

of the authoring standards development organization and of the American National Standards Institute. If these procedures have been exhausted, the aggrieved party shall file its opposition with the Commission for *de novo* review.

(b) As an alternative, oppositions to proposed technical criteria may be filed directly with the Commission for *de novo* review within the 30 day public notice period.

PART 69—ACCESS CHARGES

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AUTHORITY: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

SOURCE: 48 FR 10358, Mar. 11, 1983, unless otherwise noted.

Subpart A—General

§ 69.1 Application of access charges.

(a) This part establishes rules for access charges for interstate or foreign access services provided by telephone companies on or after January 1, 1984.

(b) Except as provided in § 69.1(c), charges for such access service shall be computed, assessed, and collected and revenues from such charges shall be distributed as provided in this part. Ac-

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cess service tariffs shall be filed and supported as provided under part 61 of this chapter, except as modified herein.

(c) The following provisions of this part shall apply to telephone companies subject to price cap regulation only to the extent that application of such provisions is necessary to develop the nationwide average carrier common line charge, for purposes of reporting pursuant to §§ 43.21 and 43.22 of this chapter, and for computing initial charges for new rate elements: §§ 69.3(f), 69.106(b), 69.106(f), 69.106(g), 69.109(b), 69.110(d), 69.111(c), 69.111(g)(1), 69.111(g)(2), 69.111(g)(3), 69.111(l), 69.112(d), 69.114(b), 69.114(d), 69.125(b)(2), 69.301 through 69.310, and 69.401 through 69.412. The computation of rates pursuant to these provisions by telephone companies subject to price cap regulation shall be governed by the price cap rules set forth in part 61 of this chapter and other applicable Commission rules and orders.

(d) To the extent any provision contained in 47 CFR part 51 subparts H and J conflict with any provision of this part, the 47 CFR part 51 provision supersedes the provision of this part.

[48 FR 10358, Mar. 11, 1983, as amended at 55 FR 42385, Oct. 19, 1990; 58 FR 41189, Aug. 3, 1993; 62 FR 40463, July 29, 1997; 76 FR 73882, Nov. 29, 2011]

§ 69.2 Definitions.

For purposes of the part:

(a) *Access minutes* or *Access minutes of use* is that usage of exchange facilities in interstate or foreign service for the purpose of calculating chargeable usage. On the originating end of an interstate or foreign call, usage is to be measured from the time the originating end user's call is delivered by the telephone company and acknowledged as received by the interexchange carrier's facilities connected with the originating exchange. On the terminating end of an interstate or foreign call, usage is to be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an interstate or foreign call shall terminate when the calling or called party disconnects, whichever event is recognized first in

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the originating and terminating end exchanges, as applicable.

(b) *Access service* includes services and facilities provided for the origination or termination of any interstate or foreign telecommunication.

(c) *Annual revenue requirement* means the sum of the return component and the expense component.

(d) *Association* means the telephone company association described in subpart G of this part.

(e) *Big Three Expenses* are the combined expense groups comprising: Plant Specific Operations Expense, Accounts 6110, 6120, 6210, 6220, 6230, 6310 and 6410; Plant Nonspecific Operations Expenses, Accounts 6510, 6530 and 6540, and Customer Operations Expenses, Accounts 6610 and 6620.

(f) *Big Three Expense Factors* are the ratios of the sum of Big Three Expenses apportioned to each element or category to the combined Big Three Expenses.

(g) *Cable and wire facilities* includes all equipment or facilities that are described as cable and wire facilities in the *Separations Manual* and included in Account 2410.

(h) *Carrier cable and wire facilities* means all cable and wire facilities that are not subscriber line cable and wire facilities.

(i) *Central Office Equipment* or *COE* includes all equipment or facilities that are described as Central Office Equipment in the *Separations Manual* and included in Accounts 2210, 2220 and 2230.

(j) *Corporate operations expenses* are included in General and Administrative Expenses (Account 6720).

(k) *Customer operations expenses* include Marketing and Services expenses in Accounts 6610 and 6620, respectively.

(l) *Direct expense* means expenses that are attributable to a particular category or categories of tangible investment described in subpart D of this part and includes:

(1) Plant Specific Operations expenses in Accounts 6110, 6120, 6210, 6220, 6230, 6310 and 6410; and

(2) Plant Nonspecific Operations Expenses in Accounts 6510, 6530, 6540 and 6560.

(m) *End user* means any customer of an interstate or foreign telecommunications service that is not a carrier ex-

cept that a carrier other than a telephone company shall be deemed to be an "end user" when such carrier uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications services exclusively as a reseller shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller.

(n) *Entry switch* means the telephone company switch in which a transport line or trunk terminates.

(o) *Expense component* means the total expenses and income charges for an annual period that are attributable to a particular element or category.

(p) *Expenses* include allowable expenses in the Uniform System of Accounts, part 32, apportioned to interstate or international services pursuant to the *Separations Manual* and allowable income charges apportioned to interstate and international services pursuant to the *Separations Manual*.

(q) *General support facilities* include buildings, land, vehicles, aircraft, work equipment, furniture, office equipment and general purpose computers as described in the *Separations Manual* and included in Account 2110.

(r) *Information origination/termination equipment* includes all equipment or facilities that are described as information origination/termination equipment in the *Separations Manual* and in Account 2310 except information origination/termination equipment that is used by telephone companies in their own operations.

(s) *Interexchange* or the *interexchange category* includes services or facilities provided as an integral part of interstate or foreign telecommunications that is not described as "access service" for purposes of this part.

(t) *Level I Contributors*. Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a lower than average Common Line revenue requirement per minute of use in 1988 and thus were net contributors (*i.e.*, had a negative net balance) to the association Common Line pool in 1988.

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(u) *Level I Receivers.* Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a higher than average Common Line revenue requirement per minute of use in 1988 and thus were net receivers (*i.e.*, had a positive net balance) from the association Common Line Pool in 1988.

(v) *Level II Contributors.* A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, that files its own Common Line tariff effective July 1, 1990, and that had a lower than average Common Line revenue requirement per minute of use in 1988 and thus was a net contributor (*i.e.*, had a negative net balance) to the association Common Line pool in 1988.

(w) *Level II Receivers.* A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, that files its own Common Line tariff effective July 1, 1990, and that had a higher than average Common Line revenue requirement per minute of use in 1988 and thus was a net receiver (*i.e.*, had a positive net balance) from the association Common Line pool in 1988.

(x) *Line or Trunk* includes, but is not limited to, transmission media such as radio, satellite, wire, cable and fiber optic cable means of transmission.

(y) [Reserved]

(z) *Net investment* means allowable original cost investment in Accounts 2001 through 2003, 1220 and the investments in nonaffiliated companies included in Account 1410, that has been apportioned to interstate and foreign services pursuant to the Separations Manual from which depreciation, amortization and other reserves attributable to such investment that has been apportioned to interstate and foreign services pursuant to the Separations Manual have been subtracted and to which working capital that is attributable to interstate and foreign services has been added.

(aa) *Operating taxes* include all taxes in Account 7200;

(bb) *Origination* of a service that is switched in a Class 4 switch or an interexchange switch that performs an equivalent function ends when the transmission enters such switch and *termination* of such a service begins when the transmission leaves such a switch, except that;

(1) Switching in a Class 4 switch or transmission between Class 4 switches that is not deemed to be interexchange for purposes of the Modified Final Judgement entered August 24, 1982, in *United States v Western Electric Co., D.C. Civil Action No. 82-0192*, will be "origination" or "termination" for purposes of this part; and

(2) *Origination* and *Termination* does not include the use of any part of a line, trunk or switch that is not owned or leased by a telephone company.

(cc) *Origination* of any service other than a service that is switched in a Class 4 switch or a switch that performs an equivalent function ends and "termination" of any such service begins at a point of demarcation that corresponds with the point of demarcation that is used for a service that is switched in a Class 4 switch or a switch that performs an equivalent function.

(dd) *Private line* means a line that is used exclusively for an interexchange service other than MTS, WATS or an MTS-WATS equivalent service, including a line that is used at the closed end of an FX WATS or CCSA service or any service that is substantially equivalent to a CCSA service.

(ee) *Public telephone* is a telephone provided by a telephone company through which an end user may originate interstate or foreign telecommunications for which he pays with coins or by credit card, collect or third number billing procedures.

(ff) *Return component* means net investment attributable to a particular element or category multiplied by the authorized annual rate of return.

(gg) *Subscriber line cable and wire facilities* means all lines or trunks on the subscriber side of a Class 5 or end office switch, including lines or trunks that do not terminate in such a switch, except lines or trunks that connect an interexchange carrier.

(hh) *Telephone company* or *Local exchange carrier* as used in this part means an incumbent local exchange carrier as defined in section 251(h)(1) of the 1934 Act as amended by the 1996 Act.

(ii) *Transitional support* (TRS) means funds provided by telephone companies that are not association Common Line tariff participants, but were net contributors to the association Common Line pool in 1988, to telephone companies that are not association Common Line tariff participants and were net receivers from the association Common Line pool in 1988.

(jj) *Unit of capacity* means the capability to transmit one conversation.

(kk) *WATS access line* means a line or trunk that is used exclusively for WATS service.

(ll) *Equal access investment and equal access expenses* mean equal access investment and expenses as defined for purposes of the part 36 separations rules.

(mm) *Basic service elements* are optional unbundled features that enhanced service providers may require or find useful in the provision of enhanced services, as defined in Amendments of part 69 of the Commission's rules relating to the Creation of Access Charge Subelements for Open Network Architecture, Report and Order, 6 FCC Rcd _____, CC Docket No. 89-79, FCC 91-186 (1991).

(nn) *Dedicated signalling transport* means transport of out-of-band signalling information between an interexchange carrier or other person's common channel signalling network and a telephone company's signalling transport point on facilities dedicated to the use of a single customer.

