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

In the matter of	)	
	)	
Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers	)	CC Docket No. 00-256
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation	)	CC Docket No. 98-77
	)	
Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers	)	CC Docket No. 98-166

SECOND REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 00-256, FIFTEENTH REPORT AND ORDER IN CC DOCKET NO. 96-45, AND REPORT AND ORDER IN CC DOCKET NOS. 98-77 AND 98-166

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By the Commission: Chairman Powell and Commissioner Martin issuing statements; Commissioner Copps dissenting and issuing a statement.

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I. INTRODUCTION

1. In this Order, consistent with the Telecommunications Act of 1996,[1] we modify our rules to reform the interstate access charge and universal service support system for incumbent local exchange carriers (LECs) subject to rate-of-return regulation (non-price cap or rate-of-return carriers).[2] Our actions today are based on pending Commission proposals that build on interstate access charge reforms previously implemented for price cap carriers,[3] the

[1] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act). The 1996 Act amended the Communications Act of 1934 (Act). 47 U.S.C. §§ 151 *et seq.*

[2] *See infra*, § III.A for descriptions of rate-of-return and price cap regulation.

[3] *See Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77, Notice of Proposed Rulemaking, 13 FCC Rcd 14238 (1998) (*1998 Notice*). The *1998 Notice* and the comments filed in response thereto are incorporated into the above-captioned proceeding.

record developed in the above-captioned proceedings, and our consideration of the Multi-Association Group (MAG) plan.[4] They are designed to bring the American public benefits of competition and choice by rationalizing the access rate structure and driving per-minute rates towards lower, more cost-based levels, while furthering universal service goals. In the attached Further Notice, we seek additional comment on the MAG incentive regulation plan and other means of providing opportunities for rate-of-return carriers to increase their efficiency and competitiveness.

2. This Order largely completes the interstate access charge and universal service support reforms the Commission initiated following the passage of the 1996 Act.[5] First, the Commission reformed intrastate high-cost support for non-rural carriers.[6] Second, it addressed the interstate access charge and universal service support system for price cap carriers.[7] Third, it reformed intrastate high-cost support for rural carriers.[8] We now adopt interstate access charge and universal service support reforms for rate-of-return carriers.

[4] The MAG is comprised of the National Rural Telecom Association (NRTA), National Telephone Cooperative Association (NTCA), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and United States Telecom Association (USTA). The MAG plan is attached as Appendix A to the Notice in this proceeding. *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77, *Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, CC Docket No. 98-166, Notice of Proposed Rulemaking, 16 FCC Rcd 460, 475 (2001) (*MAG Notice*).

[5] *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges*, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, First Report and Order, 12 FCC Rcd 15982 (1997) (*Access Charge Reform Order*) (subsequent history omitted); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9164-65 (1997) (*Universal Service First Report and Order*) (subsequent history omitted); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCC Rcd 87 (Jt. Bd. 1996).

[6] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432 (1999) (*Ninth Report and Order*), *rev'd and remanded for further consideration*, *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Seventh Report and Order and Thirteenth Order on Reconsideration, *Access Charge Reform*, CC Docket No. 96-262, Fourth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 8077 (1999) (subsequent history omitted); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Second Recommended Decision, 13 FCC Rcd 24744 (Jt. Bd. 1998); *see infra*, n.8 for a definition of the term "rural carrier."

[7] *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, CC Docket Nos. 96-262 and 94-1, Sixth Report and Order, *Low-Volume Long-Distance Users*, CC Docket No. 99-249, Report and Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Eleventh Report and Order, 15 FCC Rcd 12962 (*Interstate Access Support Order*), *aff'd in part, rev'd in part, and remanded in part, Texas Office of Public Util. Counsel et al. v. FCC*, No. 00-60434 (5th Cir. September 10, 2001).

[8] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourteenth Report and Order and Twenty-Second Order on Reconsideration, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Report and Order, 16 FCC Rcd 11244 (released May 23, 2001) (*Rural Task Force Order*). The term "rural carrier" refers to local exchange carriers that meet the definition of rural telephone company in section 153(37) of the Act of 1934. 47 U.S.C. § 153(37). Most, but not all, rate-of-return carriers meet this definition.

3. The reforms we adopt today are designed to establish a "pro-competitive, deregulatory national policy framework" for the United States telecommunications industry, and to carry out the universal service policies embodied in the 1996 Act. Specifically, we align the interstate access rate structure more closely with the manner in which costs are incurred, and create a universal service support mechanism to replace implicit support in the interstate access charges with explicit support that is portable to all eligible telecommunications carriers. Our actions are consistent with prior Commission actions to foster competition and efficient pricing in the market for interstate access services, and to create universal service mechanisms that will be secure in an increasingly competitive environment. By simultaneously removing implicit support from the rate structure and replacing it with explicit, portable support, this Order will provide a more equal footing for competitors in the local and long distance markets, while ensuring that consumers in all areas of the country, especially those living in high-cost, rural areas, have access to telecommunications services at affordable and reasonably comparably rates. This Order also is tailored to the needs of small and mid-sized local telephone companies serving rural and high-cost areas, and will help provide certainty and stability for rate-of-return carriers, encourage investment in rural America, and provide important consumer benefits.

4. In implementing the provisions of the 1996 Act, the Commission consistently has taken into consideration the differences between price cap and rate-of-return carriers, as well as the wide diversity among rate-of-return carriers. Fewer than ten large price cap carriers serve the vast majority of access lines nationwide, compared to over 1,300 rate-of-return carriers serving less than eight percent of lines. Rate-of-return carriers are typically small, rural telephone companies concentrated in one area, but they range in size from a few hundred lines to approximately one million, and some have multiple affiliates with operations in several states. They generally have higher operating and equipment costs than price cap carriers due to lower subscriber density, smaller exchanges, and limited economies of scale. They also rely more heavily on revenues from interstate access charges and universal service support.[9]

5. Thus, in 1997, when the Commission adopted interstate access charge reforms for price cap carriers, it recognized the need for more comprehensive review of the issues and circumstances specific to rate-of-return carriers.[10] In 1998, the Commission created a separate docket to undertake such review.[11] While it proposed reforms similar to those adopted for price cap carriers, the Commission recognized that differences between the two groups might warrant a different approach in some matters, including a different transition to more efficient, cost-based rates. This docket remained open in 2000 when the Commission adopted comprehensive access charge and universal service reform for price cap carriers, based in part on a proposal submitted by the Coalition for Affordable Local and Long Distance Service (CALLS).[12] As the Commission observed in the *Interstate Access Support Order*, access charge and universal

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[9] The Rural Task Force documented the nature and scope of these differences in a white paper entitled "The Rural Difference" (White Paper 2). *See infra*, § III.C. The Commission's *1998 Notice*, 13 FCC Rcd at 14244 paras. 15-16, and numerous commenters in the above-captioned proceedings also address such differences.

[10] *Access Charge Reform Order*,12 FCC Rcd at 16126-27 paras. 330-332.

[11] *1998 Notice*, 13 FCC Rcd at 14240 paras. 3-4.

[12] *See Interstate Access Support Order*, 15 FCC Rcd at 12964 para. 1.

service reform presents a series of controversial and interrelated issues without a single, precise solution.[13] "There are instead ranges of reasonable solutions," and the Commission must select one that appropriately balances the competitive and universal service goals set forth in the Act.[14] The consensus represented by the CALLS plan, which was developed by local and long distance telephone companies that represented historically adverse interests, helped the Commission select, from among various legitimate possible approaches, one that achieved its competitive and universal service goals in a manner that is reasonable and in the public interest.[15]

6. The CALLS plan moved the Commission towards its competitive and universal service goals for the access services market, but compounded the need for analogous reform among rate-of-return carriers. Although there may not be significant competition in many high-cost, rural areas, rate-of-return carriers are not insulated from competitive pressures.[16] High per-minute charges may place them at a disadvantage in competing with new market entrants, including neighboring price cap carriers.[17] In addition, higher rates and implicit subsidies may discourage efficient local and long distance competition in rural areas and limit consumer choice.

7. Recognizing the need for reform, four incumbent LEC associations developed the MAG plan, a comprehensive proposal addressing numerous issues facing rate-of-return carriers, including access charge reform and universal service support.[18] The MAG plan was submitted to the Commission on October 20, 2000.[19] The MAG plan represents a significant achievement, bringing together a major segment of the incumbent LEC industry with a broad range of views and interests. The Commission released the *MAG Notice* on January 5, 2001, stating its intention to fully and expeditiously consider the MAG plan. The Commission requested comment on whether it should adopt the MAG plan as an integrated package, as requested by the MAG, or adopt specific aspects of the plan. The Commission specifically invited comment from interested parties that were not MAG members, including competitive carriers, interexchange carriers, and wireless providers, as well as consumer groups and state commissions. The Commission also encouraged input from the Federal-State Joint Board on Universal Service (Joint Board) on the universal service aspects of the MAG plan.

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[13] *See id.* at 12978 para. 38.

[14] *Id.* at 12981-82 para. 49; *see id.* at 12973 para. 27 ("As we devise a transition to a more economically rational approach to access charges and universal service, we need to balance various and sometimes conflicting interests—including promotion of competition, deregulation, maintaining affordability for all, and avoiding rate shock to consumers.").

[15] *Id.* at 12981 para. 49 ("we must exercise our own independent judgment to ensure that any proposal we adopt in this area—even a proposal that reflects a substantial degree of consensus among historically adverse parties—is reasonable and in the public interest.").

[16] ICORE Comments at 4-5 ("Some are located near a larger LEC's town or city, where there exist at least 'edge out' competitive opportunities, while others are almost totally isolated. . . . Some serve one or two large business customers which, if lost to a competitor, would be financially devastating, while others serve only residences and very small businesses. Some face imminent, aggressive competition, while others have as yet to encounter any serious competitive threats.").

[17] *See 1998 Notice*, 13 FCC Rcd at 14239 para. 2.

[18] *MAG Notice*, 16 FCC Rcd at 461 para. 3; *see infra*, § III.A..

[19] *MAG Notice*, 16 FCC Rcd at 460, n. 1.

8. We appreciate the MAG's efforts to develop a consensus among rate-of-return carriers. The MAG plan contains many worthwhile features that, based on our independent consideration of the record and the alternative proposals submitted by other commenters, we adopt in this Order. Commenters have raised significant concerns about certain features of the MAG plan, however, and we are persuaded that some of these concerns have merit. In particular, the MAG proposes that certain access charge reforms be optional, and that only those carriers electing the MAG incentive plan be eligible for new, explicit universal service support to replace implicit support in access charges. We conclude that leaving the removal of implicit support to the discretion of individual carriers is neither consistent with the mandate of the 1996 Act nor justified from a public policy standpoint.[20] We agree with commenters who argue that these proposals could preclude many rate-of-return carriers from fully participating in interstate access charge reform, leading to increased access rate disparities among local telephone companies that is not in the public interest.

9. We also find merit to criticisms of the MAG incentive plan raised by many commenters. The Commission consistently has expressed its commitment to providing incentives for smaller telephone companies to become more efficient and innovative.[21] As proposed, however, the MAG incentive plan does not appear to provide incentives for cost efficiency gains that will benefit consumers through lower rates and improved services. Moreover, we are concerned that the MAG incentive plan could lead to excessive growth in the universal service fund, because it provides for annual increases in per-line support that would not be tied to carrier costs or constrained by any offset for productivity gains.

10. Based on our examination of the record, therefore, we cannot conclude that adoption of the MAG plan in its entirety would benefit consumers and serve the public interest.[22] Although we agree with the MAG that a comprehensive solution to the regulatory issues facing rate-of-return carriers would be ideal, we cannot wait for such a solution. Rather, we conclude that we must proceed with interstate access charge reform for rate-of-return carriers, while continuing to explore alternative regulatory methods that would create benefits for both rate-of-return carriers and their customers.

11. Our actions are consistent with reforms previously implemented for price cap carriers, and will provide a number of consumer benefits. By rationalizing the rate structure for recovery of interstate-allocated loop costs, we are fostering competition for residential subscribers in rural areas by facilities-based carriers. By reducing per-minute switched access rates towards cost-based levels, we are enhancing incentives for interexchange carriers to originate service in rural areas and facilitating long distance toll rate averaging. To a large

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[20] *See COMSAT Corp. v. FCC*, 250 F.3d 931, 938-40 (5th Cir. 2001) (holding that Commission cannot allow carriers to choose whether to recover their universal service contributions through interstate access charges because such recovery constitutes an implicit subsidy).

