001, Path A LECs with study areas that participate in the pool administered by the association as of July 1, 2001 shall receive Rate Averaging Support ("RAS").

(b) The Association shall calculate RAS as described in this paragraph.

(1) The common line component of RAS will be calculated as the difference between the pool's projected common line revenue requirement for Path A LECs and the sum of (i) revenues of Path A LECs from end user common line charges and carrier common line (CCL) charges described in Part 69 of these rules and (ii) Long Term Support (LTS) of Path A LECs. The common line component of RAS will be distributed among study areas of Path A LECs subject to incentive regulation based on the difference between their individual common line revenue requirements and the sum of (i) their individual revenues from end user common line charges and CCL charges that are consistent with the targeted CAR and (ii) their individual LTS.

(2) The traffic sensitive switched component of RAS will be calculated as the difference between the pool's projected traffic sensitive switched revenue requirement for Path A LECs and the sum of (i) Path A LECs' projected revenues from the traffic sensitive elements that constitute the CAR as defined in §69.130 and (ii) local switching support (LSS) of Path A LECs. The traffic sensitive component of the RAS will be distributed among Path A study areas based on the difference between their individual traffic sensitive switched revenue requirements and the sum of (i) their individual revenues from the traffic sensitive elements that constitute the CAR as defined in §69.130 and (ii) their individual LSS.

(3) The special access component of RAS will be calculated based on identifying the difference between projected special access revenue requirements and special access billed revenues for all those study areas of Path A LECs participating in the pool and subject to incentive regulation with revenue retention ratios greater than one. This component of the RAS would be distributed only to Path A study areas with revenue retention ratios greater than one based on their base year individual revenue retention ratios.

(c) The Association will calculate RAS annually, but the Association may adjust RAS on a monthly basis to reflect any delay in reporting of actual lines and billed revenues to bring Path A incentive settlements and revenues into balance beginning with periods after June 30, 2006.

(d) Path B LECs and non-pooling Path A LECs as defined in §61.3 are not eligible to receive RAS.

§54.321 Adjustments to Per-Line Universal Service Support; Disaggregation

(a) The Administrator shall (1) increase per-line universal service support as calculated in this part and in part 36 to reflect any expansion in the supported services listed in §54.101 or if the Commission or Congress acts to stimulate the deployment of new services, (2) adjust such support to reflect costs that Path A LECs and Path B LECs incur in complying with new state or federal regulations as the Commission shall permit by rule or order, which, subject to further order of the Commission, include but are not limited to regulations concerning number portability, the Communications Assistance in Law Enforcement Act, the completion of the amortization of depreciation reserve deficiencies, changes in the Uniform System of Accounts requirements made pursuant to §32.16, changes in the Separations Manual, state and federal tax law changes, and changes in rules governing affiliate transactions and cost allocation; and (3) adjust such support to reflect changes in Lifeline support per §54.403.

(b) Within each study area, a Path A LEC or Path B LEC may define up to three zones per wire center and allocate to each a different percentage of the total universal service support per line provided to that study area under this part and part 36. Universal service support for purposes of this calculation section shall include Rate Averaging Support, if any, as calculated in §54.319. Such allocation must be reasonably related to such LEC's costs of providing service in the various zones, and must remain in effect for at least four years. For each such zone, such LEC will calculate the effective per-line support amount within each zone by dividing the percentage of the study area's total universal service support allocated to that zone by the total number of lines within that zone. Such LEC must file the effective per-line support amount for each zone, together with a geographic description and map of each such zone, with the Commission, the Administrator, and the public utility commission of the state in which the study area is located.

If a Path A LEC that (i) participates in the pool administered by the Association and (ii) is under incentive regulation acquires or merges with an exchange or study area, for the first eighteen months after the date of the transaction, the universal service support for the acquired lines will be set at the average support of all Path A study areas in the pool under incentive regulation. The acquiring LEC must perform a cost study of the acquired lines for a consecutive twelve-month period within the first eighteen months after acquisition, and the support for the acquired lines will be calculated according to the cost study. If the acquired lines are included in an existing study area of the acquiring LEC, the LECs would receive an automatic waiver from the price cap rules of parts 61 and 69 so that individual exchanges from price cap companies may convert to incentive regulation.

