

such qualifying carrier has obtained 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: 47 U.S.C. 151, 154(i), 154(j), 201–205, 403, unless otherwise noted.

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

### Subpart A—General

#### § 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 and with Commission rules regarding the payment of statutory

charges (see subpart G of part 1 of this title) and the use of FCC Registration Numbers (FRNs) (see subpart W of part 1 of this title). Failure to comply with any provisions of these rules may be grounds for rejection of the non-complying publication, a determination that it is unlawful or other action. Where an FRN has been omitted from a cover letter or transmittal accompanying a tariff publication filed under this part or the FRN included in that letter is invalid, the submitting carrier or carrier representative shall have ten (10) business days from the date of filing to amend the cover letter or transmittal to include a valid FRN. If within that ten (10) business day period, the carrier or carrier representative amends the cover letter or transmittal to include a valid FRN, that FRN shall be deemed to have been included in the letter as of its original filing date. If, after the expiration of the ten (10) business day period, the cover letter or transmittal has not been amended to include a valid FRN, the related tariff publication may be rejected if it has not yet become effective, declared unlawful if it has become effective, or subject to other action.

(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.

[49 FR 40869, Oct. 18, 1984, as amended at 66 FR 47896, Sept. 14, 2001]

#### § 61.2 General tariff requirements.

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

(b) Tariff publications must be delivered to the Commission free from all charges, including claims of postage.

(c) Tariff publications will not be returned.

[64 FR 46586, Aug. 26, 1999]

#### § 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) *Average Price Cap CMT Revenue per Line month*. (1) Price Cap CMT Revenue (as defined in § 61.3(cc)) per month as of July 1, 2000 (adjusted to remove Universal Service Contributions assessed to local exchange carriers pursuant to § 54.702 of this chapter) using 2000 annual filing base period demand, divided by the 2000 annual filing base period demand. In filing entities with multiple study areas, if it becomes necessary to calculate the Average Price Cap CMT Revenue per Line month for a specific study area, then the Average Price Cap CMT Revenue per Line month for that study area is determined as follows, using base period demand revenues (adjusted to remove Universal Service Contributions assessed to Local Exchange Carriers pursuant to § 54.702 of this chapter), Base Factor Portion (BFP) and 2000 annual filing base period lines:

Average Price Cap CMT Revenue per Line Month in a study area = Price Cap CMT Revenue × (BFP in the study area ÷ (BFP in the Filing Entity) ÷ (Lines in the study area).

(2) Nothing in this definition precludes a price cap local exchange carrier from continuing to average rates across filing entities containing multiple study areas, where permitted under existing rules.

(3) Average Price Cap CMT Revenues per Line month may be adjusted after July 1, 2000 to reflect exogenous costs pursuant to § 61.45(d).

(4) Average Price Cap CMT Revenues per Line month may also be adjusted pursuant to § 61.45 (b)(1)(iii).

(e) *Average Traffic Sensitive Charge*. (1) The Average Traffic Sensitive Charge (ATS charge) is the sum of the following two components:

(i) The Local Switching (LS) component. The LS component will be calculated by dividing the proposed LS revenues (End Office Switch, LS trunk ports, Information Surcharge, and signalling transfer point (STP) port) by the base period LS minutes of use (MOUs); and

(ii) The Transport component. The Transport component will be calculated by dividing the proposed Transport revenues (Switched Direct Trunk Transport, Signalling for Switched Direct Trunk Transport, Entrance Facilities for Switched Access traffic, Tandem Switched Transport, Signalling for Tandem Switching and residual per minute Transport Interconnection Charge (TIC) pursuant to §69.155 of this chapter) by price cap local exchange carrier only base period MOUs (including meet-point billing arrangements for jointly-provided interstate access by a price cap local exchange carrier and any other local exchange carrier).

(2) For the purposes of determining whether the ATS charge has reached the Target Rate as set forth in §61.3(qq), the calculations should include all the relevant revenues and minutes for services provided under generally available price cap tariffs.

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

(g) *Base period*. For carriers subject to §§61.41 through 61.49, the 12-month period ending six months prior to the effective date of annual price cap tariffs. Base year or base period earnings shall exclude amounts associated with exogenous adjustments to the PCI for the lower formula adjustment mechanism permitted by §61.45(d)(1)(vii).

(h) *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 revenues of which are reflected in a Price Cap Index.

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

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

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

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

(m) *Concurring carrier*. A carrier (other than a connecting carrier) sub-

ject to the Act which concurs in and assents to schedules of rates and regulations filed on its behalf by an issuing carrier or carriers.

(n) *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.

(o) *Contract-based tariff*. A tariff based on a service contract entered into between a non-dominant carrier and a customer, or between a customer and a price cap local exchange carrier which has obtained permission to offer contract-based tariff services pursuant to part 69, subpart H, of this chapter.

(p) *Corrections*. The remedy of errors in typing, spelling, or punctuation.

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

(r) *GDP Price Index (GDP-PI)*. The estimate of the Chain-Type Price Index for Gross Domestic Product published by the United States Department of Commerce, which the Commission designates by Order.

(s) *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.

(t) *Incumbent Local Exchange Carrier*. “Incumbent Local Exchange Carrier” or “ILEC” has the same meaning as that term is defined in 47 U.S.C. 251(h).

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

(v) *Line month*. Line demand per month multiplied by twelve.

(w) *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.

(x) *Mid-size company*. All price cap local exchange carriers other than the Regional Bell Operating Companies and GTE.

(y) *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.

(z) *Non-dominant carrier.* A carrier not found to be dominant. The nondominant status of providers of international interexchange services for purposes of this subpart is not affected by a carrier's classification as dominant under § 63.10 of this chapter.

(aa) *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.

(bb) *Price Cap Local Exchange Carrier.* A local exchange carrier subject to regulation pursuant to § 61.41 through 61.49.

(cc) *Pooled Local Switching Revenue.* For certain qualified companies as set forth in § 61.48 (m), is the amount of additional local switching reductions in the July 2000 Annual filing allowed to be moved and recovered in the CMT basket.

(dd) *Price Cap CMT Revenue.* The maximum total revenue a filing entity would be permitted to receive from End User Common Line charges under § 69.152 of this chapter, Presubscribed Interexchange Carrier charges (PICCs) under § 69.153 of this chapter, Carrier Common Line charges under § 69.154 of this chapter, and Marketing under § 69.156 of this chapter, using Base Period lines. Price Cap CMT Revenue does not include the price cap local exchange carrier universal service contributions as of July 1, 2000. The Price Cap CMT revenue does not include the pooled local switching revenue outlined in paragraph (bb) of this section.

(ee) *Price Cap Index (PCI).* An index of prices applying to each basket of services of each carrier subject to price cap regulation, and calculated pursuant to § 61.45.

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

(gg) *Price cap tariff filing.* Any tariff filing involving a service subject to price cap regulation, or that requires calculations pursuant to §§ 61.45, 61.46, or 61.47.

(hh) [Reserved]

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

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

(kk) *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.

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

(mm) *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.

(nn) *Rural Company.* A company that, as of December 31, 1999, was certified to the Commission as a rural telephone company.

(oo) *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.

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

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

(rr) *Target Rate.* The applicable Target Rate shall be defined as follows:

(1) For regional Bell Operating Companies and GTE, \$0.0055 per ATS minute of use;

(2) For a holding company with a holding company average of less than 19 Switched Access End User Common Line charge lines per square mile served such company may elect to use a Target Rate of \$0.0095 with respect to all exchanges owned by that holding company on July 1, 2000, or which that holding company is, as of April 1, 2000, under a binding and executed contract to purchase;

(3) For other price cap local exchange carriers, \$0.0065 per ATS minute of use.

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

(tt) *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.

(uu) *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.

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

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

(xx) *Corridor service*. "Corridor service" refers to interLATA services offered in the "limited corridors" established by the District Court in *United States v. Western Electric Co., Inc.*, 569 F. Supp. 1057, 1107 (D.D.C. 1983).

(yy) *Toll dialing parity*. "Toll dialing parity" exists when there is dialing parity, as defined in §51.5 of this chapter, for toll services.

(zz) *Loop-based services*. Loop-based services are services that employ Subcategory 1.3 facilities, as defined in §36.154 of this chapter.

(aaa) *Zone Average Revenue per Line*. The amount calculated as follows:

$$\text{Zone Average Revenue per Line} = (25\% * (\text{Loop} + \text{Port})) + U \text{ (Uniform revenue per line adjustment)}$$

Where:

Loop = the price for unbundled loops in a UNE zone.

Port = the price for switch ports in that UNE zone.

U = [(Average Price Cap CMT Revenue per Line month in a study area \* price cap local exchange carrier Base Period Lines) - (25% \* Σ (price cap local exchange carrier Base Period Lines in a UNE Zone \* ((Loop + Port) for all zones)))] + price cap local exchange carrier Base Period Lines in a study area.

(bbb) *Access Stimulation*. (1) A Competitive Local Exchange Carrier serving end user(s) or an IPES Provider serving end user(s) engages in Access Stimulation when it satisfies either paragraph (bbb)(1)(i) or (ii) of this section; and a rate-of-return local ex-

change carrier serving end user(s) engages in Access Stimulation when it satisfies either paragraph (bbb)(1)(i) or (iii) of this section.

(i) The rate-of-return local exchange carrier, Competitive Local Exchange Carrier, or IPES Provider:

(A) Has an access revenue sharing agreement, whether express, implied, written or oral, that, over the course of the agreement, would directly or indirectly result in a net payment to the other party (including affiliates) to the agreement, in which payment by the rate-of-return local exchange carrier, Competitive Local Exchange Carrier, or IPES Provider is based on the billing or collection of access charges from interexchange carriers or wireless carriers. When determining whether there is a net payment under this rule, all payments, discounts, credits, services, features, functions, and other items of value, regardless of form, provided by the rate-of-return local exchange carrier, Competitive Local Exchange Carrier, or IPES Provider to the other party to the agreement shall be taken into account; and

(B) Has either an interstate terminating-to-originating traffic ratio of at least 3:1 in an end office or equivalent in a calendar month, or has had more than a 100 percent growth in interstate originating and/or terminating switched access minutes of use in a month compared to the same month in the preceding year for such end office or equivalent.

(ii) A Competitive Local Exchange Carrier or IPES Provider has an interstate terminating-to-originating traffic ratio of at least 6:1 in an end office or equivalent in a calendar month.

(iii) A rate-of-return local exchange carrier has an interstate terminating-to-originating traffic ratio of at least 10:1 in an end office or equivalent in a three-calendar month period and has 500,000 minutes or more of interstate terminating minutes-of-use per month in the same end office in the same three-calendar month period. These factors will be measured as an average over the three-calendar month period.

(2) A Competitive Local Exchange Carrier serving end user(s), or an IPES Provider serving end user(s), that has engaged in Access Stimulation will

continue to be deemed to be engaged in Access Stimulation until: For a carrier or provider engaging in Access Stimulation as defined in paragraph (bbb)(1)(i) of this section, it terminates all revenue sharing agreements covered in paragraph (bbb)(1)(i) of this section and does not engage in Access Stimulation as defined in paragraph (bbb)(1)(ii) of this section; and for a carrier or provider engaging in Access Stimulation as defined in paragraph (bbb)(1)(ii) of this section, its interstate terminating-to-originating traffic ratio for an end office or equivalent falls below 6:1 for six consecutive months, and it does not engage in Access Stimulation as defined in paragraph (bbb)(1)(i) of this section.

