

designation as an eligible telecommunications carrier under section 214(e) of 47 U.S.C.

§59.2 Terms and conditions of infrastructure sharing.

(a) An incumbent local exchange carrier subject to the requirements of section 59.1 shall not be required to take any action that is economically unreasonable or that is contrary to the public interest.

(b) An incumbent local exchange carrier subject to the requirements of section 59.1 may, but shall not be required to, enter into joint ownership or operation of public switched network infrastructure, technology, information and telecommunications facilities and functions and services with a qualifying carrier as a method of fulfilling its obligations under section 59.1.

(c) An incumbent local exchange carrier subject to the requirements of section 59.1 shall not be treated by the Commission or any State as a common carrier for hire or as offering common carrier services with respect to any public switched network infrastructure, technology, information, or telecommunications facilities, or functions made available to a qualifying carrier in accordance with regulations issued pursuant to this section.

(d) An incumbent local exchange carrier subject to the requirements of section 59.1 shall make such public switched network infrastructure, technology, information, and telecommunications facilities, or functions available to a qualifying carrier on just and reasonable terms and pursuant to conditions that permit such qualifying carrier to fully benefit from the economies of scale and scope of such local exchange carrier. An incumbent local exchange carrier that has entered into an infrastructure sharing agreement pursuant to section 59.1 must give notice to the qualifying carrier at least sixty days before terminating such infrastructure sharing agreement.

(e) An incumbent local exchange carrier subject to the requirements of section 59.1 shall not be required to engage in any infrastructure sharing agreement for any services or access which are to be provided or offered to consumers by the qualifying carrier in

such local exchange carrier's telephone exchange area.

(f) An incumbent local exchange carrier subject to the requirements of section 59.1 shall file with the State, or, if the State has made no provision to accept such filings, with the Commission, for public inspection, any tariffs, contracts, or other arrangements showing the rates, terms, and conditions under which such carrier is making available public switched network infrastructure, technology, information and telecommunications facilities and functions pursuant to this part.

§59.3 Information concerning deployment of new services and equipment.

An incumbent local exchange carrier subject to the requirements of section 59.1 that has entered into an infrastructure sharing agreement under section 59.1 shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including any software or upgrades of software integral to the use or operation of such telecommunications equipment.

§59.4 Definition of "qualifying carrier".

For purposes of this part, the term "qualifying carrier" means a telecommunications carrier that:

(a) Lacks economies of scale or scope; and

(b) Offers telephone exchange service, exchange access, and any other service that is included in universal service, to all consumers without preference throughout the service area for which such carrier has been designated as an eligible telecommunications carrier under section 214(e) of 47 U.S.C.

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AUTHORITY: Secs. 1, 4(i), 4(j), 201-205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201-205, and 403, unless otherwise noted.

SOURCE: 49 FR 40869, Oct. 18, 1984, unless otherwise noted.

§61.1 Purpose and application.

(a) The purpose of this part is to prescribe the framework for the initial establishment of and subsequent revisions to tariff publications.

(b) Tariff publications filed with the Commission must conform to the rules in this part. Failure to comply with any provisions of this part may be grounds for rejection of the non-complying publication.

(c) No carrier required to file tariffs may provide any interstate or foreign communication service until every tariff publication for such communication service is on file with the Commission and in effect.

§61.2 Clear and explicit explanatory statements.

In order to remove all doubt as to their proper application, all tariff publications must contain clean and explicit explanatory statements regarding the rates and regulations.

DEFINITIONS

§ 61.3 Definitions.

(a) *Act*. The Communications Act of 1934 (48 Stat. 1004; 47 U.S.C. chapter 5), as amended.

(b) *Actual Price Index (API)*. An index of the level of aggregate rate element rates in a basket, which index is calculated pursuant to § 61.46.

(c) *Association*. This term has the meaning given it in § 69.2(d).

(d) *Band*. A zone of pricing flexibility for a service category, which zone is calculated pursuant to § 61.47.

(e) *Base period*. For carriers subject to §§ 61.41–61.49, the 12-month period ending six months prior to the effective date of annual price cap tariffs, or for carriers regulated under § 61.50, the 24-month period ending six months prior to the effective date of biennial optional incentive plan tariffs. Base year or base period earnings shall not include amounts associated with exogenous adjustments to the PCI for the sharing or lower formula adjustment mechanisms.

(f) *Basket*. Any class or category of tariffed service or charge:

(1) Which is established by the Commission pursuant to price cap regulation;

(2) The rates of which are reflected in an Actual Price Index; and

(3) The related costs of which are reflected in a Price Cap Index.

(g) *Change in rate structure*. A restructuring or other alternation of the rate components for an existing service.

(h) *Charges*. The price for service based on tariffed rates.

(i) *Commercial contractor*. The commercial firm to whom the Commission annually awards a contract to make copies of Commission records for sale to the public.

(j) *Commission*. The Federal Communications Commission.

(k) *Concurring carrier*. A carrier (other than a connecting carrier) subject to the Act which concurs in and assents to schedules of rates and regulations filed on its behalf an issuing carrier or carriers.

(l) *Connecting carrier*. A carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another

carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with, such carrier.

(m) *Contract-based tariff*. A tariff based on a service contract entered into between an interexchange carrier subject to § 61.42 (a) through (c) or a nondominant carrier and a customer.

(n) *Corrections*. The remedy of errors in typing, spelling, or punctuations.

(o) *Dominant carrier*. A carrier found by the Commission to have market power (i.e., power to control prices).

(p) *GDP Price Index (GDP-PI)*. The estimate of the “Fixed Weight Price Index for Gross Domestic Product, 1987 Weights” published by the United States Department of Commerce, which the Commission designates by Order.

(q) *GNP Price Index (GNP-PI)*. The estimate of the “Fixed-Weighted Price Index for Gross National Product, 1982 Weights” published by the United States Department of Commerce, which the Commission designates by Order.

(r) *Issuing carrier*. A carrier subject to the Act that publishes and files a tariff or tariffs with the Commission.

(s) *Local Exchange Carrier*. Any person that is engaged in the provision of telephone exchange service or exchange access as defined in section 3(26) of the Act.

(t) *New service offering*. A tariff filing that provides for a class or sub-class of service not previously offered by the carrier involved and that enlarges the range of service options available to ratepayers.

(u) *Non-dominant carrier*. A carrier not found to be dominant.

(v) *Other participating carrier*. A carrier subject to the Act that publishes a tariff containing rates and regulations applicable to the portion or through service it furnishes in conjunction with another subject carrier.

(w) *Price Cap Index (PCI)*. An index of costs applying to carriers subject to price cap regulation, which index is calculated for each basket pursuant to § 61.44 or 61.45.

(x) *Price cap regulation*. A method of regulation of dominant carriers provided in §§ 61.41 through 61.49.

(y) *Price cap tariff.* Any tariff filing involving a service that is within a price cap basket, or that requires calculations pursuant to § 61.44, 61.45, 61.46, or 61.47.

(z) *Productivity factor.* An adjustment factor used to make annual adjustments to the Price Cap Index to reflect the margin by which a carrier subject to price cap regulation is expected to improve its productivity relative to the economy as a whole.

(aa) *Rate.* The tariffed price per unit of service.

(bb) *Rate increase.* Any change in a tariff which results in an increased rate or charge to any of the filing carrier's customers.

(cc) *Rate level change.* A tariff change that only affects the actual rate associated with a rate element, and does not affect any tariff regulations or any other wording of tariff language.

(dd) *Regulations.* The body of carrier prescribed rules in a tariff governing the offering of service in that tariff, including rules, practices, classifications, and definitions.

(ee) *Restructured service.* An offering which represents the modification of a method of charging or provisioning a service; or the introduction of a new method of charging or provisioning that does not result in a net increase in options available to customers.

(ff) *Service Band Index (SBI).* An index of the level of aggregate rate element rates in a service category, which index is calculated pursuant to § 61.47.

(gg) *Service category.* Any group of rate elements subject to price cap regulation, which group is subject to a band.

(hh) *Supplement.* A publication filed as part of a tariff for the purpose of suspending or cancelling that tariff, or tariff publication and numbered independently from the tariff page series.

(ii) *Tariff.* Schedules of rates and regulations filed by common carriers.

(jj) *Tariff publication, or publication.* A tariff, supplement, revised page, additional page, concurrence, notice of revocation, adoption notice, or any other schedule of rates or regulations filed by common carriers.

(kk) *Tariff year.* The period from the day in a calendar year on which a carrier's annual access tariff filing is

scheduled to become effective through the preceding day of the subsequent calendar year.

(ll) *Text change.* A change in the text of a tariff which does not result in a change in any rate or regulation.

(mm) *United States.* The several States and Territories, the District of Columbia, and the possessions of the United States.

[54 FR 19840, May 8, 1989, as amended at 55 FR 42382, Oct. 19, 1990; 56 FR 55239, Oct. 25, 1991; 58 FR 36147, July 6, 1993; 59 FR 10301, Mar. 4, 1994; 60 FR 19527, Apr. 19, 1995; 60 FR 20052, Apr. 24, 1995; 61 FR 59366, Nov. 22, 1996; 62 FR 5777, Feb. 7, 1997; 62 FR 31930, June 11, 1997]

EFFECTIVE DATE NOTE: At 62 FR 31930, June 11, 1997, § 61.3 was amended by revising the introductory text of paragraph (f), effective Jan. 1, 1998. For the convenience of the user, the superseded text is set forth as follows:

§ 61.3 Definitions.

* * * * *

(f) *Basket.* Any class or category of tariffed services:

* * * * *

§ 61.11—61.19 [Reserved]

GENERAL RULES

General Rules for Domestic and International Nondominant Carriers

§ 61.20 Detariffing of interstate, domestic, interexchange services.

Except as otherwise provided by Commission order, carriers that are nondominant in the provision of interstate, domestic, interexchange services shall not file tariffs for such services.

[61 FR 59366, Nov. 22, 1996]

§ 61.21 Method of filing publications.

(a) Publications sent for filing must be addressed to "Secretary, Federal Communications Commission, Washington, DC 20554." The date on which the publication is received by the Secretary of the Commission (or the Mail Room where submitted by mail) is considered the official filing date.

(b)(1) In addition, for all tariff publications requiring fees as set forth in

part 1, subpart G of this chapter, issuing carriers must submit the original of the cover letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in §1.1105 of this chapter. Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

(2) International carriers must certify in their original cover letter that they are authorized under Section 214 of the Communications Act of 1934, as amended, to provide service, and reference the FCC file number of that authorization.

(c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the issuing carrier must send a copy of the cover letter with one diskette containing both the complete tariff and any attachments, as appropriate, to the Secretary, Federal Communications Commission. In addition, the issuing carrier must send one diskette of the complete tariff and a copy of the cover letter to the commercial contractor (at its office on Commission premises), and to the Chief, Tariff Review Branch. The latter should be clearly labeled as the "Public Reference Copy." The issuing carrier should file the copies required by this paragraph so they will be received on the same date as the filings in paragraph (a) of this section.

[58 FR 44460, Aug. 23, 1993, as amended at 61 FR 15726, Apr. 9, 1996. Redesignated at 61 FR 59366, Nov. 22, 1996]

§61.22 Cover letters.

(a)(1) Except as specified in §61.32(b), all publications filed with the Commission must be accompanied by a cover letter, 8.5 by 11 inches (21.6 cm x 27.9 cm) in size. All cover letters should briefly explain the nature of the filing and indicate the date and method of filing of the original cover letter, as required by §61.20(b)(1).

(2) International carriers must certify that they are authorized under Section 214 of the Communications Act of 1934, as amended, to provide service, and reference the FCC file number of that authorization.

(b) A separate cover letter may accompany each publication, or an issu-

ing carrier may file as many publications as desired with one cover letter.

NOTE: If a receipt for accompanying publication is desired, the cover letter must be sent in duplicate. One copy showing the date of the receipt by the Commission will then be returned to the sender.

[58 FR 44460, Aug. 23, 1993, as amended at 61 FR 15726, Apr. 9, 1996. Redesignated at 61 FR 59366, Nov. 22, 1996]

SPECIFIC RULES FOR DOMESTIC AND INTERNATIONAL NONDOMINANT CARRIERS

§61.23 Composition of tariffs.

(a) The tariff must be submitted on a 3½ inch (8.89 cm) diskette, formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette must be submitted in "read only" mode. The diskette must be clearly labelled with the carrier's name, Tariff Number, and the date of submission. The cover letter must be submitted on 8½ by 11 inch (21.6 cm x 27.9 cm) paper, and must be plainly printed in black ink.

(b) The tariff must contain the carrier's name, the international Section 214 authorization FCC file number (when applicable), and the information required by Section 203 of the Act.

(c) Changes to a tariff must be made by refileing the entire tariff on a new diskette, with the changed material included. The carrier must indicate in the tariff what changes have been made.

(d) Domestic and international non-dominant carriers subject to the provisions of this section are not subject to the tariff filing requirements of §61.54.

[58 FR 44460, Aug. 23, 1993; 58 FR 48323, Sept. 15, 1993, as amended at 61 FR 15727, Apr. 9, 1996. Redesignated at 61 FR 59366, Nov. 22, 1996]

§61.24 Notice requirements.

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(b) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by

§ 61.32

the Commission, but does not include the effective date. In computing the notice period required, all days including Sundays and holidays must be counted.

(c) Tariff filings of domestic and international non-dominant carriers must be made on at least one-day notice.

[58 FR 44460, Aug. 23, 1993, as amended at 61 FR 15727, Apr. 9, 1996. Redesignated at 61 FR 59366, Nov. 22, 1996]

§ 61.32 Method of filing publications.

(a) Publications sent for filing must be addressed to "Secretary, Federal Communications Commission, Washington, DC 20554." The date on which the publication is received by the Secretary of the Commission (or the Mail Room where submitted by mail) is considered the official filing date.

(b) In addition, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the transmittal letter (without attachments), FCC Form 155, and the appropriate fee to the Mellon Bank, Pittsburgh, PA, at the address set forth in § 1.1105. Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a).

(c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the issuing carrier must send a copy of the transmittal letter with two copies of the proposed tariff pages and all attachments, including the supporting information specified in § 61.38 or § 61.49, as appropriate, to the Secretary, Federal Communications Commission. In addition, the issuing carrier must send a copy of the publication, supporting information specified in § 61.38 or § 61.49, as appropriate, and transmittal letter to the commercial contractor (at its office on Commission premises), and to the Chief, Tariff Review Branch. The latter should be clearly labeled as the "Public Reference Copy." The copies of supporting information required here are in addition to those required by § 61.38(c). The issuing carrier must file the copies required by this paragraph

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so they will be received on the same date as the filings in paragraph (a).

[55 FR 19173, May 8, 1990]

§ 61.33 Letters of transmittal.

(a) Except as specified in § 61.32(b), all publications filed with the Commission must be accompanied by a letter of transmittal, A4 (21 cm x 29.7 cm) or 8.5 x 11 inches (21.6 cm x 27.9 cm) in size. All letters of transmittal must (1) concisely explain the nature and purpose of the filing; (2) specify whether supporting information under § 61.38 is required; (3) state whether copies have been delivered to the Commercial Contractor and Chief, Tariff Review Branch as required by § 61.32, and (4) contain a statement indicating the date and method of filing of the original of the transmittal letter as required by § 61.32(b), and the date and method of filing the copies as required by § 61.32 (a) and (c).