[21] *See, e.g., 1998 Notice*, 13 FCC Rcd at 14240 para. 5; *Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation*, CC Docket No. 92-135, Report and Order, 8 FCC Rcd 4545 (1993).

[22] *See, e.g.*, Alaska Commission Comments at 2; GCI Comments at 2; Sprint Comments at 3-4; *see also* Wyoming Commission Comments at 1-2.

extent, these modifications already have been implemented for the vast majority of subscribers nationwide.

12. At the same time, we have tailored our approach to the specific challenges faced by small local telephone companies serving rural and high-cost areas. Although per-minute switched access charges will be reduced for all rate-of-return carriers, they will retain the flexibility to establish rates based on their own costs in the areas they serve, rather than being forced to conform to a prescribed target rate.[23] Rate-of-return carriers will continue to be permitted to set rates based on the authorized rate of return of 11.25 percent. And the new, uncapped support mechanism that we create will provide certainty and stability by ensuring that the rate structure modifications we adopt do not affect overall recovery of interstate access costs. In this regard, we are mindful of arguments that a cap is necessary to ensure sufficient, but not excessive, universal service funding. As the Commission previously has observed, the amount of implicit support contained in interstate access charges is a difficult, controversial issue without simple or precise solutions.[24] This is particularly so for rate-of-return carriers, given their size, diversity, and regulatory history.[25] Under the circumstances, we are adopting a cautious approach which rationalizes the access rate structure and converts identifiable implicit subsidies to explicit support, without endangering this important revenue stream for rate-of-return carriers. Based on our examination of the record, we conclude that this approach strikes a fair, reasonable balance among the policies of the 1996 Act.

13. Our actions today are not designed as a permanent solution. As we move forward, we will continue to refine our policies to achieve the goals of the 1996 Act. In particular, as the terms of the CALLS plan and the Rural Task Force plan near their respective ends,[26] we anticipate that the Commission will review whether the measures we adopt here continue to be consistent with our competitive goals for the local exchange and exchange access services markets, as well as with our long-term universal service plans.

14. We also remain committed to investigating alternative regulatory methods that would benefit both rate-of-return carriers and their customers. In the attached Further Notice, therefore, we seek additional comment on the MAG incentive plan, and on other means of providing opportunities for rate-of-return carriers to increase their efficiency and competitiveness in the interstate access services market.

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[23] As discussed below, the MAG proposes that carriers electing its incentive plan would have a weighted aggregate target for switched access charges of 1.6 cents per minute, whereas some commenters advocate a lower, mandatory target for all rate-of-return carriers of .95 cents per minute. *See infra*, § IV.B.2.a.

[24] *See Interstate Access Support Order*, 15 FCC Rcd at 12978 para. 38.

[25] *See, e.g., Rural Task Force Order*, 16 FCC Rcd at 11247 paras. 4-5.

[26] *See Rural Task Force Order*, 16 FCC Rcd at 11309-13 paras. 167-77 (approved for five years beginning June, 2001); *Interstate Access Support Order*, 15 FCC Rcd at 12977 para. 37 (approved for five years beginning July 1, 2000).

II. EXECUTIVE SUMMARY

15. In this Order, we take the following actions to reform the interstate access charge and universal service support system for rate-of-return carriers:

- We adopt the MAG proposal to increase Subscriber Line Charge (SLC) caps for rate-of-return carriers to the levels established for price cap carriers. The residential and single-line business SLC cap will increase to $5.00 on January 1, 2002, and may increase up to $6.00 on July 1, 2002, and $6.50 on July 1, 2003, subject to a cost review study for the SLC caps of price cap carriers. The multi-line business SLC cap will increase to $9.20 on January 1, 2002. The revised SLC caps, which conform to those already implemented for most subscribers nationwide, will foster efficient competition and greater choice for consumers, while ensuring that SLC rates in rural areas remain affordable and reasonably comparable to those in urban areas. Lifeline support will be increased in an amount equal to any SLC rate increases for low-income subscribers.

- We modify our rules to allow limited SLC deaveraging, which will enhance the competitiveness of rate-of-return carriers by giving them important pricing flexibility. The SLC deaveraging method we adopt combines the safeguards adopted for price cap carriers with the flexibility of the Rural Task Force universal service support disaggregation scheme, in order to address the significant diversity among rate-of-return carriers.

- We find that the Carrier Common Line (CCL) charge, an inefficient cost recovery mechanism and implicit subsidy, should be removed from the common line rate structure. This measure will rationalize the access rate structure and move per-minute switched access rates towards lower, cost-based levels. To replace the CCL charge, a new universal service support mechanism will be implemented beginning on July 1, 2002. The CCL charge will be eliminated as of July 1, 2003, when SLC caps are scheduled to reach their maximum levels.

- We adopt measures to reform the local switching and transport rate structure. In particular, we shift the non-traffic sensitive costs of local switch line ports to the common line category, and reallocate the remaining costs contained in the Transport Interconnection Charge (TIC) to other access rate elements. These measures align the rate structure more closely with the manner in which costs are incurred and reduce per-minute switched access charges.

- We do not adopt proposals to prescribe a single, target rate for per-minute charges, either on an optional or a mandatory basis. Neither the MAG's proposed rate of 1.6 cents nor the .95-cent rate advocated by other parties are supported by cost data. The reforms that we adopt in this Order will reduce per-minute charges for all rate-of-return carriers, while giving them the flexibility to establish rates based on their own costs in the areas they serve.

- We address proposals to modify the rate structure for general support facilities (GSF) costs, marketing expenses, and special access services. We generally conclude that a different approach is warranted from that adopted for price cap carriers to avoid imposing undue administrative burdens on small local telephone companies serving rural and high-cost areas.

- We create a new universal service support mechanism, Interstate Common Line Support, to convert implicit support in the access rate structure to explicit support that is available to all eligible telecommunications carriers. Interstate Common Line Support will recover any shortfall between the allowed common line revenues of rate-of-return carriers and their SLC revenues, thereby replacing the CCL charge. The new support mechanism will ensure that changes in the rate structure do not affect the overall recovery of interstate access costs by rate-of-return carriers serving high-cost areas.

- We do not adopt MAG proposals to impose new requirements on interexchange carriers regarding optional calling plans, minimum monthly fees, and pass-through of savings from lower access rates. Among other things, we conclude that these requirements are unnecessary, inconsistent with our deregulatory approach to the interexchange services market, and would entail undue administrative costs and burdens.

- Consistent with the MAG proposal, we streamline the rules for the introduction of new switched access services by extending to rate-of-return carriers the same flexibility that price cap carriers now have, with the exception of certain cost support and notice requirements.

- We terminate the above-captioned proceeding for prescription of the authorized rate-of-return, which was set at 11.25 percent in 1990.

- We explain that the Commission, pursuant to the recommendations of the Federal-State Joint Board on Jurisdictional Separations, recently froze jurisdictional separations factors in a manner consistent with the MAG proposal and, therefore, no further action regarding separations is necessary.

- In the attached Further Notice, we seek further comment on the MAG incentive plan and how it might be modified to provide incentives for cost efficiency gains by rate-of-return carriers that will benefit consumers through lower rates and improved services. We also request comment on additional pricing flexibility measures for rate-of-return carriers, and ask for further comment on the MAG's proposed changes to the Commission's "all-or-nothing rule."[27] We also seek comment on merging the Long Term Support mechanism into Interstate Common Line Support as of July 1, 2003, when the CCL charge will be eliminated.

III. BACKGROUND

A. Interstate Access Charges

16. Interstate access charges are tariffed charges imposed by incumbent LECs to recover the costs of providing access to their networks for interstate or long distance service.[28] Part 69 of the Commission's rules establishes a mandatory rate structure for switched access

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[27] 47 C.F.R. § 61.41. This rule generally requires rate-of-return carriers that merge with price cap carriers to convert to price cap regulation, in order to protect against cost shifting and other improper actions. *See infra*, § V.C.1.

[28] The Commission uses a multi-step process to identify the cost of providing interstate access service. First, an incumbent LEC reports all of its expenses, investments, and revenues in accordance with the Uniform System of Accounts. 47 C.F.R. §§ 32.1, *et seq.* Second, costs are divided between regulated and nonregulated services. *Id.* at §§ 64.901-64.904. Third, the separations process divides costs associated with regulated services between the state and federal jurisdictions. 47 C.F.R. Part 36.

services.[29] The Commission adopted the Part 69 rules in 1983, following the breakup of AT&T's monopoly over local and long distance service.[30]

17. The Commission has long recognized that, to the extent possible, interstate access costs should be recovered in the manner in which they are incurred. In particular, non-traffic sensitive costs—costs that do not vary with the amount of traffic carried over the facilities—should be recovered through fixed, flat charges, and traffic sensitive costs should be recovered through per-minute charges.[31] This approach fosters competition and efficient pricing. The Part 69 rules, however, are not fully consistent with this goal. For example, the costs of the common line or loop that connects an end user to a LEC central office should be recovered from the end user through a flat charge, because loop costs do not vary with usage.[32] Yet the SLC, a flat monthly charge assessed directly on end users to recover interstate loop costs, has, since its inception, been capped due to affordability concerns. The Commission's rules provide for recovery of rate-of-return carriers' residual interstate loop costs through the CCL charge, a per-minute charge assessed on interexchange carriers.[33] Interexchange carriers, in turn, pass this charge on to their customers in the form of higher long distance rates.

18. By artificially inflating long distance per-minute rates, such rate structure inefficiencies suppress demand for interstate long distance services, and create implicit subsidies from high-volume to low-volume users of interstate long distance service.[34] Implicit subsidies have a disruptive effect on competition in the market for local exchange and exchange access services.[35] In addition, by contributing to rate disparities between rate-of-return and price cap carriers, rate structure inefficiencies may increase the burden of compliance with toll rate averaging requirements[36] and discourage interexchange carriers from competing in rural and high-cost areas, thus limiting consumer choice in those areas.[37]

19. Whereas the Part 69 rules prescribe the rate structure, rate levels are governed by rate-of-return or price cap regulation. Historically, all incumbent LECs were governed by rate-of-return regulation, under which rate levels are directly linked to a carrier's embedded or

[29] 47 C.F.R. Part 69. The Part 69 rules do not prescribe a rate structure for special access services, which employ dedicated rather than shared facilities to route interstate calls.

[30] *MTS and WATS Market Structure*, CC Docket No. 78-72, Third Report and Order, Phase 1, 93 FCC 2d 241 (*1983 Access Charge Order*), *recon.*, 97 FCC 2d 682 (1983), *second recon.*, 97 FCC 2d 834 (1984).

[31] *Access Charge Reform Order*, 12 FCC Rcd at 15992-93 para. 24.

[32] *Id.* at 16013 para. 77 ("Because common line costs do not vary with usage, these costs should be recovered on a flat-rated instead of a per-minute basis. In addition, these costs should be assigned, where possible, to those customers who benefit from the services provided by the local loop.").

[33] 47 C.F.R. § 69.105.

[34] *See Access Charge Reform Order*, 12 FCC Rcd at 15986 para. 6, 15995-96 para. 30, 16013 para. 76.

[35] *See infra*, § III.B.

[36] *See* 47 C.F.R. § 64.1801(a) ("The rates charged by providers of interexchange telecommunications services to subscribers in rural and high-cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas."); *see also* 47 U.S.C. § 254(g).