PART 61

Subpart A – General

Section 61.3 is amended by inserting the following subsections in alphabetical order and renumbering the existing subsections as appropriate:

§61.3

* * * * *

Non-price cap LEC. An incumbent Local Exchange Carrier for which price cap regulation is not mandatory and does not apply.

* * * * *

Path A. A method of regulation provided in §§ 61.60 through 61.62.

Path A incentive regulation. A method of regulation of Path A LECs provided in §61.62.

Path A incentive study area. A study area for which a Path A LEC has elected Path A incentive regulation.

Path A LEC. A non-price cap LEC that chooses Path A pursuant to §61.60.

Path A transition period. The period from July 1, 2001, through June 30, 2006.

Path B. A method of regulation provided in §61.60(d).

Path B LEC. A non-price cap LEC that chooses Path B pursuant to §61.60.

* * * * *

Revenue per line (RPL). A settlement method used in Path A incentive regulation calculated pursuant to §61.62(a)(1)(B).

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Subpart E – General Rules for Dominant Carriers

Section 61.39(b)(4)(ii) is amended by replacing the phrase "carrier common line pool" with the phrase "pool administered by the National Exchange Carrier Association."

Section 61.41(c) is amended by adding the following subsection (4):

§61.41

* * * * *

(c)

* * * * *

(4) Notwithstanding the provisions of §61.42(c)(1) and (2) above, when a Path A LEC or Path B LEC, as defined in §61.3, (A) acquires lines, exchanges or study areas from a telephone company subject to price cap regulation, or (B) acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company subject to price cap regulation, the Path A LEC or Path B LEC may retain its status as a Path A LEC or Path B LEC or become subject to price cap regulation in accordance with §69.3(I) and the requirements referenced in that section.

Subpart E is further amended by adding the following sections 61.60 and 61.62:

§61.60 Regulation of non-price cap LECs.

(a) As of July 1, 2001, non-price cap LECs will be subject to either Path A or Path B as described in this and following sections.

(b) Non-price cap LECs must notify the Commission no later than March 1, 2001, whether they elect to be Path A LECs or Path B LECs as of July 1, 2001. Such LECs must make this election on a per-operating company basis.

(c) *Path A.*

(1) *During the Path A transition period.*

(A) Except as otherwise expressly provided in the Commission's rules, during the Path A transition period, Path A LECs will continue under the regulations in place for them prior to July 1, 2001. During the Path A transition period, a Path A LEC that is a non-price cap LEC may choose for any of its study areas to recover revenues within the Association's single pool described in §69.603 on the same basis that the study area did prior to July 1, 2001. However, at any time during the Path A transition period, a Path A LEC may choose to move one or more of its study areas to Path A incentive regulation as defined in §61.62.

(B) If a Path A LEC's study area is settling with the pool at the start of the plan on a cost basis, it may continue during the Path A transition period to settle with the pool based on its reported costs.

(C) A Path A LEC currently operating on an average schedule basis may choose for one or more of its study areas to remain regulated on that basis during the transition period. That study area will continue to settle

with the pool based on average schedule settlement formulas. Path A LECs under average schedule rules may elect Path A incentive regulation within the pool on a per-study-area basis at any time during the Path A transition period. Path A LECs with average schedule study areas could also elect to convert to cost at any time during the transition period on a per-study area basis, consistent with current rules, as long as they have not moved to incentive regulation.

(D) For all Path A LECs within the pool, there will be per-study area tariff election options during the Path A transition period. For switched access services, a Path A LEC may elect by study area to participate in the common line tariff only or the common line and traffic sensitive tariffs. Special access tariff participation is optional.

(2) *Post-transition period.* At the conclusion of the Path A transition period, all study areas of all Path A LECs not already subject to Path A incentive regulation will become Path A incentive study areas.