(b) In addition to the requirements set forth in paragraph (a) of this section, any local exchange carrier choosing to file an Access Tariff under § 61.39 must include in the transmittal:

(1) A summary of the filing's basic rates, terms and conditions;

(2) A statement concerning whether any prior Commission facility authorization necessary to the implementation of the tariff has been obtained; and

(3) A statement that the filing is made pursuant to § 61.39.

(c) In addition to the requirements set forth in paragraph (a) of this section, any carrier filing a price cap tariff must include in the letter of transmittal a statement that the filing is made pursuant to § 61.49.

(d) Tariffs filed pursuant to section 204(a)(3) of the Communications Act shall display prominently in the upper right hand corner of the letter of transmittal a statement that the filing is made pursuant to that section and whether it is being filed on 7- or 15-days' notice.

(e) In addition to the requirements set forth in paragraph (a) of this section, any carrier filing a new or revised tariff made on 15 days' notice or less shall include in the letter of transmittal, the name, room number, street address, telephone number, and facsimile

number of the individual designated by the filing carrier to receive personal or facsimile service of petitions against the filing as required under § 1.773(a)(4) of this chapter.

(f) In addition to the requirements set forth in paragraphs (a), (b), and (c) of this section, the letter of transmittal must specifically reference by number any special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication, and may not be requested in the transmittal letter.

(g) The letter of transmittal must be substantially in the following format.

(Exact name of carrier in full) _____
 (Post Office Address) _____
 _____, 19____.

(Date) _____

Transmittal No. _____

Secretary,
 Federal Communications Commission
 Washington, DC 20554

Attention: Common Carrier Bureau.

The accompanying tariff (or other publication) issued by _____, and bearing FCC No. _____, effective _____, 19____, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. (Here give the additional information required.)

(Name of issuing officer or agent) _____
 (Title) _____

(h)(1) A separate letter of transmittal may accompany each publication, or the above format may be modified to provide for filing as many publications as desired with one transmittal letter.

(2) For contract-based tariffs defined in § 61.3(m), a separate letter of transmittal must accompany each tariff filed. The transmittals must be numbered in a series separate from transmittals for non-contract tariff filing. Numbers must appear on the face of the transmittal and be in the form of "CTT No. _____", using CTT as an abbreviation for contract-based tariff transmittals. Contract-based tariffs must also be numbered in a series separate from non-contract-based tariffs. Numbers must be in the form of "CT No. _____", using CT as an abbreviation for contract-based tariffs. Each contract-based tariff must be assigned a separate number. Transmittals and tariffs subject to this paragraph shall

be filed beginning with the number "1" and shall be numbered consecutively.

NOTE: If a receipt for accompanying publication is desired, the letter of transmittal must be sent in duplicate. One copy showing the date of receipt by the Commission will then be returned to the sender.

[55 FR 19173, May 8, 1990, as amended by 56 FR 55239, Oct. 25, 1991; 58 FR 17530, Apr. 5, 1993; 58 FR 44906, Aug. 25, 1993; 62 FR 5777, Feb. 7, 1997]

§ 61.35 Delivered free of charges.

Tariff publications must be delivered to the Commission free from all charges, including claims for postage.

§ 61.36 Tariff publications not returned.

Tariff publications will not be returned.

§ 61.38 Supporting information to be submitted with letters of transmittal.

(a) *Scope.* This section applies to dominant carriers whose gross annual revenue exceed \$500,000 for the most recent 12 month period of operations or are estimated to exceed \$500,000 for a representative 12 month period. Local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in § 69.602 of this chapter may submit Access Tariff filings for that study area pursuant to either this section or § 61.39. However, the Commission may require any carrier to submit such information as may be necessary for a review of a tariff filing. This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings proposing rates for services identified in § 61.42 (a), (b), (d), (e), and (g), promotional offerings that relate to services subject to price cap regulation, tariff filings proposing rates for services identified in § 61.50, or to tariff filings, other than promotional filings, filed on 14 days' notice pursuant to § 61.58(c)(6).

(b) *Explanation and data supporting either changes or new tariff offerings.* The material to be submitted for a tariff change which affects rates or charges or for a tariff offering a new service, must include an explanation of the changed or new matter, the reasons for

the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.

(1) For a tariff change the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A cost of service study for all elements for the most recent 12 month period;

(ii) A study containing a projection of costs for a representative 12 month period;

(iii) Estimates of the effect of the changed matter on the traffic and revenues from the service to which the changed matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (ii) above.

(2) For a tariff filing offering a new service, the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in paragraph (b)(2)(i) of this section.

(3) For a tariff filing that introduces or changes a contribution charge for special access and expanded interconnection, as defined in §69.122 of this chapter, the carrier must submit information sufficient to establish that the charge has been calculated in a manner that complies with the Commission order authorizing the contribution charge.

(4) For a tariff that introduces a system of density pricing zones, as described in §69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia*, documentation sufficient to establish that the system of zones reasonably reflects cost-related

characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

(c) *Working papers and statistical data.*

(1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff Review Branch must be provided two sets of working papers containing the information underlying the data supplied in response to paragraph (b) of this section, and a clear explanation of how the working papers relate to that information.

(2) All statistical studies must be submitted and supported in the form prescribed in §1.363 of the Commission's Rules.

(d) *Form and content of additional material to be submitted with certain rate increases.* In the circumstances set out in paragraphs (d)(1) and (2) of this section, the filing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate increase. The carrier must submit this information in suitable form to serve as the carrier's direct case in the event the rate increase is set by the Commission for investigation.

(1) Rate increases affecting single services or tariffed items.

(i) A rate increase in any service or tariffed item which results in more than \$1 million in additional annual revenues, calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A single rate increase in any service or tariffed item, or successive rate increases in the same service or tariffed item within a 12 month period, either of which results in:

(A) At least a 10 percent increase in annual revenues from that service or tariffed item, and

(B) At least \$100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(2) Rate increases affecting more than one service or tariffed item.

(i) A general rate increase in more than one service or tariffed item occurring at one time, which results in more than \$1 million in additional revenues

calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A general rate increase in more than one service or tariffed item occurring at one time, or successive general rate increases in the same services or tariffed items occurring within a 12 month period, either of which results in:

(A) At least a 10 percent increase in annual revenues from those services or tariffed items, and

(B) At least \$100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(e) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.

(f) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the offering carrier must transmit to the customer a copy of the explanation and data required by paragraphs (b) and (c) of this section.

[49 FR 40869, Oct. 18, 1984, as amended at 53 FR 36289, Sept. 19, 1988; 54 FR 19841, May 8, 1989; 55 FR 42382, Oct. 19, 1990; 56 FR 55239, Oct. 25, 1991; 57 FR 54330, Nov. 18, 1992; 58 FR 36147, July 6, 1993; 58 FR 48762, Sept. 17, 1993]

§ 61.39 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings effective on or after April 1, 1989, by local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in § 69.602.

(a) *Scope.* This section provides for an optional method of filing for any local exchange carrier that is described as subset 3 carrier in § 69.602 of this chapter, which elects to issue its own Access Tariff for a period commencing on or after April 1, 1989, and which serves 50,000 or fewer access lines in a study area as determined under § 36.611(a)(8) of this chapter. However, the Commission may require any carrier to submit

such information as may be necessary for review of a tariff filing. This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings proposing rates for services identified in § 61.42 (d), (e) and (g), which filings are submitted by carriers subject to price cap regulation, or to tariff filings proposing rates for services identified in § 61.50, which filings are submitted by carriers subject to optional incentive regulation.

(b) *Explanation and data supporting tariff changes.* The material to be submitted to either a tariff change or a new tariff which affects rates or charges must include an explanation of the filing in the transmittal as required by § 61.33. The basis for rate-making must comply with the following requirements. Except as provided in paragraph (b)(5) of this section, it is not necessary to submit this supporting data at the time of filing. However, the local exchange carrier should be prepared to submit the data promptly upon reasonable request by the Commission or interested parties.

(1) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Tariff Sensitive rates based on the following:

(i) For the first period, a cost of service study for Traffic Sensitive elements for the most recent 12 month period with related demand for the same period.

(ii) For subsequent filings, a cost of service study for Traffic Sensitive elements for the total period since the local exchange carrier's last annual filing, with related demand for the same period.

(2) For a tariff change, the local exchange company that is an average schedule carrier must propose Traffic Sensitive rates based on the following:

(i) For the first period, the local exchange carrier's most recent annual Traffic Sensitive settlement from the National Exchange Carrier Association pool.

(ii) For subsequent filings, an amount calculated to reflect the Traffic Sensitive average schedule pool settlement the carrier would have received if the carrier had continued to

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participate, based upon the most recent average schedule formulas approved by the Commission.

(3) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Common Line rates based on the following:

(i) For the first biennial filing, the common line revenue requirement shall be determined by a cost of service study for the most recent 12-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1+h/2)^2}$$

where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

And where:

CCL Rev Req = carrier common line revenue requirement for the most recent 12-month period;

CCL MOU_b = carrier common line minutes of use for the most recent 12-month period;

CCL MOU₁ = *CCL MOU_b*; and

CCL MOU₀ = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be determined by a cost of service study for the most recent 24-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1+h/2)^{5.2}}$$

Where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

And where:

CCL Rev Req = carrier common line revenue requirement for the most recent 24-month period;

CCL MOU_b = carrier common line minutes of use for the most recent 24-month period;

CCL MOU₁ = carrier common line minutes of use for the 12-month period; and

CCL MOU₀ = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(4) For a tariff change, the local exchange carrier which is an average schedule carrier must propose common line rates based on the following:

(i) For the first biennial filings, the common line revenue requirement shall be determined by the local exchange carrier's most recent annual Common Line settlement from the National Exchange Carrier Association. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1+h/2)^2}$$

Where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

And where:

CCL Rev Req = carrier common line settlement for the most recent 12-month period;

CCL MOU_b = carrier common line minutes of use for the most recent 12-month period;

CCL MOU₁ = *CCL MOU_b*; and

CCL MOU₀ = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be an amount calculated to reflect the average schedule pool settlements the carrier would have received if the carrier had continued to participate in the carrier common line pool, based upon the average schedule Common Line formulas developed by the National Exchange Carrier Association for the most recent 24-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1+h/2)^{5.2}}$$

Where:

$$h = \frac{\text{CCL MOU}_1}{\text{CCL MOU}_0} - 1$$

And where:

CCL Rev Req = carrier common line settlement for the most recent 24-month period;

CCL MOU_b = carrier common line minutes of use for the most recent 24-month period;

CCL MOU_i = carrier common line minutes of use for the most recent 12-month period; and

CCL MOU_o = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(5) For End User Common Line charges included in a tariff pursuant to this Section, the local exchange carrier must provide supporting information for the two-year historical period with its letter of transmittal in accordance with § 61.38.

(c) *Maximum allowable rate of return.* Local exchange carriers filing tariffs under this section are not required to comply with §§ 65.700 through 65.701, inclusive, of the Commission's Rules, except with respect to periods during which tariffs were not subject to this section. The Commission may require any carrier to submit such information if it deems it necessary to monitor the carrier's earnings. However, rates must be calculated based on the local exchange carrier's prescribed rate of return applicable to the period during which the rates are effective.

(d) Rates for a new service that is the same as that offered by a price cap regulated local exchange carrier providing service in an adjacent serving area are deemed presumptively lawful, if the proposed rates, in the aggregate, are no greater than the rates established by the price cap local exchange carrier. Tariff filings made pursuant to this paragraph must include the following:

(1) A brief explanation of why the service is like an existing service offered by a geographically adjacent price cap regulated local exchange carrier; and

(2) Data to establish compliance with this subsection that, in aggregate, the proposed rates for the new service are no greater than those in effect for the same or comparable service offered by that same geographically adjacent price cap regulated local exchange car-

rier. Compliance may be shown through submission of applicable tariff pages of the adjacent carrier; a showing that the serving areas are adjacent; any necessary explanations and work sheets.

(e) Average schedule companies filing pursuant to this section shall retain their status as average schedule companies.

[52 FR 26682, July 16, 1987, as amended at 53 FR 36289, Sept. 19, 1988; 55 FR 42382, Oct. 19, 1990; 58 FR 36147, July 6, 1993; 62 FR 31004, June 6, 1997]

§ 61.40 Private line rate structure guidelines.

(a) The Commission uses a variety of tools to determine whether a carrier's private line tariffs are just, reasonable, and nondiscriminatory. The carrier's burden of cost justification can be reduced when its private line rate structures comply with the following five guidelines.

(1) Rate structures for the same or comparable services should be integrated;

(2) Rate structures for the same or comparable services should be consistent with one another;

(3) Rate elements should be selected to reflect market demand, pricing convenience for the carrier and customers, and cost characteristics; a rate element which appears separately in one rate structure should appear separately in all other rate structures;

(4) Rate elements should be consistently defined with respect to underlying service functions and should be consistently employed through all rate structures; and

(5) Rate structures should be simple and easy to understand.

(b) The guidelines do not preclude a carrier, in a given case when a private line tariff does not comply with these guidelines, from justifying its departure from the guidelines and showing that its tariff is just, reasonable, and nondiscriminatory.

§ 61.41 Price cap requirements generally.

(a) Sections 61.42 through 61.49 shall apply as follows:

(1) To dominant interexchange carriers, as specified by Commission order;

(2) To such local exchange carriers as specified by Commission order, and to all local exchange carriers, other than average schedule companies, that are affiliated with such carriers; and

(3) On an elective basis, to local exchange carriers, other than those specified in paragraph (a)(2) of this section, that are neither participants in any Association tariff, nor affiliated with any such participants, except that affiliation with average schedule companies shall not bar a carrier from electing price cap regulation provided the carrier is otherwise eligible.

(b) If a telephone company, or any one of a group of affiliated telephone companies, files a price cap tariff in one study area, that telephone company and its affiliates, except its average schedule affiliates, must file price cap tariffs in all their study areas.

(c) The following rules apply to telephone companies subject to price cap regulation, as that term is defined in § 61.3(w), which are involved in mergers, acquisitions, or similar transactions.

(1) Any telephone company subject to price cap regulation that is a party to a merger, acquisition, or similar transaction shall continue to be subject to price cap regulation notwithstanding such transaction.

(2) Where a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that is not subject to price cap regulation, the latter telephone company shall become subject to price cap regulation no later than one year following the effective date of such merger, acquisition, or similar transaction and shall accordingly file price cap tariffs to be effective no later than that date in accordance with the applicable provisions of this part 61.

(3) Notwithstanding the provisions of § 61.41(c)(2) above, when a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that qualifies as an 'average schedule' company, the latter company may retain its 'average schedule' status or become sub-

ject to price cap regulation in accordance with § 69.3(i)(3) and the requirements referenced in that section.

(d) Local exchange carriers that become subject to price cap regulation as that term is defined in § 61.3(w) of this chapter shall not be eligible to withdraw from such regulation.