[37] *See infra*, § IV.B.2.a.

accounting costs.[38] Rate-of-return carriers charge rates that are designed to provide the revenue required to cover costs and to achieve a prescribed return on investment. In 1991, the Commission implemented a system of price cap regulation for the largest incumbent LECs.[39] Price cap regulation provides incentives to increase efficiency and reduce costs by permitting carriers to earn higher returns, so long as their rates are set at or below a cap.[40] While price cap regulation has greater potential rewards for incumbent LECs, it also entails greater risks.[41] Therefore, the Commission made price cap regulation voluntary for most incumbent LECs.[42]

20. Rather than developing their own tariffed rates, rate-of-return carriers may participate in pools administered by the National Exchange Carrier Association (NECA). Pooling carriers charge rates set by NECA, pool their interstate access revenues, and recover their costs from the pools, including a return on investment.[43] Carriers that participate in the common line pool are eligible for Long Term Support (LTS) to reduce their CCL charges.[44] Pooling also serves important risk-sharing and administrative functions for rate-of-return carriers.[45] Because participation in pools, as currently structured, involves significant sharing of financial risks, however, it weakens incentives for carriers to operate efficiently.[46]

B. Universal Service

21. One of the primary purposes of universal service support is to help provide access to telecommunications service in areas where the cost of such service otherwise might be

[38] *Access Charge Reform Order*, 12 FCC Rcd at 15993 para. 25. The term "embedded costs" refers to a carrier's historic costs, as reflected in its books.

[39] *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786, 6818-19 para. 262-65 (1990) (subsequent history omitted). Specifically, the Commission mandated price cap regulation for the Regional Bell Operating Companies and GTE, and permitted others to adopt price cap regulation voluntarily, subject to certain conditions.

[40] *See Interstate Access Support Order*, 15 FCC Rcd at 12968-69 paras. 16-17.

[41] Price caps initially were based on the largest carriers' previously approved rates, subject to adjustment by inflation and an offsetting productivity factor or "X-factor" that ultimately reached 6.5 percent. Thus, price cap carriers risked loss of revenue if they failed to achieve sufficient productivity gains.

[42] In particular, the Commission recognized that a single productivity factor could prove unduly burdensome for small and mid-sized incumbent LECs. *See Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Order on Reconsideration, 6 FCC Rcd 2637, 2699 para. 138 (1991).

[43] Some smaller rate-of-return carriers receive compensation based on average schedules rather than their own costs. *See 1998 Notice*, 13 FCC Rcd at 14244 para. 17 ("Average schedule recovery reduces the cost to small rate-of-return LECs of conducting separate cost studies by providing compensation based on cost estimates derived from comparable cost companies.").

[44] *See infra*, § III.B.

[45] *See Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation*, CC Docket No. 92-135, Notice of Proposed Rulemaking, 7 FCC Rcd 5023, 5030 (1992); *MTS and WATS Market Structure*, CC Docket No. 78-72, *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket No. 80-286, Memorandum Opinion and Order on Reconsideration, 3 FCC Rcd 4543, 4560 n.108 and accompanying text (1988).

[46] *See Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd at 6819 para. 266.

prohibitively expensive.[47] Historically, this purpose has been achieved both through explicit monetary payments and implicit support flows to enable carriers to serve high-cost areas at below-cost rates. Congress established principles for the preservation and advancement of universal service in the 1996 Act, including the principle that the Commission should create explicit universal service support mechanisms that will be secure in a competitive environment.[48] Congress also articulated a national goal that consumers in all regions of the nation, including rural, insular, and high-cost areas, should have access to telecommunications services at rates that are affordable and reasonably comparable to rates charged for similar services in urban areas.[49] Section 254 provides that federal universal service support mechanisms should be specific, predictable, and sufficient to achieve the purposes of the Act.[50]

22. Three federal universal service mechanisms currently provide explicit support for rate-of-return carriers. LTS provides support for interstate loop costs to rate-of-return carriers that participate in the NECA common line pool.[51] Prior to 1989, all incumbent LECs were required to participate in the common line pool.[52] As of 1989, carriers were allowed to withdraw from the common line pool, provided they made LTS payments to the pool in order to prevent the CCL rates of the remaining carriers from rising significantly above the national average.[53] In 1997, the Commission concluded that LTS should be continued, but that modifications were necessary to make it explicit, portable, and competitively neutral.[54] Therefore, the Commission removed LTS from the interstate access charge system and modified its calculation and

[47] *Rural Task Force Order*, 16 FCC Rcd at 11251 para. 13.

[48] *See* 47 U.S.C. § 254(e).

[49] *Id.* at § 254(b)(3).

[50] *Id.* at §§ 254(b)(5), (e).

[51] 47 C.F.R. §§ 54.303, 54.311(a).

[52] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourth Order on Reconsideration, *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, Report and Order, 13 FCC Rcd 5318, 5352 para. 56 (1997) (*Universal Service Fourth Order on Reconsideration*).

[53] *See MTS and WATS Market Structure*, CC Docket No. 78-72, *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket No. 80-286, Report and Order, 2 FCC Rcd 2953, 2957 para. 33 (1987) ("This should avoid unnecessary pressures for bypass in high cost areas, preserve toll averaging, and encourage competitive providers of interstate switched services to enter such markets.").

[54] *Universal Service First Report and Order*, 12 FCC Rcd at 9165 para. 757 ("we agree with the Joint Board that LTS payments serve the public interest by reducing the amount of loop cost that high cost LECs must recover from IXCs through CCL charges and thereby facilitating interexchange service in high cost areas consistent with the express goals of section 254.").

distribution scheme.[55] Rate-of-return carriers also receive federal high-cost support for intrastate services through the high-cost loop support mechanism and Local Switching Support (LSS).[56]

23. Rate-of-return carriers also receive implicit support for universal service from various sources, including the interstate access rate structure.[57] For example, recovery of non-traffic sensitive costs through per-minute rates creates an implicit support flow from high- to low-volume users of interstate long distance service.[58] Implicit support is incompatible with a competitive market for local exchange and exchange access services. As the Commission noted in 1997, "where rates are significantly above cost, consumers may choose to bypass the incumbent LEC's switched access network, even if the LEC is the most efficient provider. Conversely, where rates are subsidized (as in the case of consumers in high-cost areas), rates will be set below cost and an otherwise efficient provider would have no incentive to enter the market."[59] Rate-of-return carriers have expressed particular concern that high per-minute charges may place them at a disadvantage in competing for high-volume customers, jeopardizing an important source of revenue.[60]

C. Prior Commission Actions and Proposals

24. With the passage of the 1996 Act, the Commission undertook reform of both interstate access charges and federal universal service support mechanisms. In 1997, it adopted measures to move interstate access charges for price cap carriers towards lower, cost-based levels by phasing out loop and other non-traffic sensitive costs from per-minute charges, and providing for recovery of such costs through more economically efficient, flat charges.[61] In order to phase out CCL charges, the Commission created the presubscribed interexchange carrier charge (PICC), a flat, monthly charge imposed on interexchange carriers. Among other things, the Commission also shifted the non-traffic sensitive costs of line ports from per-minute local

[55] *Id.* LTS is now calculated by adjusting previous support levels to reflect the annual percentage change in the Department of Commerce's GDP-CPI. *Universal Service Fourth Order on Reconsideration*, 13 FCC Rcd at 5355-56 para. 61. LTS provides approximately $487 million in annual universal service support. *See* Federal Universal Service Support Mechanisms Fund Size Projections and Contribution Base For the Third Quarter 2001, Appendix HC 7 (Universal Service Administrative Company, May 2, 2001).

[56] High-cost loop support provides support for a variable percentage of the loop costs of rural carriers, based on embedded costs averaged over entire study areas. 47 C.F.R. §§ 36.601, 54.301. The Commission recently adopted the Rural Task Force plan for reform of the high-cost loop support mechanism. *See infra*, § III.C. LSS is available to support a portion of the intrastate switching costs of carriers with 50,000 or fewer lines. 47 C.F.R. §§ 36.125(b), 54.301. By providing this federal support for intrastate costs, the Commission assists the states in ensuring that intrastate rates remain affordable and reasonably comparable.

[57] *See Ninth Report and Order*, 14 FCC Rcd at 204441 para. 15 ("In contrast to explicit support, some state rate designs and, to a lesser extent, the federal interstate access charge system, have provided implicit high-cost support flowing from (1) urban areas to rural areas; (2) business customers to residential customers; (3) vertical services to basic service; and/or (4) long distance service to local service.").

[58] *See Interstate Access Support Order*, 15 FCC Rcd at 13046 para. 201.

[59] *Access Charge Reform Order*, 12 FCC Rcd at 15996 para. 30; *see 1998 Notice*, 12 FCC Rcd at 14243 para. 12.

[60] *1998 Notice*, 13 FCC Rcd at 14239-40 para. 2; *see* Innovative Telephone Comments at 4; Roseville Tel. Co. Reply Comments at 4; TDS Comments in CC Docket No. 98-77 at 22.

[61] *Access Charge Reform Order*, 12 FCC Rcd at 15998 para. 35.

switching charges to the common line category,[62] and established a mechanism to phase out the per-minute transport interconnection charge (TIC).[63] The Commission recognized that rate structure modifications alone would not be sufficient "to create a system that accurately reflects the true cost of service in all respects."[64] But it concluded that a market-based approach which relies primarily on competition to drive access charges down to cost-based levels generally would serve the public interest better than prescribing rates.[65]

25. The *Interstate Access Support Order*, in which the Commission adopted, in large part, the CALLS plan, continued the process of access charge and universal service reform for price cap carriers. This order established a more straightforward, economically rational common line rate structure by increasing SLC caps and phasing out the PICC, which suffered from inefficiencies due to the indirect flow of loop costs to end users through interexchange carriers.[66] It also addressed controversy regarding the appropriate size of the X-factor by changing its function from a productivity offset into a tool for reducing per-minute access charges to target levels proposed by the CALLS members.[67] Specifically, the Commission adopted target rates of 0.55 cents for the largest price cap carriers, 0.95 cents for those with subscriber densities of less than 19 per square mile, and 0.65 cents for all other price cap carriers.[68] In addition, the Commission approved an immediate $2.1 billion reduction in per-minute switched access charges, which the CALLS interexchange carrier members committed to pass through to their customers.[69]

26. Furthermore, the Commission established a new interstate access support mechanism, capped at $650 million annually, to replace implicit support in the interstate access charges of price cap carriers. It found $650 million to be a reasonable amount that would provide sufficient, but not excessive, support.[70] In this regard, it observed that a range of funding levels might be deemed "sufficient" for purposes of the 1996 Act, and that "identifying an amount of implicit support in our interstate access charge system to make explicit is an imprecise exercise."[71]

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[62] *Id.* at 16035-40 paras. 125-34. Line ports connect subscriber lines to the switch in the LEC central office. *See id.* at 16034-35 para. 123; *infra*, § IV.B.1.

[63] *Access Charge Reform Order*, 12 FCC Rcd at 16073-86 paras. 210-43; *infra*, § IV.B.1.

[64] *Access Charge Reform Order*, 12 FCC Rcd at 16001 para. 42.

[65] *Id.* at 16001-02 paras. 44-46. The Commission reasoned that a market-based approach was more consistent with the 1996 Act, and that tools for accurately prescribing rates at economic cost levels were not yet available.

[66] *See Interstate Access Support Order*, 15 FCC Rcd at 12970 para. 19.

[67] *Id.* at 13028-39 paras. 160-184; *see Texas Office of Public Utility Counsel v. FCC*, No. 00-60434 at § III.C (remanding X-factor issue for further consideration); *see also supra*, n.41.

[68] 47 C.F.R. 61.3(qq); *see Interstate Access Support Order*, 15 FCC Rcd at 13029 para. 162.

[69] *Interstate Access Support Order*, 15 FCC Rcd at 13025 paras. 151-52.

[70] *Id.* at 13046 para. 202; *see Texas Office of Public Utility Counsel v. FCC*, No. 00-60434 at § III.B (remanding $650 million figure for further analysis and explanation).