(d) *Path B*

(1) Except as otherwise expressly provided in the Commission's rules, Path B LECs will continue under the regulations in place for them prior to July1, 2001. The authorized rate of return as of July 1, 2000 remains in effect for Path B LECs that continue under rate-of-return regulation.

(2) During the Path A transition period, a Path B LEC may elect to become a Path A LEC. After such election and until the end of the Path A transition period, such LEC, like other Path A LECs, may choose on a per-study-area basis to be subject to Path A incentive regulation pursuant to §§61.60-61.62. After expiration of the Path A transition period, all of the study areas of such Path A LEC will become subject to incentive regulation pursuant to such subsections.

(3) After expiration of the Path A transition period, Path B LECs that have not become Path A LECs may only be subject to Path A incentive regulation upon application for and grant of a waiver of this subsection by the Common Carrier Bureau of the Commission.

(4) Path B LECs may elect to file interstate access rates on a per-study area basis outside the Association tariffing and pooling process consistent with the tariff election options in effect prior to July 1, 2001.

§61.62 Path A Incentive Regulation

(a) *During the Path A transition period*:

(1) *Study areas participating in the Association pool.*

(A) A study area of a Path A LEC participating in the Association pool and electing Path A incentive regulation during the Path A transition period will receive monthly settlement payments, including explicit universal service support, from the pool that equal the product of its revenue per line (RPL) for that year and its actual average monthly access line count. Pool settlements will be based on the pool's realized rate of return.

(B) The Association shall calculate the RPL as the revenue requirement or settlement amount received per average monthly line count in the base year prior to the study area's conversion to incentive regulation, adjusted initially for inflation to reflect the annual percentage change in the GDP Price Index (GDP-PI). During the transition period, the pool settlements for study areas under incentive regulation will be based on the study area's RPL requirement, but adjusted for the pool's realized rate of return. The RPL will be adjusted annually for inflation to reflect the annual percentage change in the GDP-PI. A Path A LEC may also provide information to the Association to permit it to update the RPL on a prospective basis to reflect updated cost study or revenue requirement data up to the point when the study area converted to Path A incentive regulation.

> *Example*: A study area in the Association pool elects Path A incentive regulation as of July 1, 2001, the start of the path A transition period. The revenue figures that the Association will use for calculating the RPL for that study area will be based on a 1999 cost study or average schedule revenue requirement data, adjusted for inflation to reflect the GDP Price Index (GDP-PI). On July 1, 2002, the RPL may be adjusted for inflation and to include updated 2000 cost study or settlement data. On July 1, 2003, the RPL will be adjusted for inflation, and it may be updated to include a half-year of updated 2001 cost study or settlement data. In all subsequent years, the RPL will be adjusted annually to include inflation only.

Alternatively, a Path A LEC may notify the Association to set an RPL for a study area based on the latest data available at the time that the study area converts to Path A incentive regulation, with no further cost study or settlement updates. The Association then would adjust the RPL only for inflation.

(C) Special access settlements for study areas subject to Path A incentive regulation that participate in the pool will be the product of a retention ratio, *i.e.*, a factor by which a pool participant keeps a percentage of the revenue that it bills, and billed revenues. A retention ratio equal to the base year's retention ratio (adjusted for rate changes) will apply.

(D) Exchanges acquired by pool participants may enter the pool. If a Path A LEC in the pool and under incentive regulation acquires or merges with an

exchange or study area, for the first eighteen months after the date of the transaction, the RPL for the acquired lines will be set at the average RPL of all Path A study areas in the pool under incentive regulation. The acquiring LEC must perform a cost study of the acquired lines for a consecutive twelve-month period within the first eighteen months after acquisition, and the RPL for the acquired lines will be calculated according to the cost study. If the acquired lines are included in an existing study area of the acquiring LEC, the RPL for that study area will be the weighted average of the RPLs of the acquiring study area and the acquired lines. If the acquired lines will be in a separate study area, the RPL for that study area is calculated separately from the RPLs of the acquiring LEC's existing study areas.