[55 FR 42382, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990, as amended at 56 FR 55239, Oct. 25, 1991]

§ 61.42 Price cap baskets and service categories.

(a) Each dominant interexchange carrier subject to price cap regulation shall establish three baskets as follows:

- (1) A residential services basket;
- (2) An 800 service basket; and
- (3) A business services basket.

(b)(1) The residential basket shall contain such services as the Commission shall permit or require, including the following service categories:

- (i) Domestic day MTS;
- (ii) Domestic evening MTS;
- (iii) Domestic night/weekend MTS;
- (iv) International MTS;
- (v) Operator and credit card services; and
- (vi) Reach Out America.

(2) The 800 service basket shall contain 800 Directory Assistance.

(3) The business services basket shall contain analog private lines, including analog voice grade private line, unless provided under contract to a government entity, and terrestrial television transmission service.

(c) Dominant interexchange carriers subject to price cap regulations shall exclude the following offerings from their price cap baskets:

- (1) Special construction services relating to services in § 61.42 (b)(1), (b)(2), and (b)(3);
- (2) All other special construction services;
- (3) American Telephone and Telegraph Company Tariff F.C.C. No. 11 services;
- (4) American Telephone and Telegraph Company Tariff F.C.C. No. 12 services;
- (5) American Telephone and Telegraph Company Tariff F.C.C. No. 16 services;
- (6) Services subject to below-the-line accounting;

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(7) International private line and record carrier services;

(8) Contract-based tariffs;

(9) Services removed from price cap regulation pursuant to the Report and Order in Docket No. 90-132;

(10) [Reserved]

(11) All other promotional offerings;

(12) Custom tariff services;

(13) Readyline 800 service;

(14) AT&T 800 service;

(15) Megacom 800 service;

(16) Other 800 services; and

(17) Commercial services.

(18) Such other services as the Commission may specify.

(d) Each local exchange carrier subject to price cap regulation shall establish baskets of services as follows:

(1) A basket for the common line interstate access elements as described in §§ 69.115, 69.152, 69.154, and 69.157 of this chapter, and that portion of the interstate access element described in § 69.153 of this chapter that recovers common line interstate access revenues;

(2) A basket for traffic sensitive switched interstate access elements;

(3) A basket for trunking services as described in §§ 69.110, 69.111, 69.112, 69.114, 69.125(b), and 69.155 of this chapter, and that portion of the interstate access element described in § 69.153 of this chapter that recovers residual interconnection charge revenues;

(4) To the extent that a local exchange carrier specified in § 61.41(a) (2) or (3) offers interstate interexchange services that are not classified as access services for the purpose of part 69 of this chapter, such exchange carrier shall establish a fourth basket for such services.

(5) To the extent that a local exchange carrier specified in § 61.41(a) (2) or (3) offers interstate video dialtone services, a basket for basic video dialtone services as described in § 63.54 of this chapter.

(6) A basket for the marketing expenses described in § 69.156 of this chapter, including those recovered through End User Common Line charges and Presubscribed Interexchange Carrier charges.

(e)(1) The traffic sensitive switched interstate access basket shall contain such services as the Commission shall

permit or require, including the following service categories:

(i) Local switching as described in § 69.106(f) of this chapter;

(ii) Information, as described in § 69.109 of this chapter;

(iii) Data base access services;

(iv) Billing name and address, as described in § 69.128 of this chapter;

(v) Local switching trunk ports, as described in § 69.106(f)(1) of this chapter; and

(vi) Signalling transfer point port termination, as described in § 69.125(c) of this chapter.

(2) The trunking basket shall contain such transport and special access services as the Commission shall permit or require, including the following service categories and subcategories:

(i) Voice grade entrance facilities, voice grade direct-trunked transport, voice grade dedicated signalling transport, voice grade special access, WATS special access, metallic special access, and telegraph special access services;

(ii) Audio and video services;

(iii) High capacity flat-rated transport, high capacity special access, and DDS services, including the following service subcategories:

(A) DS1 entrance facilities, DS1 direct-trunked transport, DS1 dedicated signalling transport, and DS1 special access services; and

(B) DS3 entrance facilities, DS3 direct-trunked transport, DS3 dedicated signalling transport, and DS3 special access services;

(iv) Wideband data and wideband analog services;

(v) Tandem-switched transport, as described in § 69.111 of this chapter; and

(vi) Interconnection charge, as recovered in §§ 69.153 and 69.155 of this chapter.

(vii) Signalling for tandem switching, as described in § 69.129 of this chapter.

(f) Each local exchange carrier subject to price cap regulation shall exclude from its price cap baskets such services or portions of such services as the Commission has designated or may hereafter designate by order.

(g) New services, other than those within the scope of paragraphs (c) and (f) of this section, must be included in the affected basket at the first annual

price cap tariff filing following completion of the base period in which they are introduced. To the extent that such new services are permitted or required to be included in new or existing service categories within the assigned basket, they shall be so included at the first annual price cap tariff filing following completion of the base period in which they are introduced.

[54 FR 19842, May 8, 1989, as amended at 55 FR 42382, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990; 56 FR 5956, Feb. 14, 1991; 56 FR 55239, Oct. 25, 1991; 57 FR 54718, Nov. 20, 1992; 58 FR 7868, Feb. 10, 1993; 58 FR 29552, May 21, 1993; 58 FR 31914, June 7, 1993; 58 FR 36145, July 6, 1993; 59 FR 10301, Mar. 4, 1994; 59 FR 32930, June 27, 1994; 60 FR 4569, Jan. 24, 1995; 60 FR 13639, Mar. 14, 1995; 60 FR 52346, Oct. 6, 1995; 62 FR 31930, June 11, 1997]

EFFECTIVE DATE NOTE: At 62 FR 31930, June 11, 1997, § 61.42 was amended by revising paragraphs (d)(1), (d)(2), and (d)(3), adding paragraph (d)(6), and revising paragraphs (e)(1) and (e)(2)(vi), effective Jan. 1, 1998. For the convenience of the user, the superseded text is set forth as follows:

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* * * * *

(d) * * *

(1) A basket for the common line interstate access elements as described in §§ 69.103, 69.104, 69.105, and 69.115 of this chapter;

(2) A basket for traffic sensitive switched interstate access elements;

(3) A basket for trunkin services as described in §§ 69.110, 69.111, 69.112, 69.114, 69.124, and 69.125 of this chapter;

* * * * *

(e)(1) The traffic sensitive switched interstate access basket shall contain such services as the Commission shall require, including the following service categories:

* * * * *

(vi) Interconnection charge, as described in § 69.124 of this chapter.

* * * * *

§ 61.43 Annual price cap filings required.

Carriers subject to price cap regulation shall submit annual price cap tariff filings that propose rates for the upcoming year, that make appropriate

adjustments to their PCI, API, and SBI values pursuant to §§ 61.44 through 61.47, and that incorporate the costs and rates of new services into the PCI, API, or SBI calculations pursuant to §§ 61.44(g), 61.45(g), 61.46(b), and 61.47 (b) and (c). Carriers may propose rate or other tariff changes more often than annually, consistent with the requirements of § 61.59.

[54 FR 19842, May 8, 1989, as amended at 55 FR 42383, Oct. 19, 1990]

§ 61.44 Adjustments to the PCI for Dominant Interexchange Carriers.

(a) Dominant interexchange carriers subject to price cap regulation shall file adjustments to the PCI for each basket as part of the annual price cap tariff filing, and shall maintain updated PCIs to reflect the effect of mid-year access and exogenous cost changes.

(b) Subject to paragraph (d) of this section, adjustments to each PCI of dominant interexchange carriers subject to price cap regulation shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w(GNP-PI - X) + \Delta Y/R + \Delta Z/R]$$

where

GNP-PI = the percentage change in the GNP-PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year,

X = productivity factor of 3.0%,

ΔY = (new access rate - access rate at the time the PCI was updated to PCI_{t-1}) \times (base period demand),

ΔZ = the dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to PCI_{t-1} , measured at base period level of operations,

R = base period quantities for each rate element "i", multiplied by the price for each rate element "i" at the time the PCI was updated to PCI_{t-1} ,

w = R - (access rate in effect at the time the PCI was updated to PCI_{t-1} \times base period demand) + ΔZ , all divided by R,

PCI_t = the new PCI value, and

PCI_{t-1} = the immediately preceding PCI value.

(c) The exogenous cost changes represented by the term " ΔZ " in the formula detailed in paragraph (b) of this section, shall be limited to those cost

changes that the Commission shall permit or require, and include those caused by:

- (1) The completion of the amortization of depreciation reserve deficiencies;
- (2) Changes in the Uniform System of Accounts;
- (3) Changes in the Separations Manual;
- (4) The reallocation of investment from regulated to nonregulated activities pursuant to §64.901; and
- (5) Such tax law changes and other extraordinary exogenous cost changes as the Commission shall permit or require.

These exogenous cost changes shall be apportioned on a cost-causative basis between price cap services as a group, and excluded services as a group. Exogenous cost changes thus attributed to price cap services shall be further apportioned on a cost-causative basis among price cap baskets.

(d) In calculating the “Δ Y” variable in the formula detailed in paragraph (b) of this section:

(1) The net change in total non-traffic sensitive access costs for all capped services (in all baskets), calculated at base period demand, shall be allocated among the baskets in proportion to each basket’s share of total base period non-traffic sensitive minutes of access (both originating and terminating);

(2) The net change in total traffic sensitive access costs for all capped services (in all baskets), calculated at base period demand, shall be allocated among the baskets in proportion to each basket’s share of total base period traffic sensitive minutes of access; and

(3) Changes in special access costs in each basket, calculated at base period demand, shall be assigned directly to the baskets in which such costs are incurred.

(e) In calculating the “w” variable in the formula detailed in paragraph (b) of this section, the access costs that must be subtracted from the “R” variable shall be apportioned among the baskets in a manner that is consistent with the methodology provided in paragraph (d) of this section for calculating the “Δ Y” in each basket.

(f) The “w(GNP-PI - X)” component of the PCI formula shall be employed

only in the adjustment made in connection with the annual price cap filing.

(g) The exogenous cost changes and changes in access costs caused by new services subject to price cap regulation must be included in the appropriate PCI calculations under paragraph (b) of this section beginning at the first annual price cap tariff filing following completion of the base period in which they are introduced.

(h) In the event that a price cap tariff becomes effective, which tariff results in an API value (calculated pursuant to §61.46) that exceeds the currently applicable PCI value, the PCI value shall be adjusted upward to equal the API value.

[54 FR 19842, May 8, 1989, as amended at 55 FR 42383, Oct. 19, 1990]

§61.45 Adjustments to the PCI for Local Exchange Carriers.

(a) Local exchange carriers subject to price cap regulation shall file adjustments to the PCI for each basket as part of the annual price cap tariff filing, and shall maintain updated PCIs to reflect the effect of mid-year exogenous cost changes.

(b) Adjustments to local exchange carrier PCIs for the baskets designated in §61.42(d) (2), (3), (4), (5), and (6) shall be made pursuant to the formula set forth in §61.44(b), and as further explained in §61.44 (e), (f), (g), and (h).

(1) Notwithstanding the value of X defined in §61.44(b), the X value applicable to the baskets specified in §61.42(d) (2), (3), and (6) shall be 6.5%.

(2) For the basket specified in §61.42(d)(4), the value of X, for all local exchange carriers subject to price cap regulation, shall be 3.0%.

(3) Notwithstanding the value of X defined in §61.44(b), the value of X applicable to the basket specified in §61.42(d)(5) shall be 0%.

(c)(1) Subject to paragraphs (c)(2) and (e) of this section, adjustments to local exchange carrier PCIs for the basket designated in §61.42(d)(1) shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w \{ (GDP-PI-X - (g/2)) / (1 + (g/2)) \}] + \Delta Z/R$$

where

GDP-PI=the percentage change in the GDP-PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year,

X=productivity factor of 6.5%,

g=the ratio of minutes of use per access line during the base period, to minutes of use per access line during the previous base period, minus 1,

ΔZ =the dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to PCI_{t-1} , measured at base period level of operations,

R=base period quantities for each rate element "i", multiplied by the price for each rate element "i" at the time the PCI was updated to PCI_{t-1} ,

$w=R+\Delta Z$, all divided by R,

PCI_t =the new PCI value, and

PCI_{t-1} =the immediately preceding PCI value.

(2) The formula set forth in paragraph (c)(1) of this section shall be used by a local exchange carrier subject to price cap regulation only if that carrier is imposing a carrier common line charge pursuant to § 69.154 of this chapter. Otherwise, adjustments to local exchange carrier PCIs for the basket designated in § 61.42(d)(1) shall be made pursuant to the formula set forth in § 61.44(b), and paragraphs (i) and (j) of this section, and as further explained in § 7thns;61.44 (e), (f), (g), and (h). For the purposes of this paragraph, and notwithstanding the value of X defined in § 61.44(b), the X value applicable to the basket specified in § 7thns;61.42(d)(1), shall be 6.5%.

(d) The exogenous cost changes represented by the term " ΔZ " in the formula detailed in paragraphs (b) and (c) of this section shall be limited to those cost changes that the Commission shall permit or require by rule, rule waiver, or declaratory ruling.

(1) Subject to further order of the Commission, those exogenous changes shall include cost changes caused by:

(i) The completion of the amortization of depreciation reserve deficiencies;

(ii) Such changes in the Uniform System of Accounts, including changes in

the Uniform System of Accounts requirements made pursuant to § 32.16 of this chapter, as the Commission shall permit or require be treated as exogenous by rule, rule waiver, or declaratory ruling.

(iii) Changes in the Separations Manual;

(iv) Changes to the level of obligation associated with the Long Term Support Fund and the Transitional Support Fund described in § 69.612;

(v) The reallocation of investment from regulated to nonregulated activities pursuant to § 64.901;

(vi) Such tax law changes and other extraordinary cost changes as the Commission shall permit or require be treated as exogenous by rule, rule waiver, or declaratory ruling.

(vii) Retargeting the PCI to the level specified by the Commission for carriers whose base year earnings are below the level of the lower adjustment mark.

(viii) Inside wire amortizations.

(ix) The completion of amortization of equal access expenses.

(2)(i) Local exchange carriers specified in § 61.41 (a)(2) or (a)(3) shall also make such temporary exogenous cost changes as may be necessary to reduce PCIs to give full effect to any sharing of base period earnings required by the sharing mechanism set forth in the Commission's Second Report and Order in Common carrier Docket No. 87-313, FCC 90-314, adopted September 19, 1990. Such exogenous cost changes shall include interest, computed at the prescribed rate of return, from the day after the end of the period giving rise to the adjustment, to the midpoint of the period when the adjustment is in effect.

(ii) Local exchange carriers specified in § 61.41(a)(2) or (a)(3) shall not be subject to the sharing mechanism set forth in the Commission's *Second Report and Order* in Common Carrier Docket No. 87-313, FCC 90-314, adopted September 19, 1990, with respect to earnings accruing on or after July 1, 1997/ This paragraph has no effect on any sharing obligation of any local exchange carrier relating to earnings accrued before July 1, 1997.