[71] *Interstate Access Support Order*, 16 FCC Rcd. at 13046 para. 201 ("The various implicit support flows (*e.g.*, business to residential, high-volume to low-volume, and geographic rate averaging) are not easily severable and

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27. The Commission recently modified its rules for providing intrastate high-cost loop support to rural carriers,[72] based on proposals made by the Rural Task Force and recommended by the Joint Board. The Rural Task Force recommended against use of the Commission's forward-looking mechanism for non-rural carriers to calculate high-cost loop support for rural carriers.[73] Instead, it recommended use for the next five years of a modified version of the existing high-cost loop support mechanism used for rural carriers.[74] The Commission concluded that the Rural Task Force plan would "provide certainty and stability for rural carriers over the next five years," and that the provisions for disaggregation and targeting of high-cost support would "facilitate competitive entry into high-cost areas, bringing the benefits of competition to consumers in rural areas."[75] The Commission also stated its intention to develop "a long-term plan that better targets support to carriers serving high-cost areas, while at the same time recognizing the significant differences among rural carriers, and between rural and non-rural carriers."[76]

28. The foundation for the Rural Task Force plan was a series of six white papers addressing, among other things, the nature and scope of differences between rural and non-rural carriers, as well as the wide diversity among rural carriers.[77] Because the categories of rural and non-rural carrier largely overlap with those of rate-of-return and price cap carrier,[78] the Rural Task Force's findings are pertinent here. The Rural Task Force found that rural carriers are significantly different from non-rural carriers, and that individual rural carriers vary widely from each other. Rural carriers generally serve more sparsely populated areas and fewer large, high-volume subscribers than non-rural carriers.[79] The isolation of rural carrier service areas creates numerous operational challenges, including high loop costs, high transportation costs for personnel, equipment, and supplies, and the need to invest more resources to protect network reliability.[80] In addition, rural carriers generally have fewer customers per switch, higher total

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quantifiable. Moreover, the competitive pricing pressures present during this transitional period between monopoly and competition present additional complexities in identifying a specific amount of implicit support.").

[72] *See Rural Task Force Order*, 16 FCC Rcd at 11249 para. 12.

[73] *Id.* at 11254 para. 18. The Commission determined in 1997 that federal universal service support for all carriers should be based on the forward-looking economic cost of providing the supported services. *Universal Service First Report and Order*, 12 FCC Rcd at 8899-901 paras. 224-229. The Rural Task Force was appointed to assist "in identifying the issues unique to rural carriers and analyzing the appropriateness of proxy cost models for rural carriers." *Id.* at 8917 para. 253; *see Rural Task Force Order*, 16 FCC Rcd at 11253 para. 16.

[74] *Rural Task Force Order*, 16 FCC Rcd at 11253 para. 16. The Rural Task Force's proposed modifications included various upward adjustments to current limits on universal service support for rural carriers. *Id.*

[75] *Id.* at 11249 para. 11.

[76] *Id.* at 11248 para. 8. The Commission stated that it would "consider all options, including the use of forward-looking costs, to determine appropriate support levels for both rural and non-rural carriers." *Id.* at 11310 para. 170.

[77] *See id.* at 11253 para. 17.

[78] *See supra*, n.8.

[79] White Paper 2 at 8-10. The average population density for areas served by rural carriers is 13 persons per square mile, compared with 105 persons per square mile for areas served by non-rural carriers.

[80] *Id.* at 9-10.

investment in plant per loop, and higher plant specific expenses per loop than non-rural carriers, all of which may vary dramatically depending on how many lines they serve.[81]

29. The Rural Task Force recommended a number of access reform principles, which the Commission stated that it would consider in addressing the MAG plan.[82] According to the Rural Task Force, rate disparities between price cap and rate-of-return carriers result from both rate structure and cost differences, and may create significant pressures on interexchange carriers to deaverage toll rates.[83] It recommended that the Commission determine the amount of implicit support within the interstate access rates of rate-of-return carriers by calculating the difference between their current rates and "the appropriate unit prices of interstate access" and then replacing this amount with a new, uncapped support mechanism.[84] The Rural Task Force did not recommend a specific method for determining the "appropriate unit prices of interstate access."[85]

D. The MAG Plan

30. The MAG proposes two regulatory regimes, "Path A" and "Path B," which have some common features.[86] The MAG plan would modify the common line rate structure for all rate-of-return carriers by raising SLC caps to price cap carrier levels, permitting an offsetting reduction in CCL charges.[87] For Path A carriers that participate in the NECA pools, the MAG proposes a weighted aggregate target for all per-minute switched access charges, which would be reduced to 1.6 cents per minute by July 1, 2003.[88] Rate Averaging Support (RAS), a new universal service support mechanism, would recover any shortfall between the allowed revenues of Path A pooling carriers and the sum of their revenues from switched access charges (including SLCs), LTS, and LSS.[89] RAS would not be available to non-pooling incumbent LECs or Path B carriers.

31. Under the MAG plan, carriers that elect Path A would be able to convert from rate-of-return regulation to the MAG incentive plan on a study-area basis at any time during the transition period.[90] Path B carriers would remain under rate-of-return regulation, with the option to elect Path A at any time during the transition period. Incentive-regulated carriers would be compensated based on "revenue per line" (RPL), which would be established using embedded

[81] *Id.* at 11-13.

[82] *See Rural Task Force Order*, 16 FCC Rcd at 11323-25 paras. 202-205.

[83] *Id.* at para. 202; *see* 47 U.S.C. § 254(g); 64 C.F.R. § 1801.

[84] *Rural Task Force Order*, 16 FCC Rcd at 11323 para. 202 (quoting Rural Task Force Recommendation at 31).

[85] *Id.* at 11324 para. 203.

[86] *See MAG Notice*, 16 FCC Rcd at 462 para. 6.

[87] *See id.* at 462 para. 7, 566.

[88] *See id.* at 463 para. 8, 568. Existing switched access rate elements would be retained.

[89] *See id.* at 463 para. 8, 555. RAS also would be available to support the special access rates of Path A pooling carriers.

[90] *See id.* at 463-64 para. 9, 559-62. The MAG proposed that carriers electing Path A at the outset would have five years to convert from rate-of-return to the MAG incentive regulation scheme.

costs and then adjusted for inflation (GDP Price Index) on a going-forward basis. Universal service support (excluding RAS) for incentive-regulated study areas also would be fixed on a per-line basis and adjusted annually for inflation. The MAG plan includes a backstop or low-end adjustment mechanism which would prevent the annual returns of Path A carriers from falling below 10.75 or 10.25 percent, depending on the number of study areas the carrier operates.

32. The MAG plan also includes other significant proposals. The authorized rate of return would be fixed at the current 11.25 percent, terminating the pending represcription proceeding, and jurisdictional separations factors would be frozen.[91] Rate-of-return carriers would be permitted to offer new services without obtaining a Part 69 waiver or making a public interest showing.[92] Interexchange carriers would be required to pass through to consumers any savings from reductions in per-minute switched access charges, to offer consumers in rural and urban areas the same optional calling plans, and not to impose minimum monthly charges on residential consumers.[93]

IV. DISCUSSION

A. Common Line Rate Structure

1. Background

33. As stated above, the Commission established the common line rate structure in the *1983 Access Charge Order*. Its long term goal was for incumbent LECs to recover substantially all of their non-traffic sensitive common line costs on a flat-rated basis from end users.[94] Because of affordability concerns, however, the Commission imposed ceilings or caps on the monthly, flat SLC charges assessed on end users.[95] For rate-of-return carriers, SLCs currently are the lesser of a carrier's average per-line common line costs or $3.50 (for residential and single-line business users) and $6.00 (for multi-line business users).[96] Rate-of-return carriers recover any shortfall in allowed common line revenues through per-minute CCL charges.[97]

34. The Commission modified the common line rate structure for price cap carriers in the 1997 *Access Charge Reform Order*. The Commission reaffirmed its goal for incumbent

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[91] *See id.* at 462 para. 7.

[92] *Id.* at 465 para. 14, 568.

[93] *Id.* at 464-65 para. 13, 564.

[94] *1983 Access Charge Order*, 93 FCC 2d at 285 para. 147-48 (stating that all common line costs other than Universal Service Fund and inside wiring costs would be recovered directly from end users); *see Interstate Access Support Order*, 15 FCC Rcd at para. 64 n.82 ("The Commission found that a subscriber who does not use the subscriber line to place or receive interstate calls imposes the same NTS costs as a subscriber who does use the line. Thus, simply by requesting telephone service, the subscriber causes local loop costs whether [he or s]he uses the service for intrastate or interstate calls.") (citing *1983 Access Charge Order*, 93 FCC 2d at 278 para. 121).

[95] *See Access Charge Reform Order*, 12 FCC Rcd at 16008 para. 68.

[96] 47 C.F.R. § 69.104.

[97] 47 C.F.R. 69.205. As discussed above, carriers that participate in the NECA common line pool are eligible for LTS to reduce their CCL charges. *See supra*, § III.B.

LECs to recover common line costs through flat, rather than per-minute, charges.[98] It did not raise the SLC cap for primary residential and single-line business users above $3.50, however, again due to affordability and universal service concerns.[99] Instead, as previously noted, the Commission created the PICC, a flat, per-line charge imposed on interexchange carriers, to replace the per-minute CCL charge over time.[100] Concluding that universal service concerns were not as great for non-primary residential and multi-line business users, the Commission raised SLC caps for such users to $5.00 and $9.00 per line, respectively (plus future increases for inflation).[101] The Commission stated that "although there might be some disparity between the average multi-line business SLC rate in low- and high-cost areas, the $9.00 cap would ensure that SLC rates in high-cost areas would be 'reasonably comparable' to SLC rates in urban areas."[102]

35. In the *1998 Notice*, the Commission proposed to reform the common line rate structure for rate-of-return carriers in a manner similar to that adopted for price cap carriers.[103] It recognized, however, that this approach would not "align rates with costs as quickly as it will for price cap LECs" because of the higher operating and equipment costs faced by many rate-of-return carriers.[104] The Commission requested comment on whether differences between the two groups might warrant a different approach in some matters.[105]

36. In the *Interstate Access Support Order*, the Commission increased the recovery of common line costs through flat end user charges by price cap carriers. The primary residential and single-line business SLC cap increased from $3.50 to $4.35 on July 1, 2000, and to $5.00 on July 1, 2001.[106] This cap is scheduled to rise to $6.00 on July 1, 2002, and $6.50 on July 1, 2003, subject to justification by a cost study.[107] The Commission also eliminated residential and single-line business PICCs.[108] The Commission concluded that these measures would serve the

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[98] *Access Charge Reform Order*, 12 FCC Rcd at 16013 para. 77.

[99] *Id.* at 16010-11 para. 73.

[100] *Id.* at 16018-26 para. 88-105; *see supra*, § III.C.

[101] *Access Charge Reform Order*, 12 FCC Rcd at 16005 para. 58-60. The Commission also established PICCs for non-primary residential and multi-line business lines. *Id.* at 16022 para. 99.

[102] *1998 Notice*, 13 FCC Rcd at 14247 para. 26 (citing *Access Charge Reform Order*, 12 FCC Rcd at 16014-16 para. 79-83).

[103] *1998 Notice*, 13 FCC Rcd at 14250-51 para. 35 ("similar modifications are needed to remove implicit subsidies and ensure that charges more accurately reflect the manner in which costs are incurred, thereby promoting competition.").

[104] *Id.* at 14251 para. 36; *see id.* at 14252 para. 39 ("If rate-of-return LECs were to implement the revised common line rate structure applied to price cap LECs, multi-line business PICCs and CCL charges would remain higher than those of price cap LECs for the foreseeable future, because rate-of-return LEC common line costs are significantly higher than those of price cap LECs.").

[105] *See id.* at 14240 para. 3, 14251 paras. 36.

[106] *Interstate Access Support Order*, 15 FCC Rcd at 12998 para. 70; 47 C.F.R. § 69.152.

[107] *Interstate Access Support Order*, 15 FCC Rcd at 12998 para. 70; 47 C.F.R. § 69.152.