(3) A rate-of-return local exchange carrier serving end user(s) that has engaged in Access Stimulation will continue to be deemed to be engaged in Access Stimulation until: For a carrier engaging in Access Stimulation as defined in paragraph (bbb)(1)(i) of this section, it terminates all revenue sharing agreements covered in paragraph (bbb)(1)(i) of this section and does not engage in Access Stimulation as defined in paragraph (bbb)(1)(iii) of this section; and for a carrier engaging in Access Stimulation as defined in paragraph (bbb)(1)(iii) of this section, its interstate terminating-to-originating traffic ratio falls below 10:1 for six consecutive months and its monthly interstate terminating minutes-of-use in an end office or equivalent falls below 500,000 for six consecutive months, and it does not engage in Access Stimulation as defined in paragraph (bbb)(1)(i) of this section.

(4) A local exchange carrier engaging in Access Stimulation is subject to revised interstate switched access charge rules under § 61.26(g) (for Competitive Local Exchange Carriers) or § 61.38 and § 69.3(e)(12) of this chapter (for rate-of-return local exchange carriers).

(5) In calculating the interstate terminating-to-originating traffic ratio at each end office or equivalent under this paragraph (bbb), each Competitive Local Exchange Carrier, rate-of-return local exchange carrier or IPES Provider shall include in such calculation only traffic traversing that end office or equivalent and going to and from

any telephone number associated with an Operating Company Number that has been issued to such Competitive Local Exchange Carrier, rate-of-return local exchange carrier or IPES Provider. The term "equivalent" in the phrase "end office or equivalent" means "End Office Equivalent," as defined in this section.

(ccc) *Intermediate Access Provider*. The term means, for purposes of this part and §§ 51.914, 69.4(1), and 69.5(b) of this chapter, any entity that provides terminating switched access tandem switching or terminating switched access tandem transport services between the final Interexchange Carrier in a call path and:

(1) A local exchange carrier engaged in Access Stimulation, as defined in paragraph (bbb) of this section; or

(2) A local exchange carrier delivering traffic to an IPES Provider engaged in Access Stimulation, as defined in paragraph (bbb) of this section; or

(3) An IPES Provider engaged in Access Stimulation, as defined in paragraph (bbb) of this section, where the entity delivers calls directly to the IPES Provider.

(ddd) *Interexchange Carrier*. The term means, for purposes of this part and §§ 69.3(e)(12)(iv) and 69.5(b) of this chapter, a retail or wholesale telecommunications carrier that uses the exchange access or information access services of another telecommunications carrier for the provision of telecommunications.

(eee) *IPES (Internet Protocol Enabled Service) Provider*. The term means, for purposes of this part and §§ 51.914, 69.4(1) and 69.5(b) of this chapter, a provider offering a service that:

(1) Enables communications;

(2) Requires a broadband connection from the user's location or end to end;

(3) Requires internet Protocol-compatible customer premises equipment (CPE); and

(4) Permits users to receive calls that originate on the public switched telephone network or that originate from an Internet Protocol service.

(fff) *End Office Equivalent*. For purposes of this part and §§ 51.914, 69.3(e)(12)(iv) and 69.4(1) of this chapter,

an End Office Equivalent is the geographic location where traffic is delivered to an IPES Provider for delivery to an end user. This location shall be used as the terminating location for purposes of calculating terminating-to-originating traffic ratios, as provided in this section. For purposes of the Access Stimulation Rules, the term “equivalent” in the phrase “end office or equivalent” means End Office Equivalent.

[54 FR 19840, May 8, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 61.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

§§ 61.11–61.12 [Reserved]

**Subpart B—Rules for Electronic Filing**

SOURCE: 63 FR 35540, June 30, 1998, unless otherwise noted.

**§ 61.13 Scope.**

(a) All issuing carriers that file tariffs are required to file tariff publications electronically, if practicable.

(b) All tariff publications shall be filed in a manner that is compatible and consistent with the technical requirements of the Electronic Tariff Filing System.

(c) Tariff publications which must be filed in hard copy format should be submitted according to the procedures set forth on the web page of the FCC’s Office of the Secretary, <https://www.fcc.gov/secretary>.

[83 FR 2557, Jan. 18, 2018]

**§ 61.14 Method of filing publications.**

(a) Publications filed electronically must be captioned to “Secretary, Federal Communications Commission, Washington, DC 20554.” The Electronic Tariff Filing System will accept filings 24 hours a day, seven days a week. The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in § 1.4(e)(2) of this chapter, the filing will

be date and time stamped as of the opening of the next business day.

(b) Carriers are strongly encouraged to submit publications electronically if practicable. Carriers need only transmit one set of files to the Commission. No other copies to any other party are required. Publications which must be filed in hard copy format should be submitted according to the procedures set forth on the web page of the FCC’s Office of the Secretary, <https://www.fcc.gov/secretary>.

(c) Carriers that are required to file publications electronically may not file those publications on paper or other media unless specifically required to do so by the Commission.

(d) Carriers that are required to file publications electronically need only transmit one set of files to the Commission. No other copies to any other party are required.

(e) Carriers that are required to file publications electronically must comply with the format requirements set forth in §§ 61.52 and 61.54, with the exception of the informational tariffs filed pursuant to 47 U.S.C. 226(h)(1)(A).

[63 FR 35540, June 30, 1998, as amended at 64 FR 46586, Aug. 26, 1999; 73 FR 9030, Feb. 19, 2008; 76 FR 43210, July 20, 2011; 83 FR 2557, Jan. 18, 2018]

**§ 61.15 Letters of transmittal and cover letters.**

(a) All tariff publications filed with the Commission electronically must be accompanied by a letter of transmittal. All letters of transmittal filed with the Commission must be numbered consecutively by the issuing carrier beginning with Number 1. All letters of transmittal must also:

(1) Concisely explain the nature and purpose of the filing;

(2) Specify whether supporting information is required for the new tariff or tariff revision, and specify the Commission rule or rules governing the supporting information requirements for that filing;

(3) Contain a statement indicating the date and method of filing of the original of the transmittal as required by § 61.14(b);

(4) Include the FCC Registration Number (FRN) of the carrier(s) on

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whose behalf the cover letter is submitted. See subpart W of part 1 of this title.

(b) Local exchange carriers filing tariffs electronically pursuant to the notice requirements of 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 the tariff is filed on 7 or 15 days notice.

(c) 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.

(d) 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.

(e) In addition to the requirements set forth in paragraph (a) of this section, any incumbent 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.

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

(g) 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.

(h)(1) The letter of transmittal must be substantially in the following format:

\_\_\_\_\_  
(Exact name of carrier in full)

\_\_\_\_\_  
(Post Office Address)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Transmittal No.  
*Secretary, Federal Communications Commission;*  
*Washington, DC 20554*

*Attention: Wireline Competition Bureau*  
The accompanying tariff (or other publication) issued by \_\_\_\_\_, and bearing FCC No. \_\_\_\_\_, effective \_\_\_\_\_, 20\_\_\_\_, 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)

(2) 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.

(i) All submissions of documents other than a new tariff or revisions to an existing tariff, such as Base Documents or Tariff Review Plans, must be accompanied by a cover letter that concisely explains the nature and purpose of the filing. Publications submitted under this paragraph are not required to submit a tariffing fee.

[76 FR 43210, July 20, 2011]

**§61.16 Base documents.**

(a) The Base Document is a complete tariff which incorporates all effective revisions, as of the last day of the preceding month. The Base Document should be submitted with a cover letter as specified in §61.15(i) and identified as the *Monthly Updated Base Document*.

(b) If there have been revisions that became effective up to and including the last day of the preceding month, a new Base Document must be submitted within the first five business days of the current month that will incorporate those revisions.

[76 FR 43211, July 20, 2011]

## §61.17

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### §61.17 Applications for special permission.

(a) All issuing carriers that file applications for special permission, associated documents, such as transmittal letters, requests for special permission, and supporting information, shall file those documents electronically.

(b) Applications for special permission must contain:

(1) A detailed description of the tariff publication proposed to be put into effect;

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

(3) A showing of good cause; and

(4) The appropriate illustrative tariff pages the issuing carrier wishes to either revise or add as new pages to its tariff.

(c) An application for special permission must be addressed to “Secretary, Federal Communications Commission, Washington, DC 20554.” The Electronic Tariff Filing System will accept filings 24 hours a day, seven days a week. The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in §1.4(e)(2) of this chapter, the filing will be date and time stamped as of the opening of the next business day.

(d) In addition, for special permission applications requiring fees as set forth in part 1, subpart G of this chapter, carriers shall submit the appropriate fee and associated payment form electronically through the process set forth in §1.1105 of this chapter and, if practicable, the application and associated documents electronically in accordance with the procedures set forth on the Commission’s website, [www.fcc.gov/licensing-databases/fees](http://www.fcc.gov/licensing-databases/fees). Applications which must be filed in hard copy format should be submitted according to the procedures set forth on the web page of the FCC’s Office of the Secretary, <https://www.fcc.gov/secretary>.

(e) In addition, if an issuing 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 con-

secutively in a series separate from FCC tariff numbers and Letters of Transmittal, 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:* Wireline Competition Bureau (here provide the statements required by section 61.17(b)).

(Exact name of carrier) \_\_\_\_\_

(Name of officer or agent) \_\_\_\_\_

(Title of officer or agent) \_\_\_\_\_

(f) If approved, the issuing 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 Commission 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.

[76 FR 43211, July 20, 2011, as amended at 83 FR 2557, Jan. 18, 2018]

### Subpart C—General Rules for Nondominant Carriers

#### §61.18 Scope.

The rules in this subpart apply to all nondominant carriers.

[64 FR 46587, Aug. 26, 1999]

#### §61.19 Detariffing of international and interstate, domestic interexchange services.

(a) Except as otherwise provided in paragraphs (b) through (e) of this section, or by Commission order, carriers that are nondominant in the provision of international and interstate, domestic interexchange services shall not file tariffs for such services.

(b) Carriers that are nondominant in the provision of international and domestic, interstate, interexchange services are permitted to file tariffs for dial-around 1 + services. For the purposes of this paragraph, dial-around 1 + calls are those calls made by accessing the interexchange carrier through the use of that carrier’s carrier access code.

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(c) Carriers that are nondominant in the provision of international and domestic, interstate, interexchange services are permitted to file a tariff for such services applicable to those customers who contact the local exchange carrier to designate an interexchange carrier or to initiate a change with respect to their primary interexchange carrier. Such tariff will enable the interexchange carrier to provide service to the customer until the interexchange carrier and the customer consummate a written agreement, but in no event shall the interexchange carrier provide service to its customer pursuant to such tariff for more than 45 days.

(d) Carriers that are nondominant in the provision of international inbound collect calls to the United States are permitted to file a tariff for such services.

