distribution frame) are non-traffic sensitive and, therefore, required price cap carriers to reassign line-side port costs to the common line category.[219] Price cap carriers were required to conduct cost studies to determine the percentage of local switching costs attributable to line ports.[220]

71. In the *1998 Notice*, the Commission likewise proposed to require rate-of-return carriers to reassign the cost of line ports to the common line category.[221] Acknowledging the small size of many rate-of-return carriers, the Commission also asked about methods other than cost studies that could ease the burden of implementing this proposal.[222] In addition, the Commission proposed to permit rate-of-return carriers to assess a separate, flat-rated charge on end users to recover the amount by which line port costs for ISDN or other services exceed line port costs for basic, analog service.

72. *Transport*. Transport services, also known as interoffice transmission services, carry interstate switched access traffic between the interexchange carrier's point of presence (POP) and the LEC end office that serves the end user.[223] Rate-of-return carriers assess transport charges for entrance facilities,[224] direct-trunked transport,[225] tandem-switched transport,[226] and the transport interconnection charge (TIC). The TIC reflects costs allocated to interstate transport that could not be recovered through facility-based transport rates established under the 1992 interim transport rate structure.[227]

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[219] *Id.*

[220] *Id.* at 16036-37 para. 128.

[221] *1998 Notice*, 13 FCC Rcd at 14257 para. 54.

[222] *Id.*

[223] *Access Charge Reform Order*, 12 FCC Rcd at 16047 para. 150.

[224] Entrance facilities are dedicated facilities that carry interstate traffic between a POP and the LEC central office serving the POP, known as the serving wire center (SWC). *See* 47 C.F.R. § 69.110 (mandating flat-rated charges to recover the costs of entrance facilities).

[225] Direct-trunked transport facilities are dedicated facilities that carry traffic from the LEC office that serves the end user to the SWC, or between any other two points requested by the customer, without being routed through an intervening switch. *See* 47 C.F.R. § 69.112 (mandating flat-rated charges to recover the costs of direct-trunked transport).

[226] Tandem-switched transport routes calls from the SWC to the LEC end office through a tandem switch located between the SWC and the LEC end office. Traffic travels over a dedicated circuit from the SWC to the tandem switch and then over a shared circuit, which carries the calls of many different interexchange carriers, from the tandem switch to the LEC end office. *See* 47 C.F.R. § 69.111 (prescribing a three-part rate structure for recovery of tandem-switched transport costs: a flat-rated charge for the dedicated facility from the SWC to the tandem switch; a per-minute tandem switching charge; and a per-minute charge for common transport from the tandem switch to the LEC end office).

[227] *See Access Charge Reform Order*, 12 FCC Rcd at 16072-73 paras. 210-11. In restructuring transport rates in 1992, the Commission priced tandem switching to include the overhead associated with the local switching category, while pricing direct-trunked transport and the transmission portion of tandem-switched transport to include the lower overhead associated with special access. As an interim measure to protect tandem switch users (small interexchange carriers) and to make the rate restructure revenue-neutral for incumbent LECs, the Commission then reassigned 80 percent of the interstate-allocated cost of tandem switching to the TIC. The TIC is assessed as a per-minute charge on all users of the switched access network. *Id.*

73. To foster competition and efficient pricing in the market for interstate access services, the Commission took steps to reduce and eliminate the TIC in the *Access Charge Reform Order*.[229] The Commission identified and reassigned some TIC costs that were attributable to other access services for price cap and rate-of-return carriers.[230] To phase out the residual TIC for price cap carriers, the Commission applied to the TIC the productivity factor reductions that otherwise would have been applied to all of the price cap baskets, effectively spreading the TIC among the universe of interstate access services.[231] Beginning in January 1998, price cap carriers initially recovered any remaining TIC costs through PICC charges, subject to the PICC cap.[232] Rate-of-return carriers continue to assess a separate TIC charge to recover the residual costs allocated to the TIC.

74. In the *1998 Notice*, the Commission affirmed that "we believe it is important to eliminate the TIC to avoid its potential to adversely affect competitive developments in the marketplace."[233] Among other things, the Commission requested comment on incorporating the TIC into the common line pricing structure, and on whether "spreading the residual TIC proportionately over the other access elements in a manner comparable to that of targeting price cap productivity reductions to the TIC would be practical."[234]

75. *MAG plan*. The MAG proposes to retain the existing access rate structure for rate-of-return carriers, but to establish a target rate or ceiling (Composite Access Rate or CAR) for the per-minute charges of pooling carriers that elect the MAG incentive scheme. It would be reduced to 1.6 cents per minute by July 1, 2003. The MAG also proposes creation of a new universal service support mechanism (Rate Averaging Support or RAS), which would be available only to Path A pooling carriers, to recover any shortfall between the allowed interstate access revenues of Path A pooling carriers and the sum of their revenues derived from switched access rate elements (including SLCs), LTS, and LSS.[235]

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[229] *Id.* at 16073-74 paras. 212-213.

[230] *Id.* at 16074-78 paras. 214-223. The Commission established new rate elements to permit price cap carriers to recover such costs in a more efficient, cost-causative manner, while permitting rate-of-return carriers to recover them through existing rate elements. *Id.* at para. 215; *see Access Charge Reform*, CC Docket No. 96-262, *Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, *Transport Rate Structure and Pricing*, CC Docket No. 91-213, *End User Common Line Charges*, CC Docket No. 95-72, Order on Reconsideration, 12 FCC Rcd 10119, 10122-23 paras. 9-12 (1997).

[231] *Access Charge Reform Order*, 12 FCC Rcd at 16083 para. 234. In addition to phasing out the TIC, this measure moved towards its recovery through flat-rated charges, consistent with the Commission's determination that "[f]or elements not demonstrably reflecting usage-sensitive costs, . . . we find, on balance, compelling policy arguments in favor of flat-rated pricing[.]" *Id.* at 16082-83 para. 233.

[232] *Id.* at 16083 para. 234.

[233] *1998 Notice*, 13 FCC Rcd at 14262 para. 70.

[234] *Id.* at 14262 para. 72.

[235] *See MAG Notice*, 16 FCC Rcd at 463 para. 8, 568.

### 2. Discussion

76. In this section, we adopt measures to reform the access rate structure for local switching and transport services of rate-of-return carriers.[236] In particular, we reallocate the non-traffic sensitive costs of local switch line ports to the common line category, and reallocate remaining costs contained in the TIC to other access rate elements. Together with our actions to reform the common line rate structure, these measures will foster competition and efficient pricing and move the per-minute switched access rates of rate-of-return carriers towards lower, cost-based levels. We do not adopt proposals by the MAG and others to prescribe a single, target rate for rate-of-return carriers, either on an optional or a mandatory basis.

