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residual rate elements. End office Access Service rate elements for a non-incumbent local exchange carrier include any functionally equivalent access service.

NOTE TO PARAGRAPH (d): For incumbent local exchange carriers, residual rate elements may include, for example, state Transport Interconnection Charges, Residual Interconnection Charges, and PICCs. For non-incumbent local exchange carriers, residual rate elements may include any functionally equivalent access service.

(e) *Fiscal Year 2011* means October 1, 2010 through September 30, 2011.

(f) *Price Cap Carrier* has the same meaning as that term is defined in § 61.3(aa) of this chapter.

(g) *Rate-of-Return Carrier* is any incumbent local exchange carrier not subject to price cap regulation as that term is defined in § 61.3(aa) of this chapter, but only with respect to the territory in which it operates as an incumbent local exchange carrier.

(h) *Access Reciprocal Compensation* means telecommunications traffic exchanged between telecommunications service providers that is interstate or intrastate exchange access, information access, or exchange services for such access, other than special access.

(i) *Tandem-Switched Transport Access Service* means:

(1) Tandem switching and common transport between the tandem switch and end office; or

(2) Any functional equivalent of the incumbent local exchange carrier access service provided by a non-incumbent local exchange carrier via other facilities. *Tandem-Switched Transport* rate elements for an incumbent local exchange carrier include the rate elements specified in § 69.111 of this chapter, except for the dedicated transport rate elements specified in that section, and intrastate rate elements for functionally equivalent service. Tandem Switched Transport Access Service rate elements for a non-incumbent local exchange carrier include any functionally equivalent access service.

(j) *Transitional Intrastate Access Service* means terminating End Office Access Service that was subject to intrastate access rates as of December 31, 2011; terminating Tandem-Switched Transport Access Service that was sub-

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ject to intrastate access rates as of December 31, 2011; and originating and terminating Dedicated Transport Access Service that was subject to intrastate access rates as of December 31, 2011.

§ 51.905 Implementation.

(a) The rates set forth in this section are default rates. Notwithstanding any other provision of the Commission's rules, telecommunications carriers may agree to rates different from the default rates.

(b) LECs who are otherwise required to file tariffs are required to tariff rates no higher than the default transitional rates specified by this subpart.

(1) With respect to interstate switched access services governed by this subpart, LECs shall tariff rates for those services in their federal tariffs. Except as expressly superseded below, LECs shall follow the procedures specified in part 61 of this chapter when filing such tariffs.

(2) With respect to Transitional Intrastate Access Services governed by this subpart, LECs shall follow the procedures specified by relevant state law when filing such tariffs, price lists or other instrument (referred to collectively as "tariffs").

(c) Nothing in this section shall be construed to require a carrier to file or maintain a tariff or to amend an existing tariff if it is not otherwise required to do so under applicable law.

§ 51.907 Transition of price cap carrier access charges.

(a) Notwithstanding any other provision of the Commission's rules, on December 29, 2011, a Price Cap Carrier shall cap the rates for all interstate and intrastate rate elements for services contained in the definitions of Interstate End Office Access Services, Tandem Switched Transport Access Services, and Dedicated Transport Access Services. In addition, a Price Cap Carrier shall also cap the rates for any interstate and intrastate rate elements in the traffic sensitive basket" and the "trunking basket" as described in 47 CFR 61.42(d)(2) and (3) to the extent that such rate elements are not contained in the definitions of Interstate End Office Access Services, Tandem

Switched Transport Access Services, and Dedicated Transport Access Services. Carriers will remove these services from price cap regulation in their July 1, 2012 annual tariff filing.

(b) *Step 1.* Beginning July 1, 2012, notwithstanding any other provision of the Commission's rules:

(1) Each Price Cap Carrier shall file tariffs, in accordance with § 51.905(b)(2), with the appropriate state regulatory authority, that set forth the rates applicable to Transitional Intrastate Access Service in each state in which it provides Transitional Intrastate Access Service.

(2) Each Price Cap Carrier shall establish the rates for Transitional Intrastate Access Service using the following methodology:

(i) Calculate total revenue from Transitional Intrastate Access Service at the carrier's interstate access rates in effect on December 29, 2011, using Fiscal Year 2011 intrastate switched access demand for each rate element.

(ii) Calculate total revenue from Transitional Intrastate Access Service at the carrier's intrastate access rates in effect on December 29, 2011, using Fiscal Year 2011 intrastate switched access demand for each rate element.

(iii) Calculate the Step 1 Access Revenue Reduction. The Step 1 Access Revenue Reduction is equal to one-half of the difference between the amount calculated in paragraph (b)(2)(i) of this section and the amount calculated in paragraph (b)(2)(ii) of this section.

(iv) A Price Cap Carrier may elect to establish rates for Transitional Intrastate Access Service using its intrastate access rate structure. Carriers using this option shall establish rates for Transitional Intrastate Access Service such that Transitional Intrastate Access Service revenue at the proposed rates is no greater than Transitional Intrastate Access Service revenue at the intrastate rates in effect as of December 29, 2011 less the Step 1 Access Revenue Reduction, using Fiscal Year 2011 demand. Carriers electing to establish rates for Transitional Intrastate Access Service in this manner shall notify the appropriate state regulatory authority of their election in the filing required by § 51.907(b)(1).