(2) *Study areas not participating in the Association pool.*

(A) Path A LECs may elect to file interstate access rates on a per-study area basis outside the Association tariffing and pooling process. Once a study area exits the Association pool, it cannot return, absent a waiver of this and other applicable rules, except that if pool participants acquire lines or study areas outside the pool, the acquired lines may reenter the pool.

(B) Path A LECs that elect the non-pooling option for one or more of their tariff options will file and administer their own interstate access tariffs for those tariff options. Interstate access charge rate elements will be those in the applicable sections of Part 69 of these rules. End User Common Line Charges must be set, and apply, pursuant to §69.104. Non-pooling Path A LECs on Path A incentive regulation will establish all other switched access rate elements based on the applicable RPL consistent with subsection (1)(B) above. Such rates may initially include universal service revenues including rate averaging support (RAS) as defined in § 54.319 lost by exiting the pool, but RAS will not apply in subsequent years for study areas outside the pool.

Once the initial rates are established, they can be de-averaged so long as such de-averaging does not increase the RPL. Path A LECs will establish special access rates for study areas outside the pool on a market basis. Deaveraging, term and volume discounts and contract pricing are permitted for such special access services. Such LECs may introduce new interstate access services subject to the tariff filing requirements of subpart F of Part 61 of these rules.

A low end adjustment is available to non-pooling study areas subject to Path A incentive regulation per §61.62(c)(3).

(b) *After the Path A transition period.*

(1) *Study areas participating in the Association pool.* After the Path A transition period ends, all study areas of Path A LECs that participate in the pool will receive settlements calculated by the Association as the product of the study area's RPL and

actual line counts. For special access, settlements will be based on the applicable retention ratio, multiplied by billed revenues. The Association will make any adjustments needed to bring the available pool revenues and settlement claims into balance for Path A LECs once actual data is available. This adjustment amount will be included in the RAS of §54.319 on a monthly basis, to reflect any lag in the reporting of access lines and revenues. The low-end adjustment of § 61.60(c) will continue to be available.

(2) *Study areas not participating in the Association pool.* Path A LECs that elect the non-pooling option for one or more of their study areas will file and administer their own interstate access tariffs consistent with subsection (a)(2) above. The low end adjustment of §61.62(c) will continue to be available.

(c) Path A Low End Adjustment

(1) *Five or Fewer Study Areas Subject To Incentive Regulation In The Pool.* A Path A LEC with five or fewer study areas that are subject to Path A incentive regulation and are within the pool may apply for a low end adjustment at the end of a tariff period for any of its study areas in the pool if the interstate access rate of return for the prior year for a study area or study areas is below the authorized level of 11.25% by more than 50 basis points (*i.e.*, the return is less than 10.75%). Such LEC must apply to the Association for the adjustment. Such application must include a cost study demonstrating that the study area or areas earned less than 10.75% for a given year.

Upon such a showing, the LEC will receive payments in twelve equal installments over the following year to bring the prior year's earnings for the study area or areas up to 10.75%. The Association will adjust the RAS, as defined in §54.319, accordingly.

Except in special circumstances, these payments will terminate at the end of the twelve-month period following the year in which the study area underearned. Any claim for an adjustment in a subsequent year would have to be supported by a new cost study. The accounting for these payments will provide that such payments will not increase the LEC's earnings for the period in which they are received. Any claim for a low end adjustment for a year subsequent to that for which an adjustment already has been made will exclude currently paid low end adjustment revenues.

(2) *More Than Five Study Areas Subject to Incentive Regulation In The Pool.* A Path A LEC with more than five study areas that are in the pool and subject to incentive regulation may apply for a low end adjustment for any of its study areas in the pool at the end of a tariff period if the interstate access rate of return for the prior year for the study area or areas is below the authorized level of 11.25% by more than 100 basis points (*i.e.*, the return is less than 10.25%). Such LEC must apply to the Association for the adjustment. Such application must include a cost study demonstrating that the study area or areas earned less than 10.25% for a given year.