(oo) *Direct-trunked transport* means transport on circuits dedicated to the use of a single interexchange carrier or other person, without switching at the tandem,

(1) Between the serving wire center and the end office, or

(2) Between two customer-designated telephone company offices.

(pp) *End office* means the telephone company office from which the end user receives exchange service.

(qq) *Entrance facilities* means transport from the interexchange carrier or

other person's point of demarcation to the serving wire center.

(rr) *Serving wire center* means the telephone company central office designated by the telephone company to serve the geographic area in which the interexchange carrier or other person's point of demarcation is located.

(ss) *Tandem-switched transport* means transport of traffic that is switched at a tandem switch—

(1) Between the serving wire center and the end office, or

(2) Between the telephone company office containing the tandem switching equipment, as described in § 36.124 of this chapter, and the end office.

Tandem-switched transport between a serving wire center and an end office consists of circuits dedicated to the use of a single interexchange carrier or other person from the serving wire center to the tandem (although this dedicated link will not exist if the serving wire center and the tandem are located in the same place) and circuits used in common by multiple interexchange carriers or other persons from the tandem to the end office.

(tt) [Reserved]

(uu) *Price cap regulation* means the method of regulation of dominant carriers provided in §§ 61.41 through 61.49 of this chapter.

(vv) *Signalling for tandem switching* means the carrier identification code (CIC) and the OZZ code, or equivalent information needed to perform tandem switching functions. The CIC identifies the interexchange carrier and the OZZ identifies the interexchange carrier trunk to which traffic should be routed.

(ww) *Interstate common line support* (ICLS) means funds that are provided pursuant to § 54.901 of this chapter.

[52 FR 37309, Oct. 6, 1987]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 69.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 69.3 Filing of access service tariffs.

(a) Except as provided in paragraphs (g) and (h) of this section, a tariff for access service shall be filed with this Commission for a two-year period.

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Such tariffs shall be filed with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.

(b) The requirements imposed by paragraph (a) of this section shall not preclude the filing of revisions to those annual tariffs that will become effective on dates other than July 1.

(c) Any access service tariff filing, the filing of any petitions for rejection, investigation or suspension and the filing of any responses to such petitions shall comply with the applicable rules of this Commission relating to tariff filings.

(d) The association shall file a tariff as agent for all telephone companies that participate in an association tariff.

(e) A telephone company or group of telephone companies may file a tariff that is not an association tariff. Such a tariff may cross-reference the association tariff for some access elements and include separately computed charges of such company or companies for other elements. Any such tariff must comply with the requirements hereinafter provided:

(1) Such a tariff must cross reference association charges for the Carrier Common Line and End User Common Line element or elements if such company or companies participate in the pooling of revenues and revenue requirements for such elements.

(2) Such a tariff that cross-references an association charge for any end user access element must cross-reference association charges for all end user access elements;

(3) Such a tariff that cross-references an association charge for any carrier's carrier access element other than the Carrier Common Line element must cross-reference association charges for all carrier's carrier access charges other than the Carrier Common Line element;

(4) Except for charges subject to price cap regulation as that term is defined in §61.3(v) of this chapter, any charge in such a tariff that is not an association charge must be computed to reflect the combined investment and expenses of all companies that participate in such a charge;

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(5) A telephone company or companies that elect to file such a tariff for 1984 access charges shall notify AT&T on or before the 40th day after the release of the Commission order adopting this part;

(6) Except as provided in paragraph (e)(12) of this section, a telephone company or companies that elect to file such a tariff shall notify the association not later than March 1 of the year the tariff becomes effective, if such company or companies did not file such a tariff in the preceding biennial period or cross-reference association charges in such preceding period that will be cross-referenced in the new tariff. A telephone company or companies that elect to file such a tariff not in the biennial period shall file its tariff to become effective July 1 for a period of one year. Thereafter, such telephone company or companies must file its tariff pursuant to paragraphs (f)(1) or (f)(2) of this section.

(7) Such a tariff shall not contain charges for any access elements that are disaggregated or deaveraged within a study area that is used for purposes of jurisdictional separations, except as otherwise provided in this chapter.

(8) Such a tariff shall not contain charges included in the billing and collection category.

(9) Except as provided in paragraph (e)(12) of this section, a telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff pursuant to paragraph (a) of this section shall notify the association not later than March 1 of the year the tariff becomes effective that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff for one of its study areas shall file its own Carrier Common Line tariff(s) for all of its study areas.

(10) Any data supporting a tariff that is not an association tariff shall be consistent with any data that the filing carrier submitted to the association.

(11) Any changes in Association common line tariff participation and Long Term and Transitional Support resulting from the merger or acquisition of

telephone properties are to be made effective on the next annual access tariff filing effective date following consummation of the merger or acquisition transaction, in accordance with the provisions of § 69.3(e)(9).

(12)(i) A local exchange carrier, or a group of affiliated carriers in which at least one carrier is engaging in access stimulation, as that term is defined in § 61.3(bbb) of this chapter, shall file its own access tariffs within forty-five (45) days of commencing access stimulation, as that term is defined in § 61.3(bbb) of this chapter, or within forty-five (45) days of December 29, 2011 if the local exchange carrier on that date is engaged in access stimulation, as that term is defined in § 61.3(bbb) of this chapter.

(ii) Notwithstanding paragraphs (e)(6) and (e)(9) of this section, a local exchange carrier, or a group of affiliated carriers in which at least one carrier is engaging in access stimulation, as that term is defined in § 61.3(bbb) of this chapter, must withdraw from all interstate access tariffs issued by the association within forty-five (45) days of engaging in access stimulation, as that term is defined in § 61.3(bbb) of this chapter, or within forty-five (45) days of December 29, 2011 if the local exchange carrier on that date is engaged in access stimulation, as that term is defined in § 61.3(bbb) of this chapter.

(iii) Any such carrier(s) shall notify the association when it begins access stimulation, or on December 29, 2011 if it is engaged in access stimulation, as that term is defined in § 61.3(bbb) of this chapter, on that date, of its intent to leave the association tariffs within forty-five (45) days.

(iv) Notwithstanding any other provision of this part, if a rate-of-return local exchange carrier is engaged in Access Stimulation, or a group of affiliated carriers in which at least one carrier is engaging in Access Stimulation, as defined in § 61.3(bbb) of this chapter, it shall:

(A) 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 trans-

port 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

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

(f)(1) A tariff for access service provided by a telephone company that is required to file an access tariff pursuant to § 61.38 of this Chapter shall be filed for a biennial period and with a scheduled effective date of July 1 of any even numbered year.

(2) A tariff for access service provided by a telephone company that may file an access tariff pursuant to § 61.39 of this Chapter shall be filed for a biennial period and with a scheduled effective date of July 1 of any odd numbered year. Any such telephone company that does not elect to file an access tariff pursuant to the § 61.39 procedures, and does not participate in the Association tariff, and does not elect to become subject to price cap regulation, must file an access tariff pursuant to § 61.38 for a biennial period and with a scheduled effective date of July 1 of any even numbered year.

(3) For purposes of computing charges for access elements other than Common Line elements to be effective on July 1 of any even-numbered year, the association may compute rate changes based upon statistical methods which represent a reasonable equivalent to the cost support information otherwise required under part 61 of this chapter.

(g) The following rules apply to telephone company participation in the Association common line pool for telephone companies involved in a merger or acquisition.

(1) Notwithstanding the requirements of § 69.3(e)(9), any Association common line tariff participant that is party to a merger or acquisition may continue to

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participate in the Association common line tariff.

(2) Notwithstanding the requirements of § 69.3(e)(9), any Association common line tariff participant that is party to a merger or acquisition may include other telephone properties involved in the transaction in the Association common line tariff, provided that the net addition of common lines to the Association common line tariff resulting from the transaction is not greater than 50,000, and provided further that, if any common lines involved in a merger or acquisition are returned to the Association common line tariff, all of the common lines involved in the merger or acquisition must be returned to the Association common line tariff.

(3) Telephone companies involved in mergers or acquisitions that wish to have more than 50,000 common lines re-enter the Association common line pool must request a waiver of § 69.3(e)(9). If the telephone company has met all other legal obligations, the waiver request will be deemed granted on the sixty-first (61st) day from the date of public notice inviting comment on the requested waiver unless:

(i) The merger or acquisition involves one or more partial study areas;

(ii) The waiver includes a request for confidentiality of some or all of the materials supporting the request;

(iii) The waiver includes a request to return only a portion of the telephone properties involved in the transaction to the Association common line tariff;

(iv) The Commission rejects the waiver request prior to the expiration of the sixty-day period;

(v) The Commission requests additional time or information to process the waiver application prior to the expiration of the sixty-day period; or

(vi) A party, in a timely manner, opposes a waiver request or seeks conditional approval of the waiver in response to our public notice of the waiver request.

(h) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(ee) of this chapter, shall file with this Commission a price cap tariff for access service for an annual period. Such tariffs shall be filed to meet the notice requirements of § 61.58 of this chapter, with a scheduled effec-

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tive date of July 1. Such tariff filings shall be limited to changes in the Price Cap Indexes, rate level changes (with corresponding adjustments to the affected Actual Price Indexes and Service Band Indexes), and the incorporation of new services into the affected indexes as required by § 61.49 of this chapter.

(i) The following rules apply to the withdrawal from Association tariffs under the provision of paragraph (e)(6) or (e)(9) of this section or both by telephone companies electing to file price cap tariffs pursuant to paragraph (h) of this section.

(1) In addition to the withdrawal provisions of paragraphs (e)(6) and (e)(9) of this section, a telephone company or group of affiliated companies that participates in one or more association tariffs during the current tariff year and that elects to file price cap tariffs or optional incentive regulation tariffs effective July 1 of the following tariff year shall notify the association by March 1 of the following tariff year that it is withdrawing from association tariffs, subject to the terms of this section, to participate in price cap regulation or optional incentive regulation.