(e) Carriers that are nondominant in the provision of “on-demand” Mobile Satellite Services are permitted to file a tariff for such services applicable to those customers that have not entered into pre-existing service contracts designating a specific provider for such services.

[66 FR 16881, Mar. 28, 2001]

### § 61.20 Method of filing publications.

(a) All issuing carriers that file tariffs shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and supporting information, electronically in accordance with the requirements set forth in §§ 61.13 through 61.17.

(b) In addition, all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, shall be submitted electronically if practicable in accordance with § 1.1105 of this chapter along with the electronic submission of the payment online form. Petitions which must be filed in hard copy format should be submitted according to the procedures set forth on the web page of the FCC’s Office of the Secretary, <https://www.fcc.gov/secretary>.

[76 FR 43211, July 20, 2011, as amended at 83 FR 2557, Jan. 18, 2018]

### § 61.25 References to other instruments.

In addition to the cross-references permitted pursuant to § 61.74, a nondominant carrier may cross-reference in its tariff publication only the rate provisions of another carrier’s FCC tariff publication, provided that the following conditions are met:

(a) The tariff being cross-referenced must be on file with the Commission and in effect;

(b) The issuing carrier must specifically identify in its tariff the cross-referenced tariff by Carrier Name and FCC Tariff Number;

(c) The issuing carrier must specifically identify in its tariff the rates being cross-referenced so as to leave no doubt as to the exact rates that will apply, including but not limited to any applicable credits, discounts, promotions; and

(d) The issuing carrier must keep its cross-references current.

[64 FR 46588, Aug. 26, 1999]

### § 61.26 Tariffing of competitive interstate switched exchange access services.

(a) *Definitions.* For purposes of this section, the following definitions shall apply:

(1) *CLEC* shall mean a local exchange carrier that provides some or all of the interstate exchange access services used to send traffic to or from an end user and does not fall within the definition of “incumbent local exchange carrier” in 47 U.S.C. 251(h).

(2) *Competing ILEC* shall mean the incumbent local exchange carrier, as defined in 47 U.S.C. 251(h), that would provide interstate exchange access services, in whole or in part, to the extent those services were not provided by the CLEC.

(3) *Switched exchange access services* shall include:

(i) The functional equivalent of the ILEC interstate exchange access services typically associated with the following rate elements: Carrier common line (originating); carrier common line (terminating); local end office switching; interconnection charge; information surcharge; tandem switched transport termination (fixed); tandem

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switched transport facility (per mile); tandem switching;

(ii) The termination of interexchange telecommunications traffic to any end user, either directly or via contractual or other arrangements with an affiliated or unaffiliated provider of interconnected VoIP service, as defined in 47 U.S.C. 153(25), or a non-interconnected VoIP service, as defined in 47 U.S.C. 153(36), that does not itself seek to collect reciprocal compensation charges prescribed by this subpart for that traffic, regardless of the specific functions provided or facilities used.

(4) *Non-rural ILEC* shall mean an incumbent local exchange carrier that is not a *rural telephone company* under 47 U.S.C. 153(44).

(5) The *rate* for interstate switched exchange access services shall mean the composite, per-minute rate for these services, including all applicable fixed and traffic-sensitive charges.

(6) *Rural CLEC* shall mean a CLEC that does not serve (*i.e.*, terminate traffic to or originate traffic from) any end users located within either:

(i) Any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or

(ii) An urbanized area, as defined by the Census Bureau.

(b) Except as provided in paragraphs (c), (e), and (g) of this section, a CLEC shall not file a tariff for its interstate switched exchange access services that prices those services above the higher of:

(1) The rate charged for such services by the competing ILEC or

(2) The lower of:

(i) The benchmark rate described in paragraph (c) of this section or

(ii) In the case of interstate switched exchange access service, the lowest rate that the CLEC has tariffed for its interstate exchange access services, within the six months preceding June 20, 2001.

(c) The benchmark rate for a CLEC's switched exchange access services will be the rate charged for similar services by the competing ILEC. If an ILEC to which a CLEC benchmarks its rates, pursuant to this section, lowers the rate to which a CLEC benchmarks, the CLEC must revise its rates to the lower

level within 15 days of the effective date of the lowered ILEC rate.

(d) Except as provided in paragraph (g) of this section, and notwithstanding paragraphs (b) and (c) of this section, in the event that, after June 20, 2001, a CLEC begins serving end users in a metropolitan statistical area (MSA) where it has not previously served end users, the CLEC shall not file a tariff for its exchange access services in that MSA that prices those services above the rate charged for such services by the competing ILEC.

(e) *Rural exemption.* Except as provided in paragraph (g) of this section, and notwithstanding paragraphs (b) through (d) of this section, a rural CLEC competing with a non-rural ILEC shall not file a tariff for its interstate exchange access services that prices those services above the rate prescribed in the NECA access tariff, assuming the highest rate band for local switching. In addition to that NECA rate, the rural CLEC may assess a presubscribed interexchange carrier charge if, and only to the extent that, the competing ILEC assesses this charge. Beginning July 1, 2013, all CLEC reciprocal compensation rates for intrastate switched exchange access services subject to this subpart also shall be no higher than that NECA rate.

(f) If a CLEC provides some portion of the switched exchange access services used to send traffic to or from an end user not served by that CLEC, the rate for the access services provided may not exceed the rate charged by the competing ILEC for the same access services, except if the CLEC is listed in the database of the Number Portability Administration Center as providing the calling party or dialed number, the CLEC may, to the extent permitted by §51.913(b) of this chapter, assess a rate equal to the rate that would be charged by the competing ILEC for all exchange access services required to deliver interstate traffic to the called number.

(g) Notwithstanding paragraphs (b) through (e) of this section:

(1) A CLEC engaging in access stimulation, as that term is defined in §61.3(bbb), shall not file a tariff for its interstate exchange access services

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that prices those services above the rate prescribed in the access tariff of the price cap LEC with the lowest switched access rates in the state.

(2) A CLEC engaging in access stimulation, as that term is defined in § 61.3(bbb), shall file revised interstate switched access tariffs within forty-five (45) days of commencing access stimulation, as that term is defined in § 61.3(bbb), or within forty-five (45) days of [date] if the CLEC on that date is engaged in access stimulation, as that term is defined in § 61.3(bbb).

(3) Notwithstanding any other provision of this part, if a CLEC is engaged in Access Stimulation, as defined in § 61.3(bbb), it shall:

(i) Within 45 days of commencing Access Stimulation, or within 45 days of November 27, 2019, whichever is later, file tariff revisions removing from its tariff terminating switched access tandem switching and terminating switched access tandem transport access charges assessable to an Interexchange Carrier for any traffic between the tandem and the local exchange carrier's terminating end office or equivalent; and

(ii) Within 45 days of commencing Access Stimulation, or within 45 days of November 27, 2019, whichever is later, the CLEC shall not file a tariffed rate that is assessable to an Interexchange Carrier for terminating switched access tandem switching or terminating switched access tandem transport access charges for any traffic between the tandem and the local exchange carrier's terminating end office or equivalent.

[76 FR 73881, Nov. 29, 2011, as amended at 77 FR 20553, Apr. 5, 2012; 84 FR 57652, Oct. 28, 2019]

### Subpart D—General Tariff Rules for International Dominant Carriers

#### § 61.28 International dominant carrier tariff filing requirements.

(a) Any carrier classified as dominant for the provision of particular international communications services on a particular route for any reason other than a foreign carrier affiliation under § 63.10 of this chapter shall file tariffs for those services pursuant to the notice and cost support requirements for

tariff filings of dominant domestic carriers, as set forth in subpart E of this part.

(b) Other than the notice and cost support requirements set forth in paragraph (a) of this section, all tariff filing requirements applicable to all carriers classified as dominant for the provision of particular international communications services on a particular route for any reason other than a foreign carrier affiliation pursuant to § 63.10 of this chapter are set forth in subpart C of this part.

[66 FR 16881, Mar. 28, 2001]

### Subpart E—General Rules for Dominant Carriers

#### § 61.31 Scope.

The rules in this subpart apply to all dominant carriers.

[64 FR 46588, Aug. 26, 1999]

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

(a) *Scope.* This section applies to dominant carriers whose gross annual revenues 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. Incumbent 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 issuing 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 (d), (e), and (g).

(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.

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(1) For a tariff change the issuing 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 issuing 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 (b)(1)(ii) above.

(2) For a tariff filing offering a new service, the issuing 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 issuing carrier's other service classifications, and the issuing 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) [Reserved]

(4) For a tariff that introduces a system of density pricing zones, as described in § 69.123 of this chapter, the issuing 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 issuing carrier must file the 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 this chapter.

(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 issuing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate increase. The issuing 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 issuing carrier must transmit to the customer a copy of the explanation and data required by paragraphs (b) and (c) of this section.

(g) On each page of cost support material submitted pursuant to this section, the issuing carrier shall indicate the transmittal number under which that page was submitted.

[76 FR 43211, July 20, 2011]

**§ 61.39 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings by incumbent 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.* Except as provided in paragraph (g) of this section, This section provides for an optional method of filing for any local exchange carrier that is described as a 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 of local exchange carriers subject to price cap 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 § 61.15. 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 incumbent 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 incumbent local exchange carrier that is a cost schedule carrier must propose Traffic 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 incumbent local exchange carrier's last annual filing, with related demand for the same period.

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

(i) For the first period, the incumbent 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 participate, based upon the most recent average schedule formulas approved by the Commission.

(3) For a tariff change, the incumbent 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

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based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

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

Where:

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

And where:

CCL Rev Req = carrier common line revenue requirement for the most recent 12-month period;  
 CCL MOU<sub>b</sub> = carrier common line minutes of use for the most recent 12-month period;  
 CCL MOU<sub>1</sub> = CCL MOU<sub>b</sub>; and  
 CCL MOU<sub>0</sub> = 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:

$$\frac{CCL \text{ Rev Req}}{CCL \text{ MOU}_b * (1+h/2)^{5/2}}$$

Where:

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

And where:

CCL Rev Req = carrier common line revenue requirement for the most recent 24-month period;  
 CCL MOU<sub>b</sub> = carrier common line minutes of use for the most recent 24-month period;  
 CCL MOU<sub>1</sub> = carrier common line minutes of use for the 12-month period; and  
 CCL MOU<sub>0</sub> = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

common line rates based on the following:

(i) For the first biennial filings, the common line revenue requirement shall be determined by the incumbent 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:

(4) For a tariff change, the incumbent local exchange carrier which is an average schedule carrier must propose

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

Where:

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

And where:

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

CCL MOU<sub>b</sub> = carrier common line minutes of use for the most recent 12-month period;

CCL MOU<sub>1</sub> = CCL MOU<sub>b</sub>; and

CCL MOU<sub>0</sub> = 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 re-

flect 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:

$$\frac{CCL \text{ Rev Req}}{CCL \text{ MOU}_b * (1+h/2)^{5/2}}$$

Where:

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

And where:

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

CCL MOU<sub>b</sub> = carrier common line minutes of use for the most recent 24-month period;

CCL MOU<sub>1</sub> = carrier common line minutes of use for the most recent 12-month period; and

CCL MOU<sub>0</sub> = 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 incumbent local ex-

change 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.* Incumbent Local exchange carriers filing tariffs under this section are not required to comply with §§ 65.700 through 65.701 of this chapter, 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

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calculated based on the incumbent 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 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 local exchange carrier; and

(2) Data to establish compliance with this paragraph 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. 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.