Upon such a showing, the LEC will receive payments in twelve equal installments

over the following year to bring the prior year's earnings of the study area or areas up to 10.25%. The Association will adjust the RAS, as defined in §54.319, accordingly.

Except in special circumstances, these payments would terminate at the end of the twelve-month period following the year in which the study area underearned. Any claim for an adjustment in a subsequent year would have to be supported by a new cost study. The accounting for these payments will provide that such payments will not increase the LEC's earnings for the period in which they are received. Any claim for a low end adjustment for a year subsequent to that for which an adjustment already has been made will exclude currently paid low end adjustment revenues.

(3) *Path A LECs With Five or Fewer Study Areas Subject to Incentive Regulation Outside The Pool.* A Path A LEC with five or fewer study areas that do not participate in the pool and are subject to incentive regulation may apply at the end of a tariff period to the Commission for a low end adjustment to its rates if the interstate access rate of return for the prior year for its interstate tariff filing entity is below the authorized level of 11.25% by more than 50 basis points (*i.e.*, the return is less than 10.75%). Such application must include a cost study demonstrating that the study areas collectively earned less than 10.25% for a given year. Upon approval of such adjustment, the tariff filing entity will adjust its rates prospectively for twelve months to permit its interstate tariff filing entity to realize an interstate return of 10.25%.

Except in special circumstances, this adjustment would terminate at the end of the twelve-month period following the year in which the tariff filing entity underearned. Any claim for an adjustment in a subsequent year would have to be supported by a new cost study. The accounting for this adjustment must provide that such adjustment will not increase the LEC's earnings for the period in which it is made. Any claim for a low end adjustment for a year subsequent to that for which an adjustment already has been made will exclude current low end adjustment revenues.

(4) *More Than Five Study Areas Subject To Incentive Regulation Outside The Pool.* A Path A LEC with more than five study areas that are outside the pool and subject to incentive regulation may apply to the Commission for a low end adjustment to its rates at the end of a tariff period if the interstate rate of return for the prior year for its interstate tariff filing entity is below the authorized level of 11.25% by more than 100 basis points (*i.e.*, the return is less than 10.25%). Such application must include a cost study demonstrating that the study areas collectively earned less than 10.25% for a given year. Upon such a showing, the tariff filing entity will adjust its rates prospectively for twelve months to bring its prior year's earnings up to 10.25%.

Except in special circumstances, this adjustment would terminate at the end of the twelve-month period following the year in which the tariff filing entity underearned. Any claim for an adjustment in a subsequent year would have to be supported by a new cost study. The accounting for this adjustment will provide that such adjustment will not increase the LEC's earnings for the period in which it is made. Any claim for a low end

adjustment for a year subsequent to that for which an adjustment already has been made will exclude current low end adjustment revenues.

(d) *Adjustments for New Regulatory Requirements.*

When new state or federal requirements as in §54.321(a) (2) apply to Path A LECs with study areas subject to Path A incentive regulation in the pool, the Association is authorized to prospectively adjust the RPL for these study areas within 90 days of the effective dates of such requirements in order to permit recovery of the costs of complying with them.

PART 64

Subpart R – Geographic Rate Averaging and Rate Integration

Section 64.1801 is amended by adding a new subsection (c) as follows:

§ 64.1801

* * * * *

(c) Providers of interstate interexchange telecommunications services must offer customers in rural and high-cost areas of the United States the same optional calling plans, including discount or volume-based plans, that are available to their customers in urban areas. Providers of interstate interexchange telecommunications services in rural and high-cost areas of the United States are prohibited from imposing minimum monthly charges on their residential customers. Providers of interstate interexchange telecommunications services in rural and high-cost areas of the United States must pass through to long distance customers the savings that IXCs realize from lower access rates charged by Path A LECs and Path B LECs.

PART 65

Subpart F – Maximum Allowable Rates of Return

Section 65.702(b) is amended by inserting the phrase "pool or pools" in place of the word "pools".

PART 69

Subpart A – General

Section 69.2 is amended by inserting the following definitions alphabetically and renumbering existing definitions:

§69.2

* * * * *

Non-price cap LEC. This term means the same as in §61.3.