(2) The Association shall maintain records of such withdrawals sufficient to discharge its obligations under these Rules and to detect efforts by such companies or their affiliates to rejoin any Association tariffs in violation of the provisions of paragraph (i)(4) of this section.

(3) Notwithstanding the provisions of paragraphs (e)(3), (6), and (9) of this section, in the event a telephone company withdraws from all Association tariffs for the purpose of filing price cap tariffs or optional incentive plan tariffs, such company shall exclude from such withdrawal all "average schedule" affiliates and all affiliates so excluded shall be specified in the withdrawal. However, such company may include one or more "average schedule" affiliates in price cap regulation or optional incentive plan regulation provided that each price cap or optional incentive plan affiliate relinquishes "average schedule" status and withdraws from all Association tariffs and any tariff filed pursuant to

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§ 61.39(b)(2) of this chapter. See generally §§ 69.605(c), 61.39(b) of this chapter; MTS and WATS Market Structure: Average Schedule Companies, Report and Order, 103 FCC 2d 1026-1027 (1986).

(4) If a telephone company elects to withdraw from Association tariffs and thereafter becomes subject to price cap regulation as that term is defined in § 61.3(v) of this chapter, neither such telephone company nor any of its withdrawing affiliates shall thereafter be permitted to participate in any Association tariffs.

(j) [Reserved]

[48 FR 10358, Mar. 11, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 69.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 69.4 Charges to be filed.

(a) The end user charges for access service filed with this Commission shall include charges for the End User Common Line element, and for line port costs in excess of basic, analog service.

(b) Except as provided in paragraphs (c), (e), and (h) of this section, and in § 69.118, the carrier's carrier charges for access service filed with this Commission shall include charges for each of the following elements:

(1) [Reserved]

(2) Carrier common line, provided that after June 30, 2003, non-price cap local exchange carriers may not assess a carrier common line charge;

(3) Local switching;

(4) Information;

(5) Tandem-switched transport;

(6) Direct-trunked transport;

(7) Special access; and

(8) Line information database;

(9) Entrance facilities.

(c) [Reserved]

(d) Recovery of Contributions to the Universal Service Support Mechanisms by Incumbent Local Exchange Carriers.

(1) [Reserved]

(2)(i) Local exchange carriers may recover their contributions to the universal service support mechanisms only through explicit, interstate, end-user charges assessed pursuant to either § 69.131 or § 69.158 that are equitable and nondiscriminatory.

(ii) Local exchange carriers may not recover any of their contributions to the universal service support mechanisms through access charges imposed on interexchange carriers.

(e) The carrier's carrier charges for access service filed with this Commission by the telephone companies specified in § 64.1401(a) of this chapter shall include an element for connection charges for expanded interconnection. The carrier's carrier charges for access service filed with this Commission by the telephone companies not specified in § 64.1401(a) of this chapter may include an element for connection charges for expanded interconnection.

(f) [Reserved]

(g) Local exchange carriers may establish appropriate rate elements for a new service, within the meaning of § 61.3(x) of this chapter, in any tariff filing.

(h) In addition to the charges specified in paragraph (b) of this section, the carrier's carrier charges for access service filed with this Commission by price cap local exchange carriers shall include charges for each of the following elements:

(1) Presubscribed interexchange carrier;

(2) Per-minute residual interconnection;

(3) Dedicated local switching trunk port;

(4) Shared local switching trunk port;

(5) Dedicated tandem switching trunk port;

(6) [Reserved]

(7) Multiplexers associated with tandem switching.

(i) Paragraphs (b) and (h) of this section are not applicable to a price cap local exchange carrier to the extent that it has been granted the pricing flexibility in § 69.727(b)(1).

(j) In addition to the charges specified in paragraph (b) of this section, the carrier's carrier charges for access service filed with this Commission by non-price cap local exchange carriers may include charges for each of the following elements:

(1) Dedicated local switching trunk port;

(2) Shared local switching trunk port;

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- (3) Dedicated tandem switching trunk port;
- (4) Multiplexers associated with tandem switching;
- (5) DS1/voice grade multiplexers associated with analog switches; and
- (6) Per-message call setup.

(k) A non-price cap incumbent local exchange carrier may include a charge for the Consumer Broadband-Only Loop.

(l) Notwithstanding paragraph (b)(5) of this section, a competitive local exchange carrier or a rate-of-return local exchange carrier engaged in Access Stimulation, as defined in §61.3(bbb) of this chapter, the Intermediate Access Provider it subtends, or an Intermediate Access Provider that delivers traffic directly or indirectly to an IPES Provider engaged in Access Stimulation, as defined in §61.3(bbb) of this chapter, shall not bill an Interexchange Carrier, as defined in §61.3(bbb) of this chapter, for interstate or intrastate terminating switched access tandem switching or terminating switched access tandem transport charges for any traffic between such competitive local exchange carrier's, such rate-of-return local exchange carrier's, or such IPES Provider's terminating end office or equivalent and the associated access tandem switch.

[48 FR 43017, Sept. 21, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §69.4, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 69.5 Persons to be assessed.

(a) End user charges shall be computed and assessed upon public end users, and upon providers of public telephones, as defined in this subpart, and as provided in subpart B of this part.

(b) Carrier's carrier charges shall be computed and assessed upon all Interexchange Carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services, except that:

(1) Competitive local exchange carriers and rate-of-return local exchange carriers shall not assess terminating interstate or intrastate switched access tandem switching or terminating

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switched access tandem transport charges described in §69.4(b)(5) on Interexchange Carriers when the terminating traffic is destined for a competitive local exchange carrier, or a rate-of-return local exchange carrier, or is destined, directly or indirectly, for an IPES Provider, where such carrier or Provider is engaged in Access Stimulation, as that term is defined in §61.3(bbb) of this chapter, consistent with the provisions of §61.26(g)(3) of this chapter and §69.3(e)(12)(iv).

(2) Intermediate Access Providers shall not assess terminating interstate or intrastate switched access tandem switching or terminating switched access tandem transport charges described in §69.4(b)(5) on Interexchange Carriers when the terminating traffic is destined for a competitive local exchange carrier, or a rate-of-return local exchange carrier, or is destined, directly or indirectly, for an IPES Provider, where such carrier or Provider is engaged in Access Stimulation, as that term is defined in §61.3(bbb) of this chapter, consistent with the provisions of §61.26(g)(3) of this chapter and §69.3(e)(12)(iv).

(c) Special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of interstate or foreign telecommunications to the extent that carrier's carrier charges are not assessed upon such interconnected usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and non-discriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services and WATS services pursuant to the provisions of §69.115 of this part.

(d) [Reserved]

[48 FR 43017, Sept. 21, 1983, as amended at 51 FR 10840, Mar. 31, 1986; 51 FR 33752, Sept. 23, 1986; 52 FR 21540, June 8, 1987; 54 FR 50624, Dec. 8, 1989; 61 FR 65364, Dec. 12, 1996; 64 FR 60359, Nov. 5, 1999; 84 FR 57652, Oct. 28, 2019; 88 FR 35764, June 1, 2023]

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Except as provided in § 69.1 and subpart C of this part, charges for each access element shall be computed and assessed as provided in this subpart.

[55 FR 42386, Oct. 19, 1990]

§ 69.104 End user common line for non-price cap incumbent local exchange carriers.

(a) This section is applicable only to incumbent local exchange carriers that are not subject to price cap regulation as that term is defined in § 61.3(ee) of this chapter. A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charges shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) Charges to multi-line subscribers shall be computed by multiplying a single line rate by the number of lines used by such subscriber.

(c) Until December 31, 2001, except as provided in paragraphs (d) through (h) of this section, the single-line rate or charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the End User Common Line element by the projected average number of local exchange service subscriber lines in use during such annual period.

(d)(1) Until December 31, 2001, if the monthly charge computed in accordance with paragraph (c) of this section exceeds \$6, the charge for each local exchange service subscriber line, except a residential line, a single-line business line, or a line used for Centrex-CO service that was in place or on order as of July 27, 1983, shall be \$6.

(2) Until December 31, 2001, the charge for each subscriber line associated with a public telephone shall be

equal to the monthly charge computed in accordance with paragraph (d)(1) of this section.

(e) Until December 31, 2001, the monthly charge for each residential and single-line business local exchange service subscriber shall be the charge computed in accordance with paragraph (c) of this section, or \$3.50, whichever is lower.

(f) Except as provided in § 54.403 of this chapter, the charge for each residential local exchange service subscriber line shall be the same as the charge for each single-line business local exchange service subscriber line.

(g) A line shall be deemed to be a residential line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.

(h) A line shall be deemed to be a single line business line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.

(i) The End User Common Line charge for each multi-party subscriber shall be assessed as if such subscriber had subscribed to single-party service.

(j)-(1) [Reserved]

(m) No charge shall be assessed for any WATS access line.

(n)(1) Except as provided in paragraphs (r) and (s) of this section, the maximum monthly charge for each residential or single-line business local exchange service subscriber line shall be the lesser of:

(i) One-twelfth of the projected annual revenue requirement for the End User Common Line element divided by the projected average number of local exchange service subscriber lines in use during such annual period; or

(ii) \$6.50.

(2) In the event that GDP-PI exceeds 6.5% or is less than 0%, the maximum monthly charge in paragraph (n)(1)(ii) of this section will be adjusted in the same manner as the adjustment in § 69.152(d)(2).

(o)(1) Except as provided in paragraphs (r) and (s) of this section, the maximum monthly End User Common Line Charge for multi-line business lines will be the lesser of:

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(i) \$9.20; or

(ii) One-twelfth of the projected annual revenue requirement for the End User Common Line element divided by the projected average number of local exchange service subscriber lines in use during such annual period;

(2) In the event that GDP-PI is greater than 6.5% or is less than 0%, the maximum monthly charge in paragraph (o)(1)(i) of this section will be adjusted in the same manner as the adjustment in §69.152(k)(2).