(3) Local exchange carriers specified in § 61.41 (a)(2) or (a)(3) of this part

shall, in their annual access tariff filing, recognize all exogenous cost changes attributable to modifications during the coming tariff year in the obligations specified in §61.45(d)(1)(iv) as well as those changes attributable to alterations in their Subscriber Plant Factor and the Dial Equipment Minutes factor, and completions of inside wire amortizations and reserve deficiency amortizations.

(4) Exogenous cost changes shall be apportioned on a cost-causative basis between price cap services as a group, and excluded services as a group. Exogenous cost changes thus attributed to price cap services shall be further apportioned on a cost-causative basis among the price cap baskets.

(e) The “ $w[(GDP-PI-X-[g/2])/(1+(g/2))]$ ” component of the PCI formula contained in paragraph (c) of this section shall be employed only in the adjustment made in connection with the annual price cap filing.

(f) The exogenous costs caused by new services subject to price cap regulation must be included in the appropriate PCI calculations under paragraph (c) of this section beginning at the first annual price cap tariff filing following completion of the base period in which such services are introduced.

(g) In the event that a price cap tariff becomes effective, which tariff results in an API value (calculated pursuant to §61.46) that exceeds the currently applicable PCI value, the PCI value shall be adjusted upward to equal the API value.

(h) [Reserved]

(i)(1) Notwithstanding the provisions of paragraphs (b) and (c) of this section, and subject to the limitations of paragraph (j) of this section, price cap local exchange carriers that are recovering interconnection charge revenues through per-minute rates pursuant to §69.124 or §69.155 of this chapter shall target, to the extent necessary to eliminate the recovery of any residual interconnection charge revenues through per-minute rates, any PCI reductions associated with the baskets designated in §61.42(d)(1) and (2) that result from the application of the formula in §61.45(c) and, pursuant to §61.45(b), application of the formula in §61.44(b) as further explained in §61.44 (e), (f), (g),

and (h), to the PCI for the basket designated in §61.42(d)(3), with no adjustment being made to the PCIs for the baskets designated in §61.42(d)(1) and (2) as a result of the application of the formulas in §§ 61.44(b) and 61.45(c). These reductions are to be made after the adjustment is made to the PCI for the basket designated in §61.42(d)(3) resulting from the application of the formula in §61.44(b), as further explained in §61.44 (e), (f), (g), and (h).

(2) Notwithstanding the provisions of paragraph (b) of this section, and subject to the limitations of paragraph (j) of this section, price cap local exchange carriers that are recovering interconnection charge revenues through per-minute rates pursuant to §69.155 of this chapter shall target, to the extent necessary to eliminate the recovery of any residual interconnection charge revenues through per-minute rates, any PCI reduction associated with the basket designated in §61.42(d)(6) that result from the application, pursuant to §61.45(b), of the formula in §61.44(b), as further explained in §61.44 (e), (f), (g), and (h), to the PCI for the basket designated in §61.42(d)(3), with no adjustment being made to the PCIs for the baskets designated in §61.42(d)(6) as a result of the application of the formula in §61.44(b). This reduction is to be made after any adjustment made pursuant to paragraph (i)(1) of this section.

(3) Through December 31, 1997, the reduction in the PCI for the basket designated in §61.42(d)(3) that results from paragraph (i)(1) of this section shall be determined by dividing the sum of the dollar effects of the PCI reductions that would have applied to the baskets designated in §61.42(d)(1) and (2) except for the provisions of paragraph (i)(1) of this section by the dollar amount associated with the PCI for the basket designated in §61.42(d)(3), and multiplying the PCI for the basket designated in §61.42(d)(3) by one minus the resulting ratio.

(4) Effective January 1, 1998, the reduction in the PCI for the basket designated in §61.42(d)(3) that results from paragraphs (i)(1) and (i)(2) of this section shall be determined by dividing the sum of the dollar effects of the PCI

reductions that would have been applied to the baskets designated in § 61.42(d)(1), (d)(2), and (d)(6), except for the provisions of paragraphs (i)(1) and (i)(2) of this section, by the dollar amount associated with the PCI for the basket designated in § 61.42(d)(3), and multiplying the PCI for the basket designated in § 61.42(d)(3) by one minus the resulting ratio.

(j) In determining the extent of the targeting that shall occur pursuant to paragraphs (i)(1) and (i)(1) of this section, local exchange carriers shall (1) compute their anticipated residual interconnection charge amount by excluding revenues that are expected to be reallocated to cost-causative facilities-based charges in the future. To determine interconnection charge amounts so excluded in connection with the July 1, 1997 tariff filings, the following local exchange carriers shall use as an estimate of the residual interconnection charge revenues the specified residual interconnection charge percentage: NYNEX, 77.63 percent; BellSouth, 56.93 percent; U S West, 59.14 percent; Bell Atlantic, 63.96 percent; Southwestern Bell Telephone, 69.11 percent; and Pacific Bell and Nevada Bell, 53.52 percent. Each remaining price cap local exchange carrier shall estimate a residual interconnection charge in an amount equal to 55 percent of its current interconnection charge revenues. For subsequent tariff filings in which the PCI reductions are to be targeted to the interconnection charge, these initial estimates shall be adjusted to reflect the actual amounts that have or will be reallocated. If the use of these estimates results in more PCI reductions being targeted to the interconnection charge that required to eliminate the per-minute interconnection charge, the local exchange carrier shall make the necessary exogenous adjustments to reverse the effects of the access targeting.

(2) Not include the amount of any exogenous adjustments reflected in the z component of the formulas in §§ 61.44(b) and 61.45(c). Any such exogenous adjustments shall be reflected in the various PCIs and SIBs in the same manner as they would if there were no targeting.

(k) The calculation of the PCI for the basket designated in § 61.42(d)(3) shall include any residual interconnection charge revenues recovered pursuant to §§ 69.153 and 69.155 of this chapter.

(l) The calculation of the PCI for the basket designated in § 61.42(d)(6) shall include any marketing expense revenues recovered pursuant to §§ 69.153 and 69.156 of this chapter.

[55 FR 42383, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990, as amended at 56 FR 21617, May 10, 1991; 58 FR 36148, July 6, 1993; 60 FR 19527, Apr. 19, 1995; 60 FR 52346, Oct. 6, 1995; 62 FR 31930, 31941, June 11, 1997; 62 FR 40460, July 29, 1997]

§ 61.46 Adjustments to the API.

(a) Except as provided in paragraphs (d) and (e) of this section, in connection with any price cap tariff filing proposing rate changes, the carrier must calculate an API for each affected basket pursuant to the following methodology:

$$API_t = API_{t-1} [\sum v_i (P_i/P_{t-1})_i]$$

where

API_t = the proposed API value,

API_{t-1} = the existing API value,

P_i = the proposed price for rate element "i,"

P_{t-1} = the existing price for rate element "i,"

and

v_i = the current estimated revenue weight for rate element "i," calculated as the ratio of the base period demand for the rate element "i" priced at the existing rate, to the base period demand for the entire basket of services priced at existing rates.

(b) New services subject to price cap regulation must be included in the appropriate API calculations under paragraph (a) of this section beginning at the first annual price cap tariff filing following completion of the base period in which they are introduced. This index adjustment requires that the demand for the new service during the base period must be included in determining the weights used in calculating the API.

(c) Any price cap tariff filing proposing rate restructuring shall require an adjustment to the API pursuant to the general methodology described in paragraph (a) of this section. This adjustment requires the conversion of existing rates into rates of equivalent value under the proposed structure, and then the comparison of the existing rates

that have been converted to reflect restructuring to the proposed restructured rates. This calculation may require use of carrier data and estimation techniques to assign customers of the preexisting service to those services (including the new restructured service) that will remain or become available after restructuring.

(d)(1) Subject to paragraph (d)(2) of this section, and in connection with any price cap tariff proposing changes to rates for services in the basket designated in §61.42(d)(1), the maximum allowable carrier common line (CCL) charges shall be computed pursuant to the following methodology:

$$CCL_{MOU} = CL_{MOU} * (1 + \% \text{ change in CL PCI}) - (EUCL_{MOU} + PICC_{MOU}) * 1 / (1 + (g/2))$$

Where:

CL_{MOU} = the sum of each of the proposed Carrier Common Line rates multiplied by its corresponding base period Carrier Common Line minutes of use, divided by the sum of all types of base period Carrier Common Line minutes of use,

$EUCL_{MOU}$ = the sum of each of the existing maximum allowable Carrier Common Line rates multiplied by its corresponding base period Carrier Common Line minutes of use, plus each existing maximum allowable End User Common Line (EUCL) rate multiplied by its corresponding base period lines, plus the common line portion of each existing maximum allowable Presubscribed Interexchange Carrier Charge (PICC) multiplied by its corresponding base period lines, divided by the sum of all types of base period Carrier Common Line minutes of use,

$EUCL_{MOU}$ = maximum allowable End User Common Line rates multiplied by base period lines, and divided by the sum of all types of base period Carrier Common Line minutes of use,

$PICC_{MOU}$ = the common line portion of maximum allowable Presubscribed Interexchange Carrier charge rates multiplied by base period lines, and divided by the sum of all types of base period Carrier Common Line minutes of use, and

g = the ratio of minutes of use per access line during the base period to minutes of use per access line during the previous base period, minus 1.

(2) The formula set forth in paragraph (d)(1) of this section shall be used by a local exchange carrier subject to price cap regulation only if that carrier is imposing a per-minute carrier common line charge pursuant to §69.154 of

this chapter. Otherwise, adjustments to local exchange carrier APIs for the basket designated in §61.42(d)(1) shall be made pursuant to the formula set forth in paragraph (a) of this section.

(e)(1) In addition, for the purposes of paragraph (d) of this section, "Existing Carrier Common Line Rates" shall include existing originating premium, originating non-premium, terminating premium and terminating non-premium rates; and "End User Common Line Rates" used to calculate the CL_{MOU} and the $EUCL_{MOU}$ factors shall include, but not be limited to, Residential and Single Line Business rates, Centrex rates, and the Special Access surcharge.

(2) For purposes of paragraph (d) of this section, "each existing Presubscribed Interexchange Carrier Charge" shall include all the charges specified in §69.153 of this chapter.

(f) The "1/(1+(g/2))" component of the CCL_{MOU} formula contained in paragraph (d) shall be employed only in the adjustment made in connection with the annual price cap filing.

(g) The calculation of the API for the basket designated in §61.42(d)(3) shall include any residual interconnection charge revenues recovered pursuant to §§69.153 and 69.155 of this chapter.

(h) The calculation of the API for the basket designated in §61.42(d)(6) shall include any marketing expense revenues recovered pursuant to §§69.153 and 69.156 of this chapter.

[54 FR 19843, May 8, 1989, as amended at 55 FR 42383, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990; 62 FR 31931, June 11, 1997]

EFFECTIVE DATE NOTE: At 62 FR 31931, June 11, 1997, §61.46 was amended by revising paragraphs (d) and (e) and by adding paragraphs (g) and (h), effective Jan. 1, 1998. For the convenience of the user, the superseded text is set forth as follows:

§61.46 Adjustments to the API.

* * * * *

(d) In connection with any price cap tariff proposing changes to rates for services in the basket designated in §61.42(d)(1), the maximum allowable carrier common line (CCL) charges shall be computed pursuant to the following methodology:

$$CCL_{MOU} = CL_{MOU} * (1 + \% \text{ change in CL PCI}) - EUCL_{MOU} * 1 / (1 + (g/2))$$

where

CC_{LMOU} = The sum of each of the proposed Carrier Common Line rates multiplied by its corresponding base period Carrier Common Line minutes of use, divided by the sum of all types of base period Carrier Common Line minutes of use,

CL_{MOU} = The sum of each of the existing maximum allowable Carrier Common Line rates multiplied by its corresponding base period Carrier Common Line minutes of use plus each existing End User Common Line (EUCL) rate multiplied by its corresponding base period lines, divided by the sum of all types of base period Carrier Common Line minutes of use,

$EUCL_{MOU}$ = Proposed End User Line rates multiplied by base period lines and divided by the sum of all types of base period Carrier Common Line minutes of use, and

g = The ratio of minutes of use per access line during the base period to minutes of use per access line during the previous base period, minus 1.

(e) In addition, for the purposes of § 61.46(d), "Existing Carrier Common Line Rates" shall include existing originating premium, originating non-premium, terminating premium, and terminating non-premium rates; and "End User Common Line Rates" used to calculate the CL_{MOU} and the $EUCL_{MOU}$ factors shall include, but not be limited to, Residential and Single Line Business rates, Multi-Line Business rates, Centrex rates, Limited Pay Telephone Rates, and the Special Access surcharge.

* * * * *

§ 61.47 Adjustments to the SBI; pricing bands.

(a) In connection with any price cap tariff filing proposing changes in the rates of service categories or subcategories, the carrier must calculate an SBI value for each affected service category or subcategory pursuant to the following methodology:

$$SBI_t = SBI_{t-1} [\sum v_i (P_t/P_{t-1})_i]$$

where

SBI_t = the proposed SBI value,

SBI_{t-1} = the existing SBI value,

P_t = the proposed price for rate element "i,"

P_{t-1} = the existing price for rate element "i,"

and

v_i = the current estimated revenue weight for rate element "i," calculated as the ratio of the base period demand for the rate element "i" priced at the existing rate, to the base period demand for the entire group of rate elements comprising the service category priced at existing rates.

(b) New services that are added to existing service categories or subcategories must be included in the appropriate SBI calculations under paragraph (a) of this section beginning at the first annual price cap tariff filing following completion of the base period in which they are introduced. This index adjustment requires that the demand for the new service during the base period must be included in determining the weights used in calculating the SBI.

(c) In the event that the introduction of a new service requires the creation of a new service category or subcategory, a new SBI must be established for that service category or subcategory beginning at the first annual price cap tariff filing following completion of the base period in which the new service is introduced. The new SBI should be initialized at a value of 100, corresponding to the service category or subcategory rates in effect the last day of the base period, and thereafter should be adjusted as provided in paragraph (a) of this section.

(d) Any price cap tariff filing proposing rate restructuring shall require an adjustment to the affected SBI pursuant to the general methodology described in paragraph (a) of this section. This adjustment requires the conversion of existing rates in the rate element group into rates of equivalent value under the proposed structure, and then the comparison of the existing rates that have been converted to reflect restructuring to the proposed restructured rates. This calculation may require use of carrier data and estimation techniques to assign customers of the preexisting service to those services (including the new restructured service) that will remain or become available after restructuring.

(e) Pricing bands shall be established each tariff year for each service category and subcategory within a basket. Except as provided in paragraphs (f), (g), and (h) of this section, each band shall limit the pricing flexibility of the service category or subcategory, as reflected in the SBI, to an annual increase of five percent, relative to the percentage change in the PCI for that basket, measured from the levels in effect on the last day of the preceding

tariff year. For local exchange carriers subject to price caps as that term is defined in §61.3(x), there shall be no lower pricing band for any service category or subcategory.