(f) On each page of cost support material submitted pursuant to this section, the issuing carrier shall indicate the transmittal number under which that page was submitted.

(g) *Engagement in Access Stimulation.* A local exchange carrier otherwise eligible to file a tariff pursuant to this section may not do so if it is engaging in Access Stimulation, as that term is defined in § 61.3(bbb). A carrier so engaged must file interstate access tariffs in accordance with § 61.38 and § 69.3(e)(12) of this chapter.

[76 FR 43212, July 20, 2011, as amended at 76 FR 73882, Nov. 29, 2011; 84 FR 57652, Oct. 28, 2019]

### § 61.40 Private line rate structure guidelines.

(a) The Commission uses a variety of tools to determine whether a dominant carrier's private line tariffs are just, reasonable, and nondiscriminatory.

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The dominant 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.

[49 FR 40869, Oct. 18, 1984, as amended at 76 FR 43213, July 20, 2011]

### § 61.41 Price cap requirements generally.

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

(1) [Reserved]

(2) To such price cap 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) Except as provided in paragraph (e) of this section, the following rules in this paragraph (c) apply to telephone companies subject to price cap regulation, as that term is defined in § 61.3(ee), 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), 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 subject to price cap regulation in accordance with § 69.3(i)(3) of this chapter and the requirements referenced in that section.

(d) Except as provided in paragraph (e) of this section, local exchange carriers that become subject to price cap regulation as that term is defined in § 61.3(ff) shall not be eligible to withdraw from such regulation.

(e) Notwithstanding the requirements of paragraphs (c) and (d) of this section, a telephone company subject to rate-of-return regulation may return lines acquired from a telephone company subject to price cap regulation to rate-of-return regulation, provided that the acquired lines will not be subject to average schedule settle-

ments, and provided further that the telephone company subject to rate-of-return regulation may not for five years elect price cap regulation for itself, or by any means cause the acquired lines to become subject to price cap regulation.

(f) Notwithstanding the requirements of paragraphs (c) and (d) of this section, a telephone company subject to rate-of-return regulation that is affiliated with a price cap local exchange carrier may provide business data services pursuant to § 61.50 without converting other services to price cap regulation.

[55 FR 42382, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990, as amended at 56 FR 55239, Oct. 25, 1991; 64 FR 46589, Aug. 26, 1999; 65 FR 38695, June 21, 2000; 65 FR 57741, Sept. 26, 2000; 69 FR 25336, May 6, 2004; 76 FR 43213, July 20, 2011; 83 FR 67122, Dec. 28, 2018]

#### § 61.42 Price cap baskets and service categories.

(a)–(c) [Reserved]

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

(1) A basket for the common line, marketing, and certain residual interconnection charge interstate access elements as described in §§ 69.115, 69.152, 69.153, 69.154, 69.155, 69.156, and 69.157 of this chapter. For purposes of §§ 61.41 through 61.49, this basket shall be referred to as the “CMT basket.”

(2) A basket for traffic sensitive switched interstate access elements. For purposes of §§ 61.41 through 61.49 of this chapter, this basket shall be referred to as the “traffic-sensitive basket.”

(3) A basket for trunking services as described in §§ 69.110, 69.111, 69.112, 69.125(b), 69.129, and 69.155 of this chapter. For purposes of §§ 61.41 through 61.49, this basket shall be referred to as the “trunking basket.”

(4)(i) To the extent that a price cap local exchange carrier specified in § 61.41(a)(2) or (a)(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. For purposes of §§ 61.41 through 61.49, this basket

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shall be referred to as the “inter-exchange basket.”

(ii) If a price cap local exchange carrier has implemented interLATA and intraLATA toll dialing parity everywhere it provides local exchange services at the holding company level, that price cap carrier may file a tariff revision to remove corridor and interstate intraLATA toll services from its inter-exchange basket.

(5) A basket for special access services as described in § 69.114 of this chapter.

(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 switched transport 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,

(ii) High capacity flat-rated transport, including the following service subcategories:

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

(B) DS3 entrance facilities, DS3 direct-trunked transport, DS3 dedicated signalling transport.

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

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

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

(i) Voice grade special access, WATS special access, metallic special access, and telegraph special access services;

(ii) Audio and video services;

(iii) High capacity special access, and DDS services, including the following service subcategories:

(A) DS1 special access services; and

(B) DS3 special access services;

(iv) Wideband data and wideband analog services.

(f) Each price cap local exchange carrier 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 paragraph (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]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 61.42, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

### § 61.43 Annual price cap filings required.

Price cap local exchange carriers shall submit annual price cap tariff filings that propose rates for the upcoming tariff year, that make appropriate adjustments to their PCI, API, and SBI values pursuant to §§ 61.45 through 61.47, and that incorporate new services into the PCI, API, or SBI calculations pursuant to §§ 61.45(g), 61.46(b), and 61.47(b) and (c). Price cap local exchange carriers may propose rate, PCI, or other tariff changes more often than annually, consistent with the requirements of § 61.59.

[76 FR 43214, July 20, 2011]

## § 61.44 [Reserved]

## § 61.45 Adjustments to the PCI for Local Exchange Carriers.

(a) Price cap local exchange carriers 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)(1)(i) Adjustments to price cap local exchange carrier PCIs, in those carriers' annual access tariff filings, the traffic sensitive basket described in § 61.42(d)(2), the trunking basket described in § 61.42(d)(3), the special access basket described in § 61.42(d)(5) and the Interexchange Basket described in § 61.42(d)(4)(i), shall be made pursuant to the following formula:

$$"PCI_t = PCI_{t-1} [1 + w[GDP-PI - X] + Z / R]."$$

$$PCI_{t-1} = PCI_{t-1} [1 + w[GDP-PI - X] + Z / R]$$

Where the terms in the equation are described:

GDP-PI = For annual filings only, 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. For all other filings, the value is zero.

X = For the CMT, traffic sensitive, and trunking baskets, for annual filings only, the factor is set at the level prescribed in paragraphs (b)(1)(ii) and (iii) of this section. For the interexchange basket, for annual filings only, the factor is set at the level prescribed in paragraph (b)(1)(v) of this section. For the special access basket, for annual filings only, the factor is set at the level prescribed in paragraph (b)(1)(iv) of this section. For all other filings, the value is zero.

g = For annual filings for the CMT basket only, 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, all minus 1.

Z = 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.

Targeted Reduction = the actual possible dollar value of the  $(GDP-PI - X)$  reductions that will be targeted to the ATS Charge pursuant to § 61.45(i)(3). The reductions calculated by applying the  $(GDP-PI - X)$  portion of the formula to the CCL element within the CMT basket

will contain the "g" component, as defined above.

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 =  $R + Z$ , all divided by R (used for the traffic sensitive, trunking, and special access baskets).

$w_{ix}$  =  $R$ —(access rate in effect at the time the PCI was updated to  $PCI_{t-1}$  \* base period demand) + Z, all divided by R.

$PCI_t$  = The new PCI value.

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

(ii) The X value applicable to the baskets specified in §§ 61.42(d)(1), (d)(2), and (d)(3), shall be 6.5%, to the extent necessary to reduce a tariff entity's ATS charge to its Target Rate as set forth in § 61.3(qq). Once any price cap local exchange carrier tariff entity's ATS Charge is equal to the Target Rate as set forth in § 61.3(qq) for the first time (the former NYNEX telephone companies may be treated as a separate tariff entity), then, except as provided in paragraph (b)(1)(iii) of this section, X is equal to GDP-PI and no further reductions will be mandated (*i.e.*, if applying the full X-factor reduction for a given year would reduce the ATS charge below the Target Rate as set forth in § 61.3 (qq), the amount of X-factor reduction applied that year will be the amount necessary to reach the Target Rate as set forth in § 61.3 (qq)). A filing entity does not reach the Target Rate as set forth in § 61.3(qq) in any year in which it exercises an exogenous adjustment pursuant to § 61.45(d)(vii). For companies with separate tariff entities under a single price cap, the following rules shall apply:

(A) Targeting amounts as defined in § 61.45(i)(1)(i) shall be identified separately, using the revenue for each of the tariff entities under the cap.

(B) Each tariff entity shall only be required to use the amount of targeting necessary to get to the Target Rate as set forth in § 61.3 (qq).

(iii)(A) Except as provided in paragraph (b)(1)(iii)(B) of this section, once the Tariff Entity's Target Rate as set forth in § 61.3 (qq) is achieved, the X-factor for the CMT basket will equal GDP-PI as long as GDP-PI is less than or equal to 6.5% and greater than 0%. If GDP-PI is greater than 6.5%, and an

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entity has eliminated its CCL and multi-line business PICCs charges, the X-factor for the CMT basket will equal 6.5%, and all End User Common Line charges, rates and nominal caps, will be increased by the difference between GDP-PI and the 6.5% X-factor. If GDP-PI is less than 0, the X-factor for the CMT basket will be 0.

(B) For tariff filing entities with a Target Rate of \$0.0095, or for the portion of a filing entity consolidated pursuant to §61.48(o) that, prior to such consolidation, had a Target Rate of \$0.0095, in which the ATS charge has achieved the Target Rate but in which the carrier common line (CCL) charge has not been eliminated, the X-factor for the CMT basket will be 6.5% until the earlier of June 30, 2004, or until CCL charges are eliminated pursuant to paragraph (i)(4) of this section. Thereafter, in any filing entity in which a CCL charge remains after July 1, 2004, the X-factor for the CMT basket will be determined pursuant to paragraph (b)(1)(iii)(A) of this section as if CCL charges were eliminated.

(iv) For the special access basket specified in §61.42(d)(5), the value of X shall be 2.0% beginning December 1, 2017, notwithstanding any language in §61.45(b)(1)(i).

(v) For the interexchange basket specified in §61.42(d)(4), the value of X shall be 3.0% for all annual filings.

(2) Adjustments to price cap local exchange carrier PCIs and average price cap CMT revenue per line, in tariff filings other than the annual access tariff filing, for the CMT basket described in §61.42(d)(1), the traffic sensitive basket described in §61.42(d)(2), the trunking basket described in §61.42(d)(3), the interexchange basket described in §61.42(d)(4), and the special access basket described in §61.42(d)(5), shall be made pursuant to the formulas set forth in paragraph (b)(1)(i) of this section, except that the “w(GDP-PI – X)” component of those PCI formulas shall not be employed.

(c) Effective July 1, 2000, the prices of the CMT basket rate elements, excluding special access surcharges under §69.115 of this chapter and line ports in excess of basic under §69.157 of this chapter, shall be set based upon Aver-

age Price Cap CMT Revenue per Line month.