[108] *Id.* at 12991-92 para. 78; *see id.* at 12996 para. 86 ("although we established the PICC as a charge that LECs assess IXCs instead of an end-user charge to minimize any impact on end users potentially resulting from a higher

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public interest by making the common line rate structure more rational, efficient, and transparent to consumers, consistent with its longstanding access reform goals.[109] It rejected arguments that increasing SLC caps would violate the statutory principles of affordability and reasonable comparability of rates in urban and rural areas.[110] The Commission also observed that customers in rural areas served by rate-of-return carriers would benefit from elimination of passed-through PICC charges and reductions in long distance rates as a result of its actions.[111]

37. In addition, the Commission granted price cap carriers flexibility to deaverage SLC rates under certain conditions, concluding that such flexibility would "enhance the efficiency of the local telephone market by allowing prices to be tailored more easily and accurately to reflect costs and, therefore promotes competition in both urban and rural areas."[112] Specifically, after CCL and PICC charges are phased out, price cap carriers may deaverage SLC rates to no more than four state commission-approved unbundled network element (UNE) loop zones in a study area.[113] They may, however, voluntarily reduce SLC rates at any time.[114] Deaveraging also is subject to additional restrictions. Multi-line business SLC rates within a given zone cannot fall below primary residential and single-line business SLC rates.[115] Deaveraged SLC rates for a given customer class cannot be lower in high-cost zones than in low-cost zones.[116] Deaveraging must be revenue-neutral: deaveraged SLCs cannot generate more revenue than permitted for averaged SLCs.[117] And except for voluntary reductions, a minimum SLC charge within the lowest-cost zone limits the charges that can be imposed in the higher-cost zones, thereby allowing customers outside the lowest cost zone "to share the benefits of SLC deaveraging."[118]

38. The MAG proposes common line rate structure modifications similar to those adopted in the *Interstate Access Support Order*, but with several significant differences. Under

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SLC, the reality in the marketplace is that IXCs have marked-up and passed-through the PICC to end users, thereby imposing higher flat charges for the majority of residential customers than would have occurred had we increased the SLC cap by the amount of the PICC caps.").

[109] *Id.* at 12991-994 paras. 77-81, 12997-98 para. 89.

[110] *Id.* at 12995-96 paras. 85-86; *see* 47 U.S.C. §§ 254(b)(3).

[111] *Interstate Access Support Order*, 15 FCC Rcd at 12996-97 para. 88.

[112] *Id.* at 13007 para. 113. SLC rates are based on interstate common line costs averaged over an entire study area, which is usually an incumbent LEC's existing service area within a state. Geographic deaveraging refers to charging different rates in different zones within a study area to reflect the relative cost of providing service within each zone. *See id.* at 13007 para. 114.

[113] 47 C.F.R. § 69.152(q); *see Interstate Access Support Order*, 15 FCC Rcd at 12989-90 para. 73. The Commission may review and approve use of more than four state-created zones.

[114] *See Interstate Access Support Order*, 15 FCC Rcd at 13014 para. 127 ("The proposal provides an incentive to LECs to deaverage voluntarily other than through offset free from the limitations of the proposed safeguards.").

[115] 47 C.F.R. § 69.152(q)(3).

[116] *Id.* at § 69.152(q)(4).

[117] *Id.* at § 69.152(q)(5).

[118] *Interstate Access Support Order*, 15 FCC Rcd at 12990 para. 73; 47 C.F.R. § 69.152(q)(7).

the MAG plan, SLC caps gradually would rise for all rate-of-return carriers to price cap carrier levels. The residential and single-line business SLC cap initially would rise from $3.50 to $5.00, and thereafter with the SLC caps of price cap carriers, "so long as those amounts are reasonably comparable to the [SLCs] that price cap LECs actually charge[.]"[119] The multi-line business SLC cap would increase from $6.00 to $9.20 over two years.[120] Rate-of-return carriers would be permitted to deaverage SLCs below the wire center level (no more than three zones per wire center), provided that no multi-line business SLC is lower than the lowest residential SLC.[121] The MAG plan also includes provisions for assessment of SLCs for Centrex lines and integrated services digital network (ISDN) service.[122]

39. The SLC cap increases proposed by the MAG would permit offsetting reductions in CCL charges. For Path A pooling carriers, the MAG plan would further lessen such charges by establishing a weighted aggregate target ("Composite Access Rate" or CAR) for all per-minute switched access charges, which gradually would be reduced to 1.6 cents by July 1, 2003.[123] Path A pooling carriers would be eligible for support from a new universal service mechanism to recover any shortfall in their allowed common line revenue.[124]

2. Discussion

40. We adopt the MAG's proposal to increase the recovery of common line costs through SLCs and permit limited SLC deaveraging, with certain modifications that are discussed below. By rationalizing the common line rate structure and moving per-minute switched access rates towards lower, cost-based levels, these measures will encourage efficient competition and promote consumer choice in areas served by rate-of-return carriers. The revised SLC caps, which conform to those already implemented for most subscribers nationwide, will ensure that rates and services in rural areas remain affordable and reasonably comparable to those in urban areas. SLC deaveraging will provide important pricing flexibility for rate-of-return carriers.

41. We do not adopt the MAG proposal to permit certain carriers to continue to assess a CCL charge. As discussed below, the CCL charge is "an inefficient cost recovery mechanism and implicit subsidy."[125] The Commission has taken various measures to phase out the CCL charge for price cap carriers. Rather than leaving this mechanism in place for rate-of-return carriers, as the MAG proposes, we find that it should be removed from the common line rate structure and replaced with explicit, portable universal service support. Consistent with the 1996

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[119] *See MAG Notice*, 16 FCC Rcd at 462 para. 7, 566. There would be no separate SLC cap for non-primary residential lines under the MAG plan. *Id.* Lifeline support would increase to cover increased SLCs for low-income customers.

[120] *Id.*

[121] *Id.* Carriers would have to file maps, descriptions, and rates for each cost zone with the Commission. SLC revenues would be imputed to pooling carriers as if their SLC rates were set at the caps.

[122] *Id.*

[123] *Id.* at 463 para. 8, 568.

[124] *Id.* at 463 para. 8, 555. Non-pooling carriers and Path B carriers would not be eligible for such support. *Id.*

[125] *Access Charge Reform Order*, 12 FCC Rcd at 16008 para. 69.

Act, we conclude that this approach strikes a fair and reasonable balance between our competitive goals for the local and long distance telecommunications markets and our mandate to preserve and advance universal service.

a. Residential and Single-Line Business SLCs

42. We adopt the MAG proposal to increase the residential and single-line business SLC cap to the levels established for price cap carriers under the CALLS plan. Thus, the cap will increase to $5.00 beginning on January 1, 2002, and thereafter with the residential and single-line business SLC caps of price cap carriers, up to $6.00 as of July 1, 2002, and $6.50 as of July 1, 2003, subject to cost showings by price cap carriers. For the reasons set forth below, we do not adopt the MAG proposal to condition SLC cap increases on the actual SLC rates of price cap carriers. We do adopt the MAG proposal not to distinguish between primary and non-primary residential lines.

43. We conclude that the residential and single-line business SLC cap levels approved in the *Interstate Access Support Order* are appropriate for rate-of-return carriers. Increasing the recovery of non-traffic sensitive common line costs through flat, end user charges is a longstanding Commission goal.[126] As the Commission has stated, "[b]ecause common line costs do not vary with usage, these costs should be recovered on a flat-rated instead of a per-minute basis. In addition, these costs should be assigned, where possible, to those customers who benefit from the services provided by the local loop"[127] Our examination of the record reveals a consensus among commenters as to the need for rural access charge reform.[128] Commenters also generally support the MAG proposal to address this need by raising SLC caps to the levels approved for price cap carriers,[129] which were recently upheld by the Fifth Circuit in *Texas Office of Public Utility Counsel v. FCC*.[130] Adoption of the same SLC cap levels for price cap and rate-of-return carriers is consistent with our tentative conclusion in the *1998 Notice* that similar rate structure modifications generally should be adopted for the two groups,[131] and will establish uniformity in SLC cap levels among end users nationwide. This measure will benefit

[126] *1983 Access Charge Order*, 93 FCC 2d at 264-65; *see Interstate Access Support Order*, 15 FCC Rcd at 12990 para. 75 (finding that CALLS plan "furthers the Commission's efforts over the past two decades to eliminate per-minute recovery of common line costs.").

[127] *Access Charge Reform Order*, 12 FCC Rcd at 16013 para. 77.

[128] *See* Home Tel. Co. Comments in CC Docket No. 98-77 at 1-2 ("The problems created by high access rates in the rural areas are well understood and generally agreed to by most parties."); Ad Hoc Comments at 26, Global Crossing Comments at 6-7, Telcom Consulting Assoc. Comments at 4-5, MAG Reply at 4; *see also Rural Task Force Order*, 16 FCC Rcd at 11323 para. 202.

[129] *See* Alabama Rural LECs Comments at 2-3, AT&T Comments at 5, California Commission Comments at 12-13, Competitive Universal Service Coalition Comments at 14, Global Crossing Comments at 4, MAG Comments at 11, Qwest Comments at 2, Sprint Comments at 6, WorldCom Comments at 8, AT&T Reply at 1, Excel Comm'ns Reply at 2, Verizon Reply at 2.

[130] *Texas Office of Public Utility Counsel v. FCC*, No. 00-60434 at § III.A.

[131] *1998 Notice*, 13 FCC Rcd at 14250-51 para. 35; *see id.* at 14240 para. 3 ("While rate-of-return LEC costs generally may be higher than price cap LEC costs due to longer loops or lower economies of scale, the two groups of carriers incur costs in the same manner, and similar economic principles should apply.").

consumers by fostering efficient competition, reducing overall rates, and increasing the transparency of the interstate access rate structure.[132] Furthermore, we believe that it will help to ensure the continued financial viability of local telephone companies serving rural and high-cost areas.[133]

44. We also conclude that the residential and single-line business SLC cap levels we approve here will ensure affordable and reasonably comparable rates in urban and rural areas. The Commission has approached common line rate structure reform cautiously over the years, due to affordability and universal service concerns.[134] It found the SLC cap levels that we approve here for rate-of-return carriers to be affordable and consistent with our universal service goals, however, a decision which the Fifth Circuit recently affirmed.[135] Pursuant to the *Interstate Access Support Order*, new SLC caps have been implemented for the vast majority of access lines nationwide. Telephone subscribership has remained at historic high levels since SLC rates increased for customers of price cap carriers.[136] Adoption of the CALLS plan has benefited consumers through the elimination of passed-through PICC charges and reductions in long distance rates in all service areas, including those of rate-of-return carriers.[137] Consistent with the 1996 Act, the SLC cap levels we approve here will reduce CCL charges, which are an implicit subsidy from high-volume to low-volume users of interstate long distance services, and which have adverse consequences on competition and limit consumer choice.[138] Our action here will establish parity in SLC cap levels among end users nationwide, and the benefits that flow from such parity. In addition, consistent with the MAG proposal and our existing rules for price cap carriers, the potential impact of SLC increases on low-income subscribers will be addressed through increased federal Lifeline support to cover the amount of SLC increases.[139]

45. We also find that our actions will ensure reasonable comparability of SLC rates in urban and rural areas in light of the cost differences between providing common line service in such areas. As discussed above, by capping SLC rates at $6.50, we ensure that no residential or single-line business subscriber will pay in excess of $6.50 per line for common line service. Any

[132] *See Interstate Access Support Order*, 15 FCC Rcd at 12991-994 paras. 77-81, 12997-98 para. 89.

[133] *See* Home Tel. Co., Inc. Comments in CC Docket No. 98-77 at 1-2 ("The continued financial viability of rural areas and the companies operating in them is dependent upon successful access charge reform, supported as necessary with universal service fund support.").

[134] *See Access Charge Reform Order*, 12 FCC Rcd at 16007-08 para. 68, 16010-11 para. 73.

[135] *Interstate Access Support Order*, 15 FCC Rcd at 12995-96 paras. 85-86 ("The SLC cap was set over a decade ago and was determined to be generally affordable. It has never been adjusted for inflation. Our rate restructuring today will result in lower overall charges than consumers experience with the current SLC and PICC, and a more efficient recovery of common line revenues through flat charges."); *see Texas Office of Public Utility Counsel v. FCC*, No. 00-60434 at § II.A (affirming decision to raise residential and single-line business SLC caps as a "reasoned attempt to maintain the difficult balance between the principles of ensuring affordability and encouraging competition.").

[136] *See* Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, Trends in Telephone Service, August 2001, Tables 17.1-17.2.

[137] *Interstate Access Support Order*, 15 FCC Rcd at 12996-97 para. 88.

[138] *See infra*, § IV.A.2.d.