(p) Beginning January 1, 2002, non-price cap local exchange carriers shall assess:

(1) No more than one End User Common Line charge as calculated under the applicable method under paragraph (n) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) No more than five End User Common Line charges as calculated under paragraph (o) of this section for Primary Rate Interface ISDN service.

(q) In the event a non-price cap local exchange carrier charges less than the maximum End User Common Line charge for any subscriber lines, the carrier may not recover the difference between the amount collected and the maximum from carrier common line charges, Interstate Common Line Support, or Long Term Support.

(r) *End User Common Line charge deaveraging.* Beginning on January 1, 2002, non-price cap local exchange carriers may geographically deaverage End User Common Line charges subject to the following conditions.

(1) In order for a non-price cap local exchange carrier to be allowed to deaverage End User Common Line charges within a study area, the non-price cap local exchange carrier must have:

(i) State commission-approved geographically deaveraged rates for UNE loops within that study area; or

(ii) A universal service support disaggregation plan established pursuant to §54.315 of this chapter.

(2) All geographic deaveraging of End User Common Line charges by customer class within a study area must be according to the state commission-approved UNE loop zone, or the universal service support disaggregation

plan established pursuant to §54.315 of this chapter.

(3) Within a given zone, Multi-line Business End User Common Line rates cannot fall below Residential and Single-Line Business rates.

(4) For any given class of customer in any given zone, the End User Common Line Charge in that zone must be greater than or equal to the End User Common Line charge in the zone with the next lower cost per line.

(5) A non-price cap local exchange carrier shall not receive more through deaveraged End User Common Line charges than it would have received if it had not deaveraged its End User Common Line charges.

(6) *Maximum charge.* The maximum zone deaveraged End User Common Line Charge that may be charged in any zone is the applicable cap specified in paragraphs (n) or (o) of this section.

(7) *Voluntary Reductions.* A "Voluntary Reduction" is one in which the non-price cap local exchange carrier charges End User Common Line rates below the maximum charges specified in paragraphs (n)(1) or (o)(1) of this section other than through offset of net increases in End User Common Line charge revenues or through increases in other zone deaveraged End User Common Line charges.

(s) End User Common Line Charges for incumbent local exchange carriers not subject to price cap regulation that elect model-based support pursuant to §54.311 of this chapter or Alaska Plan support pursuant to §54.306 of this chapter are limited as follows:

(1) The maximum charge a non-price cap local exchange carrier that elects model-based support pursuant to §54.311 of this chapter or Alaska Plan support pursuant to §54.306 of this chapter may assess for each residential or single-line business local exchange service subscriber line is the rate in effect on the last day of the month preceding the month for which model-based support or Alaska Plan support, as applicable, is first provided.

(2) The maximum charge a non-price cap local exchange carrier that elects model-based support pursuant to §54.311 of this chapter or Alaska Plan support pursuant to §54.306 of this chapter may assess for each multi-line

business local exchange service subscriber line is the rate in effect on the last day of the month preceding the month for which model-based support or Alaska Plan support, as applicable, is first provided.

[48 FR 10358, Mar. 11, 1983, as amended at 48 FR 43018, Sept. 21, 1983; 52 FR 21540, June 8, 1987; 53 FR 28395, July 28, 1988; 61 FR 65364, Dec. 12, 1996; 62 FR 31933, June 11, 1997; 62 FR 32962, June 17, 1997; 66 FR 59730, Nov. 30, 2001; 81 FR 24345, Apr. 25, 2016; 81 FR 69716, Oct. 7, 2016]

§ 69.105 Carrier common line for non-price cap local exchange carriers.

(a) This section is applicable only to local exchange carriers that are not subject to price cap regulation as that term is defined in § 61.3(ee) of this chapter. Until June 30, 2003, a charge that is expressed in dollars and cents per line per access minute of use shall be assessed upon all interexchange carriers that use local exchange common line facilities for the provision of interstate or foreign telecommunications services, except that the charge shall not be assessed upon interexchange carriers to the extent they resell MTS or MTS-type services of other common carriers (OCCs).

(b)(1) For purposes of this section and § 69.113:

(i) A carrier or other person shall be deemed to receive premium access if access is provided through a local exchange switch that has the capability to provide access for an MTS-WATS equivalent service that is substantially equivalent to the access provided for MTS or WATS, except that access provided for an MTS-WATS equivalent service that does not use such capability shall not be deemed to be premium access until six months after the carrier that provides such MTS-WATS equivalent service receives actual notice that such equivalent access is or will be available at such switch;

(ii) The term *open end* of a call describes the origination or termination of a call that utilizes exchange carrier common line plant (a call can have no, one, or two open ends); and

(iii) All open end minutes on calls with one open end (e.g., an 800 or FX call) shall be treated as terminating minutes.

(2) For association Carrier Common Line tariff participants:

(i) The premium originating Carrier Common Line charge shall be one cent per minute, except as described in § 69.105(b)(3), and

(ii) The premium terminating Carrier Common Line charge shall be computed as follows:

(A) For each telephone company subject to price cap regulation, multiply the company's proposed premium originating rate by a number equal to the sum of the premium originating base period minutes and a number equal to 0.45 multiplied by the non-premium originating base period minutes of that telephone company;

(B) For each telephone company subject to price cap regulation, multiply the company's proposed premium terminating rate by a number equal to the sum of the premium terminating base period minutes and a number equal to 0.45 multiplied by the non-premium terminating base period minutes of that telephone company;

(C) Sum the numbers computed in paragraphs (b)(2)(ii) (A) and (B) of this section for all companies subject to price cap regulation;

(D) From the number computed in paragraph (b)(2)(ii)(C) of this section, subtract a number equal to one cent times the sum of the premium originating base period minutes and a number equal to 0.45 multiplied by the non-premium originating base period minutes of all telephone companies subject to price cap regulation, and;

(E) Divide the number computed in paragraph (b)(2)(ii)(D) of this section by the sum of the premium terminating base period minutes and a number equal to 0.45 multiplied by the non-premium terminating base period minutes of all telephone companies subject to price cap regulation.

(3) If the calculations described in § 69.105(b)(2) result in a per minute charge on premium terminating minutes that is less than once cent, both the originating and terminating premium charges for the association CCL tariff participants shall be computed by dividing the number computed in paragraph (b)(2)(ii)(C) of this section by a number equal to the sum of the premium originating and terminating base

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period minutes and a number equal to 0.45 multiplied by the sum of the non-premium originating and terminating base period minutes of all telephone companies subject to price cap regulation.

(4) The Carrier Common Line charges of telephone companies that are not association Carrier Common Line tariff participants shall be computed at the level of Carrier Common Line access element aggregation selected by such telephone companies pursuant to § 69.3(e)(7). For each such Carrier Common Line access element tariff—

(i) The premium originating Carrier Common Line charge shall be one cent per minute, and

(ii) The premium terminating Carrier Common Line charge shall be computed by subtracting the projected revenues generated by the originating Carrier Common Line charges (both premium and non-premium) from the Carrier Common Line revenue requirement for the companies participating in that tariff, and dividing the remainder by the sum of the projected premium terminating minutes and a number equal to .45 multiplied by the projected non-premium terminating minutes for such companies.

(5) If the calculations described in § 69.105(b)(4) result in a per minute charge on premium terminating minutes that is less than one cent, both the originating and terminating premium charges for the companies participating in said Carrier Common Line tariff shall be computed by dividing the projected Carrier Common Line revenue requirement for such companies by the sum of the projected premium minutes and a number equal to .45 multiplied by the projected non-premium minutes for such companies.

(6) Telephone companies that are not association Carrier Common Line tariff participants shall submit to the Commission and to the association whatever data the Commission shall determine are necessary to calculate the charges described in this section.

(c) Any interexchange carrier shall receive a credit for Carrier Common Line charges to the extent that it resells services for which these charges have already been assessed (e.g., MTS

or MTS-type service of other common carriers).

(d) From July 1, 2002, to June 30, 2003, the carrier common line charge calculations pursuant to this section shall be limited to an amount equal to the number of projected residential and single-line business lines multiplied by the difference between the residential and single-line business End User Common Line rate cap and the lesser of \$6.50 or the non-price cap local exchange carrier's average cost per line.

[51 FR 10841, Mar. 31, 1986, as amended at 52 FR 21541, June 8, 1987; 54 FR 6293, Feb. 9, 1989; 55 FR 42386, Oct. 19, 1990; 56 FR 21618, May 10, 1991; 62 FR 31933, June 11, 1997; 66 FR 59731, Nov. 30, 2001]

§69.106 Local switching.

(a) Except as provided in § 69.118, charges that are expressed in dollars and cents per access minute of use shall be assessed by local exchange carriers that are not subject to price cap regulation upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services.

(b) The per minute charge described in paragraph (a) of this section shall be computed by dividing the projected annual revenue requirement for the Local Switching element, excluding any local switching support received by the carrier pursuant to § 54.301 of this chapter, by the projected annual access minutes of use for all interstate or foreign services that use local exchange switching facilities.

(c) If end users of an interstate or foreign service that uses local switching facilities pay message unit charges for such calls in a particular exchange, a credit shall be deducted from the Local Switching element charges to such carrier for access service in such exchange. The per minute credit for each such exchange shall be multiplied by the monthly access minutes for such service to compute the monthly credit to such a carrier.

(d) If all local exchange subscribers in such exchange pay message unit charges, the per minute credit described in paragraph (c) of this section shall be computed by dividing total message unit charges to all subscribers

in a particular exchange in a representative month by the total minutes of use that were measured for purposes of computing message unit charges in such month.