(f) *Dominant interexchange carriers.* (1) The upper pricing bands for the evening MTS and night/weekend MTS service categories shall limit the annual upward pricing flexibility for those service categories, as reflected in their SBIs, to four percent, relative to the percentage change in the PCI for the residential and small business services basket, measured from the last day of the preceding tariff year.

(2) Dominant interexchange carriers subject to price cap regulation shall calculate a composite average rate for services contained in the residential and small business services basket that are purchased by residential customers. Notwithstanding paragraph (f)(1) of this section, the annual upward pricing flexibility for this composite average rate shall be limited to one percent, relative to the percentage change in the PCI for the residential and small business services basket, measured from the last day of the preceding tariff year.

(g)(1) *Local Exchange Carriers—Service Categories and Subcategories.* Local exchange carriers subject to price cap regulation as that term is defined in §61.3(x) shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate two separate subindexes: One for the DS1 services offered by such carriers and the other for the DS3 services offered by such carriers. The annual pricing flexibility for each of these two subindexes shall be limited to an annual increase of five percent, relative to the percentage change in the PCI for the special access services basket, measured from the last day of the preceding tariff year. There shall be no lower pricing band for these two subindexes.

(2) The upper pricing band for the tandem-switched transport service category shall limit the annual upward pricing flexibility for this service category, as reflected in its SBI, to two percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff

year. There shall be no lower pricing band for the tandem-switched transport service category.

(3) The upper pricing band for the interconnection charge service category shall limit the annual upward pricing flexibility for this service category, as reflected in its SBI, to zero percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff year. There shall be no lower pricing band for the interconnection charge.

(4) Local exchange carriers subject to price cap regulation as that term is defined in §61.3(x) shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate a separate subindex for the 800 data base vertical features offered by such carriers. The annual pricing flexibility for this subindex shall be limited to an annual increase of five percent, relative to the percentage change in the PCI for the traffic sensitive basket, measured from the last day of the preceding tariff year. There shall be no lower pricing band for this subindex.

(5) The upper pricing band for the “Signalling for tandem switching” service category shall limit the upward pricing flexibility for this service category, as reflected in its SBI, to two percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff year. There shall be no lower pricing band for this service category.

(6) [Reserved]

(7) The initial level of the local switch trunk ports service category designated in §61.42(e)(1)(v) shall be established to include those costs identified pursuant to §69.106(f)(1) of this chapter. This level shall be assigned a value of 100, and thereafter must be adjusted as provided in paragraph (a) of this section, subject to the banding restrictions of paragraph (e) of this section.

(h) *Local exchange carriers—Density pricing zones.* (1) In addition to the requirements of paragraphs (g)(1) and (g)(2) of this section, those local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to §69.123 of

this chapter shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate separate subindexes in each zone for each of the following groups of services:

(i) DS1 entrance facilities, DS1 direct-trunked transport, DS1 dedicated signalling transport, and DS1 special access services;

(ii) DS3 entrance facilities, DS3 direct-trunked transport, DS3 dedicated signalling transport, and DS3 special access services;

(iii) Voice grade entrance facilities, voice grade direct-trunked transport, and voice grade dedicated signalling transport, and (if the Commission, by order, designates such services as subject to competition) voice grade special access;

(iv) Tandem-switched transport; and

(v) Such other special access services that the Commission may designate by order.

(2) The annual pricing flexibility for each of the subindexes specified in paragraph (h)(1) of this section shall be limited to an annual increase of five percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff year. There shall be no lower pricing band for these subindexes.

(i)(1) Through December 31, 1997, notwithstanding the requirements of paragraph (a) of this section, and subject to the limitations of § 61.45(j), if a local exchange carrier is recovering interconnection charge revenues through per-minute rates pursuant to § 69.124 or § 69.155 of this chapter, any reductions to the PCI for the basket designated in § 61.42(d)(3) resulting from the application of the provisions of § 61.45 (b) and the formula in § 61.44(b) and from application of the provisions of § 61.45(i)(1) shall be directed to the SBI of the service category designated in § 61.42(e)(2)(vi).

(2) Effective January 1, 1998, notwithstanding the requirements of paragraph (a) of this section and subject to the limitations of § 61.45(j), if a local exchange carrier is recovering interconnection charge revenues through per-minute rates pursuant to § 69.155 of this chapter, any reductions to the PCI for the basket designated in § 61.42(d)(3)

resulting from the application of the provisions of § 61.45(b) and the formula in § 61.44(b) and from the application of the provisions of § 61.45 (i)(1), and (i)(2) shall be directed to the SBI of the service category designated in § 61.42(e)(2)(vi).

(3) Through December 31, 1997, the SBI reduction required by paragraph (i)(1) of this section shall be determined by dividing the sum of the dollar amount of any PCI reduction required by § 61.45(i)(1) by the dollar amount associated with the SBI for the service category designated in § 61.42(e)(2)(vi), and multiplying the SBI for the service category designated in § 61.42(e)(2)(vi) by one minus the resulting ratio.

(4) Effective January 1, 1998, the SBI reduction required by paragraph (i)(2) of this section shall be determined by dividing the sum of the dollar amount of any PCI reduction required by § 61.45 (i)(1) and (i)(2) by the dollar amount associated with the SBI for the service category designated in § 61.42(e)(2)(vi), and multiplying the SBI for the service category designated in § 61.42(e)(2)(vi) by one minus the resulting ratio.

(j) The calculation of the SBI for the service category designated in § 61.42(e)(2)(vi) shall include any residual interconnection charge revenues recovered pursuant to §§ 69.153 and 69.155 of this chapter.

[54 FR 19843, May 8, 1989, as amended at 55 FR 42384, Oct. 19, 1990; 56 FR 55239, Oct. 25, 1991; 57 FR 54331, Nov. 18, 1992; 58 FR 7868, Feb. 10, 1993; 58 FR 48762, Sept. 17, 1993; 59 FR 10302, Mar. 4, 1994; 59 FR 32930, June 27, 1994; 60 FR 19528, Apr. 19, 1995; 60 FR 52346, Oct. 6, 1995; 62 FR 4659, Jan. 31, 1997; 62 FR 31932, June 11, 1997; 62 FR 40460, July 29, 1997]

§ 61.48 Transition rules for price cap formula calculations.

(a) Dominant interexchange carriers subject to price cap regulation shall file initial price cap tariffs May 17, 1989, to be effective July 1, 1989.

(b)(1) In connection with the initial price cap tariff filing described in paragraph (a) of this section, each PCI, API, and SBI shall be assigned an initial value prior to adjustment of 100, corresponding to the costs and rates in effect as of December 31, 1988.

(2) The PCI and API for offerings under § 61.42(b)(3) shall be assigned a value equal to 100, corresponding to

rates in effect as of August 1, 1991. Dominant interexchange carriers subject to price cap regulation shall file new business basket index levels with the first business basket tariff transmittal that is filed subsequent to the effective date of this rule.

(c) Local exchange carriers subject to price cap regulation shall file initial price cap tariffs not later than November 1, 1990, to be effective January 1, 1991.

(d)(1) In connection with the initial price cap filing described in paragraph (c) of this section, each PCI, API, and SBI shall be assigned an initial value prior to adjustment of 100, corresponding to the costs and rates in effect as of July 1, 1990.

(2) Carriers electing price cap regulation under § 61.41(a)(3) of this part in a year after 1991 shall file initial price cap tariffs not later than April 2 of the year of election, to be effective on July 1 of the year of election. Each PCI, API, and SBI shall be assigned an initial value prior to adjustment of 100, corresponding to the costs and rates in effect as of January 1 of the year of election.

(e) In connection with the initial price cap filing described in paragraph (c) of this section, initial PCI calculations shall be made without adjustment for any changes in inflation or productivity. Annual price cap filings incorporating the full values of the GNP-PI and productivity offsets will commence April 2, 1991, with a scheduled effective date of July 1, 1991.

(f) Local exchange carriers specified in § 61.41(a) (2) or (3) shall, in their initial price cap filings described in paragraph (c) of this section, adjust their PCIs through use of an exogenous cost factor to account for the repricing of the rate of return, effective January 1, 1991.

(g) *Local Transport Restructure—Initial Rates.* Local exchange carriers subject to price cap regulation shall set initial transport rates, as defined in § 69.2(tt) of this chapter, according to the requirements set forth in §§ 69.108, 69.110, 69.111, 69.112, 69.124, and 69.125 of this chapter.

(h) *Local Transport Restructure—Price Cap Transition Rules—(1) Definitions.*

The following definitions apply for purposes of paragraph (h) of this section:

Effective date is March 4, 1994.

Initial restructured rates are rates that are (or should have been) effective on the transport restructure date;

Revenue weight of a given group of services included in a basket, service category, or subcategory is the ratio of base period demand for the given service rate elements included in the basket, service category, or subcategory priced at initial restructured rates, to the base period demand for the entire group of rate elements comprising the basket, service category, or subcategory priced at initial restructured rates; and

Transport restructure date is the date on which local exchange carriers' initial transport rates, as defined in § 69.2(tt) of this chapter, became effective.

(2) *Trunking Basket PCI and API.* (i) On the effective date, the PCI value for the trunking basket, as defined in § 61.42(d)(3), shall be computed by multiplying the API value for the special access basket on the day preceding the transport restructure date, by a weighted average of the following:

(A) The ratio of the PCI value that applied to the special access basket on the day preceding the transport restructure date, to the API value that applied to the special access basket on the day preceding the transport restructure date, weighted by the revenue weight of the special access services included in the trunking basket; and

(B) The ratio of the PCI value that applied to the traffic sensitive basket on the day preceding the transport restructure date, to the API value that applied to the traffic sensitive basket on the day preceding the transport restructure date, weighted by the revenue weight of the transport services included in the trunking basket.

(ii) On the effective date, the API value for the trunking basket referred to in § 61.42(e)(2) shall be equal to the API value for the special access basket on the day preceding the transport restructure date.

(3) *Service Category and Subcategory Pricing Bands for Flat-Rated Transport and Special Access.* From the effective

date through the end of the tariff year, the following shall govern instead of §§ 61.47(e) and 61.47(g)(1). The pricing bands established for the voice grade and high capacity service categories referred to in §§ 61.42(e)(2)(i) and 61.42(e)(2)(iii) and the DS1 and DS3 service subcategories referred to in §§ 61.42(e)(2)(iii)(A) and 61.42(e)(2)(iii)(B), shall limit the pricing flexibility of the service category or subcategory, as reflected in its SBI, as follows:

(i) The upper pricing band shall be a weighted average of the following:

(A) The upper pricing band that applied to the special access services included in the category or subcategory on the day preceding the transport restructure date, weighted by the revenue weight of the special access services included in the category or subcategory; and

(B) 1.05 times the SBI value for the special access services included in the category or subcategory on the day preceding the transport restructure date, weighted by the revenue weight of the transport services included in the category or subcategory.

(ii) The lower pricing band shall be a weighted average of the following:

(A) The lower pricing band that applied to the special access services included in the category or subcategory on the day preceding the transport restructure date, weighted by the revenue weight of the special access services included in the category or subcategory; and

(B) 0.90 times the SBI value for the special access services included in the category or subcategory on the day preceding the transport restructure date, weighted by the revenue weight of the transport services included in the category or subcategory.

(iii) On the effective date, the SBI value for the category or subcategory shall be equal to the SBI value for the corresponding special access category or subcategory on the day preceding the effective date.

(4) *Tandem-Switched Transport and Interconnection Charge SBIs.* On the effective date, the SBIs for the tandem-switched transport and interconnection charge service categories defined in § 61.42(e)(2) (v) and (vi) shall be assigned an initial value prior to adjustment of

100, corresponding to the initial restructured rates in those categories.

(5) *Tandem-Switched Transport and Interconnection Charge Service Category Pricing Bands.* From the effective date through the end of the tariff year, the following shall govern instead of § 61.47(g)(2) and (g)(3):

(i) The upper pricing band for the tandem-switched transport service category shall limit the upward pricing flexibility for this service category, as reflected in its SBI, to two percent, measured from the initial restructured rates for tandem-switched transport. The lower pricing band for the tandem-switched transport service category shall limit the downward pricing flexibility for this service category, as reflected in its SBI, to ten percent, measured from the initial restructured rates for tandem-switched transport.

(ii) The upper pricing band for the interconnection charge service category shall limit the upward pricing flexibility for this service category, as reflected in its SBI, to zero percent, measured from the initial restructured rate for the interconnection charge.

(i) *Transport and Special Access Density Pricing Zone Transition Rules—(1) Definitions.* The following definitions apply for purposes of paragraph (i) of this section:

Earlier date is the earlier of the special access zone date and the transport zone date.

Earlier service is special access if the special access zone date precedes the transport zone date, and is transport if the transport zone date precedes the special access zone date.

Later date is the later of the special access zone date and the transport zone date.

Later service is transport if the special access zone date precedes the transport zone date, and is special access if the transport zone date precedes the special access zone date.

Revenue weight of a given group of services included in a zone category is the ratio of base period demand for the given service rate elements included in the category priced at existing rates, to the base period demand for the entire group of rate elements comprising the category priced at existing rates.

Special access zone date is the date on which a local exchange carrier tariff establishing divergent special access rates in different zones, as described in § 69.123(c) of this chapter, becomes effective.

Transport zone date is the date on which a local exchange carrier tariff establishing divergent switched transport rates in different zones, as described in § 69.123(d) of this chapter, becomes effective.

(2) *Simultaneous Introduction of Special Access and Transport Zones.* Local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to § 69.123 of this chapter, and whose special access zone date and transport zone date occur on the same date, shall initially establish density pricing zone SBIs and bands pursuant to the methodology in § 61.47(h).

(3) *Sequential Introduction of Zones in the Same Tariff Year.* Notwithstanding § 61.47(h), local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to § 69.123 of this chapter, and whose special access zone date and transport zone date occur on different dates during the same tariff year, shall, on the earlier date, establish density pricing zone SBIs and pricing bands using the methodology described in § 61.47(h), but applicable to the earlier service only. On the later date, such carriers shall recalculate the SBIs and pricing bands to limit the pricing flexibility of the services included in each density pricing zone category, as reflected in its SBI, as follows:

(i) The upper pricing band shall be a weighted average of the following:

(A) The upper pricing band that applied to the earlier services included in the zone category on the day preceding the later date, weighted by the revenue weight of the earlier services included in the zone category; and

(B) 1.05 times the SBI value for the services included in the zone category on the day preceding the later date, weighted by the revenue weight of the later services included in the zone category.

(ii) The lower pricing band shall be a weighted average of the following:

(A) The lower pricing band that applied to the earlier services included in the zone category on the day preceding the later date, weighted by the revenue weight of the earlier services included in the zone category; and

(B) 0.85 times the SBI value for the services included in the zone category on the day preceding the later date, weighted by the revenue weight of the later services included in the zone category.

(iii) On the later date, the SBI value for the zone category shall be equal to the SBI value for the category on the day preceding the later date.

(4) *Introduction of Zones in Different Tariff Years.* Notwithstanding § 61.47(h), those local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to § 69.123 of this chapter, and whose special access zone date and transport zone date do not occur within the same tariff year, shall, on the earlier date, establish density pricing zone SBIs and pricing bands using the methodology described in § 61.47(h), but applicable to the earlier service only.