(v) A Price Cap Carrier may elect to apply its interstate access rate structure and interstate rates to Transitional Intrastate Access Service. In addition to applicable interstate access rates, the carrier may, between July 1, 2012 and July 1, 2013, assess a transitional per-minute charge on Transitional Intrastate Access Service end office switching minutes (previously billed as intrastate access). The transitional per-minute charge shall be no greater than the Step 1 Access Revenue Reduction divided by Fiscal Year 2011 Transitional Intrastate Access Service end office switching minutes. Carriers electing to establish rates for Transitional Intrastate Access Service in this manner shall notify the appropriate state regulatory authority of their election in the filing required by paragraph (b)(1) of this section.

(vi) Except as provided in paragraph (b)(3) of this section, nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions to increase such rates.

(3) If a Price Cap Carrier must make an intrastate switched access rate reduction pursuant to paragraph (b)(2) of this section, and that Price Cap Carrier has an intrastate rate for a rate element that is below the comparable interstate rate for that element, the Price Cap Carrier shall:

(i) Increase the rate for any intrastate rate element that is below the comparable interstate rate for that element to the interstate rate no later than July 1, 2013;

(ii) Include any increases made pursuant to paragraph (b)(3)(i) of this section in the calculation of its eligible recovery for 2012.

(c) *Step 2.* Beginning July 1, 2013, notwithstanding any other provision of the Commission's rules:

(1) Transitional Intrastate Access Service rates shall be no higher than the Price Cap Carrier's interstate access rates. Once the Price Cap Carrier's Transitional Intrastate Access Service rates are equal to its functionally equivalent interstate access rates, they shall be subject to the same rate structure and all subsequent rate and rate

structure modifications. Except as provided in paragraph (c)(4) of this section, nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions to increase such rates.

(2) In cases where a Price Cap Carrier does not have intrastate rates that permit it to determine composite intrastate End Office Access Service rates, the carrier shall establish End Office Access Service rates such that the ratio between its composite intrastate End Office Access Service revenues and its total intrastate switched access revenues may not exceed the ratio between its composite interstate End Office Access Service revenues and its total interstate switched access revenues.

(3) [Reserved]

(4) If a Price Cap Carrier made an intrastate switched access rate reduction in 2012 pursuant to paragraph (b)(2) of this section, and that Price Cap Carrier has an intrastate rate for a rate element that is below the comparable interstate rate for that element, the Price Cap Carrier shall:

(i) Increase the rate for any intrastate rate element that is below the comparable interstate rate for that element to the interstate rate on July 1, 2013; and

(ii) Include any increases made pursuant to paragraph (b)(4)(i) of this section in the calculation of its eligible recovery for 2013.

(d) *Step 3.* Beginning July 1, 2014, notwithstanding any other provision of the Commission's rules:

(1) A Price Cap Carrier shall establish separate originating and terminating rate elements for all per-minute components within interstate and intrastate End Office Access Service. For fixed charges, the Price Cap Carrier shall divide the rate between originating and terminating rate elements based on relative originating and terminating end office switching minutes. If sufficient originating and terminating end office switching minute data is not available, the carrier shall divide such charges equally between originating and terminating elements.

(2) Each Price Cap Carrier shall establish rates for interstate or intrastate terminating End Office Access Service using the following methodology:

(i) Each Price Cap Carrier shall calculate the 2011 Baseline Composite Terminating End Office Access Rate. The 2011 Baseline Composite Terminating End Office Access Rate means the Composite Terminating End Office Access Rate calculated using Fiscal Year 2011 interstate demand multiplied by the interstate End Office Access Service rates at the levels in effect on December 29, 2011, and then dividing the result by 2011 Fiscal Year interstate local switching demand.

(ii) Each Price Cap Carrier shall calculate its 2014 Target Composite Terminating End Office Access Rate. The 2014 Target Composite Terminating End Office Access Rate means \$0.0007 per minute plus two-thirds of any difference between the 2011 Baseline Composite Terminating End Office Access Rate and \$0.0007 per minute.

(iii) Beginning July 1, 2014, no Price Cap Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2014 Target Composite Terminating End Office Access Rate. A price cap carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant Fiscal Year 2011 interstate demand multiplied by the respective interstate rates as of July 1, 2014, and then dividing the result by the relevant 2011 Fiscal Year interstate terminating local switching demand. A price cap carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Price Cap Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2014 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates.

(e) *Step 4.* Beginning July 1, 2015, notwithstanding any other provision of the Commission's rules:

(1) Each Price Cap Carrier shall establish interstate or intrastate rates for terminating End Office Access Service using the following methodology:

(i) Each Price Cap Carrier shall calculate its 2015 Target Composite Terminating End Office Access Rate. The 2015 Target Composite Terminating End Office Access Rate means \$0.0007 per minute plus one-third of any difference between the 2011 Composite Terminating End Office Access Rate and \$0.0007 per minute.