(e) If some local exchange subscribers pay message unit charges and some do not, a per minute credit described in paragraph (c) of this section shall be computed by multiplying a credit computed pursuant to paragraph (d) of this section by a factor that is equal to total minutes measured in such month for purposes of computing message unit charges divided by the total local exchange minutes in such month.

(f) Except as provided in § 69.118, price cap local exchange carriers shall establish rate elements for local switching as follows:

(1) Price cap local exchange carriers shall separate from the projected annual revenues for the Local Switching element those costs projected to be incurred for ports (including cards and DS1/voice-grade multiplexers required to access end offices equipped with analog switches) on the trunk side of the local switch. Price cap local exchange carriers shall further identify costs incurred for dedicated trunk ports separately from costs incurred for shared trunk ports.

(i) Price cap local exchange carriers shall recover dedicated trunk port costs identified pursuant to paragraph (f)(1) of this section through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

(ii) Price cap local exchange carriers shall recover shared trunk port costs identified pursuant to paragraph (f)(1) of this section through charges assessed upon purchasers of shared transport. This charge shall be expressed in dollars and cents per access minute of use. The charge shall be computed by dividing the projected costs of the shared ports by the historical annual access minutes of use calculated for purposes of recovery of common transport costs in § 69.111(c).

(2) Price cap local exchange carriers shall recover the projected annual revenues for the Local Switching element that are not recovered in paragraph (f)(1) of this section through charges

that are expressed in dollars and cents per access minute of use and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services. The maximum charge shall be computed by dividing the projected remainder of the annual revenues for the Local Switching element by the historical annual access minutes of use for all interstate or foreign services that use local exchange switching facilities.

(g) A local exchange carrier may recover signaling costs associated with call setup through a call setup charge imposed upon all interstate interexchange carriers that use that local exchange carrier's facilities to originate or terminate interstate interexchange or foreign services. This charge must be expressed as dollars and cents per call attempt and may be assessed on originating calls handed off to the interexchange carrier's point of presence and on terminating calls received from an interexchange carrier's point of presence, whether or not that call is completed at the called location. Local exchange carriers may not recover through this charge any costs recovered through other rate elements.

(h) Except as provided in § 69.118, non-price cap local exchange carriers may establish rate elements for local switching as follows:

(1) Non-price cap local exchange carriers may separate from the projected annual revenue requirement for the Local Switching element those costs projected to be incurred for ports (including cards and DS1/voice-grade multiplexers required to access end offices equipped with analog switches) on the trunk side of the local switch. Non-price cap local exchange carriers electing to assess these charges shall further identify costs incurred for dedicated trunk ports separately from costs incurred for shared trunk ports.

(i) Non-price cap local exchange carriers electing to assess trunk port charges shall recover dedicated trunk port costs identified pursuant to paragraph (h)(1) of this section through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

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(ii) Non-price cap local exchange carriers electing to assess trunk port charges shall recover shared trunk port costs identified pursuant to paragraph (h)(1) of this section through charges assessed upon purchasers of shared transport. This charge shall be expressed in dollars and cents per access minute of use. The charge shall be computed by dividing the projected costs of the shared ports by the historical annual access minutes of use calculated for purposes of recovery of common transport costs in § 69.111(c).

(2) Non-price cap local exchange carriers shall recover the projected annual revenue requirement for the Local Switching element that are not recovered in paragraph (h)(1) of this section through charges that are expressed in dollars and cents per access minute of use and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services. The maximum charge shall be computed by dividing the projected remainder of the annual revenue requirement for the Local Switching element by the historical annual access minutes of use for all interstate or foreign services that use local exchange switching facilities.

[52 FR 37310, Oct. 6, 1987, as amended at 56 FR 33881, July 24, 1991; 62 FR 31933, June 11, 1997; 62 FR 40463, July 29, 1997; 66 FR 59731, Nov. 30, 2001]

§ 69.108 Transport rate benchmark.

(a) For transport charges computed in accordance with this subpart, the DS3-to-DS1 benchmark ratio shall be calculated as follows: the telephone company shall calculate the ratio of:

(1) The total charge for a 1.609 km (1 mi) channel termination, 16.09 km (10 mi) of interoffice transmission, and one DS3 multiplexer using the telephone company's DS3 special access rates to;

(2) The total charge for a 1.609 km (1 mi) channel termination plus 16.09 km (10 mi) of interoffice transmission using the telephone company's DS1 special access rates.

(b) Initial transport rates will generally be presumed reasonable if they are based on special access rates with a DS3-to-DS1 benchmark ratio of 9.6 to 1 or higher.

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(c) If a telephone company's initial transport rates are based on special access rates with a DS3-to-DS1 benchmark ratio of less than 9.6 to 1, those initial transport rates will generally be suspended and investigated absent a substantial cause showing by the telephone company. Alternatively, the telephone company may adjust its initial transport rates so that the DS3-to-DS1 ratio calculated as described in paragraph (a) of this section of those rates is 9.6 or higher. In that case, initial transport rates that depart from existing special access rates effective on September 1, 1992 so as to be consistent with the benchmark will be presumed reasonable only so long as the ratio of revenue recovered through the interconnection charge to the revenue recovered through facilities-based charges is the same as it would be if the telephone company's existing special access rates effective on September 1, 1992 were used.

[58 FR 41189, Aug. 3, 1993, as amended at 58 FR 44952, Aug. 25, 1993; 58 FR 45267, Aug. 27, 1993]

§ 69.109 Information.

(a) A charge shall be assessed upon all interexchange carriers that are connected to assistance boards through interexchange directory assistance trunks.

(b) Except as provided in § 69.118, if such connections are maintained exclusively by carriers that offer MTS, the projected annual revenue requirement for the Information element shall be divided by 12 to compute the monthly assessment to such carriers.

(c) If such connections are provided to additional carriers, charges shall be established that reflect the relative use of such directory assistance service by such interexchange carriers.

[48 FR 10358, Mar. 11, 1983, as amended at 56 FR 33881, July 24, 1991]

§ 69.110 Entrance facilities.

(a) A flat-rated entrance facilities charge expressed in dollars and cents per unit of capacity shall be assessed upon all interexchange carriers and other persons that use telephone company facilities between the interexchange carrier or other person's

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point of demarcation and the serving wire center.

(b)(1) For telephone companies subject to price cap regulation, initial entrance facilities charges based on special access channel termination rates for equivalent voice grade, DS1, and DS3 services as of September 1, 1992, adjusted for changes in the price cap index calculated for the July 1, 1993 annual filing for telephone companies subject to price cap regulation, generally shall be presumed reasonable if the benchmark defined in § 69.108 is satisfied. Entrance facilities charges may be distance-sensitive. Distance shall be measured as airline kilometers between the point of demarcation and the serving wire center.

(2) For telephone companies not subject to price cap regulation, entrance facilities charges based on special access channel termination rates for equivalent voice grade, DS1, and DS3 services generally shall be presumed reasonable if the benchmark defined in § 69.108 is satisfied. Entrance facilities charges may be distance-sensitive. Distance shall be measured as airline kilometers between the point of demarcation and the serving wire center.

(c) If the telephone company employs distance-sensitive rates:

(1) A distance-sensitive component shall be assessed for use of the transmission facilities, including any intermediate transmission circuit equipment between the end points of the entrance facilities; and

(2) A nondistance-sensitive component shall be assessed for use of the circuit equipment at the ends of the transmission links.

(d) Telephone companies shall apply only their shortest term special access rates in setting entrance facilities charges.

(e) Except as provided in paragraphs (f), (g), and (h) of this section, and subpart H of this part, telephone companies shall not offer entrance facilities based on term discounts or volume discounts for multiple DS3s or any other service with higher volume than DS3.

(f) Except in the situations set forth in paragraphs (g) and (h) of this section, telephone companies may offer term and volume discounts in entrance facilities charges within each study

area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§ 61.38(b)(4) and 61.49(k) of this chapter; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(g) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest price density pricing zone (zone 1), telephone companies may offer term and volume discounts in entrance facilities charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

(h) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in entrance facilities charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

[57 FR 54720, Nov. 20, 1992, as amended at 58 FR 41190, 41191, Aug. 3, 1993; 58 FR 44950, Aug. 25, 1993; 58 FR 48763, Sept. 17, 1993; 59 FR 10304, Mar. 4, 1994; 60 FR 50121, Sept. 28, 1995; 64 FR 51267, Sept. 22, 1999]

§ 69.111 Tandem-switched transport and tandem charge.

(a)(1) Through June 30, 1998, except as provided in paragraph (l) of this section, tandem-switched transport shall consist of two rate elements, a transmission charge and a tandem switching charge.

(2) Beginning July 1, 1998, except as provided in paragraph (l) of this section, tandem-switched transport shall

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consist of three rate elements as follows:

(i) A per-minute charge for transport of traffic over common transport facilities between the incumbent local exchange carrier's end office and the tandem switching office. This charge shall be expressed in dollars and cents per access minute of use and shall be assessed upon all purchasers of common transport facilities between the local exchange carrier's end office and the tandem switching office.

(ii) A per-minute tandem switching charge. This tandem switching charge shall be set in accordance with paragraph (g) of this section, excluding multiplexer and dedicated port costs recovered in accordance with paragraph (1) of this section, and shall be assessed upon all interexchange carriers and other persons that use incumbent local exchange carrier tandem switching facilities.

(iii) A flat-rated charge for transport of traffic over dedicated transport facilities between the serving wire center and the tandem switching office. This charge shall be assessed as a charge for dedicated transport facilities provisioned between the serving wire center and the tandem switching office in accordance with §69.112.

(b) [Reserved]

(c)(1) Until June 30, 1998:

(i) Except in study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(1) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, geographically averaged on a study-area-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and in-

vestigated absent a substantial cause showing by the incumbent local exchange carrier.