(i) On the later date, such carriers shall use the methodology set forth in paragraphs (a) through (d) of § 61.47 to calculate separate SBIs in each zone for each of the following groups of services:

(A) DS1 special access services;

(B) DS3 special access services;

(C) DS1 entrance facilities, DS1 direct-trunked transport, and DS1 dedicated signalling transport;

(D) DS3 entrance facilities, DS3 direct-trunked transport, and DS3 dedicated signalling transport;

(E) Voice grade entrance facilities, voice grade direct-trunked transport, and voice grade dedicated signalling transport;

(F) Tandem-switched transport; and

(G) Such other special access services as the Commission may designate by order.

(ii) From the later date through the end of the following tariff year, the annual pricing flexibility for each of the subindexes specified in paragraph (i)(4)(i) of this section shall be limited to an annual increase of five percent or an annual decrease of fifteen percent, relative to the percentage change in

the PCI for the trunking basket, measured from the levels in effect on the last day of the tariff year preceding the tariff year in which the later date occurs.

(iii) On the first day of the second tariff year following the tariff year during which the later date occurs, the local exchange carriers to which this paragraph applies shall establish the separate subindexes provided in § 61.47(h)(1), and shall set the initial SBIs for those density pricing zone categories that are combined (specified in paragraphs (i)(4)(i)(A) and (i)(4)(i)(C), (i)(4)(i)(B) and (i)(4)(i)(D), and (i)(4)(i)(E) and (i)(4)(i)(G) of this section) by computing the weighted averages of the SBIs that applied to the formerly separate zone categories, weighted by the revenue weights of the respective services included in the zone categories.

(j) *Video Dialtone Services.* For local exchange carriers subject to price cap regulation, the video dialtone services basket, as designated in § 61.42(d)(5), shall be established with an initial PCI and API level of 100 in the first annual price cap tariff filing following competition of the base period in which the initial video dialtone service was introduced. The initial value of 100 for the PCI and API for video dialtone service prior to adjustment of inflation and productivity shall correspond to the rates in effect just prior to the effective date of the annual filing in which rates for video dialtone service are initially included in the video dialtone basket.

(k) *Marketing expenses.* In the January 1, 1998 price cap tariff filing, local exchange carriers shall establish the marketing expense basket designated in § 61.42(d)(6) with an initial PCI and API level of 100. The initial value of 100 for the PCI and API for marketing expenses shall correspond to the marketing expenses described in § 69.156(a) of this chapter.

[54 FR 19843, May 8, 1989, as amended at 55 FR 42384, Oct. 19, 1990; 56 FR 21617, May 10, 1991; 56 FR 55239, Oct. 25, 1991; 59 FR 10302, Mar. 4, 1994; 60 FR 19528, Apr. 19, 1995; 60 FR 52346, Oct. 6, 1995; 62 FR 31932, June 11, 1997]

EFFECTIVE DATE NOTE: At 62 FR 31932, June 11, 1997, § 61.48 was amended by adding paragraph (k), effective Jan. 1, 1998.

§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.

(a) Each price cap tariff filing must be accompanied by supporting materials sufficient to calculate required adjustments to each PCI, API, and SBI pursuant to the methodologies provided in §§ 61.44, 61.45, 61.46, and 61.47, as applicable.

(b) Each price cap tariff filing that proposes rates that are within applicable bands established pursuant to § 61.47, and that results in an API value that is equal to or less than the applicable PCI value, must be accompanied by supporting materials sufficient to establish compliance with the applicable bands, and to calculate the necessary adjustment to the affected APIs and SBIs pursuant to §§ 61.46 and 61.47, respectively.

(c) Each price cap tariff filing that proposes rates above the applicable band limits established in § 61.47 (e), (f)(1), (g), and (h) or above the limit on composite average residential rates established in § 61.47(f)(2), must be accompanied by supporting materials establishing substantial cause for the proposed rates.

(d) Each price cap tariff filing that proposes rates that will result in an API value that exceeds the applicable PCI value must be accompanied by:

(1) An explanation of the manner in which all costs have been allocated among baskets; and

(2) Within the affected basket, a cost assignment slowing down to the lowest possible level of disaggregation, including a detailed explanation of the reasons for the prices of all rate elements to which costs are not assigned.

(e) Each price cap tariff filing that proposes restructuring of existing rates must be accompanied by supporting materials sufficient to make the adjustments to each affected API and SBI required by §§ 61.46(c) and 61.47(d), respectively.

(f)(1) Each tariff filing by a dominant interexchange carrier, as specified by Commission order, that introduces a new service that will later be included in a basket must be accompanied by cost data sufficient to establish that the new service, and each unbundled

element thereof, will generate a net revenue increase—measured against revenues generated from all services subject to price cap regulation, and calculated based upon present value—within the lesser of a 24-month period after an annual price cap tariff including the new service takes effect, or 36 months from the date the new service becomes effective. Each carrier making such a tariff filing must, at the time the new service is incorporated into the price cap index, submit data sufficient to make the API and PCI calculations required by §§ 61.46(b) and 61.44(c) of this part, and, as necessary, to make the SBI calculations provided in § 61.47 (b) or (c) of this part.

(2) Each tariff filing submitted by a local exchange carrier specified in § 61.41(a) (2) or (3) of this part that introduces a new service or a restructured unbundled basic service element (BSE) (as BSE is defined in § 69.2 (mm)) that is or will later be included in a basket must be accompanied by cost data sufficient to establish that the new service or unbundled BSE will not recover more than a reasonable portion of the carrier's overhead costs.

(g) Each tariff filing by a local exchange carrier subject to price cap regulation that introduces a new service or a restructured unbundled basis service element (BSE), as defined in § 69.2(mm) of this chapter, that is or will later be included in a basket, or that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in § 69.121 of this chapter, must also be accompanied by:

(1) The following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new tariff on the traffic and revenues from the service to which the new tariff applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in paragraph (h)(1)(i) of this section.

(2) *Working papers and statistical data.*

(i) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff Review Branch must be provided two sets of working papers containing the information underlying the data supplied in response to paragraph (h)(1) of this section, and a clear explanation of how the working papers relate to that information.

(ii) All statistical studies must be submitted and supported in the form prescribed in § 1.363 of the Commission's rules.

(h) Each tariff filing submitted by a local exchange carrier subject to price cap regulation that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in § 69.121 of this chapter, must be accompanied by cost data sufficient to establish that such charges will not recover more than a just and reasonable portion of the carrier's overhead costs.

(i) For a tariff filing that introduces or changes a contribution charge for special access and expanded interconnection, as defined in § 69.122 of this chapter, the carrier must submit information sufficient to establish that the charge has been calculated in a manner that complies with the Commission order authorizing the contribution charge.

(j) For a tariff that introduces a system of density pricing zones, as described in § 69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia*, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

(k) In accordance with §§ 61.41 through 61.49, local exchange carriers subject to price cap regulation that elect to file their annual access tariff pursuant to section 204(a)(3) of the Communications Act shall submit supporting material for their interstate

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annual access tariffs, absent rate information, 90 days prior to July 1 of each year.

[54 FR 19843, May 8, 1989, as amended at 55 FR 42384, Oct. 19, 1990; 56 FR 5956, Feb. 14, 1991; 56 FR 21617, May 10, 1991; 56 FR 33880, July 24, 1991; 57 FR 37730, Aug. 20, 1992; 57 FR 54331, Nov. 18, 1992; 58 FR 17167, Apr. 1, 1993; 58 FR 38536, July 19, 1993; 58 FR 48762, Sept. 17, 1993; 59 FR 10304, Mar. 4, 1994; 62 FR 4659, Jan. 31, 1997; 62 FR 5778, Feb. 7, 1997; 62 FR 42218, Aug. 6, 1997]

§ 61.50 Scope: Optional incentive regulation for rate of return local exchange carriers.

(a) This section shall apply on an elective basis, to local exchange carriers for either traffic sensitive rates only or for both traffic sensitive and common line rates. Carriers electing the plan for traffic sensitive rates only must participate in the Association common line pool. Affiliation with average schedule companies shall not bar a carrier from electing optional incentive regulation provided the carrier is otherwise eligible.

(b) If a telephone company, or any one of a group of affiliated telephone companies, files an optional incentive regulation tariff in one study area, that telephone company and its affiliates, except its average schedule affiliates, must file incentive plan tariffs in all their study areas.

(c) The following rules apply to telephone companies subject to this section, that become involved in mergers, acquisitions, or similar transactions, except that mergers with, acquisitions by, or other similar transactions with companies subject to price cap regulation, as that term is defined in § 61.3(w), shall be governed by § 61.41(c).

(1) Any telephone company subject to this section that is a party to a merger, acquisition, or similar transaction, shall continue to be subject to incentive regulation notwithstanding such transaction.

(2) Where a telephone company subject to this section acquires, is acquired by, merged with, or otherwise becomes affiliated with a telephone company that is not subject to this section, the latter telephone company shall become subject to optional incentive plan regulation no later than one year following the effective date of

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such merger, acquisition, or similar transaction and shall accordingly file optional incentive plan tariffs to be effective no later than that date in accordance with the applicable provisions of this part 61.

(3) Notwithstanding the provisions of paragraph (c)(2) of this section, when a telephone company subject to optional incentive plan regulation acquires, is acquired by, mergers with, or otherwise becomes affiliated with a telephone company that qualifies as an "average schedule" company, the latter company may retain its "average schedule" status or become subject to optional incentive plan regulations in accordance with § 69.3(i)(3) of this chapter and the requirements referenced in that section.

(d) Local exchange carriers that are subject to this section shall not withdraw from optional incentive regulation until the end of two, two-year tariff periods. If a local exchange carrier withdraws from optional incentive plan regulation, it must file company-specific tariffs under the provisions of § 61.38 for four years before it may again elect to enter incentive plan regulation; such carrier may not participate in the applicable Association tariff during that four years. After the four year period, the carrier may either return to the incentive plan, or remain under § 61.38.

(e) Each local exchange carrier subject to this section shall establish the baskets of services, including service categories, as identified in § 61.42 (d) and (e).

(f) Each local exchange carrier subject to optional incentive regulation shall exclude from its baskets such services or portions of such services as the Commission has designated or may hereafter designate by order.

(g) New services, other than those within the scope of paragraph (f) of this section, must be included in the affected basket at the first two-year tariff filing following completion of the two-year tariff period in which they are introduced. To the extent that such new services are permitted or required to be included in new or existing service categories within the assigned basket, they shall be so included at the first two-year tariff filing following

completion of the two-year tariff period in which they are introduced.

(h)(1) In connection with any optional incentive plan tariff filing proposin rate changes, the carrier must calculate an index for each affected basket as determined by the Common Carrier Bureau.

(2) In connection with any tariff filed under this section proposing changes to rates for services in the basket designated in paragraph (e) of this section, the maximum allowable increase or decrease in a basket shall be limited to ten percent over the two-year tariff period.

(3) Local exchange carriers subject to this section shall file tariff revisions that reflect rae changes due to exogenous costs, as defined in §61.45(d)(1), either in the biennial tariff filing or at the time the event causing the exogenous costs occurs during the two-year period.

(i) Rates for a new service that is the same as that offered by a price cap regulated local exchange carrier providing service in an adjacent serving area are deemed presumptively lawful, if the proposed rates, in the aggregate, are no greater than the rate established by the price cap local exchange carrier. Tariff filings made pursuant to this paragraph must include the following:

(1) A brief explanation of why the service is like an existing service offered by a geographically adjacent price cap regulated local exchange carrier; and

(2) Data to establish compliance with this subsection that, in aggregate, the proposed rates for the new service are no greater than those in effect for the same or comparable service offered by that same geographically adjacent price cap regulated local exchange carrier.

(3) All filings for new services other than those described in paragraph (i) shall be supported using prospective data, as required by §61.38 of these rules.

(j) The maximum allowable rate of return on earnings based on rates filed by a local exchange carrier subject to this section, shall be determined by adding a fixed increment of one and one-half percent to the carrier's prescribed rate of return. Rates of local

exchange carriers subject to this section that result in earnings less than three-quarters percent below the carrier's prescribed rate of return may be retargeted to three-quarters percent below the carrier's prescribed rate of return, in a mid-course tariff filing.

(k) For a tariff change, a local exchange carrier that is a cost schedule carrier must propose Common Line rates based on the following:

(1) For the first biennial filing, the common line revenue requirement shall be determined by a cost of service study for the most recent 12-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1 + h/2)^2}$$

Where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

And where:

CCL Rev Req = carrier common line settlement for the most recent 12-month period;

CCL MOU_b = carrier common line minutes of use for the most recent 12-month period;

CCL MOU₁ = *CCL MOU_b*; and

CCL MOU₀ = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(2) For the subsequent biennial filings, the common line revenue requirement shall be determined by a cost of service study for the most recent 24-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1 + h/2)^{5.2}}$$

where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

and where:

CCL Rev Req = carrier common line revenue requirement for the most recent 24-month period;
CCL MOU_b = carrier common line minutes of use for the most recent 24-month period;
CCL MOU_l = carrier common line minutes of use for the most recent 12-month period; and
CCL MOU_o = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(3) For End User Common Line charges included in a tariff pursuant to this section, the local exchange carrier must provide supporting information for the two-year historical period with its letter of transmittal in accordance with § 61.38.

[58 FR 36148, July 6, 1993, as amended at 62 FR 31005, June 6, 1997]

SPECIFIC RULES FOR TARIFF PUBLICATIONS

§ 61.51 LEC tariff filings requirements pursuant to section 204(a)(3) of the Communications Act.

(a) Local exchange carriers may file tariffs pursuant to section 204(a)(3) of the Communications Act. Such tariffs shall be filed in accordance with the notice periods set forth in § 61.58(d).

(b) Local exchange carriers may elect not to file any tariffs pursuant to section 204(a)(3) of the Communications Act that may be eligible for filing under that section. Any such tariffs not filed pursuant to section 204(a)(3) of the Communications Act shall be filed in accordance with the notice requirements of §§ 61.23 and 61.58.

(c) Local exchange carrier tariff filings pursuant to section 204(a)(3) must comply with the requirements of §§ 61.38, 61.39, and 61.41 through 61.50.

(d) Local exchange carriers subject to price cap regulation that elect to file their annual access tariff pursuant to section 204(a)(3) of the Communications Act shall submit support material for their interstate annual access tariffs, in accordance with § 61.49(l).

[62 FR 5778, Feb. 7, 1997]

§ 61.52 Form, size, type, legibility, etc.

(a) All tariff publications must be in loose-leaf form of size A4 (21 cm x 29.7 cm) or 8.5 x 11 inches (21.6 cm x 27.9 cm), and must be plainly printed in

black print on white paper of durable quality. Less than 6-point type may not be used. Erasures or alterations in writing must not be made in any tariff publication filed with the Commission or in those copies posted for public convenience. A margin of no less than 2.5 cm (1 inch) in width must be allowed at the left edge of every tariff publication.

(b) Pages of tariffs must be printed on one side only, and must be numbered consecutively and designated as “Original title page,” “Original page 1,” “Original page 2,” etc.