77. First, we address the MAG proposal to prescribe a target rate of 1.6 cents for the per-minute switched access rates of Path A pooling carriers, and alternative proposals to prescribe a mandatory .95-cent target rate for all rate-of-return carriers. For the reasons set forth below, we conclude that these proposals are not supported by cost data and that the non-prescriptive, market-based approach to access charge reform that we adopt is more consistent with the competitive and universal service goals of the 1996 Act. We then address reallocation of local switch line port costs and the costs contained in the TIC, respectively. Finally, we address other pending Commission proposals to modify the local switching and transport rate structure.

#### a. Analysis of MAG Composite Access Rate Proposal

78. We conclude that the MAG's proposal to retain the existing rate structure and prescribe a target rate of 1.6 cents for the per-minute switched access rates of Path A pooling carriers, known as the CAR proposal, is flawed because it fails to address inefficient, non-cost-based rate elements within the existing rate structure, and would limit interstate access charge reform to a subset of carriers. We also conclude that cost data in the record does not support either the MAG's proposed target rate of 1.6 cents or the .95-cent target rate advocated by other parties. As set forth below, we conclude that the approach to access charge reform that we adopt here, whereby we move rates towards lower, cost-based levels by rationalizing the rate structure and converting implicit subsidies to explicit support, is more consistent with the competitive goals of the 1996 Act and better suited to rate-of-return carriers because of their size, diversity, and regulatory history.

79. The MAG's CAR proposal does not address inefficiencies in the existing rate structure of rate-of-return carriers, focusing instead exclusively on rate level concerns. Thus, line port costs are not addressed and would continue to be recovered through traffic sensitive rates, although they are non-traffic sensitive in character. The MAG's CAR proposal also would retain a TIC rate element, albeit presumably at a lower rate than the present TIC rate. By

[236] NECA may incorporate the changes we make in this order into the average schedules to become effective on July 1, 2002.

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

reallocating line port costs and the TIC instead, we align the rate structure more closely with the manner in which costs are incurred, consistent with longstanding Commission goals.[238]

80. The MAG's CAR proposal also is flawed because it would remove implicit support within the rate structure only for those companies that elect the MAG incentive regulation scheme. We agree with the many parties that contend that access charge reform is necessary for all rate-of-return carriers.[239] The rate structure modifications that we adopt will increase the efficiency of the rate structure for all rate-of-return carriers and drive their per-minute rates towards lower, cost-based levels, thereby reducing disparities between such rates and those of price cap carriers, which under the CALLS plan are between .55 cents and .95 cents per minute. Reducing rate disparities will facilitate compliance by interexchange carriers with the long distance toll rate averaging and rate integration requirements of section 254(g), and ensure that all rate-of-return carriers fully participate in the benefits of reform. In this regard, a number of commenters argue that the MAG's CAR proposal could lead to increased rate disparities among rate-of-return carriers and create disincentives for interexchange carriers to compete for long distance customers in their service areas.[240]

81. Consistent with prior Commission decisions with regard to price cap carriers, we decline to prescribe the per-minute switched access rates of rate-of-return carriers at forward-looking economic cost levels, as a number of commenters advocate.[241] As the MAG notes, the task of determining the cost of providing service in every area of the country is both difficult and time-consuming.[242] Moreover, a forward-looking economic cost model for rate-of-return carriers is not feasible at this time.[243] The current rates of these carriers are based on interstate-allocated embedded costs, and are limited by the authorized rate of return. The reforms we adopt here will reduce per-minute rates immediately without the need for additional proceedings that would further delay the implementation of access charge reform for rate-of-return carriers, with no guarantee of a more accurate resolution to the cost issue.

82. The MAG advocates prescription of a single, target rate of 1.6 cents for some rate-of-return carriers, arguing that this would constitute an overall percentage reduction in per-minute switched access rates comparable to that approved for price cap carriers under the CALLS plan.[244] This is not a relevant comparison, however. Price cap carriers were subject to

[239] *See, e.g.*, AT&T Comments at 6-7, GCI Comments at 3-4, GVNW Consulting Comments at 4.

[240] *See, e.g.*, AT&T Comments at 6-7, Fred Williamson and Assoc. Comments at 5.

[241] *Access Charge Reform Order*, 12 FCC Rcd at 16002 para. 46 (the use of forward-looking economic costs could "prove highly disruptive to business operations, even when new explicit universal service support mechanisms are taken into account. Moreover, lacking the tools for making accurate prescriptions, precipitous actions could lead to significant errors in the level of access charge reductions necessary to reach competitive levels. That would further impede the development of competition in local markets and disrupt existing services."); *see Texas Office of Public Utility Counsel v. FCC*, No. 00-60434 at § II.C (affirming decision not to prescribe rates at forward-looking costs).

[242] MAG Comments at 17.

[243] *See Rural Task Force Order*, 16 FCC Rcd at 11309-13 paras. 167-177.

[244] MAG Comments at 12. Since the MAG plan was filed, rate-of-return carriers have made an annual access tariff filing. As a result, NECA's traffic sensitive rates have increased, suggesting that the rate would no longer be 1.6 cents.

the disciplines of the incentives provided by price cap regulation for ten years before adoption of the CALLS plan.[245] Thus, rate-of-return carriers are not at the same starting point as price cap carriers were before adoption of the CALLS plan.

83. We also find the MAG's proposed target rate to be inadequately supported by cost data.[246] No party has attempted to make a cost-based showing to support this proposal.[247] Our examination of the record indicates that many rate-of-return carriers have traffic sensitive costs considerably higher than 1.6 cents per minute.[248] Indeed, the comments filed in the above-captioned proceedings indicate a wide variation in cost patterns, density, and other operational characteristics among rate-of-return carriers.[249] The access charge reform approach that we adopt accommodates this diversity by reallocating costs and removing implicit support to create more efficient rate structures, while allowing carriers to establish rates based on their own costs. Based on examination of the record in the above-captioned proceedings, we have not identified any rate structure modifications, other than the modifications addressed below, that would remove non-cost-based rate elements or implicit subsidies from the rate structure of rate-of-return carriers.

84. Reallocating costs rather than prescribing a single rate also will foster the development of efficient competition in the exchange access market. Rates that reflect an individual carrier's cost of service provide the proper signals to permit a potential entrant to decide whether to enter a particular market. As NASUCA observes, if a target rate were set too low, a barrier to competitive entry would be created.[250] This is particularly so for carriers seeking to provide transport services alone as a means of entering a market. The danger of rate prescription distorting competition for exchange access services is aggravated by the fact that

[245] *See* Sprint Comments at 6; Letter from John Nakahata, Esq., to Jane E. Jackson, Chief, Competitive Pricing Division, and Katherine Schroder, Chief, Accounting Policy Division, Federal Communications Commission, at 5 (Aug. 28, 2001).

[246] *See, e.g.*, Sprint Comments at 4.

[247] *See id.* at 5.