(ii) In study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(1) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, averaged on a zone-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(2) Beginning July 1, 1998:

(i) Except in study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(2)(i) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, geographically averaged on a study-area-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

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(ii) In study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(2)(i) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, averaged on a zone-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(d)(1) Through June 30, 1998, the tandem-switched transport transmission charges may be distance-sensitive. Distance shall be measured as airline distance between the serving wire center and the end office, unless the customer has ordered tandem-switched transport between the tandem office and the end office, in which case distance shall be measured as airline distance between the tandem office and the end office.

(2) Beginning July 1, 1998, the per-minute charge for transport of traffic over common transport facilities described in paragraph (a)(2)(i) of this section may be distance-sensitive. Distance shall be measured as airline distance between the tandem switching office and the end office.

(e)(1) Through June 30, 1998, if the telephone company employs distance-sensitive rates:

(i) A distance-sensitive component shall be assessed for use of the transmission facilities, including intermediate transmission circuit equipment between the end points of the interoffice circuit; and

(ii) A non-distance-sensitive component shall be assessed for use of the circuit equipment at the ends of the interoffice transmission links.

(2) Beginning July 1, 1998, if the telephone company employs distance-sensitive rates for transport of traffic over common transport facilities, as described in paragraph (a)(2)(i) of this section:

(i) A distance-sensitive component shall be assessed for use of the common transport facilities, including intermediate transmission circuit equipment between the end office and tandem switching office; and

(ii) A non-distance-sensitive component shall be assessed for use of the circuit equipment at the ends of the interoffice transmission links.

(f) [Reserved]

(g)(1) The tandem switching charge imposed pursuant to paragraphs (a)(1) or (a)(2)(ii) of this section, as applicable, shall be set to recover twenty percent of the annual part 69 interstate tandem revenue requirement plus one third of the portion of the tandem switching revenue requirement being recovered through the interconnection charge recovered by §§ 69.124, 69.153, and 69.155, excluding multiplexer and dedicated port costs recovered in accordance with paragraph (l) of this section.

(2) Beginning January 1, 1999, the tandem switching charge imposed pursuant to paragraph (a)(2)(ii) of this section shall be set to recover the amount prescribed in paragraph (g)(1) of this section plus one half of the remaining portion of the tandem switching revenue requirement then being recovered through the interconnection charge recovered by §§ 69.124, 69.153, and 69.155, excluding multiplexer and dedicated port costs recovered in accordance with paragraph (l) of this section.

(3) Beginning January 1, 2000, the tandem switching charge imposed pursuant to paragraph (a)(2)(ii) of this section shall be set to recover the entire interstate tandem switching revenue requirement, including that portion formerly recovered through the interconnection charge recovered in §§ 69.124, 69.153, and 69.155, and excluding multiplexer and dedicated port costs recovered in accordance with paragraph (l) of this section.

(4) A local exchange carrier that is subject to price cap regulation as that

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term is defined in §61.3(x) of this chapter shall calculate its tandem switching revenue requirement as used in this paragraph by dividing the tandem switching revenue requirement that was included in the original interconnection charge by the original interconnection charge, and then multiplying this result by the annual revenues recovered through the interconnection charge, described in §69.124, as of June 30, 1997. A local exchange carrier that is subject to price cap regulation as that term is defined in §61.3(x) of this chapter shall then make downward exogenous adjustments to the service band index for the interconnection charge service category (defined in §61.42(e)(2)(vi) of this chapter) and corresponding upward adjustments to the service band index for the tandem-switched transport service category (defined in §61.42(e)(2)(v) of this chapter) at the times and in the amounts prescribed in paragraphs (g)(1) through (g)(3) of this section.

(h) All telephone companies shall provide tandem-switched transport service.

(i) Except in the situations set forth in paragraphs (j) and (k) of this section, telephone companies may offer term and volume discounts in tandem-switched transport charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§61.38(b)(4) and 61.49(k) of this chapter; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(j) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest priced density pricing zone (zone 1), telephone companies may offer term and volume discounts in tandem-switched trans-

port charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

(k) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in tandem-switched transport charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

(l) In addition to the charges described in this section, price cap local exchange carriers shall establish separate charges for multiplexers and dedicated trunk ports used in conjunction with the tandem switch as follows:

(1) Local exchange carriers must establish a traffic-sensitive charge for DS3/DS1 multiplexers used on the end office side of the tandem switch, assessed on purchasers of common transport to the tandem switch. This charge must be expressed in dollars and cents per access minute of use. The maximum charge shall be calculated by dividing the total costs of the multiplexers on the end office-side of the tandem switch by the annual access minutes of use calculated for purposes of recovery of common transport costs in paragraph (c) of this section. A similar charge shall be assessed for DS1/voice-grade multiplexing provided on the end-office side of analog tandem switches.

(2)(i) Local exchange carriers must establish a flat-rated charge for dedicated DS3/DS1 multiplexing on the serving wire center side of the tandem switch provided in conjunction with dedicated DS3 transport service from the serving wire center to the tandem switch. This charge shall be assessed on interexchange carriers purchasing tandem-switched transport in proportion to the number of DS3 trunks provisioned for that interexchange carrier between the serving wire center and the tandem-switch.

(ii) Local exchange carriers must establish a flat-rated charge for dedicated DS1/voice-grade multiplexing

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provided on the serving wire center side of analog tandem switches. This charge may be assessed on interexchange carriers purchasing tandem-switched transport in proportion to the interexchange carrier's transport capacity on the serving wire center side of the tandem.

(3) Price cap local exchange carriers may recover the costs of dedicated trunk ports on the serving wire center side of the tandem switch only through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

(m) In addition to the charges described in this section, non-price cap local exchange carriers may establish separate charges for multiplexers and dedicated trunk ports used in conjunction with the tandem switch as follows:

(1)(i) Non-price cap local exchange carriers may establish a flat-rated charge for dedicated DS3/DS1 multiplexing on the serving wire center side of the tandem switch provided in conjunction with dedicated DS3 transport service from the serving wire center to the tandem switch. This charge shall be assessed on interexchange carriers purchasing tandem-switched transport in proportion to the number of DS3 trunks provisioned for that interexchange carrier between the serving wire center and the tandem switch.

(ii) Non-price cap local exchange carriers may establish a flat-rated charge for dedicated DS1/voice-grade multiplexing provided on the serving wire center side of analog tandem switches. This charge may be assessed on interexchange carriers purchasing tandem-switched transport in proportion to the interexchange carrier's transport capacity on the serving wire center side of the tandem.

(2) Non-price cap local exchange carriers may recover the costs of dedicated trunk ports on the serving wire center side of the tandem switch through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the

dedicated trunk terminating at the port.

[57 FR 54720, Nov. 20, 1992, as amended at 58 FR 41190, Aug. 3, 1993; 58 FR 48764, Sept. 17, 1993; 60 FR 50121, Sept. 28, 1995; 62 FR 31933, June 11, 1997; 62 FR 40463, July 29, 1997; 62 FR 56132, Oct. 29, 1997; 64 FR 46594, Aug. 26, 1999; 66 FR 59732, Nov. 30, 2001]

§ 69.112 Direct-trunked transport.

(a) A flat-rated direct-trunked transport charge expressed in dollars and cents per unit of capacity shall be assessed upon all interexchange carriers and other persons that use telephone company direct-trunked transport facilities.

(b)(1) For telephone companies subject to price cap regulation, initial direct-trunked transport charges based on the interoffice charges for equivalent voice grade, DS1, and DS3 special access services as of September 1, 1992, adjusted for changes in the price cap index calculated for the July 1, 1993 annual filing for telephone companies subject to price cap regulation, generally shall be presumed reasonable if the benchmark defined in § 69.108 is satisfied. Direct-trunked transport charges may be distance-sensitive. Distance shall be measured as airline kilometers between customer-designated points.

(2) For telephone companies not subject to price cap regulation, initial direct-trunked transport charges based on the interoffice charges for equivalent voice grade, DS1, and DS3 special access services generally shall be presumed reasonable if the benchmark defined in § 69.108 is satisfied. Direct-trunked transport charges may be distance-sensitive. Distance shall be measured as airline kilometers between customer-designated points.

(c) If the telephone company employs distance-sensitive rates:

(1) A distance-sensitive component shall be assessed for use of the transmission facilities, including intermediate transmission circuit equipment, between the end points of the circuit; and

(2) A nondistance-sensitive component shall be assessed for use of the circuit equipment at the ends of the transmission links.

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(d) Telephone companies shall apply only their shortest term special access rates in setting direct-trunked transport rates.

(e) Except as provided in paragraphs (f), (g), and (h) of this section, telephone companies shall not offer direct-trunked transport rates based on term discounts or volume discounts for multiple DS3s or any other service with higher volume than DS3.

(f) Except in the situations set forth in paragraphs (g) and (h) of this section, telephone companies may offer term and volume discounts in direct-trunked transport charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1)) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§61.38(b)(4) and 61.49(k) of this section; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(g) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest priced density pricing zone (zone 1), telephone companies may offer term and volume discounts in direct-trunked transport charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

(h) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in direct-trunked transport charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

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(i) Centralized equal access providers as described in Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442, 7 FCC Rcd 7002 (1992), are not required to provide direct-trunked transport service. Telephone companies that do not have measurement and billing capabilities at their end offices are not required to provide direct-trunked transport services at those end offices without measurement and billing capabilities. Telephone companies that are not classified as Class A companies under §32.11 of this chapter are required to provide direct-trunked transport service upon request. All other telephone companies shall provide a direct-trunked transport service.

[57 FR 54720, Nov. 20, 1992, as amended at 58 FR 41190, Aug. 3, 1993; 58 FR 44950, Aug. 25, 1993; 58 FR 48764, Sept. 17, 1993; 60 FR 50121, Sept. 28, 1995]

§69.113 Non-premium charges for MTS-WATS equivalent services.