(1) All such pages must show, in the upper left-hand corner the name of the issuing carrier; in the upper right-hand corner the FCC number of the tariff, with the page designation directly below; in the lower left-hand corner the issued date; in the lower right-hand corner the effective date; and at the bottom, center, the street address of the issuing officer. The carrier must also specify the issuing officer’s title either at the bottom center of all tariff pages, or on the title page and check sheet only.

(2) As an alternative, the issuing carrier may show in the upper left-hand corner the name of the issuing carrier, the title and street address of the issuing officer, and the issued date; and in the upper right-hand corner the FCC number of the tariff, with the page designation directly below, and the effective date. The carrier must specify the issuing officer’s title in the upper left-hand corner of either all tariff pages, or on the title page and check sheet only. A carrier electing to place the information at the top of the page should annotate the bottom of each page to indicate the end of the material, e.g., a line, or the term “Printed in USA,” or “End”.

(3) Only one format may be employed in a tariff publication.

(c) Local exchange carriers shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and cost support documents, electronically in accordance with the requirements

established by the Chief, Common Carrier Bureau.

[49 FR 40869, Oct. 18, 1984, as amended at 58 FR 44906, Aug. 25, 1993; 62 FR 5778, Feb. 7, 1997]

§ 61.53 Consecutive numbering.

Carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted. Supplements to a tariff must be numbered consecutively in a separate series.

§ 61.54 Composition of tariffs.

(a) Tariffs must contain in consecutive order: A title page; check sheet; table of contents; list of concurring, connecting, and other participating carriers; explanation of symbols and abbreviations; application of tariff; general rules (including definitions), regulations, exceptions and conditions; and rates. If the issuing carrier elects to add a section assisting in the use of the tariff, it should be placed immediately after the table of contents.

(b) The title page of every tariff and supplement must show:

(1) *FCC number, indication of cancellations.* In the upper right-hand corner, the designation of the tariff or supplement as "FCC No. _____," or "Supplement No. _____ to FCC No. _____," and immediately below, the FCC number or numbers of tariffs or supplements cancelled thereby.

(2) *Name of carrier, class of service, geographical application, means of transmission.* The exact name of the carrier, and such other information as may be necessary to identify the carrier issuing the tariff publication; a brief statement showing each class of service provided; the geographical application; and the type of facilities used to provide service.

(3) *Expiration Date.* When the entire tariff or supplement is to expire with a fixed date, the expiration date must be shown in connection with the effective date in the following manner:

Expires at the end of _____
(date) unless sooner canceled, changed or extended.

(4) *Title and address of issuing officer.* The title and street address of the officer issuing the tariff or supplement in the format specified in § 61.52.

(5) *Revised title page.* When a revised title page is issued, the following notation must be shown in connection with its effective date:

Original tariff effective _____
(here show the effective date of the original tariff).

(c)(1) The page immediately following the title page must be designated as "Original page 1" and captioned "Check Sheet." When the original tariff is filed, the check sheet must show the number of pages contained in the tariff. For example, "Page 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages are added, they must be numbered in continuing sequence, and designated as "Original page _____." For example, when the original tariff filed has 150 pages, the first page added after page 150 is to be designated as "Original page 151," and the foregoing notation must be revised to include the added pages.

(2) If pages are to be inserted between numbered pages, each such page must be designated as an original page and must bear the number of the immediately preceding page followed by an alpha or numeric suffix. For example, when two new pages are to be inserted between pages 44 and 45 of the tariff, the first inserted page must be designated as Original page 44A or 44.1 and the second inserted page as Original page 44B or 44.2. Issuing carriers may not utilize both the alpha and numeric systems in the same publication.

(3) When pages are revised, when new pages (including pages with letter or numeric suffix as set forth above) are added to the tariff, or when supplements are issued, the check sheet must be revised accordingly. Revised check sheets must indicate with an asterisk the specific pages added or revised. In addition to the notation in (1), the check sheet must list, under the heading "The original and revised pages named below (and Supplement No. _____) contain all changes from the original tariff that are in effect on the

date shown,” all original pages in numerical order that have been added to the tariff and the pages which have been revised, including the revision number. For example:

| Page | Number of revision except as indicated |
|-------------|--|
| Title | 1st |
| 1 | *8th |
| 3 | 5th |
| 5A | *Orig. |
| 10 | *8th |
| 151 | Orig. |

*New or Revised page.

(4) Changes in, and additions to tariffs must be made by reprinting the page upon which a change or addition is made. Such changed page is to be designated as a revised page, cancelling the page which it amends. For example, “First revised page 1 cancels original page 1,” or “Second revised page 2 cancels first revised page 2,” etc. When a revised page omits rates or regulations previously published on the page which it cancels, but such rates or regulations are published on another page, the revised page must make specific reference to the page on which the rates or regulations will be found. This reference must be accomplished by inserting a sentence at the bottom of the revised page that states “Certain rates (or regulations) previously found on this page can now be found on page ———.” In addition, the page on which the omitted material now appears must bear the appropriate symbol opposite such material, and make specific reference to the page from which the rates or regulations were transferred. This reference must be accomplished by inserting a sentence at the bottom of the other page that states “Certain rates (or regulations) on this page formerly appeared on page ———.”

(5) Rejected pages must be treated as indicated in § 61.69.

(d) *Table of contents.* The table of contents must contain a full and complete statement showing the exact location and specifying the page or section and page numbers, where information by subjects under general headings will be found. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly dis-

closes its contents, the table of contents may be omitted.

(e) *Tariff User’s guide.* At its option, a carrier may include a section explaining how to use the tariff.

(f) *List of concurring carriers.* This list must contain the exact name or names of carriers concurring in the tariff, alphabetically arranged, and the name of the city or town in which the principal office of every such carrier is located. If there are no concurring carriers, then the statement “no concurring carriers” must be made at the place where the names of the concurring carriers would otherwise appear. If the concurring carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(g) *List of connecting carriers.* This list must contain the exact name or names of connecting carriers, alphabetically arranged, for which rates or regulations are published in the tariff, and the name of the city or town in which the principal office of every such carrier is located. If there are no connecting carriers, then the statement “no connecting carriers” must be made at the place where their names would otherwise appear. If connecting carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(h) *List of other participating carriers.* This list must contain the exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located. If there is no such other carrier, then the statement “no participating carriers” must be made at the place where the names of such other carriers would otherwise appear. If such other carriers are numerous,

their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference must be made in the tariff at the place where such names would otherwise appear. The names of concurring and connecting carriers properly listed in a tariff published by any other participating carrier need not be repeated in this list.

(i)(1) *Symbols, reference marks, abbreviations.* The tariff must contain an explanation of symbols, reference marks, and abbreviations of technical terms used. The following symbols used in tariffs are reserved for the purposes indicated below:

- R to signify reduction.
- I to signify increase.
- C to signify changed regulation.
- T to signify a change in text but no change in rate or regulation.
- S to signify reissued matter.
- M to signify matter relocated without change.
- N to signify new rate or regulation.
- D to signify discontinued rate or regulation.
- Z to signify a correction.

(2) The uniform symbols must be used as follows.

(i) When a change of the same character is made in all or in substantially all matter in a tariff, it may be indicated at the top of the title page of the tariff or at the top of each affected page, in the following manner: "All rates in this tariff are increases," or, "All rates on this page are reductions, except as otherwise indicated."

(ii) When a change of the same character is made in all or substantially all matters on a page or supplement, it may be indicated at the top of the page or supplement in the following manner: All rates on this page (or supplement) are increases," or, "All rates on this page (or supplement) are reductions except as otherwise indicated."

(3) Items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued, in the manner prescribed in §61.54(i)(1). Items which have been in effect 30 days or more and are brought forward without change on revised pages must not be shown as reissued items.

(j) *Rates and general rules, regulations, exceptions and conditions.* The general rules (including definitions), regulations, exceptions, and conditions which govern the tariff must be stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the tariff must be specified. A special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate. Rates must be expressed in United States currency, per chargeable unit of service for all communication services, together with a list of all points of service to and from which the rates apply. They must be arranged in a simple and systematic manner. Complicated or ambiguous terminology may not be used, and no rate, rule, regulation, exception or condition shall be included which in any way attempts to substitute a rate, rule, regulation, exception or condition named in any other tariff.

§61.55 Contract-based tariffs.

(a) *Scope.* This section shall apply to offerings as defined in §61.3(m).

(b) Composition of contract-based tariffs shall comply with §61.54(b) through (i).

(c) Contract-based tariffs shall include the following:

(1) The term of the contract, including any renewal options;

(2) A brief description of each of the services provided under the contract;

(3) Minimum volume commitments for each service;

(4) The contract price for each service or services at the volume levels committed to by the customers;

(5) A general description of any volume discounts built into the contract rate structure; and

(6) A general description of other classifications, practices and regulations affecting the contract rate.

(d) Contract-based tariffs of an interexchange carrier subject to price cap regulation shall not include services included in §§61.42(b), 61.42 (c)(1), (c)(4), and 61.42(c)(10).

[56 FR 55239, Oct. 25, 1991]

§ 61.56 Supplements.

A carrier may not file a supplement except to suspend or cancel a tariff publication.

§ 61.57 Cancellations.

The following paragraphs govern the cancellation of tariffs and supplements.

(a) *By tariff or supplement.* A carrier may cancel any tariff or supplement in whole or in part by another tariff or supplement. Cancellation of a tariff automatically cancels every supplement to that tariff, except a cancelling supplement.

(b) *By expiration.* Subject to § 61.59, a carrier may cancel a tariff or supplement in whole or in part by fixing a date on which the rates or regulations will expire.

(c) *Indication of.* (1) A carrier which cancels a tariff or supplement in whole by another tariff or supplement must comply with § 61.54(b)(1). Cancellation of tariffs or supplements in whole by expiration must be indicated as provided in § 61.54(b)(3).

(2) Where a carrier issues a tariff, supplement, or revised page partially cancelling another tariff, supplement, or revised page, it must specifically state what portion of the other tariff publication is cancelled. Such other tariff or supplement must at the same time be correspondingly amended, effective on the same date.

(3) When only a part of tariff or supplement is to expire, a carrier must show the expiration date on the same page, and associate it with the matter which is to expire. Changes in expiration date must be made pursuant to the notice requirements of § 61.58, unless otherwise authorized by the Commission. Expirations must be indicated as follows:

Expires at the end of _____
(date) unless sooner cancelled, changed or extended.

(d) *Rates and regulations to apply.* When a carrier cancels a tariff or supplement in whole or in part by another tariff or supplement, the cancelling publication must show where all rates and regulations will be found, or what rates and regulations will apply.

(e) *Omissions.* When a tariff or supplement cancelling a previous tariff or supplement omits points of origin or destination, rates or regulations, or routes, which were contained in such tariff or supplement, the new tariff or supplement must indicate the omission in the manner prescribed in paragraph (c) of this section. If such omissions effect changes in rates of regulations, that fact must be indicated by the use of the uniform symbols prescribed in § 61.54(i)(1).

(f) *Carriers ceasing operations.* When a carrier ceases operations without a successor, it must cancel its tariffs pursuant to the notice requirements of § 61.58, unless otherwise authorized by the Commission.

§ 61.58 Notice requirements.

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(1) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission, but does not include the effective date. If a tariff filing proposes changes governed by more than one of the notice periods listed below, the longest notice period will apply. In computing the notice period required, all days including Sundays and holidays must be counted.

(2) Except for tariffs filed pursuant to section 204(a)(3) of the Communications Act, the Chief, Common Carrier Bureau, may require the deferral of the effective date of any tariff filing made on less than 120-days' notice, so as to provide for a maximum of 120-days' notice, or of such other maximum period of notice permitted by section 203(b) of the Communications Act, regardless of whether petitions under § 1.773 of this chapter have been filed.

(3) Tariff filings proposing corrections must be made on at least 3 days' notice, and may be filed notwithstanding the provisions of § 61.59. Corrections to tariff materials not yet effective cannot take effect before the effective date of the original material.

(4) This subsection applies only to dominant carriers. If the tariff publication would increase any rate or charge, or would effectuate and authorized discontinuance, reduction or other impairment of service to any customer, the offering carrier must inform the affected customers of the content of the tariff publication. Such notification should be made in a form appropriate to the circumstance, and may include written notification, personal contact, or advertising in newspapers of general circulation.

(b) *Non-dominant carriers.* Tariff filings of non-dominant carriers must be made on at least 14 days' notice.

(c) *Carriers subject to price cap regulation.* This paragraph applies only to carriers subject to price cap regulation. Such carriers must file tariffs according to the following notice periods.

(1) For annual adjustments to the PCI, API, and SBI values under §§ 61.44, 61.46, and 61.47, respectively, dominant interexchange carrier filings must be made on at least 45 days' notice. For annual adjustments to the PCI, API, and SBI values under §§ 61.45, 61.46, and 61.47, respectively, local exchange carrier tariff filings must be made on not less than 90 days' notice.

(2) Tariff filings that do not cause any API to exceed any applicable PCI pursuant to calculations provided for in § 61.46 of this part, and that do not cause any SBI to exceed its banding limitations established in § 61.47 of this part, must be made on at least 14 days' notice, provided that the tariff filing is restricted to one or more of the following changes to the tariff:

- (i) Alters only a rate level;
- (ii) Adds a geographic location;
- (iii) Eliminates a rate element; or
- (iv) Changes the number or size of taper points in a volume discount plan without changing the initial volume quantity associated with the lowest discount level or the highest volume quantity associated with the highest discount level.

(3) Tariff filings that will cause any API to exceed its applicable PCI pursuant to calculations provided for in § 61.46 of this part, that will cause any SBI to exceed its upper banding limitations established in § 61.47 (e), (f)(1), (g), and (h) of this part, or that will cause

the composite average residential rate to exceed its limitation on upward pricing flexibility established in § 61.47(f)(2) of this part, must be made on at least 120 days' notice, or such other maximum period of notice permitted by section 203(b) of the Communications Act, regardless of whether petitions under § 1.773 of the Commission's Rules have been filed.

(4) Tariff filings that will cause any SBI to decrease below its lower banding limit established in § 61.47 (e), (g), and (h), must be made on at least 45 days' notice.

(5) Tariff filings involving a change in rate structure of a service included in a basket listed in § 61.42(a) or § 61.42(d), or the introduction of a new service within the scope of § 61.42(g), must be made on at least 45 days' notice.

(6) Tariff filings involving services included in § 61.42(c), except for services included in § 61.42 (c)(1), (c)(4), and (c)(10), must be made on at least 14 days notice.

(7) The required notice for services included in § 61.42 (c)(1), (c)(4), and (c)(10), tariff filings involving services included in § 61.42(f), or tariff filings involving changes in tariff regulations, other than tariff regulations for services described in paragraph (c)(6), shall be that required in connection with such filings by dominant carriers that are not subject to price cap regulation.

(d) *Tariffs filed pursuant to section 204(a)(3) of the Communications Act.* Local exchange carriers filing tariffs pursuant to section 204(a)(3) of the Communications Act may file the tariff on 7-days' notice if it proposes only rate decreases. Any other tariff filed pursuant to section 204(a)(3) of the Communications Act, including those that propose a rate increase or any change in terms and conditions of service other than a rate change, shall be filed on 15-days' notice.