[248] *See, e.g.*, Plains Rural Indep. Cos. Comments at 11-12 (arguing that MAG's proposed rate is below cost for many rate-of-return carriers because, *inter alia*, both the Hatfield model and the Commission's forward-looking economic cost model estimate that approximately three-quarters of such carriers have access costs of 3 cents per minute or more, and nearly half have access costs of 5 cents per minute or greater), Ronan Tel. Co. Reply at 2-5 (Commission's forward-looking economic cost model shows access costs for rural Montana to be 8 cents per minute); *accord*, John Staurulakis Reply at 3, Ronan Tel. Consumer Advisory Committee Reply at 2-3.

[249] *See, e.g.*, Alaska Rural Coalition Comments at 2-3, Dunkirk and Fredonia Tel. Co. Comments at 2, Evans Tel. Co., *et al.* Comments at 5, GSA Comments at 11, Innovative Tel. Comments at 5-6, ICORE Comments at 4-5, Interstate Telcom Comments at 4, ITTA Comments at 2, Minnesota Indep. Coalition Comments at 4, Missouri Commission Comments at 4, New England Tel. Assoc., Small Co. Members Comments at 1, Plains Rural Indep. Cos. Comments at 5-6, Sprint Comments at 5, Western Alliance Comments at 2-3, 12, GVNW Consulting Reply at 6, John Staurulakis Reply at 2, TDS Reply at 5, Lexcom Tel. Co. Comments in CC Docket No. 98-77 at 7-8, NRTA and NTCA Comments in CC Docket No. 98-77 at 14, Summit Tel. Co. Comments in CC Docket No. 98-77 at 1, USTA Comments in CC Docket No. 98-77 at 2-3, NECA Reply in CC Docket No. 98-77 at 3, NRTA and NTCA Reply in CC Docket No. 98-77 at 8-9; *see also* Rural Task Force White Paper 2 at 9-13.

[250] NASUCA Comments at 16-17.

universal service funding is available only to eligible telecommunications carriers, and relatively few competitive carriers have achieved such status, which requires state certification.[251]

85. Some commenters, including AT&T and other interexchange carriers, advocate a lower, mandatory target rate for all rate-of-return carriers of .95 cents per minute.[252] These parties generally argue that this rate, which under the CALLS plan applies to low-density price cap carriers (fewer than 19 access lines per square mile), is appropriate for rate-of-return carriers because they also are "primarily rural."[253] In a subsequent *ex parte* filing, AT&T and others advocate a variation of this proposal, under which a .25-cent local switching rate would be prescribed, and transport rates would be based on individual carriers' costs.[254] They contend that the latter approach would achieve a total per-minute rate of approximately .95 cents, without adverse impact on the competitive market for transport services. AT&T estimates that its proposal would require approximately $215 million more in universal service support than would be necessary to achieve the MAG's proposed target rate of 1.6 cents per minute.[255]

86. These commenters have failed to demonstrate a sufficient correlation between the costs of low-density price cap carriers and rate-of-return carriers to justify adoption of either the overall .95-cent rate or the .25 cent local switching rate.[256] Many rate-of-return carriers serve areas with population densities significantly lower than 19 access lines per square mile, the threshold for the .95-cent traffic sensitive rate under the CALLS plan. The Rural Task Force found that the average population density in areas served by rural carriers is only about thirteen persons per square mile, compared to 105 persons per square mile in areas served by non-rural carriers.[257] Thus, rural carriers must deploy more transmission facilities to serve their customers and usually employ smaller switches than do carriers serving more densely-populated areas. Rate-of-return carriers also have fewer opportunities than large price cap carriers to achieve cost savings because of their limited size, their lumpy investment patterns, and fluctuating operating

[251] *See* 47 U.S.C. § 214(e).

[252] *See, e.g.*, AT&T Comments at 6-8,GCI Comments at 3, Global Crossing Comments at 6-7, Sprint Comments at 5.

[253] *See, e.g.*, AT&T Comments at 6-8,GCI Comments at 3, Sprint Comments at 5.

[254] *See* Letter from John T. Nakahata, Esq. to Magalie Roman Salas, Secretary, Federal Communications Commission (July 26, 2001). Under both alternatives, line port costs and all of the costs in the TIC would be reallocated to the common line category.

[255] *See* Letter from John T. Nakahata, Esq., to Jane E. Jackson, Chief, Competitive Pricing Division, and Katherine Schroder, Chief, Accounting Policy Division, Federal Communications Commission, at 2 (Sept. 14, 2001).

[256] In response to the *1998 NPRM*, AT&T proposed that rate-of-return carrier traffic sensitive charges be capped at the nationwide average traffic sensitive rate of price cap carriers. AT&T Comments in CC Docket No. 98-77 at 7. AT&T's earlier proposal appears to be premised on similar reasoning to that supporting the .95-cent proposal. We find the earlier AT&T proposal deficient for the same reasons we find the .95-cent and 1.6-cent proposals to be unacceptable.

[257] Rural Task Force White Paper 2 at 20; *see* Minnesota Indep. Coalition Comments at 4 (15 of the 53 Coalition members for which density data is available have access line density of under five per square mile, and another 18 have access line density of under ten per square mile). As discussed above, the categories of rural and rate-of-return carrier largely overlap. *See supra*, § III.C.

expenses.[258] Thus, based on our examination of the record, we cannot conclude that the proposed .95-cent rate, or the alternative .25-cent local switching rate (which is intended to reduce the overall rate to approximately .95 cents per minute), is representative of the costs of rate-of-return carriers.[259] Rather than prescribing a single, target rate for all rate-of-return carriers, the approach we adopt will drive their per-minute rates down towards price cap carrier levels,[260] while accommodating actual cost differences between different carriers.

87. Several parties argue that we should prescribe a target rate of .95 cents per minute in order to reduce rate disparities between price cap and rate-of-return carriers, regardless of the actual costs of providing service for rate-of-return carriers. These parties contend that significant rate disparities threaten the ability of interexchange carriers to sustain nationwide averaged long distance toll rates.[261] They argue that the BOCs, as they enter the interexchange market through the section 271 process, will gain an unfair competitive advantage over national interexchange carriers because they will be able to offer interstate long distance service from a regional base that reflects the .55-cent traffic sensitive rates of those price cap carriers in the lowest price range.[262] Moreover, some of these parties argue that reduction of rate disparities would encourage all interexchange carriers, both regional and national, to originate service in rural and high-cost areas, thereby increasing consumer choice in those areas.[263]

88. While we recognize that rate disparities may create pressure on interexchange carriers to deaverage long distance toll rates, contrary to the requirements of section 254(g), we reject the proposition that we should address this problem by prescribing below-cost rates. Rate disparities are due partly to rate structure differences that we address in this Order, and partly to actual cost differences between price cap and rate-of-return carriers, as well as among rate-of-return carriers themselves. The measures we adopt in this Order will significantly reduce such rate disparities, consistent with the principle of cost-based access pricing.