(a) Charges that are computed in accordance with this section shall be assessed upon interexchange carriers or other persons that receive access that is not deemed to be premium access as this term is defined in §69.105(b)(1) in lieu of carrier charges that are computed in accordance with §§69.105, 69.106, 69.118, 69.124, and 69.127.

(b) The non-premium charge for the Carrier Common Line element shall be computed by multiplying the premium charge for such element by .45.

(c) For telephone companies that are not subject to price cap regulation as that term is defined in §61.3(x) of this chapter, the non-premium charge for the Local Switching element shall be computed by multiplying a hypothetical premium charge for such element by .45. The hypothetical premium charge for such element shall be computed by dividing the annual revenue requirement for each element by the sum of the projected access minutes for such period and a number that is computed by multiplying the projected non-premium minutes for such element for such period by .45. For telephone companies that are price cap carriers, the non-premium charge for the Local Switching element shall be computed by multiplying the premium charge for such element by .45. Though June 30,

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1993, the non-premium charge shall be computed by multiplying the LS2 charge for such element by .45.

(d) The non-premium charge or charges for the interconnection charge element shall be computed by multiplying the corresponding premium charge or charges by .45.

(e) The non-premium charge for any BSEs in local switching shall be computed by multiplying the premium charge for the corresponding BSEs by .45.

[54 FR 6293, Feb. 9, 1989, as amended at 55 FR 42386, Oct. 19, 1990; 55 FR 50559, Dec. 7, 1990; 56 FR 33881, July 24, 1991; 57 FR 54721, Nov. 20, 1992; 59 FR 10304, Mar. 4, 1994; 64 FR 46594, Aug. 26, 1999]

§ 69.114 Special access.

(a) Appropriate subelements shall be established for the use of equipment or facilities that are assigned to the Special Access element for purposes of apportioning net investment, or that are equivalent to such equipment or facilities for companies subject to price cap regulation as that term is defined in § 61.3(ff) of this chapter.

(b) Charges for all subelements shall be designed to produce total annual revenue that is equal to the projected annual revenue requirement for the Special Access element.

(c) Charges for an individual element shall be assessed upon all interexchange carriers that use the equipment or facilities that are included within such subelement.

(d) Charges for individual subelements shall be designed to reflect cost differences among subelements in a manner that complies with applicable Commission rules or decisions.

[48 FR 10358, Mar. 11, 1983, as amended at 48 FR 43019, Sept. 21, 1983. Redesignated at 54 FR 6293, Feb. 9, 1989, as amended at 55 FR 42386, Oct. 19, 1990; 64 FR 46594, Aug. 26, 1999; 83 FR 67123, Dec. 28, 2018]

§ 69.115 Special access surcharges.

(a) Pending the development of techniques accurately to measure usage of exchange facilities that are interconnected by users with means of interstate or foreign telecommunications, a surcharge that is expressed in dollars and cents per line termination per month shall be assessed

upon users that subscribe to private line services or WATS services that are not exempt from assessment pursuant to paragraph (e) of this section.

(b) Except as provided in paragraph (f) of this section, such surcharge shall be computed to reflect a reasonable approximation of the carrier usage charges which, assuming non-premium interconnection, would have been paid for average interstate or foreign usage of common lines, end office facilities, and transport facilities, attributable to each Special Access line termination which is not exempt from assessment pursuant to paragraph (e) of this section.

(c) If the association, carrier or carriers that file the tariff are unable to estimate such average usage for a period ending May 31, 1985, the surcharge for such period shall be twenty-five dollars (\$25) per line termination per month. As of June 30, 2000, these rates will remain and be capped at the current levels until June 30, 2005.

(d) A telephone company may propose reasonable and nondiscriminatory end user surcharges, to be filed in its federal access tariffs and to be applied to the use of exchange facilities which are interconnected by users with means of interstate or foreign telecommunication which are not provided by the telephone company, and which are not exempt from assessment pursuant to paragraph (e) of this section. Telephone companies which wish to avail themselves of this option must undertake to use reasonable efforts to identify such means of interstate or foreign telecommunication, and to assess end user surcharges in a reasonable and non-discriminatory manner.

(e) No special access surcharges shall be assessed for any of the following terminations:

(1) The open end termination in a telephone company switch of an FX line, including CCSA and CCSA-equivalent ONALs;

(2) Any termination of an analog channel that is used for radio or television program transmission;

(3) Any termination of a line that is used for telex service;

(4) Any termination of a line that by nature of its operating characteristics

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could not make use of common lines; and

(5) Any termination of a line that is subject to carrier usage charges pursuant to §69.5.

(6) Any termination of a line that the customer certifies to the exchange carrier is not connected to a PBX or other device capable of interconnecting a local exchange subscriber line with the private line or WATS access line.

(f) The maximum special access surcharge a non-price cap local exchange carrier that elects model-based support pursuant to §54.311 of this chapter or Alaska Plan support pursuant to §54.306 of this chapter may assess is the rate in effect on the last day of the month preceding the month for which model-based support or Alaska Plan support, as applicable, is first provided.

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 43019, Sept. 21, 1983, as amended at 49 FR 7829, Mar. 2, 1984; 51 FR 10841, Mar. 31, 1986; 52 FR 8259, Mar. 17, 1987; 65 FR 38701, June 21, 2000; 81 FR 24345, Apr. 25, 2016; 81 FR 69716, Oct. 7, 2016]

§69.118 Traffic sensitive switched services.

Notwithstanding §§69.4(b), 69.106, 69.109, 69.110, 69.111, 69.112, and 69.124, telephone companies subject to the BOC ONA Order, 4 FCC Rcd 1 (1988) shall, and other telephone companies may, establish approved Basic Service Elements as provided in Amendments of part 69 of the Commission's rules relating to the Creation of Access Charge Subelements for Open Network Architecture, Report and Order, 6 FCC Rcd 4524 (1991) and 800 data base subelements, as provided in Provision of Access for 800 Service, 8 FCC Rcd ____, CC Docket 86-10, FCC 93-53 (1993). Moreover, all customers that use basic 800 database service shall be assessed a charge that is expressed in dollars and cents per query. Telephone companies shall take into account revenues from the relevant Basic Service Element or Elements and 800 Database Service Elements in computing rates for the Local Switching, Entrance Facilities, Tandem-Switched Transport, Direct-Trunked Transport, Interconnection Charge, and/or Information elements.

[58 FR 7868, Feb. 10, 1993]

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The rules for filing comments and reply comments on requests for expedited approval of new basic service elements are those indicated in §1.45 of the rules, except as specified otherwise.

[56 FR 33881, July 24, 1991]

§69.120 Line information database.

(a) A charge that is expressed in dollars and cents per query shall be assessed upon all carriers that access validation information from a local exchange carrier database to recover the costs of:

(1) The transmission facilities between the local exchange carrier's signalling transfer point and the database; and

(2) The signalling transfer point facilities dedicated to the termination of the transmission facilities connecting the database to the exchange carrier's signalling network.

(b) A charge that is expressed in dollars and cents per query shall be assessed upon all carriers that access validation information from a local exchange carrier line information database to recover the costs of the database.

[57 FR 24380, June 9, 1992]

§69.121 Connection charges for expanded interconnection.

(a) Appropriate connection charge subelements shall be established for the use of equipment and facilities that are associated with offerings of expanded interconnection for special access and switched transport services, as defined in part 64, subpart N of this chapter. To the extent that the same equipment and facilities are used to provide expanded interconnection for both special access and switched transport, the same connection charge subelements shall be used.

(1) A cross-connect subelement shall be established for charges associated with the cross-connect cable and associated facilities connecting the equipment owned by or dedicated to the use of the interconnector with the telephone company's equipment and facilities used to provide interstate special or switched access services. Charges for

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the cross-connect subelement shall not be deaveraged within a study area that is used for purposes of jurisdictional separations.

(2) Charges for subelements associated with physical collocation or virtual collocation, other than the subelement described in paragraph (a)(1) of this section and subelements recovering the cost of the virtual collocation equipment described in § 64.1401(e)(1) of this chapter, may reasonably differ in different central offices, notwithstanding § 69.3(e)(7).

(b) Connection charge subelements shall be computed based upon the costs associated with the equipment and facilities that are included in such subelements, including no more than a just and reasonable portion of the telephone company's overhead costs.

(c) Connection charge subelements shall be assessed upon all interconnectors that use the equipment or facilities that are included in such subelements.

[57 FR 54332, Nov. 18, 1992, as amended at 58 FR 48764, Sept. 17, 1993; 59 FR 38930, Aug. 1, 1994]

§ 69.123 Density pricing zones for special access and switched transport.

(a)(1) Incumbent local exchange carriers not subject to price cap regulation may establish any number of density zones within a study area that is used for purposes of jurisdictional separations, provided that each zone, except the highest-cost zone, accounts for at least 15 percent of that carrier's special access and transport revenues within that study area, calculated pursuant to the methodology set forth in § 69.725.

(2) Such a system of pricing zones shall be designed to reasonably reflect cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones.

(3) Non-price cap incumbent local exchange carriers may establish only one set of density pricing zones within each study area, to be used for the pricing of both special and switched access pursuant to paragraphs (c) and (d) of this section.

(b)(1) Incumbent local exchange carriers subject to price cap regulation

may establish any number of density zones within a study area that is used for purposes of jurisdictional separations, provided that each zone, except the highest-cost zone, accounts for at least 15 percent of that carrier's trunking basket revenues within that study area, calculated pursuant to the methodology set forth in § 69.725.

(2) Price cap incumbent local exchange carriers may establish only one set of density pricing zones within each study area, to be used for the pricing of all services within the trunking basket for which zone density pricing is permitted.

(3) An access service subelement for which zone density pricing is permitted shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(4) An access service subelement for which zone density pricing is permitted which is provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains one of the locations between which the service is offered.