(d) The exogenous cost changes represented by the term “Z” in the formula detailed in paragraph (b)(1)(i) 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) [Reserved]

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

(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, subject to the limitation in §69.731 of this chapter. The allocation of LFAM amounts will be allocated pursuant to §61.45(d)(3). This section shall not be applicable to tariff filings during the tariff year beginning July 1, 2000, but is applicable in subsequent years;

(viii) Inside wire amortizations;

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

(2) Price cap local exchange carriers specified in §§61.41(a)(2) or (a)(3) shall, in their annual access tariff filing, recognize all exogenous cost changes attributable to modifications during the coming tariff year in their Subscriber Plant Factor and the Dial Equipment Minutes factor, and completions of inside wire amortizations and reserve deficiency amortizations.

(3) Exogenous cost changes shall be apportioned on a cost-causative basis between price cap services as a group, and excluded services as a group. Total exogenous cost changes thus attributed to price cap services shall be recovered from services other than those used to calculate the ATS charge.

(e) [Reserved]

(f) The exogenous costs caused by new services subject to price cap regulation must be included in the appropriate PCI calculations under paragraphs (b) and (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)(i) Price cap local exchange carriers that are recovering revenues through rates pursuant to §§ 69.106, 69.108, 69.109, 69.110, 69.111, 69.112, 69.113, 69.118, 69.123, 69.124, 69.125, 69.129, or § 69.155 of this chapter shall target, to the extent necessary to reduce the ATS Charge to the Target Rate as set forth in § 61.3 (qq) for the first time, any PCI reductions associated with the dollar impact of application of the  $(GDP-PI - X)$  portion of the formula in § 61.45(b)(1)(i) to the traffic sensitive and trunking baskets. In order to calculate the actual dollars to transfer to the trunking and traffic sensitive baskets, carriers will first determine the "Targeted Revenue Differential" that will be transferred to the trunking and traffic sensitive baskets to reduce the ATS Charge to the Target Rate as set forth in § 61.3(qq). The Targeted Revenue Differential shall be applied only to the trunking and traffic sensitive baskets to the extent necessary to reduce the ATS charge to the Target Rate as set forth in § 61.3 (qq), and shall not be applied to reduce the PCIs in any other basket or to reduce Average Price Cap CMT Revenue per Line month, except as provided in § 61.45(i)(4).

(ii) For the purposes of § 61.45(i)(1)(i), Targeted Revenue Differential will be determined by adding together the following amounts:

(A)  $R * (GDP-PI - X)$  for the traffic sensitive basket, trunking basket, and the CMT basket excluding CCL revenues; and

(B)  $CCL \text{ Revenues} * [(GDP-PI - X - (g / 2)] / [1 + (g / 2)]$

Where "g" is defined in § 61.45(b)(1)(i).

(2) Until a tariff entity's ATS Charge equals the Target Rate as set forth in § 61.3 (qq) for the first time, the Targeted Revenue Differential will be targeted to reduce the following rates for that tariff filing entity, in order of priority:

(i) To the residual per minute Transport Interconnection Charge, until that rate is \$0.00; then

(ii) To the Information Surcharge, until that rate is \$0.00; then

(iii) To the other Local Switching charges and Switched Transport charges until the tariff entity's ATS Rate equals the Target Rate as set forth in § 61.3(qq) for the first time. In making these reductions, the reductions to Local Switching rates as a percentage of total X-factor reductions must be greater than or equal to the percentage proportion of Local Switching revenues to the total sum of revenues for Local Switching, Local Switching Trunk Ports, Signalling Transfer Point Port Termination, Switched Direct Trunked Transport, Signalling for Switched Direct Trunked Transport, Entrance Facilities for switched access traffic, Tandem Switched Transport, and Signalling for Tandem Switching (*i.e.*, Local Switching gets at least its proportionate share of reductions).

(3) After a price cap local exchange carrier reaches the Target Rate as set forth in § 61.3(qq), the ATS Rate will be recalculated each subsequent Annual Filing. This process will identify the new ATS Charge for the new base period level. Due to change in base period demand and inclusion of new services for that annual filing, the absolute level of a tariff entity's ATS Charge may change. The resulting new ATS Charge level will be what that tariff entity will be measured against during that base period. For example, if a

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company whose target is \$0.0055 reached the Target Rate during the 2000 annual filing, that level may change to \$0.0058 in the 2001 annual filing due to change in demand and inclusion of new services. Therefore, it will be the \$0.0058 average rate that the tariff entity will be measured against for all non-annual filings. Likewise, if that same company was at the Target Rate during the 2000 filing, that level may change to \$0.0053 average rate in the 2001 annual filing due to change in demand and inclusion of new services. In that case, it will be at the \$0.0053 average rate that the tariff entity will be measured.

(4) A company electing a \$0.0095 Target Rate will, in the tariff year it reaches the Target Rate, apply any Targeted Revenue Differential remaining after reaching the Target Rate to reduce Average Price Cap CMT Revenue per Line month until the CCL charge is eliminated. In subsequent years, until the earlier of June 30, 2004 or when the CCL charge is eliminated, tariff filing entities with a Target Rate of \$0.0095, or the portion of a filing entity consolidated pursuant to § 61.48(o) that, prior to such consolidation, had a Target Rate of \$0.0095, will reduce Average Price Cap CMT Revenue per Line month according to the following method:

(i) Filing entity calculates the maximum allowable carrier common line revenue, as defined in § 61.46(d)(1), that would be permitted in the absence of further adjustment pursuant to this paragraph;

(ii) Filing entity identifies maximum amount of dollars available to reduce Average Price Cap CMT Revenue per Line month by the following:

(CMT revenue in a \$0.0095 Area - CCL revenue in a \$0.0095 Area) \* (GDP-PI - X) + (CCL Revenue in a \$0.0095 Area) \* [(GDP-PI - X) - (g / 2)] / [1 + (g / 2)]

(iii) The Average Price Cap CMT Revenue per Line month shall then be reduced by the lesser of the amount described in paragraph (i)(4)(i) of this section and the amount described in paragraph (i)(4)(ii) of this section, divided

by base period Switched Access End User Common Line Charge lines.

[65 FR 38696, June 21, 2000; 65 FR 57741, Sept. 26, 2000; 76 FR 43214, July 20, 2011; 82 FR 25711, June 2, 2017]

§ 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 price cap local exchange carrier must calculate an API for each affected basket pursuant to the following methodology:

API<sub>t</sub> = API<sub>t-1</sub> [Σ v<sub>i</sub> (P<sub>t</sub>/P<sub>t-1</sub>)<sup>i</sup>]

Where:

- API<sub>t</sub> = the proposed API value,
API<sub>t-1</sub> = the existing API value,
P<sub>t</sub> = the proposed price for rate element "i,"
P<sub>t-1</sub> = the existing price for rate element "i,"
and
v<sub>i</sub> = 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) The maximum allowable carrier common line (CCL) revenue shall be computed pursuant to the following methodology:

CCL = CMT – EUCL – Interstate Access Universal Service Support Mechanism Per Line – PICC

Where:

CMT = Price Cap CMT Revenue as defined in § 61.3(cc).

EUCL = Maximum allowable EUCL rates established pursuant to § 69.152 of this chapter multiplied by base period lines.

Interstate Access Universal Service Support Per Line = the amount as determined by the Administrator pursuant to § 54.807 of this chapter times the number of base period lines for each customer class and zone receiving Interstate Access Universal Service support pursuant to part 54, subpart J.

PICC = Maximum allowable PICC rates established pursuant to § 69.153 of this chapter multiplied by base period lines.

(e) In no case shall a price cap local exchange carrier include data associated with services offered pursuant to contract tariff in the calculations required by this section.

[65 FR 38698, June 21, 2000; 65 FR 57741, 57742, Sept. 26, 2000; 76 FR 43214, July 20, 2011]

#### § 61.47 Adjustments to the SBI; pricing bands.

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

$$SBI_i = SBI_{i-1} [\sum v_i (P_i/P_{i-1})]$$

where

SBI<sub>i</sub> = the proposed SBI value,

SBI<sub>i-1</sub> = the existing SBI value,

P<sub>i</sub> = the proposed price for rate element “i,”

P<sub>i-1</sub> = the existing price for rate element “i,” and

v<sub>i</sub> = 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 appro-

priate 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. Each band shall limit the pricing flexibility of the service category, subcategory, as reflected in the SBI, to an annual increase of a specified percent listed in this paragraph, 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 cap regulation as that term is defined in § 61.3(ee), there

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shall be no lower pricing band for any service category or subcategory.

- (1) Five percent:
  - (i) Local Switching (traffic sensitive basket)
  - (ii) Information (traffic sensitive basket)
  - (iii) Database Access Services (traffic sensitive basket)
  - (iv) 800 Database Vertical Services subservice (traffic sensitive basket)
  - (v) Billing Name and Address (traffic sensitive basket)
  - (vi) Local Switching Trunk Ports (traffic sensitive basket)
  - (vii) Signalling Transfer Point Port Termination (traffic sensitive basket)
  - (viii) Voice Grade (trunking and special access baskets)
  - (ix) Audio/Video (special access basket)
  - (x) Total High Capacity (trunking and special access baskets)
  - (xi) DS1 Subservice (trunking and special access baskets)
  - (xii) DS3 Subservice (trunking and special access baskets)
  - (xiii) Wideband (special access basket)
- (2) Two percent:
  - (i) Tandem-Switched Transport (trunking basket)
  - (ii) Signalling for Tandem Switching (trunking basket)
- (f) A price cap local exchange carrier may establish density zones pursuant to the requirements set forth in § 69.123 of this chapter, for any service in the trunking and special access baskets, other than the interconnection charge set forth in § 69.124 of this chapter. The pricing flexibility of each zone shall be limited to an annual increase of 15 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. There shall be no lower pricing band for any density zone.

(g)–(i)(1) [Reserved]

(2) Effective January 1, 1998, notwithstanding the requirements of paragraph (a) of this section, if a price cap 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 applica-

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tion of the provisions of § 61.45(b)(1)(i) and from the application of the provisions of §§ 61.45(i)(1) and 61.45(i)(2) shall be directed to the SBI of the service category designated in § 61.42(d)(i).

(3) [Reserved]

(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 61.45(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.

(5) Effective July 1, 2000, notwithstanding the requirements of paragraph (a) of this section and subject to the limitations of § 61.45(i), if a price cap local exchange carrier is recovering an ATS charge greater than its Target Rate as set forth in § 61.3(qq), any reductions to the PCI for the traffic sensitive or trunking baskets designated in §§ 61.42(d)(2) and 61.42(d)(3) resulting from the application of the provisions of § 61.45(b), and the formula in § 61.45(b) and from the application of the provisions of §§ 61.45(i)(1), and 61.45(i)(2) shall be directed to the SBIs of the service categories designated in §§ 61.42(e)(1) and 61.42(e)(2).

(j) [Reserved]

(k) In no case shall a price cap local exchange carrier include data associated with services offered pursuant to contract tariff in the calculations required by this section.

[54 FR 19843, May 8, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 61.47, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

### § 61.48 Transition rules for price cap formula calculations.

(a)–(h) [Reserved]

(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.* Price cap local exchange carriers 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(e) through (f).

(3) *Sequential Introduction of Zones in the Same Tariff Year.* Notwithstanding §§ 61.47(e) through (f), price cap local exchange carriers 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(e) through (f), 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) [Reserved]

(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(e) through (f), those price cap local exchange carriers 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(e) through (f), but applicable to the earlier service only.