89. In addition, the proposal advocated by AT&T and others effectively would eliminate rate disparities by replacing the implicit support for toll rate averaging and rate integration provided for under section 254(g) with explicit universal service funding. It is unclear whether section 254, read as a whole, directs the Commission to make explicit the support for toll rate averaging and rate integration provided for under section 254(g). Moreover, the Commission must strike a fair and reasonable balance among all of the goals and principles

[258] *See, e.g.*, Townes Telecom. Comments at 1-3, Western Alliance Comments at 6-10, Interstate Telcom Group Reply at 2-6.

[259] *See* John Staurulakis Reply at 3, Ronan Tel. Consumer Advisory Committee Reply at 2-3, Ronan Tel. Co. Reply at 2-5 (Commission's forward-looking economic cost model shows cost of access for rural Montana to be $0.08 per minute).

[260] *See, e.g.*, California Commission Comments at 14.

[261] *See, e.g.*, AT&T Comments at 6.

[262] 47 U.S.C. § 271; *see, e.g.*, AT&T Comments at 7-8; *see also Rural Task Force Order*, 16 FCC Rcd at 11323 para. 202 (rate disparities may create significant pressures on national long distance carriers to geographically deaverage toll rates in the face of competition from regional carriers that originate service in areas with lower access charges).

[263] *See, e.g.*, Telcom Consulting Assoc. Comments at 5, AT&T Reply at 7-8.

of the Act, including both competitive and universal service goals. In this regard, the AT&T proposal is inconsistent with principles of cost-based pricing and, therefore, presents the danger of distorting competition. We also are concerned that the AT&T plan may lead to excessive universal service funding, which "may itself violate the sufficiency requirements of the Act."[264] Finally, based on our examination of the record, we are not persuaded that adoption of the AT&T plan is necessary to ensure the continued ability of carriers like AT&T to comply with section 254(g). The steps we take should lessen AT&T's concern and will hold down the cost of universal service.

### b. Line Port Costs

90. We adopt the Commission's proposal from the *1998 Notice* to modify the access rate structure for rate-of-return carriers by reallocating line port costs from local switching to the common line category. To ease the burden of implementing this rate structure modification on small rate-of-return carriers, we will permit them to shift 30 percent of their local switching costs to the common line category in lieu of conducting a cost study.

91. The recovery of line port costs through per-minute local switching charges is inconsistent with the Commission's longstanding policy that non-traffic sensitive costs should be recovered through flat-rated charges.[265] For this reason, the Commission shifted such costs to the common line category for price cap carriers, and proposed to do the same for rate-of-return carriers.[266] Based on our examination of the record, we conclude that reallocating line port costs to the common line category will foster competition and efficient pricing by aligning the rate structure more closely with the manner in which costs are incurred, and move per-minute switched access charges towards lower, more cost-based levels.[267]

92. In 1998, several rate-of-return carriers opposed the reallocation of line port costs to the common line category, arguing that this would only increase their already-high PICC and CCL rates.[269] We note that, instead of being recovered primarily through CCL and PICC charges, the reallocated line port costs generally will be recovered through SLCs or Interstate Common Line Support under the approach we adopt in this Order.

93. Rather than requiring cost studies, as we did for price cap carriers, we will permit rate-of-return carriers to shift 30 percent of their local switching costs to the common line

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[264] *Alenco Communications, Inc. v. FCC*, 201 F.3d at 619 ("Because universal service is funded by a general pool subsidized by all telecommunications providers—and thus indirectly by customers—excess subsidization in some cases may detract from universal service by causing rates unnecessarily to rise, thereby pricing some consumers out of the market.").

[265] *See supra*, § III.A.

[266] *1998 Notice*, 13 FCC Rcd at 14257 para. 54; *Access Charge Reform Order*, 12 FCC Rcd at 16035 para. 125.

[267] *Access Charge Reform Order*, 12 FCC Rcd at 16035 para. 125.

[269] *See, e.g.*, MCI Comments in CC Docket No. 98-77 at 17-18, Western Alliance Comments in CC Docket No. 98-77 at 17-18.

category as a proxy for line port costs.[270] We agree with commenters who argue that requiring cost studies for all rate-of-return carriers would be overly burdensome, costly, and time-consuming for small carriers.[271] Several commenters support the use of a proxy to avoid the need for cost studies.[272] By adopting a proxy, we also respond to our obligations under the Regulatory Flexibility Act to minimize administrative burdens on smaller incumbent local telephone companies.[273]

94. We adopt 30 percent of local switching costs as a reasonable proxy for line port costs because this figure is incorporated into the Commission's forward-looking high-cost model for price cap carriers.[274] The model uses 30 percent to allocate local switching costs to the common line category to be included in the calculation of high-cost support. We recognize that rate-of-return carriers' line port costs may vary widely,[275] and are mindful of estimates that line port costs represent significantly more than 30 percent of local switching costs for some carriers.[276] We conclude that the existing record is inadequate to establish an average allocation factor specific to rate-of-return carriers. Adopting the high-cost model's 30 percent factor as a default allocator provides comparability between price cap and rate-of-return carriers.

95. To avoid any undue hardship that may result from selecting a default allocator of 30 percent, rate-of-return carriers also will have the option to submit a cost study to establish the portion of their local switching costs attributable to line port costs. Carriers electing this approach must base their cost studies on geographically-averaged costs, and submit the cost study in support of the tariff filing relying on the cost study. Once a rate-of-return carrier has performed a cost study to support its tariff, it may rely on that cost study for subsequent tariff filings. A rate-of-return carrier electing to use a cost study for a tariff must use the cost study for all elements in the tariff.

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[270] *See* Letter from John T. Nakahata, Esq. to Magalie Roman Salas, Secretary, Federal Communications Commission (July 25, 2001) (proposing use of 30 percent figure from Commission's forward-looking high-cost model as a proxy).

[271] *See, e.g.*, Lexcom Tel. Co. Comments in CC Docket No. 98-77 at 19-20, NECA Comments in CC Docket No. 98-77 at 8, USTA Comments in CC Docket No. 98-77 at 18 n. 43.

[272] *See, e.g.*, GVNW Consulting Comments in CC Docket No. 98-77 at 6-9, Lexcom Tel. Co. Comments in CC Docket No. 98-77 at 19-20, John Staurulakis Comments in CC Docket No. 98-77 at 7; *see also* NECA Comments in CC Docket No. 98-77 at 8, USTA Comments in CC Docket No. 98-77 at 18, n.43.