(e) *Carriers subject to optional incentive regulation.* Paragraph (e) of this section applies only to carriers subject to § 61.50. Such carriers must file tariffs according to the following notice periods:

(1) For initial and renewal tariff filings whose effective date coincides with the start of any two-year tariff

period as defined in § 69.3(f) of this chapter, filings must be made on not less than 90 days' notice.

(2) For rate revisions made pursuant to § 61.50 (g) and (i), and § 61.39(d), tariff filings must be made on not less than 14 days' notice.

[49 FR 40869, Oct. 18, 1984, as amended at 54 FR 19844, May 8, 1989; 55 FR 42384, Oct. 19, 1990; 56 FR 1500, Jan. 15, 1991; 56 FR 5956, Feb. 14, 1991; 56 FR 55239, Oct. 25, 1991; 58 FR 36149, July 6, 1993; 59 FR 10304, Mar. 4, 1994; 62 FR 5778, Feb. 7, 1997]

§ 61.59 Effective period required before changes.

Except as provided in § 61.58(a)(3) or except as otherwise authorized by the Commission, new rates or regulations must be effective for at least 30 days before any change may be made.

§ 61.67 New or discontinued telephone and teletypewriter service points; mileages.

Message toll telephone service points and teletypewriter exchange service points added or discontinued during a calendar month may be filed not later than 20 days after the end of such month where the basic schedules of rates and regulations applicable to such message toll telephone and teletypewriter exchange service points are effective and the effective date of each addition of discontinuance is shown.

§ 61.68 Special notations.

(a) A tariff filing must contain a statement of the authority for any matter to be filed on less than the notice required in § 61.58. The following must be used:

Issued on not less than — days' notice under authority of — (specific reference to the special permission, decision, order or section of these rules).

If all the matter in a tariff publication is to become effective on less than the notice required in § 61.58, specific reference to the Commission authority must be shown on the title page. If only a part of the tariff publication is to become effective on less than the notice required in § 61.58, reference to the Commission authority must appear on the same page(s), and be associated with the pertinent matter.

(b) When a portion of any tariff publication is issued in order to comply with the Commission order, the following notation must be associated with that portion of the tariff publication:

In compliance with the order of the Federal Communications Commission in — (a specific citation to the applicable order should be made).

§ 61.69 Rejection.

When a tariff publication is rejected by the Commission, its number may not be used again. The rejected tariff publication may not be referred to as cancelled or revised. The publication that is subsequently issued in lieu of the rejected tariff publication must bear the notation

In lieu of —, rejected by the Federal Communications Commission.

§ 61.71 Reissued matter.

Matter in effect for less than 30 days and brought forward without change from another tariff publication must bear the appropriate symbol provided in § 61.54(i)(1) for reissued matter. The number and original effective date of the tariff publication in which the matter was originally published must be associated with the reissued matter.

§ 61.72 Posting.

(a) Offering carriers must post (i.e., keep accessible to the public) during the carrier's regular business hours, a schedule of rates and regulations for those services subject to tariff filing requirements. This schedule must include all effective and proposed rates and regulations pertaining to the services offered to and from the community or communities served, and must be the same as that on file with the Commission. This posting requirement must be satisfied by the following methods:

(1) Where the filing has an office or offices open to the public in states or territories of the United States, the carrier must post the schedule of rates and regulations in one office in each state or territory of its operation.

(2) A carrier must provide a telephone number for public inquiries about information contained in its tariffs. This telephone number should be

made readily available to all interested parties.

(3) A carrier must post a notice in each business office of the carrier open to the public in that state or territory, stating the street address of the location in which the schedule of rates and regulations can be found and the telephone number for public inquiries on tariffs.

(b) The posting of rates and regulations for those services pursuant to paragraph (a) of this section shall be considered timely if they are available for public inspection at the posting locations within 15 days of their filing with the Commission.

[49 FR 40869, Oct. 18, 1984, as amended at 61 FR 59366, Nov. 22, 1996]

§61.73 Duplication of rates or regulations.

A carrier concurring in schedules of another carrier must not publish conflicting or duplicative rates or regulations.

§61.74 References to other instruments.

(a) Except as otherwise provided in this and other sections of this part, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument.

(b) Tariffs for end-on-end through services may reference the tariffs of other carriers participating in the offering.

(c) Tariffs may reference concurrences for the purpose of starting where rates or regulations applicable to a service not governed by the tariff may be found.

(d) A tariff for international services offered by a carrier that is subject to detariffing for domestic, interstate, interexchange services, may reference other documents or instruments concerning the carrier's detariffed domestic, interstate, interexchange service offerings. A tariff for international services may contain such a reference if, and only if, it is necessary to incorporate information regarding the carrier's detariffed domestic, interstate, interexchange services in order to calculate discounts and minimum revenue requirements for international services

provided in combination with detariffed domestic, interstate, interexchange services. Notwithstanding any such reference to documents or instruments concerning the carrier's detariffed domestic, interstate, interexchange service offerings, a tariff for international services shall specify rates, terms and conditions for the international service.

[49 FR 40869, Oct. 18, 1984, as amended at 61 FR 59366, Nov. 22, 1996]

CONCURRENCES

§61.131 Scope.

Sections 61.132 through 61.136 apply to a carrier which must file concurrences reflecting rates and regulations for through service provided in conjunction with other carriers and to a carrier which has chosen, as an alternative to publishing its own tariff, to arrange concurrence in an effective tariff of another carrier. Limited or partial concurrences will not be permitted.

§61.132 Method of filing concurrences.

A carrier proposing to concur in another carrier's effective tariff must deliver two copies of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must submit both copies of the concurrence to the Commission. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence.

§61.133 Format of concurrences.

(a) Concurrences must be issued in the following format:

CONCURRENCE

F.C.C. Concurrence No. _____
 (Cancels F.C.C. Concurrence No. ____
 (Name of Carrier _____)
 (Post Office Address _____)
 (Date) _____ 19__.
 Secretary,

§ 61.134

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

This is to report that (name of concurring carrier) assents to and concurs in the tariffs described below. (Name of concurring carrier) thus makes itself a party to these tariffs and obligates itself (and its connecting carriers) to observe every provision in them, until a notice of revocation is filed with the Commission and delivered to the issuing carrier.

This concurrence applies to interstate (and foreign) communication:

- 1. Between the different points on the concurring carrier's own system;
- 2. Between all points on the concurring carrier's system and the systems of its connecting carriers; and
- 3. Between all points on the system of the concurring carrier and the systems of its connecting carriers on the one hand, and, on the other hand, all points on the system of the carrier issuing the tariff or tariffs listed below and the systems of its connecting carriers and other carriers with which through routes have been established.

(NOTE: Any of the above numbered paragraphs may be omitted or the wording modified to state the points to which the concurrence applies.)

TARIFF

(Here describe the tariff or tariffs concurred in by the carrier, specifying FCC number, title, date of issuance, and date effective. Example: A.B.C. Communications Company, Tariff FCC No. 1, Interstate Telegraph Message Service, Issued January 1, 1983, Effective April 1, 1983).

Cancels FCC Concurrence No. —, effective —, 19—.

(Name of concurring carrier) _____
By _____
(Title) _____

(b) No material is to be included in a concurrence other than that indicated in the above-prescribed form, unless specially authorized by the Commission. A concurrence in any tariff so described will be deemed to include all amendments and successive issues which the issuing carrier may make and file. All such amendments and successive issues will be binding between customers and carriers. Between carriers themselves, however, the filing by the issuing carrier of an amendment or successive issue with the Commission must not imply or be construed to imply an agreement to the filing by concurring carriers. Such filings do not affect the contractual rights or remedies of any concurring carrier(s) which have not, by contract or otherwise, specifically consented in advance to such amendment or successive issue.

edies of any concurring carrier(s) which have not, by contract or otherwise, specifically consented in advance to such amendment or successive issue.

§ 61.134 Concurrences for through services.

A carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting or other participating carriers as provided in § 61.54 (f), (g) and (h). A concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

§ 61.135 Concurrences for other purposes.

When an issuing carrier permits another carrier to concur in its tariff, the issuing carrier's tariff must state the concurring carrier's rates and points of service.

§ 61.136 Revocation of concurrences.

A concurrence may be revoked by a revocation notice or cancelled by a new concurrence. A revocation notice or a new concurrence, if less broad in scope than the concurrence it cancels, must bear an effective date not less than 45 days after its receipt by the Commission. A revocation notice is not given a serial number, but must specify the number of the concurrence to be revoked and the name of the carrier in whose favor the concurrence was issued. It must be in the following format:

REVOCATION NOTICE

(Name of carrier _____)
(Post office address _____)
(Date) _____, 19—.

Federal Communications Commission

§ 61.171

Secretary,
Federal Communications Commission, Washing-
ton, D.C. 20554.

Effective —, 19— FCC Concurrence No.
—, issued by (Name of concurring carrier) in
favor of (Name of issuing carrier) is hereby
cancelled and revoked. Rates and regulations
of (Name of concurring carrier) and its con-
necting carriers will thereafter be found in
Tariff FCC No. — issued by — (If the con-
curring carrier has ceased operations, the
revocation notice must so indicate.)

(Name of carrier) -----
By -----
(Title) -----

APPLICATIONS FOR SPECIAL PERMISSION

§ 61.151 Scope.

Sections 61.152 and 61.153 set forth
the procedures to be followed by a car-
rier applying for a waiver of any of the
rules in this part.

[55 FR 19173, May 8, 1990]

§ 61.152 Terms of applications and
grants.

Applications for special permission
must contain:

(a) A detailed description of the tariff
publication proposed to be put into ef-
fect;

(b) A statement citing the specific
rules and the grounds on which waiver
is sought;

(c) A showing of good cause; and

(d) A statement as to the date and
method of filing the original of the ap-
plication for special permission as re-
quired by § 61.153(b) and the date and
method of filing the copies required by
§ 61.153 (a) and (c).

If approved, the carrier must comply
with all terms and use all authority
specified in the grant. If a carrier
elects to use less than the authority
granted, it must apply to the Commis-
sion for modification of the original
grant. If a carrier elects not to use the
authority granted within sixty days of
its effective date, the original grant
will be automatically cancelled by the
Commission.

[55 FR 19173, May 8, 1990]

§ 61.153 Method of filing applications.

(a) An application for special permis-
sion must be addressed to "Secretary,
Federal Communication Commission,

Washington, DC 20554." The date on
which the application is received by
the Secretary of the Commission (or
the Mail Room where submitted by
mail) is considered the official filing
date.

(b) In addition, for all special permis-
sion applications requiring fees as set
forth at part 1, subpart G of this chap-
ter, the issuing carriers must submit
the original of the application letter
(without attachments), FCC Form 155,
and the appropriate fee to the Mellon
Bank, Pittsburgh, PA at the address
set forth in § 1.1105. The carrier should
submit these fee materials on the same
date as the submission in paragraph
(a).

(c) In addition to the requirements
set forth in paragraphs (a) and (b) of
this section, the issuing carrier must
send a copy of the application letter
with all attachments to the Secretary,
Federal Communications Commission
and a separate copy with all attach-
ments to the Chief, Tariff Review
Branch. If a carrier applies for special
permission to revise joint tariffs, the
application must state that it is filed
on behalf of all carriers participating
in the affected service. Applications
must be numbered consecutively in a
series separate from FCC tariff num-
bers, bear the signature of the officer
or agent of the carrier, and be in the
following format:

Application No.
(Date)
Secretary
Federal Communications Commission
Washington, DC 20554.

Attention: Common Carrier Bureau (here
provide the statements required by
§ 61.152).

(Exact name of carrier) -----
(Name of officer or agent) -----
(Title of officer or agent) -----

[55 FR 19173, May 8, 1990]

ADOPTION OF TARIFFS AND OTHER
DOCUMENTS OF PREDECESSOR CARRIERS

§ 61.171 Adoption notice.

When a carrier's name is changed, or
its operating control transferred from
one carrier to another in whole or in
part, the successor carrier must file
tariff revisions to reflect the name

change. The successor carrier may either immediately reissue the entire tariff in its own name, or immediately file an adoption notice. Within 35 days of filing an adoption notice, the successor must reissue the entire tariff in its own name. The reissued tariff must be numbered in the series of the successor carrier, and must contain all original pages without changes in regulations or rates. The transmittal letter must state the tariff is being filed to show a change in the carrier's name pursuant to §61.171 of the Commission's Rules. The adoption notice, if used, must read as follows:

The (Exact name of successor carrier or receiver) here adopts, ratifies and makes its own in every respect, all applicable tariffs and amendments filed with the Federal Communications Commission by (predecessor) prior to (date).

§61.172 Changes to be incorporated in tariffs of successor carrier.

When only a portion of properties is transferred to a successor carrier, that carrier must incorporate in its tariff the rates applying locally between points on the transferred portion. Moreover, the predecessor carrier must simultaneously cancel the corresponding rates from its tariffs, and reference the FCC number of the successor carrier's tariff containing the rates that will thereafter apply.

SUSPENSIONS

§61.191 Carrier to file supplement when notified of suspension.

If a carrier is notified by the Commission that its tariff filing has been suspended, the carrier must file immediately a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

§61.192 Contents of supplement announcing suspension.

- (a) A supplement announcing a suspension by the Commission must specify the term of suspension imposed by the Commission.
- (b) A supplement announcing a suspension of either an entire tariff or a part of a tariff publication, must specify the applicable tariff publication effective during the period of suspension.

§61.193 Vacation of suspension order; supplements announcing same; etc.

If the Commission vacates a suspension order, the affected carrier must issue a supplement or revised page stating the Commission's action as well as the lawful schedules.

PART 62—APPLICATIONS TO HOLD INTERLOCKING DIRECTORATES

GENERAL

Sec.

- 62.1 Scope and method of securing authorization.
- 62.2 Definitions.

CONTENTS OF APPLICATIONS

- 62.11 Information required.
- 62.12 Information required for findings of common ownership.

ADMINISTRATIVE REGULATIONS

- 62.21 Signature.
- 62.22 Form of application; number of copies; size of paper, etc.
- 62.23 Additional or different positions with same companies.
- 62.24 Change in status; Commission to be informed.
- 62.25 Authorization to hold interlocking directorates in commonly owned carriers.
- 62.26 Reporting requirements.

AUTHORITY: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 212, 48 Stat. 1974, as amended; 47 U.S.C. 212.

SOURCE: 50 FR 31377, Aug. 2, 1985, unless otherwise noted.

GENERAL

§62.1 Scope and method of securing authorization.

No person may hold the position of officer or director in more than one carrier subject to the Communications Act of 1934, as amended, unless duly authorized to do so pursuant to the regulations set forth in this part:

- (a) Application must be made to hold interlocking positions with more than one carrier subject to the Act where any carrier sought to be interlocked has been found by the Commission to have market power and is therefore defined as a dominant carrier under 47 CFR part 61, or where any carrier has not yet been found to be non-dominant,