(j)-(k) [Reserved]

(1) *Average Traffic Sensitive Revenues.*

(1) In the July 1, 2000 annual filing, price cap local exchange carriers will make an additional reduction to rates comprising ATS charge, and to associated SBI upper limits and PCIs. This reduction will be calculated to be the amount that would be necessary to achieve a total \$2.1 billion reduction in carrier common line and ATS rates by all price cap local exchange carriers, compared with those rates as they existed on June 30, 2000 using 2000 annual filing base period demand.

(i) The net change in revenue associated with Carrier Common Line Rate elements resulting from:

(A) The removal from access of price cap local exchange carrier contributions to the Federal universal service mechanisms;

(B) Price cap local exchange carrier receipts of interstate access universal service support pursuant to subpart J of part 54;

(C) Changes in End User Common Line Charges and PICC rates;

(D) Changes in Carrier Common Line charges due to GDP-PI – X targeting for \$0.0095 filing entities.

(ii) Reductions in Average Traffic Sensitive charges resulting from:

(A) Targeting of the application of the (GDP-PI – X) portion of the formula in §61.45(b), and any applicable “g” adjustments;

(B) The removal from access of price cap local exchange carrier contributions to the Federal universal service mechanisms;

(C) Additional ATS charge reductions defined in paragraph (2) of this section.

(2) Once the reductions in paragraph (1)(1)(i) and paragraphs (1)(1)(ii)(A) and (1)(1)(ii)(B) of this section are identified, the difference between those reductions and \$2.1 billion is the total amount of additional reductions that would be made to ATS rates of price cap local exchange carriers. This amount will then be restated as the percentage of total price cap local exchange carrier Local Switching revenues as of June 30, 2000 using 2000 annual filing base period demand (“June 30 Local Switching revenues”) necessary to yield the total amount of additional reductions and taking into account the fact that, if participating, a price cap local exchange carrier would not reduce ATS rates below its Target Rate as set forth in §61.3(qq). Each price cap local exchange carrier then reduces ATS rate elements, and associated SBI upper limits and PCIs, by a dollar amount equivalent to the percentage times the June 30 Local Switching revenues for that filing entity, provided that no price cap local exchange carrier shall be required to reduce its ATS rates below its Target Rate as set forth in §61.3(qq). Each price cap local exchange carrier can take its additional reductions against any of the ATS rate elements, provided that at least a proportional share must be taken against Local Switching rates.

(m) *Pooled Local Switching Revenues.*

(1) Price cap local exchange carriers are permitted to pool local switching

revenues in their CMT basket under one of the following conditions.

(i) Any price cap local exchange carrier that would otherwise have July 1, 2000 price cap reductions as a percentage of Base Period Price Cap Revenues at the holding company level greater than the industry wide total July 1, 2000 price cap revenue reduction as a percentage of Base Period Price Cap Revenues may elect temporarily to pool the amount of the additional reductions above 25% of the Local Switching element revenues necessary to yield that carrier’s proportionate share of a total \$2.1 billion reduction in switched access usage rates on July 1, 2000. The basis of the reduction calculation will be R at  $PCI_{t-1}$  for the upcoming tariff year. The percentage reductions per line amounts will be calculated as follows: (Total Price Cap Revenue Reduction ÷ Base Period Price Cap Revenues)

Pooled local switching revenue for each filing entity within a holding company that qualifies under this paragraph (i) will continue until such pooled revenues are eliminated under this paragraph. Notwithstanding the provisions of §61.45(b)(1), once the Average Traffic Sensitive (ATS) rate reaches the applicable Target Rate as set forth in §61.3(qq), the Targeted Revenue Differential as defined in §61.45(i) shall be targeted to reducing pooled local switching revenue until the pooled local switching revenue is eliminated. Thereafter, the X-factor for these baskets will be determined in accordance with §61.45(b)(1).

(ii) Price cap local exchange carriers other than the Bell companies and GTE with at least 20% of total holding company lines operated by companies that as of December 31, 1999 were certified to the Commission as rural carriers, may elect to pool up to the following amounts:

(A) For a price cap holding company’s predominantly non-rural filing entities (*i.e.*, filing entities within which more than 50% of all lines are operated by telephone companies other than those that as of December 31, 1999 were certified to the Commission as rural telephone companies), the amount of the additional reductions to Average Traffic Sensitive Charge rates

as defined in paragraph (1)(2) of this section, to the extent such reductions exceed 25% of the Local Switching element revenues (measured in terms of June 30, 2000 rates times 1999 base period demand);

(B) For a price cap holding company's predominantly rural filing entities (*i.e.*, filing entities with greater than 50% of lines operated by telephone companies that as of December 31, 1999 were certified to the Commission as rural telephone companies), the amount of the additional reductions to Average Traffic Sensitive Charge rates as defined in paragraph (1)(2) of this section.

(2) Allocation of Pooled Local Switching Revenue to Certain CMT Elements

(i) The pooled local switching revenue for each filing entity is shifted to the CMT basket within price caps. Pooled local switching revenue will not be included in calculations to determine the eligibility for interstate access universal service funding.

(ii) Pooled local switching revenue will be capped on a revenue per line basis.

(iii) Pooled local switching revenue is included in the total revenue for the CMT basket in calculating the X-factor reduction targeted to the traffic sensitive rate elements, and for companies qualified under paragraph (m)(1)(i) of this section, to pooled elements after the Average Traffic Sensitive Charge reaches the target level. For the purpose of targeting X-factor reductions, companies that allocate pooled local switching revenue to other filing entities pursuant to paragraph (m)(2)(vii) of this section shall include pooled local switching revenue in the total revenue of the CMT basket of the filing entity from which the pooled local switching revenue originated.

(iv) Pooled local switching revenue shall be kept separate from CMT revenue in the CMT basket. CMT rate elements for each filing entity shall first be set based on CMT revenue per line without regard to the presence of pooled local switching revenue for each filing entity.

(v) If the rates generated without regard to the presence of pooled local switching revenue for multi-line busi-

ness PICC and/or multi-line business SLC are below the nominal caps of \$4.31 and \$9.20, respectively, pooled amounts can be added to these rate elements to the extent permitted by the nominal caps.

(vi) Notwithstanding the provisions of § 69.152(k) of this chapter, pooled local switching revenue is first added to the multi-line business SLC until the rate equals the nominal cap (\$9.20) or the pooled local switching revenue is fully allocated. If pooled local switching revenue remains after applying amounts to the multi-line business SLC, notwithstanding the provisions of § 69.153 of this chapter, the remaining pooled local switching revenue may be added to the multi-line business PICC until the rate equals the nominal cap (\$4.31) or the pooled local switching revenue is fully allocated. Unallocated pooled local switching revenue may still remain. For companies pooling pursuant to paragraph (m)(1)(i) of this section, these unallocated amounts may not be recovered from the CCL charge, the primary residential and single-line business SLC, a non-primary residential SLC, or from CMT elements in any other filing entity.

(vii) For companies pooling pursuant to paragraph (m)(1)(ii) of this section, pooled local switching revenue that can not be allocated to the multi-line business PICC and multi-line business SLC rates within an individual filing entity may not be recovered from the CCL charge, primary residential and single-line business SLC or residential/single-line business SLC charges, but may be allocated to other filing entities within the holding company, and collected by adding these amounts to the multi-line business PICC and multi-line business SLC rates. The allocation of pooled local switching revenue among filing entities will be recalculated at each annual filing. In subsequent annual filings, pooled local switching revenue that was allocated to another filing entity will be reallocated to the filing entity from where it originated, to the full extent permitted by the nominal caps of \$9.20 and \$4.31.

(viii) Notwithstanding the provisions of § 69.152(k) of this chapter, these unallocated local switching revenues

that cannot be recovered fully pursuant to paragraph (m)(2)(vii) of this section are first added to the multi-line business SLC of other filing entities until the resulting rate equals the nominal cap (\$9.20) or the pooled local switching revenue for the holding company is fully allocated. If the pooled local switching revenue can be fully allocated to the multi-line business SLC, the amount is distributed to each filing entity with a rate below the nominal cap (\$9.20) based on its below-cap multi-line business SLC revenue as a percentage of the total holding company's below-cap multi-line business SLC revenue.

(ix) If pooled local switching revenue remains after applying amounts to the multi-line business SLC of all filing entities in the holding company, pooled local switching revenue may be added to the multi-line business PICC of other filing entities. Notwithstanding the provisions of § 69.153 of this chapter, the remaining pooled local switching revenue is distributed to each filing entity with a rate below the nominal cap (\$4.31) based on its below-cap multi-line business PICC revenue as a percentage of the total holding company's below-cap multi-line business PICC revenue.

(x) If pooled local switching revenue is added to the multi-line business SLC but not to the multi-line business PICC for a filing entity that qualified to deaverage SLCs without regard to pooled local switching revenue, the resulting SLC rates can still be deaveraged. Total pooled local switching revenue is added to the deaveraged zone 1 multi-line business SLC rate until the per line rate in zone 1 equals the rate in zone 2 or until the pooled local switching revenue is fully allocated to the deaveraged multi-line business SLC rate for zone 1. If pooled local switching revenue remains after the rate in zone 1 equals zone 2, the deaveraged rates of zone 1 and zone 2 are increased until the pooled local switching revenue is fully allocated to the deaveraged multi-line business SLC rates of zone 1 and 2 or until those rates reach the zone 3 multi-line business SLC rate level. This process continues until pooled local switching rev-

enue is fully allocated to the zone deaveraged rates.

(n) Establishment of the special access basket, effective July 1, 2000.

(1) On the effective date, the PCI value for the special access basket, as defined in § 61.42(d)(5) shall be equal to the PCI for the trunking basket on the day preceding the establishment of the special access basket.

(2) On the effective date, the API value for the special access basket, as defined in § 61.42(d)(5) shall be equal to the API for the trunking basket on the day preceding the establishment of the special access basket.

(3) Service Category, Subcategory, and Density Zone SBIs and Upper Limits.

(i) Interconnection, Tandem Switched Transport, and Signalling Interconnection will retain the SBIs and upper limits and remain in the trunking basket.

(ii) Audio/Video and Wideband will retain the SBIs and upper limits and be moved into the special access basket.

(iii) For Voice Grade, the SBIs and upper limits in both baskets will be equal to the SBIs and upper limits in the existing trunking basket on the day preceding the establishment of the special access basket. Voice Grade density zones in the trunking basket will retain their indices and upper limits. Voice Grade density zones will be initialized in the special access basket when services are first offered in them.

(iv) For High Cap/DDS, DS1, and DS3 category and subcategories, the SBIs and upper limits in both baskets will be equal to the SBIs and upper limits in the existing trunking basket on the day preceding the establishment of the special access basket. SBIs and upper limits for services that are in both combined density zones and either DTT/EF or special access density zones will be calculated by using weighted averages of the indices in the affected zones.

(v) For each DTT/EF-related zone remaining in the trunking basket, the values will be calculated by taking the sum of the products of the DTT/EF revenues times the DTT/EF index (or upper limit) and the DTT/EF-related revenues in the combined zone times the combined index (or upper limit),

and dividing by the total DTT/EF-related revenues for that zone.