[273] *See* 5 U.S.C. § 601, *et seq.*

[274] *Federal-State Joint Board on Universal Service Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket Nos. 96-45 and 97-100, Fifth Report & Order, 13 FCC Rcd 20835, 21354-21357 paras 75-80 (1998); *Federal-State Joint Board on Universal Service Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket Nos. 96-45 and 97-100, Further Notice of Proposed Rulemaking, 12 FCC Rcd 18565 para 134 (1997).

[275] *Access Charge Reform Order*, 12 FCC Rcd at 16036-37 para. 128.

[276] John Staurulakis Comments in CC Docket No. 98-77 at 7 (estimating line port costs and associated costs to be 53 percent of the total cost of local switching, "slightly higher than [the 51 percent] previously reported by USTA" and "significantly higher than the 37 percent that NECA has projected").

96. We adopt our proposal to require rate-of-return carriers to recover through a separate end user charge the costs of ISDN line ports and line ports associated with other services that exceed the costs of a line port used for basic analog service.[277] We do not agree with USTA that these additional line port elements should be optional.[278] The new universal service support mechanism that we establish here generally provides support for common line costs not recovered through end user rates. Therefore, if establishment of this line port element were optional, rate-of-return carriers might have a disincentive to charge it and recover the costs in question through universal service support rather than their customers. Customers purchasing these services from rate-of-return carriers find value in them, and should pay comparable rates to those paid by customers of price cap carriers for similar services.

97. Reallocation of line port costs is not intended to reduce or modify the level of support for local switching costs received by small local telephone companies through the LSS program.[279] To ensure that LSS support levels are unchanged by our action, we clarify that the reallocation of line port costs to the common line category each year is to be calculated after the LSS amount has been determined and removed from the interstate local switching revenue requirement. This method should ensure that LSS support levels are not adversely affected and prevent any double recovery.

### c. Transport Interconnection Charge

98. We adopt the Commission's proposal in the *1998 Notice* to reform the access rate structure for rate-of-return carriers by eliminating the TIC as a separate rate element. We conclude that the costs recovered through the TIC should be reallocated to all of the access categories. This method is consistent with the approach we used for eliminating the TIC for price cap carriers in the *Access Charge Reform Order*.[280] It will make the access rate structure more economically rational for rate-of-return carriers and drive their traffic sensitive rates towards lower, more cost-based levels.

99. While the TIC recovers interstate-allocated costs of rate-of-return carriers,[283] it is not a cost-based rate element, but an artifact of the 1992 interim pricing structure that was never

[277] *1998 Notice*, 13 FCC Rcd at 14257 para. 56.

[278] USTA Comments in CC Docket No. 98-77 at 18-19.

[279] *See, e.g.*, GVNW Consulting Comments in CC Docket No. 98-77 at 6-9, Western Alliance Comments in CC Docket No. 98-77 at 18, USTA Comments in CC Docket No. 98-77 at 18.

[280] Because the Commission's resolution of the TIC issue for price cap carriers was affirmed in *Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523 (8th Cir. 1998), we believe that our treatment of the TIC for rate-of-return carriers is consistent with the court's decision in *Comptel Corp. v. FCC*, 87 F.3d 522, 526 (5th Cir. 1996).

[283] In this regard, we note that the Commission, accepting a Joint Board recommendation, recently adopted an interim five-year freeze of Part 36 category relationships and jurisdictional allocation factors for price cap carriers and allocation factors for rate-of-return carriers. *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382 (2001).

intended as a permanent measure. We cannot conclude that retention of the TIC would serve the public interest. As a per-minute charge assessed on all switched access minutes, the TIC adversely affects the development of competition in the interstate access market. Competing providers of transport service that interconnect with the public switched telephone network through expanded interconnection must pay this charge regardless of whether they use the incumbent LEC's transport network. Thus, the TIC unduly increases the cost of competitive entry. To the extent that the TIC recovers non-traffic sensitive costs, it also increases the per-minute access charges paid by interexchange carriers and long-distance consumers, artificially suppressing usage of such services and encouraging customers to explore ways to bypass the public switched telephone network.

100. We conclude that spreading the costs currently recovered through the TIC over all access categories is most consistent with the record before us and with the approach used to eliminate the TIC for price cap carriers. We conclude that the residual TIC costs of rate-of-return carriers are related to the different access categories and represent both traffic sensitive costs, such as switching and transport-related costs, and non-traffic sensitive costs such as those related to the common line or special access services.[284] Thus, it is appropriate to spread these costs over all access categories. The effect of spreading the costs recovered through the TIC over all access categories will be comparable to the economic effect of targeting the productivity increases to reducing the service band index for the TIC, as was done for price cap carriers. The targeting of the productivity reductions to the TIC for price cap carriers had the effect of reducing the TIC and leaving rates for other access services higher than they would have been if the productivity factor had been applied to their price cap index.

101. We conclude that spreading the costs recovered through the TIC among all access categories is preferable to shifting them entirely to the common line category, as urged by some parties.[285] As we found in the *Access Charge Reform Order*, some of the remaining costs recovered by the TIC result from at least two different causes affecting transport services: (1) the separations process assigns costs differently to private line and switched services, resulting in the costs allocated to special access being lower than those allocated to the transport category, even though the two services use comparable facilities; and (2) the cost of providing transport in less densely populated areas is higher than that reflected by transport rates derived from special access rates.[286] Based on our examination of the current record, however, we cannot determine the portion of the costs recovered through the TIC that are truly transport-related. Nevertheless, it is clear that some of the costs recovered through the TIC are related to transport services, and consistency with our cost-causation principles requires the allocation of some of the costs to transport services.

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[284] *Access Charge Reform Order*, 12 FCC Rcd at 16079-80 paras. 225-26. Accordingly, we reject the argument that these costs should be recovered through transport rates only. *See* Letter from Lisa M. Zaina, Vice President, Wallman Strategic Consulting, Inc., to Magalie Roman Salas, Secretary, Federal Communications Commission (Aug. 7, 2001).

[285] *See, e.g.*, Letter from John T. Nakahata, Esq. to Jane E. Jackson, Chief, Competitive Pricing Division and Katherine Schroder, Chief, Accounting Policy Division, Federal Communications Commission, at 6-7 (Sept. 27, 2001).

[286] *Access Charge Reform Order*, 12 FCC Rcd at 16079 para. 225.

102. The amounts to be reallocated from the TIC to other categories shall be determined based on the projected revenue requirements of rate-of-return carriers for all of the access categories, including the special access category. Because the costs recovered through the TIC are being reallocated, the TIC revenues from the transport category shall be excluded from the calculation. In addition, LSS shall be excluded from the calculation because it represents intrastate costs shifted to the interstate jurisdiction as a form of universal service support.[287] For purposes of reallocation, the projected common line revenue requirement shall include LTS, Interstate Common Line Support, and line port costs reallocated to the common line category. Rate-of-return carriers shall not include universal service contributions because these costs are not associated with the carrier's own operations that provide interstate access service.