(ii) Beginning July 1, 2015, no Price Cap Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2015 Target Composite Terminating End Office Access Rate. A price cap carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant Fiscal Year 2011 interstate demand multiplied by the respective interstate rates as of July 1, 2015, and then dividing the result by the relevant 2011 Fiscal Year interstate terminating local switching demand. A price cap carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Price Cap Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2015 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates.

(2) Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(f) *Step 5.* Beginning July 1, 2016, notwithstanding any other provision of the Commission's rules, each Price Cap Carrier shall establish interstate terminating End Office Access Service rates such that its Composite Terminating End Office Access Service rate does not exceed \$0.0007 per minute. A price cap carrier shall determine com-

pliance by calculating interstate Composite Terminating End Office Access Rates using the relevant Fiscal Year 2011 interstate demand multiplied by the respective interstate rates as of July 1, 2016, and then dividing the result by the relevant 2011 Fiscal Year interstate terminating local switching demand. A price cap carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Price Cap Carrier may elect to implement a single per-minute rate element for both interstate and intrastate Terminating End Office Access Service no greater than the 2016 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(g) *Step 6.* Beginning July 1, 2017, notwithstanding any other provision of the Commission's rules:

(1) Each Price Cap Carrier shall, in accordance with a bill-and-keep methodology, refile its interstate access tariffs and any state tariffs, in accordance with § 51.905(b)(2), removing any inter-carrier charges for terminating End Office Access Service.

(2) Each Price Cap Carrier shall establish, for interstate and intrastate terminating traffic traversing a tandem switch that the terminating carrier or its affiliates owns, Tandem-Switched Transport Access Service rates no greater than \$0.0007 per minute.

(3) Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(h) *Step 7.* Beginning July 1, 2018, notwithstanding any other provision of the Commission's rules, each Price Cap carrier shall, in accordance with bill-and-keep, as defined in § 51.713, revise

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and refile its interstate switched access tariffs and any state tariffs to remove any intercarrier charges applicable to terminating tandem-switched access service traversing a tandem switch that the terminating carrier or its affiliate owns.

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§ 51.909 Transition of rate-of-return carrier access charges.

(a) Notwithstanding any other provision of the Commission's rules, on December 29, 2011, a Rate-of-Return Carrier shall:

(1) Cap the rates for all rate elements for services contained in the definitions of End Office Access Service, Tandem Switched Transport Access Service, and Dedicated Transport Access Service, as well as all other interstate switched access rate elements, in its interstate switched access tariffs at the rate that was in effect on the December 29, 2011; and

(2) Cap, in accordance with § 51.505(b)(2), the rates for rate all elements in its intrastate switched access tariffs associated with the provision of terminating End Office Access Service and terminating Tandem-Switched Transport Access Service at the rates that were in effect on the December 29, 2011,

(i) Using the terminating rates if specifically identified; or

(ii) Using the rate for the applicable rate element if the tariff does not distinguish between originating and terminating.

(3) Except as provided in paragraphs (a)(6) and (b)(4) of this section, nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(4) Notwithstanding the requirements of paragraph (a)(1) of this section, if a Rate-of-Return Carrier enters or exits the National Exchange Carrier Association (Association), as defined in § 69.2(d) of this chapter, traffic-sensitive tariff pursuant to the provisions of § 69.3(e)(6) of this chapter, the Association shall adjust its switched access rate caps ref-

erenced in paragraph (a)(1) of this section.

(i) For each entering Rate-of-Return Carrier, the Association shall:

(A) Determine each entering Rate-of-Return Carrier's interstate switched access revenues for the preceding calendar year;

(B) Determine the revenues that would have been realized by the entering Rate-of-Return Carrier in the preceding calendar year if it had used the Association's switched access rates (employing the rates for the appropriate bands) as of December 31 of the preceding year and the entering Rate-of-Return Carrier's switched access demand used to determine switched access revenues under paragraph (a)(4)(i)(A) of this section; and

(C) Subtract the sum of the revenues determined pursuant to paragraph (a)(4)(i)(B) of this section from the sum of the revenues determined pursuant to paragraph (a)(4)(i)(A) of this section.

(ii) The Association shall determine the amount by which each exiting Rate-of-Return Carrier is a net contributor or net recipient to or from the switched access segment of the Association pool as follows:

(A) The Association shall calculate the difference between each exiting Rate-of-Return Carrier's 2011–2012 tariff year projected interstate switched access revenues excluding Local Switching Support and the Rate-of-Return Carrier's projected switched access pool settlements excluding Local Switching Support for the same period with a net contribution amount being treated as a positive amount and a net recipient amount being treated as a negative amount. The Association shall divide the calculated difference by the Rate-of-Return Carrier's 2011–2012 tariff year projected interstate switched access revenues excluding Local Switching Support to produce a percent net contribution or net receipt factor.

(B) The Association shall multiply the factor calculated in paragraph (a)(4)(ii)(A) of this section by the Rate-of-Return Carrier's switched access revenues for the preceding calendar year to yield the amount of the Rate-of-Return Carrier's net contribution or net receipts for the calendar year.