(vi) For each special access-related zone in the special access basket, the values will be calculated by taking the sum of the products of the special access revenues times the special access index (or upper limit) and the special access-related revenues in the combined zone times the combined index (or upper limit), and dividing by the total special access-related revenues for that zone.

(o) Treatment of acquisitions of exchanges with different ATS Target Rates as set forth in § 61.3(qq):

(1) In the event that a price cap local exchange carrier acquires a filing entity or portion thereof from a price cap local exchange carrier after July 1, 2000, and the price cap local exchange carrier did not have a binding and executed contract to purchase that filing entity or portion thereof as of April 1, 2000, those properties retain their pre-existing Target Rates as set forth in § 61.3(qq). If those properties are merged into a filing entity with a different Target Rate as set forth in § 61.3(qq), the Target Rate as set forth in § 61.3(qq) for the merged filing entity will be the weighted average of the Target Rates as set forth in § 61.3(qq) for the properties being combined into a single filing entity, with the average weighted by local switching minutes. When a property acquired as a result of a contract for purchase executed after April 1, 2000 is merged with \$0.0095 Target Rate properties, the obligation to apply price cap reductions to reduce CCL, pursuant to § 61.45(b)(iii) does not apply to the properties purchased under contracts executed after April 1, 2000, but continues to apply to the other properties.

(2) For sale of properties for which a holding company was, as of April 1, 2000, under a binding and executed contract to purchase but which close after June 30, 2000, but during tariff year 2000, and that are subject to the \$0.0095 Target Rate as set forth in § 61.3(qq), the Average Traffic Sensitive Rate charged by the purchaser for that property will be the greater of \$0.0095 or the

Average Traffic Sensitive Rate for that property.

[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; 64 FR 46590, Aug. 26, 1999; 65 FR 38699, June 21, 2000; 65 FR 57742, 57743, Sept. 26, 2000; 76 FR 43214, July 20, 2011]

**§ 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 §§ 61.45, 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) 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.

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(f)(1) [Reserved]

(2) Each tariff filing submitted by a price cap local exchange carrier that introduces a new loop-based service, as defined in § 61.3(pp) of this part—including a restructured unbundled basic service element (BSE), as defined in § 69.2(mm) of this chapter, that constitutes a new loop-based service—that is or will later be included in a basket, must be accompanied by cost data sufficient to establish that the new loop-based service or unbundled BSE will not recover more than a just and reasonable portion of the carrier's overhead costs.

(3) A price cap local exchange carrier may submit without cost data any tariff filings that introduce new services, other than loop-based services.

(4) A price cap local exchange carrier that has removed its corridor or interstate ntraLATA toll services from its interexchange basket pursuant to § 61.42(d)(4)(ii), may submit its tariff filings for corridor or interstate intraLATA toll services without cost data.

(g) Each tariff filing submitted by a price cap local exchange carrier that introduces a new loop-based service or a restructured unbundled basic 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 (g)(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 issuing

carriers must file the 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 price cap local exchange carrier 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) [Reserved]

(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) [Reserved]

(l) On each page of cost support material submitted pursuant to this section, the issuing carrier shall indicate the transmittal number under which that page was submitted.

[54 FR 19843, May 8, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 61.49, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

### **§ 61.50 Regulation of business data services offered by rate-of-return carriers electing incentive regulation.**

(a) A rate-of-return carrier, as defined in § 51.903(g) of this chapter, may elect to offer its business data services subject to incentive regulation pursuant to this section. A rate-of-return carrier may elect to offer business data services subject to incentive regulation

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pursuant to this section only if all affiliated rate-of-return carriers meeting the requirements of paragraph (b) of this section make the election. A carrier's election under this section is irrevocable.

(b) A rate-of-return carrier is eligible to elect incentive regulation for its business data services if the carrier:

(1) Receives universal service payments pursuant to the Alternative-Connect America Cost Model pursuant to § 54.311 of this chapter;

(2) Is an affiliate of a price cap local exchange carrier operating pursuant to a waiver of § 61.41;

(3) Receives universal service payments pursuant to § 54.306 of this chapter; or

(4) Transitions away from legacy support mechanisms in the future.

(c) A rate-of-return carrier electing to offer business data services pursuant to this section shall employ the procedures outlined in §§ 61.42 through 61.49 to calculate rates for its business data services and adjust its indexes for those rates to the extent those sections are applicable to business data services, except that:

(1) Exogenous costs associated with regulated services shall be allocated to business data services based on relative regulated business data services revenues, compared to regulated revenues and related support receipts; and

(2) An electing carrier is not required to file a short form tariff review plan as required by § 61.49(k).

(d) A rate-of-return carrier electing to offer business data services pursuant to this section must remove its business data services from the NECA Traffic Sensitive Pool. Such a carrier may continue to participate in the NECA Traffic Sensitive Pool and tariff for access services other than business data services.

(e) A rate-of-return carrier offering business data services pursuant to this section may offer those business data services at different rates in different study areas.

(f) A rate-of-return carrier offering business data services pursuant to this section may make a low-end adjustment pursuant to § 61.45(d)(1)(vii) unless it:

(1) Exercises the regulatory relief pursuant to paragraph (g) of this section in any part of its service region; or

(2) Exercises the option to use Generally Accepted Accounting Principles rather than the part 32 Uniform System of Accounts pursuant to § 32.11(g) of this chapter.

(g) A rate-of-return carrier electing to offer business data services pursuant to this section may offer time division multiplexed transport and end user channel termination services at or below a DS3 bandwidth that include:

(1) Volume and term discounts;

(2) Contract-based tariffs, provided that:

(i) Contract-based tariff services are made generally available to all similarly situated customers; and

(ii) The rate-of-return carrier excludes all contract-based tariff offerings from incentive regulation; and

(3) The ability to file tariff revisions on at least one day's notice, notwithstanding the notice requirements for tariff filings specified in § 61.58.

(h) A rate-of-return carrier electing to offer business data services pursuant to this section shall comply with the requirements of § 69.805 of this chapter in its study areas deemed non-competitive pursuant to this section.

(i) The regulation of other services offered by a carrier that offers business data services pursuant to this section shall not be modified as a result of the requirements of this section.

(j)(1) The Wireline Competition Bureau will conduct an initial competitive market test for rate-of-return carriers eligible to elect incentive regulation pursuant to this section. Study areas of such carriers will be deemed competitive if 75 percent of the census blocks within the study area are reported to have a minimum of 10 Mbps download and 1 Mbps upload broadband service offered by a cable operator based on the most current publicly available Form 477 data. A list of study areas deemed competitive by the competitive market test will be published on the Commission's website.

(2) The Wireline Competition Bureau will conduct subsequent competitive market tests for rate-of-return carriers electing incentive regulation pursuant to this section contemporaneously

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with the subsequent tests mandated by § 69.803 of this chapter for price cap carriers.

(3) A study area of an electing carrier deemed competitive by the competitive market test will retain its status in subsequent tests.

(k)(1) Packet-based and time division multiplexed business data services above a DS3 bandwidth offered by a rate-of-return carrier pursuant to this section shall not be subject to ex ante pricing regulation.

(2) Time division multiplexed end user channel termination business data services at or below a DS3 bandwidth offered by a rate-of-return carrier pursuant to this section in study areas deemed competitive by the competitive market test shall not be subject to ex ante pricing regulation.

(3) A rate-of-return carrier electing incentive regulation for its business data services must detariff:

(i) All packet-based and time division multiplexed business data services above a DS3 bandwidth within thirty-six months after the effective date of its election of incentive regulation; and

(ii) All time division multiplexed end user channel termination business data services at or below a DS3 bandwidth in any study area deemed competitive by the competitive market test within thirty-six months after such services shall be deemed competitive in a study area.

(1)(1) A rate-of-return carrier electing incentive regulation for its business data services effective July 1, 2019 must notify the Chief of the Wireline Competition Bureau of its election by May 1, 2019 for it to become effective concurrent with the annual access tariff filing in 2019.

(2) A rate-of-return carrier electing incentive regulation for its business data services effective July 1, 2020 must notify the Chief of the Wireline Competition Bureau of its election by May 1, 2020 for it to become effective concurrent with the annual access tariff filing in 2020.

(3) A rate-of-return carrier accepting future offers of Alternative-Connect America Cost Model support or otherwise transitioning away from legacy support mechanisms and electing in-

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centive regulation for its business data services must notify the Chief of the Wireline Competition Bureau of its election by May 1 following its acceptance of the offer for it to become effective concurrent with that year's annual access tariff filing.

[83 FR 67122, Dec. 23, 2018]

### Subpart F—Formatting and Notice Requirements for Tariff Publications

SOURCE: 76 FR 43215, July 20, 2011, unless otherwise noted.

#### § 61.51 Scope.

The rules in this subpart apply to tariffs filed by issuing carriers, with the exception of the informational tariffs filed pursuant to 47 U.S.C. 226(h)(1)(A), unless otherwise noted.

[76 FR 43215, July 20, 2011]

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

(a) Pages of tariffs 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

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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.

(b) All issuing carriers shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and supporting information, electronically in accordance with the requirements set forth in §§ 61.13 through 61.17.

[49 FR 40869, Oct. 18, 1984, as amended at 58 FR 44906, Aug. 25, 1993; 62 FR 5778, Feb. 7, 1997; 63 FR 35541, June 30, 1998; 76 FR 43215, July 20, 2011]

### § 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.* Subject to § 61.59, 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. Changes in expiration date must be made pursuant to the notice requirements of § 61.58, unless otherwise authorized by the Commission.

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)(i) 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.

(ii) Alternatively, the carrier is permitted to number its tariff pages, other than the check sheet, to reflect the section number of the tariff as well as the page. For example, under this system, pages in section 1 of the tariff would be numbered 1-1, 1-2, etc., and pages in section 2 of the tariff would be numbered 2-1, 2-2, etc. Issuing carriers shall utilize only one page numbering system throughout its tariff.

(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)(i) When pages are revised, when new pages (including pages with letter or numeric suffix as set forth above)

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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.

(ii) On each page, the carrier shall indicate the transmittal number under which that page was submitted.

(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 discloses 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). The number and original effective date of the tariff publication in which the matter was originally published must be associated with the reissued matter. 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.

(k) *References to other tariffs.* Notwithstanding any other provisions in this section, tariff publications filed by a carrier may reference other tariff publications filed by that carrier or its affiliates.

[49 FR 40869, Oct. 18, 1984, as amended at 64 FR 46591, Aug. 26, 1999; 84 FR 65016, Nov. 26, 2019]

#### § 61.55 Contract-based tariffs.

(a) This section shall apply to price cap local exchange carriers permitted to offer contract-based tariffs under § 1.776 or § 69.805 of this chapter, as well

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as to the offering of business data services by rate-of-return carriers pursuant to § 61.50.

(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 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.