103. In future tariff years, the total revenues reallocated from the TIC to other access categories will be limited to the total revenues recovered through the TIC for the 12-month period ending June 30, 2001. We conclude that this limitation is necessary because rate-of-return carriers' transport rates are set for each tariffing period, and the residual TIC amount to be reallocated could vary from year to year depending upon transport facility rates. Because a portion of the costs shifted to the common line category will be recovered through universal service support, rate-of-return carriers would have an incentive to set lower transport rates that would increase the amount of transport costs recovered through the TIC, thereby shifting more costs to the common line category. This would have an anti-competitive effect on the development of competition in these rate-of-return carrier service areas, especially in competing for transport services, and unduly increase universal service funding requirements. Accordingly, we establish a dollar limit on the transport costs that may be reallocated, equal to the revenues recovered through the TIC charge for the 12-month period ending June 30, 2001. Transport costs above this amount must be recovered through transport rates.[288] This will prevent rate-of-return carriers from recovering excess amounts from rates for services included in the common line category or from universal service support.

104. Because rate-of-return carriers may enter or leave the NECA traffic sensitive pool based on annual elections, we conclude that it is necessary to establish a procedure to determine the amount of TIC costs associated with each rate-of-return carrier. Then, as individual carriers enter or leave the pool, NECA, or the carrier, will be able to determine the amount of transport costs to be reallocated to the common line category. Specifically, we will require NECA to establish for each rate-of-return carrier that participated in the pool during the tariff year ending June 30, 2001, a dollar limit based on the carrier's traffic volumes and the TIC rate for the 12-month period ending June 30, 2001. Each rate-of-return carrier that was not in the pool during the tariff year ending on June 30, 2001, shall determine its TIC limit and report it to NECA for purposes of administering future pool membership changes.

[287] *See supra*, n.56.

[288] We choose this period because it is the last period for which carriers established transport rates without knowing that a universal service component would be implicated in future rate-setting for costs recovered through the TIC.

### d. Other Local Switching and Transport Rate Structure Issues

105. *Background.* Consistent with prior reforms adopted for price cap carriers, the Commission proposed a number of other local switching and transport rate structure modifications in the *1998 Notice*. The Commission proposed to require rate-of-return carriers to establish the following local switching rate elements: a flat charge for dedicated trunk port costs; a flat charge for the costs of DS1/voice grade multiplexers associated with terminating dedicated trunks at analog switches; and a per-minute charge for shared trunk ports and any associated DS1/voice grade multiplexer costs.[289] The Commission also proposed to adhere to a per-minute rate structure for shared local switching facilities, and to permit rate-of-return carriers to establish a per-message call setup charge.[290]

106. In addition, the Commission proposed to create the following transport rate elements: a flat charge for the costs of trunk ports used to terminate dedicated trunks on the serving wire center side of the tandem switch; and individual charges for multiplexer costs associated with tandem switches.[291] With regard to shared facilities at the tandem switch, the Commission tentatively concluded that "there is no need to create a separate charge for shared trunk ports on the end-office-side of the tandem switch because this trunk port cost is included in the charge for the tandem switch and there is no reason to charge separately for shared trunk ports in the tandem switching context."[292] The Commission also proposed to continue the existing rate structure for Signalling System Seven (SS7) cost recovery by rate-of-return carriers, with an optional structure to reflect the SS7 rate structure approved for Ameritech in a 1996 waiver order.[293] The Commission asked for comment on all of these proposals, and on means of simplifying and reducing the administrative burdens associated with establishing new rate elements.[294]

107. *Discussion.* We will permit, but not require, rate-of-return carriers to establish the above-stated local switching and transport rate elements proposed in the *1998 Notice*. These rate structure modifications are similar to reforms previously implemented for price cap carriers, and will foster efficient pricing by permitting rate-of-return carriers to establish new, cost-causative rate elements. We adopt our proposals to adhere to a per-minute rate structure for shared local

[289] *1998 Notice*, 13 FCC Rcd at 14257 para. 55, 14258 para. 58; *see id.* at n.78. The Commission reassigned the costs of DS1/voice-grade multiplexers from the TIC to the local switching category in the *Access Charge Reform Order*, but did not establish separate rate elements for them. *See* Order on Reconsideration, 12 FCC Rcd at 10123 paras. 9-12.

[290] *1998 Notice*, 13 FCC Rcd at 14258-59 paras. 59-60.

[291] *Id.* at 14261 paras. 67-68. The Commission reassigned multiplexer costs associated with the tandem switch from the TIC to tandem switching in the *Access Charge Reform Order*, but did not create separate rate elements for them. *See* Order on Reconsideration, 12 FCC Rcd at 10123 paras. 9-12.

[292] *1998 Notice*, 13 FCC Rcd at 14261 para. 67.

[293] *Id.* at 14263-64 para. 77; *Ameritech Operating Companies Petition for Waiver of Part 69 of the Commission's Rules to Establish Unbundled Rate Elements for SS7 Signaling*, Order, 11 FCC Rcd 3839 (Com. Car. Bur. 1996) (*Ameritech SS7 Waiver Order*). SS7 is the international standard network protocol used to establish and close transmission paths over which telephone calls are carried. *See 1998 Notice*, 13 FCC Rcd at 14262 para. 73.

[294] *See id.* at 14257 para. 55, 14259 para. 60, 14261 para. 68.

switching facilities and not to create a separate charge for shared trunk ports on the end-office-side of the tandem switch.

108. Based on examination of the record, we conclude that these rate structure modifications should be optional to avoid undue administrative burdens on small rate-of-return carriers, consistent with the requirements of the Regulatory Flexibility Act.[295] The costs in question represent a comparatively small fraction of carrier access revenues.[296] We agree with commenters that, for some small rate-of-return carriers, the efficiency gains from recovering such costs through new rate elements may not justify the costs of establishing such elements.[297] Making these rate structure modifications optional will allow rate-of-return carriers to make individual determinations as to whether the costs of establishing new rate elements are warranted by the potential efficiency gains.

109. We clarify that, if a rate-of-return carrier decides to establish any of the new local switching rate elements (for the costs of dedicated trunk ports, DS1/voice grade multiplexers associated with terminating dedicated trunks at analog switches, and shared trunk ports and associated DS1/voice grade multiplexer costs), it must do so for all. This is necessary in order to ensure that purchasers of dedicated trunks and associated multiplexers do not pay the costs of shared trunk ports and associated multiplexers that they do not use. To establish rates for trunk ports used to terminate dedicated trunks on the serving wire center side of the tandem switch, carriers may use the rates for dedicated trunk ports at the local switch.[298] Carriers may establish rates for multiplexer costs based on their multiplexer rates for special access services.[299]

110. Rate-of-return carriers may elect to establish a separate per-message call setup charge for all originating interstate calls handed off to the interexchange carrier's POP, and on all terminating interstate calls received from the interexchange carrier's POP, whether or not a call is completed.[300] To prevent any double recovery, call setup charges cannot overlap with any other local switching charges, with charges for dedicated SS7 facilities, or with other signaling charges.[301] The costs that a carrier may recover through call setup charges are limited to those associated with signaling.[302]

111. We adopt the proposal from the *1998 Notice* to continue the existing rate structure for SS7 cost recovery, and to permit rate-of-return carriers to adopt the same optional

[295] *See* 5 U.S.C. § 601, *et seq.*

[296] *See* MCI Comments in CC Docket No. 98-77 at 17-20.