[139] *See infra*, § IV.D.2.d.

differences in the SLC rates that subscribers pay in different areas will be reasonable compared to the difference in the cost of serving such areas. For example, our forward-looking economic cost model shows that the cost of providing a local loop in a rural area may be approximately one hundred times greater than the cost in an urban area.[140] Our actions today, however, ensure that any costs above the $6.50 SLC cap will be covered by the new, explicit support mechanism, ensuring that prices remain affordable. In light of the cost of providing this critical link to the telephone network in rural areas, we believe that the revised SLC cap levels that we approve here will ensure reasonable comparability of SLC rates.

46. We do not adopt the MAG proposal to condition SLC cap increases on the actual SLC rates of price cap carriers because we find it to be unnecessary and administratively impractical. The provisions of section 254(b)(3) were intended not to prevent rates from reflecting the costs of serving different areas, but to ensure a fair range of rates.[141] The SLC cap levels that we approve here protect subscribers in rural and high-cost areas by ensuring that no SLC rate may exceed the cap.[142] In addition, it is unclear how the MAG proposal would be implemented: the MAG has not addressed whether price cap carrier rates should be considered on a national, state-to-state, or regional basis, or the number of price cap carriers that must charge the maximum rate before triggering SLC cap increases for rate-of-return carriers.

47. We adopt the MAG proposal to apply the same SLC cap to primary and non-primary residential lines. As stated above, the Commission approved a higher non-primary residential SLC rate for price cap carriers in the *Access Charge Reform Order*.[143] In the *Interstate Access Support Order,* however, the Commission allowed price cap carriers to eliminate the distinction over time, concluding that this would simplify the common line rate structure and eliminate the administrative costs associated with administering the distinction, "which are ultimately borne by consumers."[144] A number of commenters contend that the administrative burdens of implementing the distinction would be greater for small rate-of-return carriers than for price cap carriers.[145] In this regard, we are mindful of the Regulatory Flexibility Act requirement that we consider the potential impact of any such measure on small, local telephone companies.[146] Furthermore, several commenters maintain that higher SLC rates for

[140] Our forward-looking economic cost model shows a cost of $866.27, without adjusting for overhead costs, to provide a local loop in a Wyoming wire center, compared to a cost of $9.97 in a New York City wire center. Adjusting for overhead costs greatly increases this cost difference. Primary residential and single-line business customers in both service areas, however, currently pay the capped SLC rate for price cap carriers of $5.00. *See* http://www.fcc.gov/ccb/apd/hcpm/ (data for LAKEWYMA in Wy_mount and NYCMNYBS in File NY_NEWY).

[141] *See Interstate Access Support Order,* 15 FCC Rcd at 13012-13 paras. 123-25.

[142] *See id.* at 13013 para. 125.

[143] *Access Charge Reform Order*, 12 FCC Rcd at 16000 para. 39, 16005 para. 58. The average residential SLC charged by price cap carriers is $4.91 for a primary line and $5.93 for a non-primary line.

[144] *Interstate Access Support Order*, 15 FCC Rcd at 13002 para. 100.

[145] *See* NRTA and NTCA in CC Docket No. 98-77 at 26, OPASTCO Comments in CC Docket No. 98-77 at 14-15, John Staurulakis Comments in CC Docket No. 98-77 at 10, 14, TDS Comments in CC Docket No. 98-77 at 13-15, USTA Comments in CC Docket No. 98-77 at 14.

[146] *See* 5 U.S.C. § 601, *et seq.* The Regulatory Flexibility Act has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996).

non-primary residential lines would limit growth of such lines, which are often used for advanced services and represent an important source of revenue for small, local telephone companies.[147] Based on all of these considerations, we will apply the same SLC cap levels to the primary and non-primary residential lines of rate-of-return carriers.

48. Residential and single-line business SLC cap increases above $5.00 for rate-of-return carriers will be conditioned on similar increases for price cap carriers, but we will not conduct a separate cost review proceeding for rate-of-return carriers. Under the CALLS plan, SLC cap increases above $5.00 for price cap carriers are subject to cost justification.[148] If any SLC cap increases above $5.00 are cost-justified for price cap carriers, we believe that a separate showing for rate-of-return carriers would be unnecessary and create undue administrative burdens, because rate-of-return carriers generally have higher common line costs than price cap carriers.[149] This is consistent with our conclusion that parity in SLC cap levels among price cap and rate-of-return carriers is appropriate to ensure reasonable comparability of rates in urban and rural areas.

49. We disagree with commenters who contend that SLC caps should not be increased for rate-of-return carriers.[150] These commenters rely largely on arguments that the Commission considered and rejected in the *Interstate Access Support Order*.[151] We find unpersuasive arguments that consumers will not benefit from SLC cap increases because interexchange carriers have not committed to pass through access charge reductions and, in any event, only a small percentage of the nation's access lines will be affected. The reforms we adopt here further longstanding competitive and universal service goals of the Commission,[152] and will provide a number of important consumer benefits. We do not believe that realization of these benefits should be conditioned on specific commitments to long distance rate reductions. Furthermore, our action here establishes SLC cap level parity among end users nationwide. Consumers in rate-of-return carrier service areas already have benefited from lower long distance

[147] *See* Plains Rural Indep. Cos. Comments at 10, NECA Comments in CC Docket No. 98-77 at 5-6, NRTA and NTCA Comments in CC Docket No. 98-77 at 26-28, USTA Comments in CC Docket No. 98-77 at 12-14.

[148] *Interstate Access Support Order*, 15 FCC Rcd at 12988 para. 70, 12994 para. 83; 47 C.F.R. § 69.152; *see Initiation of Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charge (SLC) Caps*, CC Docket Nos. 96-262, 94-1, Public Notice, DA 01-2163 (released September 17, 2001).

[149] *See supra*, §§ III.C, IV.A.2.a; *Interstate Access Support Order*, 15 FCC Rcd at 12994-95 para. 84.

[150] *See* ICORE Comments at 14-16, Interstate Telcom Group Comments at 15, John Staurulakis Comments at 2-3, Texas Commission Comments at 3-4, Fred Williamson & Assoc. Comments at 6-7, Alliance of Indep. Rural Tel. Cos. Reply at 6-7, Ronan Tel. Co. Reply at 5, Summit Tel. Co. Reply at 2.

[151] *See Interstate Access Support Order*, 15 FCC Rcd at 12995-1300398 paras. 85-99 (rejecting arguments that, *inter alia*, SLC cap levels approved for price carriers are unaffordable, fail to encourage efficient competitive entry, unfairly exempt interexchange carriers from sharing common line costs, or should not be approved because they will lead indirectly to intrastate access rate increases); *see Texas Office of Public Utility Counsel v. FCC*, No. 00-60434 at § II.B (rejecting argument that CALLS plan violates section 254(k) of the Act).

[152] *See Access Charge Reform Order*, 12 FCC Rcd at 14251 para. 35 (bringing the common line rate structure into line with cost-causation principles and phasing out implicit subsidies "will promote the public welfare by encouraging investment and efficient competition, while establishing a secure structure for achieving the universal service goals established by law.").

rates that followed from the access reforms (including SLC cap increases) adopted under the 1997 *Access Charge Reform Order* and the CALLS plan.[153]

50. Finally, we disagree with Interstate Telcom Group's argument that SLC cap levels should be lower for rate-of-return carriers because their customers have smaller local calling areas and most customers perceive SLC increases as equivalent to local rate increases.[154] There is no good reason why customers of higher-cost companies should pay less than customers of lower-cost companies. Increasing SLC rates will allow us to reduce the CCL charge, which is an implicit subsidy from high-volume to low-volume users. Regardless of customer perceptions, SLC increases do not affect local service rates directly, and we believe that concerns about potential perceptions of our actions here are outweighed by the need for access charge reform.[155]

b. Multi-Line Business SLCs

51. We adopt the MAG proposal to increase the multi-line business SLC cap to $9.20 per line, the level established for price cap carriers under the CALLS plan. We conclude that this increase should occur as of January 1, 2002, rather than over a two-year period as proposed by the MAG. We do not adopt the MAG proposal to assess one-ninth of the multi-line business SLC rate on Centrex lines. We adopt the MAG proposal to determine SLCs for Basic Rate Interface and Primary Rate Interface ISDN service in the same manner as for price cap carriers.

52. We conclude that the multi-line business SLC cap approved for price cap carriers is appropriate for rate-of-return carriers. As the Commission observed in 1997, the current multi-line business SLC cap of $6.00 "was set over a decade ago, and . . . has never been adjusted for inflation[.]"[156] Commenters generally support the MAG proposal to establish parity between the multi-line business SLC cap level for rate-of-return and price cap carriers, and this approach is consistent with our proposal in the *1998 Notice* to adopt similar rate structure modifications for the two groups.[157] As discussed above, we find that reforming the common line rate structure in this manner will further our competitive and universal service goals, provide important consumer benefits, and help to ensure the continued financial viability of local telephone companies serving rural and high-cost areas.[158] Consistent with prior Commission

[153] *See Interstate Access Support Order*, 16 FCC Rcd at 12996-97 para. 88 ("the CALLS Proposal will provide rate benefits for rural customers including those not served by price cap LECs. Most IXCs currently assess a flat-rated charge to recover the PICC on all of their subscribers, including those subscribers served by rate-of-return LECs. By eliminating the PICC, we eliminate these charges from the bills of these subscribers as well. . . . Because long-distance providers must offer their geographically-averaged rates to all of their customers, including those served by rate-of-return carriers, rural customers also will benefit from reductions in per-minute rates.").

[154] Interstate Telcom Group Comments at 15.

[155] *See Interstate Access Support Order*, 15 FCC Rcd at 12996 para. 87.

[156] *Access Charge Reform Order*, 12 FCC Rcd at 16015 para. 82. We also note that if presently adjusted for inflation, the $9.20 multi-line business SLC cap would be less than the $6.00 cap established in 1984 (based on Bureau of Labor Statistics, CPI-U).

[157] *1998 Notice*, 13 FCC Rcd at 14250-51 para. 35; *see id.* at 14250 para. 3 ("While rate-of-return LEC costs generally may be higher than price cap LEC costs due to longer loops or lower economies of scale, the two groups of carriers incur costs in the same manner, and similar economic principles should apply.").

[158] *See supra*, § IV.A.2.a; *see also Access Charge Reform Order*, 12 FCC Rcd at 16014-15 paras. 78-82.

actions, we adopt higher SLC caps for multi-line business lines than for residential and single-line business lines, although the costs of providing multi-line business lines are not higher, because universal service concerns are not as great for multi-line business lines.[159]

53. We conclude that the multi-line business SLC cap for rate-of-return carriers should increase to the price cap carrier level of $9.20 on January 1, 2002. We disagree with the MAG's contention that a phased-in transition is necessary to "balance customer concerns about rate shock with the need to improve recovery of common line costs."[160] As WorldCom points out, the Commission increased the multi-line business SLC cap for price cap carriers from $6.00 to $9.00 in a single step in 1997, determining that this approach would not threaten universal service.[161] We are not persuaded that a different approach is warranted here. In addition, we find that our actions will ensure reasonable comparability of SLC rates in urban and rural areas in light of the cost differences between providing common line service in such areas.[162] Moreover, the access charge reform measures we adopt in this Order will facilitate long distance toll rate averaging and optional calling plans that will benefit businesses.

54. We do not adopt proposals to limit the multi-line business SLC cap for rate-of-return carriers to the national average SLC rate for price cap carriers. In this regard, a number of rate-of-return carriers have expressed concerns that multi-line business SLC cap disparities would enable lower-priced price cap carriers to "cherry pick" the high-volume business customers of the higher-priced rate-of-return carriers.[163] We are not persuaded that such a measure is necessary to ensure reasonable comparability of rates in urban and rural areas. As discussed above, the SLC cap protects subscribers in rural and high-cost areas by ensuring that no SLC rate may exceed the cap.[164] Indeed, although the national average rate for price cap

[159] *See Access Charge Reform Order*, 12 FCC Rcd at 16000 para. 38, 16005 para. 58.

[160] MAG Reply at iv; *see MAG Notice,* 16 FCC Rcd at 462 para. 7, 566.

[161] WorldCom Comments at 8-9 ("it is clear that the 1997 increase in price cap carriers' multiline business SLC cap has had no impact on price cap carriers' subscribership, even though that increase was effected in one step and even though millions of price cap carrier lines are now subject to [a] maximum SLC cap of $9.20."); *see Access Charge Reform Order*, 12 FCC Rcd at 16014-15 paras. 78-81.