Path A incentive study area. This term means the same as in §61.3.

Path A LEC. This term means the same as in §61.3.

Path A transition period. This term means the same as in §61.3.

Section 69.3(e)(9) is amended by replacing its current text with the following:

§69.3

* * * * *

(e)

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(9) At the start of the Path A transition period defined in §61.3, non-price cap LECs that elect to file their own tariffs outside the Association pool for one or more of their study areas effective July 1, 2001, shall notify the Association no later than March 1, 2001 that such study areas will no longer participate in Association tariffs. After the start of the Path A transition period, non-price cap LECs that elect to file their own tariffs outside the Association pool for one or more of their study areas effective July 1, 2002 or thereafter, shall notify the Association no later than March 1 prior to the annual tariff filing that such study areas will no longer participate in Association tariffs. During the Path A transition period, a non-price cap LEC within the Association pool may elect to participate in the pool's common line tariff only or the common line and traffic sensitive tariffs. After the Path A transition period ends, non-price cap LECs may elect for their study areas to participate in the Association pool's common line and traffic sensitive tariffs . The exercise of such options shall be effective July 1 of each year beginning in 2001, and such LECs must notify the Association of their decision regarding such options according to the schedule established earlier in this subsection (e)(9). Path A LECs have the option to file special access tariffs outside the pool.

Section 69.3(g) is amended by inserting the phrase "Association pool" in place of the phrase "Association common line pool".

Subpart B – Computation of Charges

Section 69.101 is amended by adding the following sentence to the end of the present section:

"For general rules governing the calculation of charges for Path A LECs and Path B LECs, see §§69.130-69.136."

Section 69.104 is amended by deleting the present section and replacing it with the following:

§69.104 End user common line charge for non-price cap LECs and Path A incentive study areas

(a) This section is applicable only to non-price cap LECs. 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) Beginning July 1, 2001, the maximum end user common line charges for all residential and single-line business lines shall be no higher than the maximum amounts for end user common line charges of price cap carriers stated in §69.152 (d)(1)(ii)(A) – (D) (the "stated amounts"), so long as those amounts are reasonably comparable to the end user common line charges that price cap LECs actually charge pursuant to §69.152. Assuming such comparability, the end user common line charge for residential and single business lines will change to $5.00 per month on July 1, 2001, and annually change consistent with the stated amounts thereafter. There is no separate end user carrier common line charge for non-primary residence lines. End user common line charges for multi-line business lines and for each subscriber line associated with a public telephone will change from $6.00 per line to $9.20 per line in equal increments over the period from July 1, 2001 to July 1, 2003. End user common line charges for Centrex lines may be assessed based on a per-line charge that is 1/9 of the multi-line business end user common line charge. However, if a Centrex customer has fewer than nine lines, the monthly end user charge for those lines shall be the end user common line charge for one multi-line business.

(c) The End User Common Line charge for each residential local exchange service subscriber line shall be the same as such charge for each single-line business local exchange service subscriber line.

(d) 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. Effective July 1, 2001, for purposes of this section, "residential subscriber line" includes residential lines that a non-price cap LEC provides to a competitive LEC that resells the line and on which access charges may be assessed.

(e) 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.

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

(g) A non-price cap LEC shall assess no more than one End User Common Line charge as calculated under the applicable method under this section for Basic Rate Interface integrated services digital network (ISDN) service. No more than five End User Common Line charges shall be assessed as calculated under this section for Primary Rate Interface ISDN service.

(h) In the event that a non-price cap LEC charges less than the maximum End User Common Line charge for any subscriber lines, it may not recover the difference between the amount collected and the maximum from carrier common line charges or RAS as defined in §54.319.

(i) End User Common Line Charge De-Averaging. Beginning on July 1, 2001, non-price cap LECs may geographically de-average End User Common Line charges into up to three geographic zones per wire center, so long as no multi-line business End User Common Line charge is set lower than the lowest residential End User Common Line charge. Such LECs must file their End User Common Line Charges for each zone, together with a geographic description and map of each such zone, with the Commission. If such LECs participate in the pool, the Association will impute revenues from End User Common Line Charges as if they had been set at the maximum amount.