[297] *See, e.g.*, MCI Comments in CC Docket No. 98-77 at 17-20, USTA Comments in CC Docket No. 98-77 at 18-19.

[298] *See 1998 Notice*, 13 FCC Rcd at 14261 para. 67.

[299] *See id.*

[300] *See id.* at 14258 para. 59 ("at this point the rate-of-return LEC's switches and signaling network have performed their functions and the incumbent LEC has incurred the full cost of its call setup function.").

[301] *See id.*

[302] *See id.* at 14259 para. 60 ("As stated in the Access Charge Reform Order, it would be extremely difficult to segregate the costs of the switch central processing unit and other traffic-sensitive costs into per-message and per-minute portions and to verify that the allocation has been done properly.").

rate structure for SS7 services currently available to price cap carriers.[303] Thus, rate-of-return carriers may elect to recover SS7 costs through four unbundled charges for the following functions performed by SS7 networks: (1) signal link; (2) signaling transfer point (STP) port termination; (3) signal transport; and (4) signal switching.[304] Unbundling of SS7 services will promote efficiency by ensuring that signaling charges more accurately reflect the costs of providing such services.[305] We will not require such unbundling, however, because the costs of unbundling may exceed the benefits.[306]

### C. Other Access Reform Issues

112. In this subsection, we address proposals from the *1998 Notice* concerning general support facilities (GSF) costs, marketing expenses, and special access.

#### 1. General Support Facilities Costs

113. *Background.* The GSF cost category includes assets that support other operations, such as land, buildings, vehicles, and general purpose computer investment.[307] Some rate-of-return carriers use general purpose computer equipment to provide non-regulated billing and collection services to interexchange carriers.[308] The Commission's rules, however, do not allocate any portion of rate-of-return carrier GSF costs to the billing and collection category.[309] To the extent that rate-of-return carriers' costs are under-allocated to the billing and collection category, rate-of-return carriers' regulated services are recovering costs associated with unregulated services through interstate access charges.[310]

114. To address this issue with regard to price cap carriers, the Commission required the use of a general expense factor to allocate the interstate share of four accounts between the billing and collection category and all other rate elements and categories.[311] The allocation to the billing and collection category is determined by applying a modified "Big Three Expense

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[303] *1998 Notice*, 13 FCC Rcd at 14263-64 paras. 76-78; *Ameritech SS7 Waiver Order*, 11 FCC Rcd at 3841.

[304] *1998 Notice*, 13 FCC Rcd at 14263 para. 74; *see Ameritech SS7 Waiver Order*, 11 FCC Rcd at 3841.

[305] *See Access Charge Reform Order*, 12 FCC Rcd at 16089-90 para. 252.

[306] *See id.*

[307] *See* 47 C.F.R. § 36.611.

[308] *See 1998 Notice*, 13 FCC Rcd at 14264 para. 79.

[309] *Id.* at 14264-65 paras. 79-80; *see* 47 C.F.R. § 69.307. Section 69.307 provides that GSF costs are to be allocated among the billing and collection category, the interexchange category, and the access elements based on the amount of Central Office Equipment (COE), Cable and Wire Facilities (CWF), and Information Origination/Termination Equipment (IO/T) costs allocated to each Part 69 category. No COE, CWF, or IO/T costs are allocated to the billing and collection category, however. Thus, although the rule appears on its face to provide for an allocation of GSF costs to billing and collection, its application does not result in such an allocation.

[310] *1998 Notice*, 13 FCC Rcd at 14264-65 para. 80.

[311] *Access Charge Reform*, CC Docket No. 96-262, Third Report and Order, 12 FCC Rcd 22430 (1997) (*Third Access Charge Reform Report and Order*). The four accounts are Account 2111 (Land), Account 2121 (Buildings), Account 2123 (Office Equipment), and Account 2124 (General Purpose Computers).

Factor" to the interstate investment recorded in the four accounts.[312] The Commission tentatively concluded in the *1998 Notice* that similar modifications should be adopted for rate-of-return carriers.[313] The Commission requested comment on whether any adjustments to the allocation procedure adopted for price cap carriers would be necessary, the extent to which large and small rate-of-return carriers might be affected differently by the proposed modifications, and the potential impact on small businesses.[314]

115. *Discussion.* We adopt our proposal to require rate-of-return carriers that use general purpose computers to provide non-regulated billing and collection services to allocate a portion of their GSF costs to the billing and collection category. While several parties argue that fixed price long-term contracts preclude future recovery of those costs if GSF costs are reallocated to the billing and collection category,[315] we conclude, as we did for price cap carriers, that this measure is necessary in order to prevent cross-subsidization of non-regulated services by regulated services, and comports with principles of cost causation.[316]

116. Based on our examination of the record, however, we conclude that certain adjustments to the allocation procedure adopted for price cap carriers are warranted for rate-of-return carriers. Rate-of-return carriers are not required to maintain the account detail that provides separate land, buildings, office furniture, and general purpose computer investment detail in order to implement the allocator adopted for price cap carriers.[317] To develop the data necessary to implement the GSF allocator used by price cap carriers would require considerable effort on the part of rate-of-return carriers to identify the amounts related to these four accounts. To accommodate these accounting limitations, we will only require rate-of-return carriers to determine the cost of their investment in general purpose computers. Rate-of-return carriers will then apply the modified Big Three Expense Factor used by price cap carriers to their general purpose computer investment to determine the amount to be allocated to the billing and collection category.[318] We will permit rate-of-return carriers to use the general purpose

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[312] *See 1998 Notice*, 13 FCC Rcd at 14265 para. 81. The "Big Three Expenses" are (1) Plant Specific Operations Expenses (Accounts 6110, 6120, 6210, 6220, 6230, 6310, and 6410), (2) Plant Nonspecific Operations Expenses (Accounts 6510, 6530, and 6540), and (3) Customer Operations Expenses (Accounts 6610 and 6620). The Big Three Expense Factor is calculated separately by each price cap carrier as the ratio of (a) the sum of the Big Three Expenses apportioned to each rate element or cost category to (b) the sum of the combined Big Three Expenses. 47 C.F.R. §§ 69.2 (e) and (f). The Commission modified the Big Three Expense Factor to exclude amounts that are themselves apportioned based on the apportionment of GSF costs. *1998 Notice*, 13 FCC Rcd at 14265 para. 81.