[162] *See supra*, § IV.A.2.a. As discussed above, our cost model shows that the cost of providing a local loop in a rural area may be approximately one hundred times greater than the cost in an urban area. Using the example set forth above, the SLC rate for multi-line business customers in New York is $8.08, compared to the multi-line business SLC rate of $9.20 being charged in Wyoming. *See supra*, n.140.

[163] *See 1998 NPRM*, 13 FCC Rcd at 14252 para. 37 ("Several entities have expressed concern that the immediate SLC increases to $9.00 will create a large disparity between SLCs charged by rate-of-return LECs and neighboring price cap LECs, and that . . . the lower-cost price cap carriers will be able to 'cherry pick' the high volume business customers of the higher priced rate-of-return LECs. These entities urge the Commission to grant them pricing flexibility and propose that SLCs be set based on the national average or on the neighboring price cap LEC's average SLC."); Evans Tel. Co., *et al.* Comments in CC Docket No. 98-77 at 4, GVNW Consulting Comments in CC Docket No. 98-77 at 6, Home Tel. Co. Comments in CC Docket No. 99-87 at 5-6, Lexcom Tel. Co. in CC Docket No. 98-77 at 13-16, Minnesota Indep. Coalition Comments in CC Docket No. 98-77 at 6-7, 9-10, NRTA and NTCA Comments in CC Docket No. 98-77 at 17-21, OPASTCO Comments in CC Docket No. 98-77 at 3-4, New England Tel. Assoc., Small Co. Members Comments in CC Docket No. 98-77 at 7, John Staurulakis Comments in CC Docket No. 98-77 at 10, 14, TDS Comments in CC Docket No. 98-77 at 15, USTA Comments in CC Docket No. 98-77 at 10-11, Western Alliance in CC Docket No. 98-77 at 13-15.

[164] *See supra*, § IV.A.2.a.

carriers is below the cap, the rates of some price cap carriers are at or near the cap.[165] In addition, to the extent that the proposed measure is intended to protect rate-of-return carriers from competition,[166] we believe that it would be inconsistent with the purpose of SLC caps, which is to ensure affordable and reasonably comparable rates.[167] SLC deaveraging will allow rate-of-return carriers to address their competitive concerns in a more appropriate manner.[168]

55. *Centrex.* We do not adopt the MAG proposal to assess one-ninth of the multi-line business SLC on Centrex lines.[169] Multi-line business PICCs are assessed on the customers of price cap carriers using a 9:1 line-to-trunk equivalency ratio.[170] With regard to multi-line business SLCs, however, the Commission's rules require that Centrex lines be counted in the same manner as any other line between a customer's premises and the LEC central office switch.[171] The MAG offers no justification for departing from this approach. We disagree with Dunkirk and Fredonia Telephone Company that we should adopt the MAG proposal to avoid placing Centrex customers at a disadvantage.[172] Centrex service uses more lines than does PBX service and, therefore, necessarily creates more costs.[173] If a customer chooses to use Centrex, we believe that it should pay for its decision. We also note that the multi-line business PICC is a subsidy mechanism which is being phased out for price cap carriers, whereas SLC charges are assessed on the cost-causer to recover actual costs associated with each additional line.[174]

56. *ISDN Service.* Consistent with the MAG proposal, we adopt the same methods for calculating SLC rates for Basic Rate Interface (BRI) and Primary Rate Interface (PRI) ISDN

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[165] *See, e.g.*, WorldCom Comments at 9 n.12 ("Among the price cap LECs with study areas that assess a $9.20 multiline business SLC are Qwest (Colorado, Montana, New Mexico, Wyoming, and Idaho), GTE (most study areas, including Hawaii, Texas, and Washington), Sprint, and Citizens.").

[166] *See 1998 Notice*, 13 FCC Rcd at 14251-52 para. 37.

[167] *See Access Charge Reform Order*, 12 FCC Rcd at 16007-08 para. 68.

[168] *See infra*, § IV.A.2.c.

[169] *See MAG Notice*, 16 FCC Rcd at 566 ("[e]nd 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.").

[170] *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers,*, CC Docket No. 96-262, Second Order on Reconsideration and Memorandum Opinion and Order, 12 FCC Rcd 16606, 16617-18 para. 38 (1997) (*Second Order on Reconsideration*); *id.* at 16615 para. 31 (concluding that, with regard to multi-line business PICCs, "Centrex customers should be treated similarly to PBX customers, because the two arrangements are functionally equivalent.").

[171] 47 C.F.R. §§ 69.104(a), 69.152(a).

[172] Dunkirk & Fredonia Tel. Co. Reply at 2-4.

[173] *Second Order on Reconsideration*, 12 FCC Rcd at 16616 para. 35 ("Centrex arrangements are charged SLCs on a per-line basis, even though this difference results in a higher rate than equivalent PBX arrangements."); *see* AT&T Comments ("each Centrex line is a common line to which a full SLC should apply"), WorldCom Comments at 10 (*citing MTS and WTS Market Structure Memorandum Opinion and Order*, 97 FCC 2d 682, 700 para. 45 (1983)).

[174] *See Second Order on Reconsideration*, 12 FCC Rcd at 16615 para. 31.

service as we currently use for price cap carriers.[175] SLCs for BRI and PRI ISDN service are assessed on the customers of price cap carriers using 1:1 and 5:1 cost ratios, respectively.[176] No commenters have opposed application of these cost ratios to rate-of-return carriers, and we have no reason to believe that different methods would be appropriate for rate-of-return carriers.

c. SLC Deaveraging

57. We also modify our rules today to permit limited SLC deaveraging, which will provide important pricing flexibility for rate-of-return carriers. As discussed below, rate-of-return carriers will be permitted to deaverage SLCs subject to most of the limitations adopted for price cap carriers under the CALLS plan. Whereas price cap carriers may deaverage SLC rates only in accordance with state commission-approved UNE loop zones, however, we conclude that rate-of-return carriers also should be permitted to deaverage SLC rates in accordance with universal service support disaggregation plans established pursuant to the *Rural Task Force Order*. This approach combines the safeguards adopted for price cap carriers under the CALLS plan with the flexibility of the Rural Task Force disaggregation scheme, which we believe is necessary to address the significant diversity among rate-of-return carriers.

58. We conclude that granting rate-of-return carriers more flexibility to deaverage SLC rates will "enhance the efficiency of the local telephone market by allowing prices to be tailored more easily and accurately to reflect costs and, therefore promotes competition in both urban and rural areas."[177] Deaveraging has the added virtue of reducing implicit subsidies created by averaged rates.[178] A number of commenters emphasize the importance of SLC rate deaveraging in enhancing the competitiveness of rate-of-return carriers.[179]

59. In general, we conclude that the limitations and safeguards on SLC rate deaveraging adopted for price cap carriers in the *Interstate Access Support Order* are appropriate for rate-of-return carriers. Multi-line business SLC rates within a given zone will not be allowed to fall below primary residential and single-line business SLC rates.[180] Deaveraged SLC rates for a given customer class cannot be lower in high-cost zones than in low-cost zones.[181]

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[175] *See MAG Notice*, 16 FCC Rcd at 566; *see also 1998 Notice*, 13 FCC Rcd at 14255 para. 48 (proposing to establish SLC rates for ISDN service similar to those adopted for price cap carriers).

[176] 47 C.F.R. § 69.152(l); *see Access Charge Reform Order*, 12 FCC Rcd at 16032 para. 116. The Commission established different SLC rates for BRI and PRI ISDN services based on evidence that the non-traffic sensitive loop costs of the two services differ. Specifically, the Commission determined that "the NTS loop costs of BRI ISDN service, excluding NTS switching costs, when rounded to the nearest half SLC, reflect a 1:1 cost ratio relative to the NTS loop costs of single-channel analog services[,]" and that "the NTS loop costs of PRI ISDN services, excluding switching costs, reflect a cost ratio of approximately 5:1 compared to the NTS loop costs of single-channel analog service." *Id.*

[177] *Interstate Access Support Order*, 15 FCC Rcd at 13007 para. 113.

[178] *Id.* at 13007 para. 114.

[179] *See, e.g.*, Alaska Rural Coalition Comments at 3, Plains Rural Indep. Cos. Comments at 14, GVNW Consulting Reply at 7, MAG Reply at 10.

[180] *See* 47 C.F.R. § 69.152(q)(3).

[181] *See id.* at § 69.152(q)(4).

Deaveraging must be revenue-neutral: deaveraged SLCs cannot generate more revenue than permitted for averaged SLCs.[182] Rate-of-return carriers may, through voluntary reduction, *lower* SLCs rates in certain disaggregation zones but may not *raise* rates in any disaggregation zones above the SLC caps.[183] For *all deaveraging*, the mandatory SLC caps apply. For purposes of calculating Interstate Common Line Support, SLC revenues will be imputed to rate-of-return carriers as if their SLC rates had been set at the maximum amount.[184] We find that a minimum SLC charge limitation is unnecessary, because rate-of-return carriers are likely to have less latitude than price cap carriers in reducing SLCs due to the above limitations and their higher common line costs.[185]

60. Rate-of-return carriers may deaverage SLCs only in accordance with state commission-approved UNE loop zones *or* with disaggregation plans established pursuant to the *Rural Task Force Order*.[186] Because both SLCs and high-cost loop support under Part 36 of the Commission's rules recover loop costs, the cost characteristics of rate-of-return carrier service areas should be the same for purposes of SLC deaveraging and disaggregation of high-cost loop support. The approach that we adopt provides the flexibility required to address the significant diversity among rate-of-return carriers, most of which lack state commission-approved UNE loop zones,[187] while applying the safeguards built into the Rural Task Force disaggregation scheme. It also minimizes administrative burdens on rate-of-return carriers, as well as confusion among competitive carriers, by ensuring that rate-of-return carriers do not have multiple, overlapping zones within their service areas for universal service support and SLC rates.

d. Recovery of Remaining Common Line Costs

61. We conclude that the CCL charge, which the Commission largely has phased out for price cap carriers, also should be removed from the rate structure of rate-of-return carriers. As discussed below, the CCL charge will be eliminated as of July 1, 2003, when SLC caps are scheduled to reach their maximum levels, and a new universal service support mechanism, Interstate Common Line Support, will be implemented to replace the CCL charge beginning on July 1, 2002.[188] Consistent with the mandate of the 1996 Act, these measures will rationalize the common line rate structure, move per-minute switched access rates towards lower, cost-based levels, and convert implicit support for universal service to explicit support that is secure in an competitive environment.

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[182] *Id.* at § 69.152(q)(5).

[183] *See Interstate Access Support Order*, 15 FCC Rcd at 13014 para. 127 ("The proposal provides an incentive to LECs to deaverage voluntarily other than through offset free from the limitations of the proposed safeguards.").

[184] *See MAG Notice*, 16 FCC Rcd at 567 (proposing that, for purposes of pooling, SLC revenues be imputed to rate-of-return carriers "as if they had been set at the maximum amount"); *infra*, § IV.D.2.

[185] Under the CALLS plan, a minimum SLC rate within the price cap carrier's lowest-cost zone limits the rates in higher-cost zones. *See* 47 C.F.R. § 69.152(q)(7); *Interstate Access Support Order*, 15 FCC Rcd at 12990 para. 73.

[186] *See Rural Task Force Order*, 16 FCC Rcd at 11302-09 paras. 144-64.

[187] *See* 47 U.S.C. § 251.

[188] *See infra*, § IV.D.2.