Section 69.114 is amended by inserting a new subsection (a) before the existing subsection (a), and renumbering existing subsections (a) through (d) as (b) through (e) consecutively:

§69.114 Special access services

(a) The Association will tariff special access services for Path A and Path B study areas participating in the pool. Path A LECs may also elect to tariff their special access services outside the Association pool. Pricing flexibility for individual rates, such as term and volume discounts, will be available. The Association will have the flexibility to develop other price structures that would align study area prices and costs more closely.

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Subpart B is amended by inserting new sections 69.130, 69.132, 69.134 and 69.136 as follows:

§69.130 Composite access rate

(a) Association access tariffs for non-price cap LECs or access tariffs filed directly with the Commission by such entities shall include all applicable per-minute switched access rate elements in this subpart B.

(b) The Association shall calculate a Composite Access Rate ("CAR") for the Association pool that is the weighted aggregate of the per-minute switched access rates of the Path A LECs' study areas that participate in the pool at any time. During the Path A transition period, as defined in §61.3, NECA will adjust the CAR annually according to the following schedule: As of July 1, 2001, the CAR will equal 2.2 cents per minute. As of July1, 2002, the CAR will equal 1.8 cents per minute. As of July 1, 2003, and thereafter, the CAR will equal 1.6 cents per minute.

§69.132 New access services for non-price cap LECs and Path A incentive study areas

New access services of non-price cap LECs shall be introduced at prevailing market rates. Such services either shall be administered by the Association on behalf of LECs that are pool participants or introduced outside the pool by non-price cap LECs that do not participate in the pool.

§69.134 Rates for certain access elements of Path A LECs

Notwithstanding other sections of this Subpart B:

(a) For Path A LECs that participate in the Association pool, the Association may set charges for the access rate elements included in the CAR to recover the revenue requirement that remains after revenues are received from the end user common line charges, carrier common line charges, long term support (LTS), local switching support (LSS), and rate averaging support (RAS) of such LECs. The Association shall set charges for such rate elements in a flexible manner to develop price structures that would align such charges and costs more closely.

(b) Path A LECs with study areas participating in the pool's switched traffic sensitive tariff but not in the special access tariff must provide the special access rates of those study areas to the Association by March 1 prior to the annual filing to support Association calculation of pool transport rates.

§69.136 Rates for certain access elements of Path B LECs

For Path B LECs, the Association will calculate a total revenue requirement for average schedule and cost companies. The end user common line charges of Path B LECs will be the same as those for Path A LECs. Association calculations of rates for the access elements of Path B LECs will follow §§69.104-129 in effect as of July 1, 2000, recognizing the explicit support flows from Long Term Support and local switching support.

Subpart G -- Exchange Carrier Association

Section 69.603 is amended by including the following new subsection (c):

§69.603

* * * * *

(c) As of July 1, 2001, the Association shall convert its pooling system to a single pool for Path A LECs and Path B LECs, as defined in §61.3. The authorized rate of return for the pool shall be that in effect as of July1, 2000. The Association is authorized to evaluate the operation of the pool during the Path A transition period, as defined in §61.3, and, as of the end of that period, is authorized to replace the single pool with two or more pools, including but not limited to separate pools for Path A LECs and Path B LECs, upon 60 days prior notice to the Commission.

* * * * *

Section 69.605 is amended by including the following new sentence at the end of subsection (a) and a new subsection (e):

§69.605

(a)

* * * * *

Notwithstanding the foregoing, Path A LECs with Path A incentive study areas as defined in §61.3 are not required to report cost data to the Association for those study areas.

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(e) The Association may update average schedule formulas for changes in costs or demands over the five-year period using changes in relative cost data of similarly-sized study areas that settle on a cost basis. The Association also may make structural modifications to the design of the average schedule formulas, to reflect changes in the mix of service offerings, changes in network design, or changes in operating practices.