[313] *1998 Notice*, 13 FCC Rcd at 14265-66 para. 82.

[314] *Id.* (noting that "certain small rate-of-return LECs do not maintain accounts below the summary account level").

[315] *See, e.g.*, Fred Williamson & Assoc. Comments in CC Docket No. 98-77 at 11, ICORE Comments in CC Docket No. 98-77 at 5-6, NECA Reply in CC Docket No. 98-77 at 8, NRTA and NTCA Reply in CC Docket No. 98-77 at 15-16.

[316] *See, e.g.*, AT&T Comments at 17-18; *see also Third Access Charge Reform Report and Order*, 12 FCC Rcd at 22430.

[317] *See* 47 C.F.R. § 32.2110.

[318] As with price cap carriers, any GSF investment in Account 2110 not allocated to the billing and collection category will be apportioned among the access elements, the billing and collection category, and the interexchange category using the current investment allocator. The interstate portion of Account 6120 (General Support Expenses) (continued....)

computer investment amount it develops for a period of three years. While this procedure will allocate less GSF to the billing and collection category than the method used by price cap carriers, it recognizes the limitations of the accounting system and the administrative burdens of developing further disaggregated investment detail, consistent with the requirements of the Regulatory Flexibility Act.[319] To give small rate-of-return carriers ample time to comply with the new allocation procedures, and to permit them to renegotiate their billing and collection contracts, the new procedures will not become effective until July 1, 2002.

117. We clarify that rate-of-return carriers whose billing and collection activities are performed exclusively by service bureaus will continue to allocate GSF pursuant to section 307(c) of our rules, which specifically addresses the situation in which rate-of-return carriers obtain all billing and collection services they provide to interexchange carriers from unregulated affiliates or from unaffiliated third parties. We decline to adopt proposals to exempt from the new allocation procedure carriers with fewer than 50,000 lines.[320] Many of those carriers use billing and collection services exclusively and, therefore, will not be affected. For those carriers that are affected, the cost of determining their general purpose computer investment should be relatively small.

### 2. Marketing Expenses

118. We do not adopt the tentative conclusion from the *1998 Notice* to require rate-of-return carriers to recover marketing expenses through the common line recovery mechanisms. The Commission previously directed price cap carriers to recover interstate-allocated marketing costs unrelated to the sale or advertising of switched access services from end users on a per-line basis, concluding that such costs should not be recovered from interexchange carriers through per-minute charges.[321] In the *1998 Notice*, the Commission tentatively concluded that rate-of-return carriers' marketing expenses should be recovered in a similar manner.[322] Based on examination of the record, however, we cannot conclude that adoption of such a requirement is warranted for rate-of-return carriers. As a general matter, determining the costs to be reallocated is likely to be more difficult than for price cap carriers, because rate-of-return carriers are not required to keep Class A accounts, which are more detailed.[323] In addition, the costs in question

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will continue to be apportioned among all elements and categories, including billing and collection. 47 C.F.R. § 69.401(a)(2); *see Third Access Charge Reform Report and Order*, 12 FCC Rcd at 22443-44 para. 35.

[319] *See* 5 U.S.C. § 601, *et seq.*

[320] *See, e.g.*, GVNW Consulting Comments in CC Docket No. 98-77 at 10-14, ICORE Comments in CC Docket No. 98-77 at 5-6, NECA Comments in CC Docket No. 98-77 at 6-7.

[321] *Access Charge Reform Order*, 12 FCC Rcd at 16122-23 para. 324; *see Interstate Access Support Order*, 15 FCC Rcd at 13003 paras. 102-03. The Commission reasoned that "recovering these expenses from end users instead of from interexchange carriers is consistent with principles of cost-causation to the extent that LEC sales and advertising activities are aimed at selling retail services to end users, and not at selling switched access services to interexchange carriers." *See 1998 Notice*, 13 FCC Rcd at 14266-67 para. 84.

[322] *1998 Notice*, 13 FCC Rcd at 14267 para. 86.

[323] *See* 47 C.F.R. § 32.2110.

represent only a small portion of rate-of-return carriers' interstate access revenues.[324] Furthermore, we are concerned that such a requirement would permit marketing costs, which are under rate-of-return carriers' control, to be recovered largely from universal service support, because SLC rates for many rate-of-return carriers are likely to be at their ceilings. For these reasons, we conclude that the benefits of requiring rate-of-return carriers to reassign marketing expenses to the common line category would be outweighed by the costs.

### 3. Special Access Primary Interexchange Carrier Charge

119. We will not apply a presubscribed interexchange carrier charge (PICC) to special access services offered by rate-of-return carriers. In the *1998 Notice*, we invited comment on "whether, if we apply a PICC to special access services offered by price cap LECs, we should apply a PICC to special access services offered by rate-of-return LECs."[325] We recently decided not to impose a PICC on special access services offered by price cap carriers, noting the regulatory changes that had occurred since the proposal was made and the unanimous opposition to the proposal.[326] For the same reasons, and because the common line rate structure for rate-of-return carriers does not include a PICC, we will not apply a PICC to special access services offered by rate-of-return carriers.

## D. Universal Service

120. In this section, we establish a new universal service support mechanism, Interstate Common Line Support, to replace implicit support in the interstate access rate structure of rate-of-return carriers. Specifically, we replace the CCL charge with explicit support that will be available to all eligible telecommunications carriers on an equitable, non-discriminatory, and competitively neutral basis. Like the CCL charge, Interstate Common Line Support will provide support for rate-of-return carriers to the extent that SLC caps do not permit them to recover their common line revenue requirements. Consistent with the Act, this new support mechanism will help to ensure the availability of high quality telecommunications service at affordable and reasonably comparable rates after the CCL charge is phased out, and further our policy of promoting telecommunications investment in rural America.

121. Below, we first address the appropriate size and nature of Interstate Common Line Support. We then describe the administration of this new support mechanism, and adopt an implementation schedule. Further, we set forth rules governing the calculation and distribution of Interstate Common Line Support, including disaggregation and targeting of Interstate Common Line Support, and the consequences of transfers of exchanges receiving Interstate Common Line Support. Finally, we address recovery of universal service contributions by rate-of-return carriers, and the Lifeline program.

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[324] The majority of marketing expenses already are assigned to the common line category because this category includes the largest percentage of carrier investment and expenses. AT&T estimated the total amount of marketing expense in local switching and transport to be $7.9 million. AT&T Comments in CC Docket No. 98-77 at Table 1.

[325] *1998 Notice*, 13 FCC Rcd at 14268-69 para. 90.

[326] *Access Charge Reform*, CC Docket No. 96-262, Order, 16 FCC Rcd 11448, 11449 para. 5 (2001).