62. The Commission has concluded that the CCL charge is an "inefficient cost-recovery mechanism and implicit subsidy" which is not sustainable in a competitive environment.[189] As discussed above, the CCL charge permits rate-of-return carriers, to the extent that they cannot recover their non-traffic sensitive interstate loop costs through flat-rated end user charges and LTS, to recover such costs through a per-minute charge imposed on interexchange carriers.[190] Interexchange carriers pass this charge on to their customers in the form of higher long distance rates, "keeping toll rates artificially high and discouraging demand for interstate long distance services."[191] This rate structure creates implicit support flows between different classes of customers.[192] It is not sustainable in a competitive environment because, among other things, "high-volume customers can migrate to a competitive LEC able to offer an efficient combination of flat and per-minute charges, even if the competitive LEC has the same or higher costs than the incumbent LEC."[193] Consistent with the Act and with prior reforms adopted for price cap carriers, therefore, we conclude that the CCL charge should be removed from the common line rate structure of rate-of-return carriers.[194]

63. Removing the CCL charge from the common line rate structure of rate-of-return carriers will have a number of important benefits. It will reduce the cost of long distance service and encourage a more efficient level of consumption. It will move per-minute switched access rates towards cost-based levels and promote efficient competition in the exchange access market by permitting both incumbent and competitive carriers to compete for all services based on price.[195] Furthermore, by fostering efficient competition, conversion of the CCL charge to explicit, portable universal service support will lead to lower rates and better service.[196] Currently, the CCL charge is imposed on interexchange carriers that cannot reduce the cost by efficiency gains. By converting the CCL charge to explicit support that is portable to competitive carriers, we will enable competitive carriers that provide service at lower cost to

[189] *Access Charge Reform Order*, 12 FCC Rcd at 16008 para. 69.

[190] *See supra*, §§ III.A, III.B, IV.A.1.

[191] *Access Charge Reform Order*, 12 FCC Rcd at 16013 para. 76.

[192] *See id.* at 16013 para. 76 ("For example, because end-user customers vary widely in their use of interstate long distance services, low-volume toll users do not pay the full cost of their loops while high-volume toll users contribute far more than the total cost of their loops. In addition high-volume toll users, who include significant numbers of low-income customers, effectively support non-primary residential and multi-line business customers."); *supra*, § III.B.

[193] *Access Charge Reform Order*, 12 FCC Rcd at 16008 para. 69. In other circumstances, implicit support may undermine efficient competition by permitting an incumbent carrier to price services below cost. *Id.*

[194] *See* 47 U.S.C. § 254(e); *Access Charge Reform Order*, 12 FCC Rcd at 16004-06 paras. 54-60.

[195] *See* Innovative Comments at 2-5 ("As currently constituted, access charges contain implicit subsidies that support universal service. Implicit subsidies are incompatible with today's marketplace"), Telcom Consulting Assoc. Comments at 2, 4 ("[L]ower access rates . . . will greatly reduce the economically inefficient incentives for competitors to pursue high-volume users and will help ensure that all customers will benefits from competition."), AT&T Reply at 6.

[196] *See* Competitive Universal Service Coalition Comments at 5.

pass those cost savings through to rate-paying end users. To remain competitive, incumbent carriers will have greater incentives to create their own efficiencies and reduce their rates.[197]

64. Eliminating the CCL charge also will facilitate compliance with geographic rate averaging and rate integration requirements by interexchange carriers, and encourage interexchange carriers to compete for long distance customers in rural areas.[198] Under section 254(g) of the Act, interexchange carriers bear the cost of averaging on a nationwide basis the different per-minute switched access rates charged by LECs. Wide disparities in switched access rates may create pressure on interexchange carriers to deaverage long distance toll rates, contrary to the requirements of section 254(g).[199] Such disparities also may discourage interexchange carriers from competing to provide service to consumers in the service areas of carriers with high per-minute switched access charges.[200] Rate disparities between rate-of-return and price cap carriers are due partly to cost differences between the two groups and partly to rate structure differences.[201] As a result of the phase out of the CCL charge for price cap carriers, the CCL charge represents a rate structure difference between price cap and rate-of-return carriers that compounds rate disparities between the two groups.[202] Eliminating this difference will reduce such disparities and thereby promote the toll rate averaging policies codified in section 254(g).

65. We adopt the following schedule for phasing out the CCL charge. The current common line rate structure will remain in place until implementation of a new universal service support mechanism, Interstate Common Line Support, to replace the CCL charge beginning on July 1, 2002.[203] From July 1, 2002, to June 30, 2003, rate-of-return carriers may impose a transitional CCL charge on all switched access minutes to recover, for each residential and single-line business line in their study area, the difference between the residential SLC and the lesser of $6.50 or their average cost per line.[204] If the CCL charge were eliminated as of July 1, 2002, prior to SLC caps reaching their maximum permissible level, the size of the new support

[197] Incumbent rate-of-return carriers also may benefit from access reform in other ways. *See, e.g.,* Innovative Comments at 4 (contending that access reform would permit incumbent carriers to better compete for high-volume customers that may consider the cost of access to interstate service in deciding where to locate their businesses).

[198] *See Access Charge Reform Order*, 12 FCC Rcd at 15996 para. 30.

[199] *See* AT&T Comments at 6-8, GCI Comments at 3, MAG Comments at 8, Sprint Comments at 5-6, Telcom Consulting Assoc. Comments at 5, Wisconsin Commission Comments at 8, AT&T Reply at 7-9; *see also Rural Task Force Order*, 16 FCC Rcd at 11323 para. 202 ("According to the Rural Task Force, rate disparity between price cap and rate-of-return carriers . . . may create significant pressures on interexchange carriers to geographically deaverage toll rates.").

[200] TCA Comments at 5, AT&T Reply at 7-8.

[201] *See Rural Task Force Order*, 16 FCC Rcd at 11323 para. 202; *see infra*, § IV.B.2.a.

[202] *See Access Charge Reform Order*, 12 FCC Rcd at 16004-06 paras. 54-60 (phasing out CCL charge for price cap carriers).

[203] 47 C.F.R. § 69.105.

[204] The multi-line business SLC cap will be increased to $9.20 in a single step on January 1, 2002. We emphasize, however, that the transitional CCL charge will be imposed on all interstate minutes of use, including those for multi-line business lines, although only residential and single-line business lines will be used to determine the amount of revenue needed to be recovered through transitional CCL charges.

mechanism would initially balloon and then shrink in July, 2003.[205] We conclude that a transitional CCL charge is warranted to avoid a sudden, temporary increase in the overall size of the universal service fund. After June 30, 2003, rate-of-return carriers will not be permitted to collect CCL charges from interexchange carriers.

66. We do not adopt the MAG proposal to retain the existing rate structure, including the CCL charge, and provide explicit universal service support to reduce the switched access rates of carriers that elect the MAG incentive plan to an aggregate target of 1.6 cents per minute. As discussed in more detail below, the MAG proposal fails to address inefficiencies and implicit subsidies within the existing rate structure, and would prevent some rate-of-return carriers from fully participating in the benefits of access charge reform.[206] To the extent that the MAG proposal leaves the removal of identifiable implicit support from the interstate access rate structure to the discretion of individual carriers, we also conclude that it is inconsistent with the mandate of the 1996 Act.[207]

67. We also reject proposals to replace the CCL charge with a PICC, or flat, monthly charge assessed on the interexchange carrier to whom an end user is presubscribed.[208] In 1997, the Commission established the PICC as a substitute for the CCL charge in the common line rate structure of price cap carriers.[209] The Commission subsequently concluded, however, that eliminating the PICC would make the rate structure more efficient and more closely aligned with costs.[210] In this regard, it found that most interexchange carriers passed through PICCs to their customers, who ended up paying *more* than they would have if they simply had been charged for interstate loop costs directly by the LEC.[211] Based on our examination of the record, we cannot

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[205] *See supra*, § IV.D.2.

[206] *See infra*, § IV.B.2.a; GVNW Consulting Comments at 4 ("without offering [explicit universal service support] as an across-the-board type access rate structure change, the Commission will be missing perhaps the only real opportunity for significant access reform for a potentially large segment of rural independents"); *see also* AT&T Comments at 5-6, 9-10, California Comments at 3, Competitive Universal Service Coalition Comments at 7-13, GCI Comments at 3-4, GSA comments at 6-7, ICORE Comments at 17, Innovative Telephone Comments at 3-4, Fred Williamson & Assoc. Comments at 5, Alaska Rural Coalition Reply at 4-6, Excel Comm'ns Reply at 4-5, Verizon Reply at 5.

[207] *See COMSAT Corp. v. FCC*, 250 F.3d at 938-40 (holding that Commission cannot allow carriers to choose whether to recover their universal service contributions through interstate access charges).

[208] *See* NASUCA Comments at 9; Letter from Bill Maher, Esq., to Jane E. Jackson, Chief, Competitive Pricing Division, and Katherine Schroder, Chief, Accounting Policy Division, Federal Communications Division, at 5 (Sept. 5, 2001).

[209] *See Access Charge Reform Order*, 12 FCC Rcd at 16004-06 paras. 55-60; *supra*, §§ III.C, IV.A.1.

[210] *Interstate Access Support Order*, 15 FCC Rcd at 12991-94 paras. 78-81; *supra*, §§ III.C., IV.A.1.

[211] *Interstate Access Support Order*, 15 FCC Rcd at 12991-92 para. 78 ("Most IXCs currently recover PICCs from their customer through a blended PICC pass-through charge on a per-account basis. This practice results in consumers with only one line paying more than they otherwise would had the LECs simply passed onto them directly the $1.04 worth of permitted revenues that the LEC recovers through the single-line PICC."). We note that the current average multi-line business PICC paid by interexchange carriers to price cap carriers is $1.41, *Trends in Telephone Service*, August, 2001, Table 1.3, Page 1-7, compared to the following PICC charges assessed by the three largest interexchange carriers to multi-line business customers: $3.40 for AT&T (Tariff FCC No. 30, 1st Revised Page 29.3, Section C.3, effective September 14, 2001); $3.65 for WorldCom (Tariff FCC No. 1, 5th Revised

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conclude that PICCs would be more appropriate for rate-of-return carriers than they were for price cap carriers. Establishment of a PICC would force interexchange carriers to recover the cost of the PICC from all of their customers, and contribute to rate disparities between the two groups of carriers, thereby increasing the burden on interexchange carriers of compliance with the geographic rate averaging and rate integration requirements of section 254(g).[212] Accordingly, we conclude that the PICC should not be introduced into the common line rate structure of rate-of-return carriers.[213] Consistent with the approach we adopted for price cap carriers in the *Interstate Access Support Order*, we will require a direct recovery of any allowed common line revenues not recovered through the SLC through explicit universal service support.

68. We disagree with commenters that argue that the CCL charge represents an efficient pricing mechanism and does not include implicit support.[214] It is well-established that rate elements like the CCL charge which recover above-cost rates from some end users to support below-cost rates for others constitute implicit support.[215] On that basis we have virtually eliminated CCL charges from the rate structures of price cap carriers. We are not persuaded by commenters that assert otherwise.[216]

B. Local Switching and Transport Rate Structure

1. Background

69. *Local Switching.* The local switch connects subscriber lines both with other local subscriber lines and with interoffice dedicated and common trunks. A local switch consists of (1) an analog or digital switching system, and (2) line and trunk cards, which connect subscriber lines and interoffice trunks, respectively, to the switch. The interstate portion of these costs is currently recovered by rate-of-return carriers through per-minute charges levied on interexchange carriers.[217]

70. In the 1997 *Access Charge Reform Order*, the Commission concluded that a significant portion of local switching costs do not vary with usage.[218] In particular, the Commission concluded that the costs of the line port (including the line card, protector, and main

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Page No. 288, Section C.1, effective March 1, 2001); and $4.31 for Sprint (Tariff FCC No. 11, 9th Revised Page 34.1, Section 2.10, effective October 1, 2000).

212 *See infra*, § IV.B.2.a.

213 *See Interstate Access Support Order*, 15 FCC Rcd at 12991-94 paras. 78-81; GSA Comments at 5-6; *see also 1998 Notice*, 13 FCC Rcd at 14250-51 para. 35 (proposing to adopt rate structure modifications for rate-of-return carriers similar to those adopted for price cap carriers).

214 NASUCA Comments at 4-9; *see also* ICORE Comments at 9, John Staurulakis Comments at 3, Interstate Telcom Group Reply at 5.

215 *See Access Charge Reform Order*, 12 FCC Rcd at 15998-16000 paras. 36-40.

216 NASUCA Comments at 4-9; *see also* ICORE Comments at 9, Interstate Telcom Group Reply at 5.

217 *See* 47 C.F.R. § 69.106.

218 *See Access Charge Reform Order*, 12 FCC Rcd at 16035 para. 125.