[64 FR 51266, Sept. 22, 1999, as amended at 76 FR 43216, July 20, 2011; 82 FR 25711, June 2, 2017; 83 FR 67123, Dec. 28, 2018]

### § 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)(i) Local exchange carriers may file tariffs pursuant to the streamlined tariff filing provisions of section 204(a)(3) of the Communications Act. Such a tariff may be filed 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, shall be filed on 15 days' notice. Any tariff filing made

pursuant to section 204(a)(3) of the Communications Act must comply with the applicable cost support requirements specified in this part.

(ii) Local exchange carriers may elect not to file tariffs pursuant to section 204(a)(3) of the Communications Act. For dominant carriers, any such tariffs shall be filed on at least 16 days' notice. For nondominant carriers, any such tariffs shall be filed on at least one days' notice.

(iii) Except for tariffs filed pursuant to section 204(a)(3) of the Communications Act, the Chief, Wireline Competition Bureau, may require the deferral of the effective date of any 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 or voluntarily deferring the effective date of a pending tariff revision 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. Deferrals must take effect on or before the current effective date of the pending tariff revisions being deferred.

(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) Tariffs for new services filed by price cap local exchange carriers shall be filed on at least one day's notice.

(c) Contract-based tariffs filed by price cap local exchange carriers pursuant to § 69.727(a) of this chapter shall be filed on at least one day's notice.

(d)(1) A price cap local exchange carrier that is filing a tariff revision to remove its corridor or interstate intraLATA toll services from its interexchange basket pursuant to § 61.42(d)(4)(ii) shall submit such filing on at least fifteen days' notice.

(2) A price cap local exchange carrier that has removed its corridor and interstate intraLATA toll services from its interexchange basket pursuant to § 61.42(d)(4)(ii) shall file subsequent tariff filings for corridor or interstate intraLATA toll services on at least one day's notice.

(e) *Non-price cap local exchange carriers and/or services.* (1) Tariff filings in the instances specified in paragraphs (e)(1) (i), (ii), and (iii) of this section by dominant carriers must be made on at least 15 days' notice.

(i) Tariffs filed in the first instance by new carriers.

(ii) Tariffs filings involving new rates and regulations not previously filed at, from, to or via points on new lines; at, from to or via new radio facilities; or for new points of radio communication.

(iii) Tariff filings involving a change in the name of a carrier, a change in Vertical or Horizontal coordinates (or other means used to determine airline mileages), a change in the lists of mileages, a change in the lists of connecting, concurring or other participating carriers, text changes, or the imposition of termination charges calculated from effective tariff provisions. The imposition of termination charges does not include the initial filing of termination liability provisions.

(2) Tariff filings involving a change in rate structure, a new offering, or a rate increase must be made on at least 45 days' notice.

(3) Alascom, Inc. shall file its annual tariff revisions for its Common Carrier Services (Alascom Tariff F.C.C No. 11) on at least 35 days' notice.

(4) All tariff filings not specifically assigned a different period of public notice in this part must be made on at least 35 days' notice.

(f) All tariff filings of domestic and international non-dominant carriers

must be made on at least one 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; 64 FR 46591, Aug. 26, 1999; 64 FR 51266, Sept. 22, 1999; 67 FR 13228, Mar. 21, 2002; 76 FR 43216, July 20, 2011]

#### § 61.59 Effective period required before changes.

(a) 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 a dominant carrier will be permitted to make any change.

(b) Changes to rates and regulations for dominant carriers that have not yet become effective, i.e., are pending, may not be made unless the effective date of the proposed changes is at least 30 days after the scheduled effective date of the pending revisions.

(c) Changes to rates and regulations for dominant carriers that have taken effect but have not been in effect for at least 30 days may not be made unless the scheduled effective date of the proposed changes is at least 30 days after the effective date of the existing regulations.

[64 FR 46592, Aug. 26, 1999, as amended at 76 FR 43216, July 20, 2011]

### Subpart G—Specific Rules for Tariff Publications of Dominant and Nondominant Carriers

SOURCE: 49 FR 40869, Oct. 18, 1984, unless otherwise noted. Redesignated at 76 FR 43215, July 20, 2011.

#### § 61.66 Scope.

The rules in this subpart apply to all issuing carriers, unless otherwise noted.

[76 FR 43216, July 20, 2011]

#### § 61.68 Special notations.

(a) Any tariff filing made pursuant to an Application for Special Permission, Commission decision or order must contain the following statement:

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Issued under authority of (specific reference to the special permission, Commission decision, or order) of the Commission.

(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).

[49 FR 40869, Oct. 18, 1984, as amended at 76 FR 43216, July 20, 2011]

### § 61.69 Rejection.

When a tariff publication is rejected by the Commission, its number may not be used again. This includes, but is not limited to, such publications as tariff numbers or specific page revision numbers. The rejected tariff publication may not be referred to as either cancelled or revised. Within five business days of the release date of the Commission's Order rejecting such tariff publication, the issuing carrier shall file tariff revisions removing the rejected material, unless the Commission's Order establishes a different date for this filing. 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.

[64 FR 46592, Aug. 26, 1999]

### § 61.72 Public information requirements.

(a) Issuing carriers must make available accurate and timely information pertaining to rates and regulations subject to tariff filing requirements.

(b) Issuing carriers must, at a minimum, 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.

(c) Any issuing carrier that is an incumbent local exchange carrier, and chooses to establish an Internet web site, must make its tariffs available on that web site, in addition to the Commission's web site.

[64 FR 46592, Aug. 26, 1999]

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### § 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) Tariff publications filed by a carrier may reference other tariff publications filed by that carrier or its affiliates.

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

(d) 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.

(e) Tariffs may reference other FCC tariffs that are in effect and on file with the Commission for purposes of determining mileage, or specifying the operating centers at which a specific service is available.

(f) Tariffs may reference technical publications which describe the engineering, specifications, or other technical aspects of a service offering, provided the following conditions are satisfied:

(1) The tariff must contain a general description of the service offering, including basic parameters and structural elements of the offering;

(2) The technical publication includes no rates, regulatory terms, or conditions which are required to be contained in the tariff, and any revisions to the technical publication do not affect rates, regulatory terms, or conditions included in the tariff, and do not change the basic nature of the offering;

(3) The tariff indicates where the technical publication can be obtained;

(4) The referenced technical publication is publicly available before the tariff is scheduled to take effect; and

(5) The issuing carrier regularly revises its tariff to refer to the current

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edition of the referenced technical publication.

[49 FR 40869, Oct. 18, 1984, as amended at 61 FR 59366, Nov. 22, 1996; 64 FR 46592, Aug. 26, 1999; 66 FR 16881, Mar. 28, 2001; 84 FR 65016, Nov. 26, 2019]

### § 61.83 Consecutive numbering.

Issuing 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.

[76 FR 43216, July 20, 2011]

### § 61.86 Supplements.

An issuing carrier may not file a supplement except to suspend or cancel a tariff publication, or to defer the effective date of pending tariff revisions. A carrier may file a supplement for the voluntary deferral of a tariff publication.

[76 FR 43216, July 20, 2011]

### § 61.87 Cancellation of tariffs.

(a) An issuing carrier may cancel an entire tariff. Cancellation of a tariff automatically cancels every page and supplement to that tariff except for the canceling Title Page or first page.

(1) If the existing service(s) will be provided under another carrier's tariff, then

(i) The issuing carrier whose tariff is being canceled must revise the Title Page or the first page of its tariff indicating that the tariff is no longer effective, or

(ii) The issuing carrier under whose tariff the service(s) will be provided must revise the Title Page or first page of the tariff to be canceled, using the name and numbering shown in the heading of the tariff to be canceled, indicating that the tariff is no longer effective. This carrier must also file with the Commission the new tariff provisions reflecting the service(s) being canceled. Both filings must be effective on the same date and may be filed under the same transmittal.

(2) If a carrier canceling its tariff intends to cease to provide existing service, then it must revise the Title Page

or first page of its tariff indicating that the tariff is no longer effective.

(3) A carrier canceling its tariff, as described in this section, must comply with §§ 61.54(b)(1) and 61.54(b)(5), as applicable.

(b) When a carrier cancels a tariff as described in this section, the canceling Title Page or the first page of the canceled tariff must show where all rates and regulations will be found except for paragraph (c) of this section. The Title Page or first page of the new tariff must indicate the name of the carrier and tariff number where the canceled material had been found.

(c) When a carrier ceases to provide service(s) without a successor, it must cancel its tariff pursuant to the notice requirements of § 61.58, as applicable, unless otherwise authorized by the Commission.

[64 FR 46591, Aug. 26, 1999, as amended at 76 FR 43216, July 20, 2011]

## Subpart H—Concurrences

SOURCE: 49 FR 40869, Oct. 18, 1984, unless otherwise noted. Redesignated at 76 FR 43215, July 20, 2011.

### § 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 one copy 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 file one copy of the concurrence electronically with

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the Commission in accordance with the requirements set forth in §61.13 through §61.17. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence. Carriers shall file revisions reflecting concurrences in their tariffs on the notice period specified in §61.58.

[76 FR 43216, July 20, 2011]

**§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,  
*Federal Communications Commission, Wash-  
ington, 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.

**§61.134 Concurrences for through services.**

An issuing 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.

[76 FR 43216, July 20, 2011]

**§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

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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\_\_.  
Secretary,  
*Federal Communications Commission, Washington, 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 connecting carriers will thereafter be found in Tariff FCC No. \_\_ issued by \_\_\_\_\_. (If the concurring carrier has ceased operations, the revocation notice must so indicate.)  
(Name of carrier) \_\_\_\_\_  
By \_\_\_\_\_  
(Title) \_\_\_\_\_

### Subpart I—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 regu-

lations 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.

### Subpart J—Suspensions

#### § 61.191 Carrier to file supplement when notified of suspension.

If an issuing carrier is notified by the Commission that its tariff publication has been suspended, the carrier must file, within five business days from the release date of the suspension order, a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

[76 FR 43217, July 20, 2011]

#### § 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

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stating the Commission's action as well as the lawful schedules.

**Subpart K—Detariffing of Business Data Services**

SOURCE: 82 FR 25711, June 2, 2017, unless otherwise noted.

**§ 61.201 Detariffing of price cap local exchange carriers.**

(a) Price cap local exchange carriers shall remove from their interstate tariffs:

- (1) Any packet-based business data service;
- (2) Any circuit-based business data service above the DS3 bandwidth level;
- (3) Any transport services as defined in § 69.801(j) of this chapter;
- (4) DS1 and DS3 end user channel terminations, and all other tariffed special access services, in any market deemed competitive as defined in § 69.801; and

(5) DS1 and DS3 end user channel terminations, and all other tariffed special access services, in any grandfathered market as defined in § 69.801 for which the price cap local exchange carrier was granted Phase II pricing flexibility prior to June 2017.

(b) The detariffing must be completed thirty-six months after August 1, 2017, but detariffing can take place at any time before the thirty-six months is completed.

[82 FR 25711, June 2, 2017, as amended at 84 FR 38579, Aug. 7, 2019]

**§ 61.203 Detariffing of competitive local exchange carriers.**

(a) Competitive local exchange carriers shall remove all business data services from their interstate tariffs.

(b) The detariffing must be completed by August 1, 2020.

[82 FR 25711, June 2, 2017, as amended at 84 FR 38579, Aug. 7, 2019]

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**PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS**

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