(c) Notwithstanding § 69.3(e)(7), in study areas in which a telephone company offers a cross-connect, as described in § 69.121(a)(1), for the transmission of interstate special access traffic, telephone companies may charge rates for special access sub-elements of DS1, DS3, and such other special access services as the Commission may designate, that differ depending on the zone in which the service is offered, provided that the charges for any such service shall not be deaveraged within any such zone.

(1) A special access service subelement shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(2) A special access service subelement provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains one of the locations between which the service is offered.

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(d) Notwithstanding §69.3(e)(7), in study areas in which a telephone company offers a cross-connect, as described in §69.121(a)(1), for the transmission of interstate switched traffic, or is using collocated facilities to interconnect with telephone company interstate switched transport services, telephone companies may charge rates for sub-elements of direct-trunked transport, tandem-switched transport, entrance facilities, and dedicated signaling transport that differ depending on the zone in which the service is offered, provided that the charge for any such service shall not be deaveraged within any such zone.

(1) A switched transport service sub-element shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(2) A switched transport service sub-element provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains either of the locations between which the service is offered.

(e)(1) Telephone companies not subject to price cap regulation may charge a rate for each service in the highest priced zone that exceeds the rate for the same service in the lowest priced zone by no more than fifteen percent of the rate for the service in the lowest priced zone during the period from the date that the zones are initially established through the following June 30. The difference between the rates for any such service in the highest priced zone and the lowest priced zone in a study area, measured as a percentage of the rate for the service in the lowest priced zone, may increase by no more than an additional fifteen percentage points in each succeeding year, measured from the rate differential in effect on the last day of the preceding tariff year.

(2) Notwithstanding §69.3(e)(7), incumbent local exchange carriers subject to price cap regulation may charge different rates for services in different zones pursuant to §61.47(f) of this chapter, provided that the charges for any such service are not deaveraged within any such zone.

(f)(1) An incumbent local exchange carrier that establishes density pricing zones under this section must reallocate additional amounts recovered under the interconnection charge prescribed in §69.124 of this subpart to facilities-based transport rates, to reflect the higher costs of serving lower density areas. Each incumbent local exchange carrier must reallocate costs from the interexchange charge each time it increases the ratio between the prices in its lowest-cost zone and any other zone in that study area.

(2) Any incumbent local exchange carrier that has already deaveraged its rates on January 1, 1998 must reallocate an amount equivalent to that described in paragraph (f)(1) of this section from the interconnection charge prescribed in §69.124 to its transport services.

(3) Price cap local exchange carriers shall reassign to direct-trunked transport and tandem-switched transport categories or subcategories interconnection charge amounts reallocated under paragraph (f)(1) or (f)(2) of this section in a manner that reflects the way density pricing zones are being implemented by the incumbent local exchange carrier.

[57 FR 54333, Nov. 18, 1992, as amended at 58 FR 48764, Sept. 17, 1993; 62 FR 31935, June 11, 1997; 64 FR 51267, Sept. 22, 1999; 69 FR 25336, May 6, 2004]

§69.124 Interconnection charge.

(a) Until December 31, 2001, local exchange carriers not subject to price cap regulation shall assess an interconnection charge expressed in dollars and cents per access minute upon all interexchange carriers and upon all other persons using the telephone company switched access network.

(b) If the use made of the local exchange carrier's switched access network includes the local switch, but not local transport, the interconnection charge assessed pursuant to paragraph (a) of this section shall be computed by subtracting entrance facilities, tandem-switched transport, direct-trunked transport, and dedicated signalling transport revenues, as well as any interconnection charge revenues that the local exchange carrier anticipates will be reassigned to other facilities-

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based rate elements in the future, from the part 69 transport revenue requirement, and dividing by the total interstate local switching minutes.

(c) If the use made of the local exchange carrier's switched access network includes local transport, the interconnection charge to be assessed pursuant to paragraph (a) of this section shall be computed by dividing any interconnection charge revenues that the local exchange carrier anticipates will be reassigned to other, facilities-based rate elements in the future by the total interstate local transport minutes, and adding thereto the per minute amount calculated pursuant to paragraph (b) of this section.

[62 FR 66030, Dec. 17, 1997, as amended at 66 FR 59732, Nov. 30, 2001]

§ 69.125 Dedicated signalling transport.

(a) Dedicated signalling transport shall consist of two elements, a signalling link charge and a signalling transfer point (STP) port termination charge.

(b)(1) A flat-rated signalling link charge expressed in dollars and cents per unit of capacity shall be assessed upon all interexchange carriers and other persons that use facilities between an interexchange carrier or other person's common channel signalling network and a telephone company signalling transfer point or equivalent facilities offered by a telephone company. Signalling link charges may be distance-sensitive. Distance shall be measured as airline kilometers between the signalling point of interconnection of the interexchange carrier's or other person's common channel signalling network and the telephone company's signalling transfer point.

(2) Signalling link rates will generally be presumed reasonable if they are based on the interoffice charges for equivalent special access services. Telephone companies that have, before February 18, 1993, tariffed a signalling link service for signalling transport between the interexchange carrier's or other person's common channel signalling network and the telephone company's STP are permitted to use the rates that are in place.

(c) A flat-rated STP port termination charge expressed in dollars and cents per port shall be assessed upon all interexchange carriers and other persons that use dedicated signalling transport.

[57 FR 54721, Nov. 20, 1992, as amended at 58 FR 41191, Aug. 3, 1993; 58 FR 44950, Aug. 25, 1993; 62 FR 31935, June 11, 1997]

§ 69.128 Billing name and address.

Appropriate subelements shall be established for the use of equipment or facilities that are associated with offerings of billing name and address.

[58 FR 36145, July 6, 1993]

§ 69.129 Signalling for tandem switching.

A charge that is expressed in dollars and cents shall be assessed upon the purchasing entity by a local telephone company for provision of signalling for tandem switching.

[59 FR 32930, June 27, 1994]

§ 69.130 Line port costs in excess of basic analog service.

(a) To the extent that the costs of ISDN line ports, and line ports associated with other services, exceed the costs of a line port used for basic, analog service, non-price cap local exchange carriers may recover the difference through a separate monthly end-user charge, provided that no portion of such excess cost may be recovered through other common line access charges, or through Connect America Fund Broadband Loop Support.

(b) The maximum charge a non-price cap local exchange carrier that elects model-based support pursuant to § 54.311 of this chapter or Alaska Plan support pursuant to § 54.306 of this chapter may assess is the rate in effect on the last day of the month preceding the month for which model-based support or Alaska Plan support, as applicable, is first provided.

[81 FR 24345, Apr. 25, 2016, amended at 81 FR 69716, Oct. 7, 2016]

§ 69.131 Universal service end user charges.

To the extent the company makes contributions to the Universal Service Support Mechanisms pursuant to

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§§ 54.706 and 54.709 of this chapter and the non-price cap local exchange carrier seeks to recover some or all of the amount of such contribution, the non-price cap local exchange carrier shall recover those contributions through a charge to end users other than Lifeline users. The charge to recover these contributions is not part of any other element established pursuant to part 69. Such a charge may be assessed on a per-line basis or as a percentage of interstate retail revenues, and at the option of the local exchange carrier it may be combined for billing purposes with other end user retail rate elements. A non-price cap local exchange carrier opting to assess the Universal Service end-user rate element on a per-line basis may apply that charge using the "equivalency" relationships established for the multi-line business PICC for Primary Rate ISDN service, as per § 69.153(d), and for Centrex lines, as per § 69.153(e).

[66 FR 59732, Nov. 30, 2001]

§ 69.132 End user Consumer Broadband-Only Loop charge for non-price cap incumbent local exchange carriers.

(a) This section is applicable only to incumbent local exchange carriers that are not subject to price cap regulation as that term is defined in § 61.3(ee) of this chapter.

(b) A charge that is expressed in dollars and cents per line per month may be assessed upon end users that subscribe to Consumer Broadband-Only Loop service. Such charge shall be assessed for each line without regulated local exchange voice service provided by a rate-of-return incumbent local exchange carrier to a customer, for use in connection with fixed Broadband Internet access service, as defined in § 8.2 of this chapter.

(c) For carriers not electing model-based support pursuant to § 54.311 of this chapter or Alaska Plan support pursuant to § 54.306 of this chapter, the single-line rate or charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the Consumer Broadband-Only Loop category (net of the projected annual Connect America Fund Broadband Loop Support attributable to consumer

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broadband-only loops) by the projected average number of consumer broadband-only service lines in use during such annual period.

(d) The maximum monthly per line charge for each Consumer Broadband-Only Loop provided by a non-price cap local exchange carrier that elects model-based support pursuant to § 54.311 of this chapter or Alaska Plan support pursuant to § 54.306 of this chapter shall be \$42.

[48 FR 10358, Mar. 11, 1983, as amended at 81 FR 24345, Apr. 25, 2016; 81 FR 69716, Oct. 7, 2016]

Subpart C—Computation of Charges for Price Cap Local Exchange Carriers

SOURCE: 62 FR 31935, June 11, 1997, unless otherwise noted.

§ 69.151 Applicability.

This subpart shall apply only to telephone companies subject to the price cap regulations set forth in part 61 of this chapter.

§ 69.152 End user common line for price cap local exchange carriers.

(a) A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charge shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) [Reserved]

(c) The charge for each subscriber line associated with a public telephone shall be equal to the monthly charge computed in accordance with paragraph (k) of this section.

(d)(1) Beginning July 1, 2000, in a study area that does not have deaveraged End User Common Line Charges, the maximum monthly charge for each primary residential or single-

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line business local exchange service subscriber line shall be the lesser of:

(i) The Average Price Cap CMT Revenue per Line month as defined in § 61.3(d) of this chapter; or

(ii) The following:

- (A) On July 1, 2000, \$4.35.
- (B) On July 1, 2001, \$5.00.
- (C) On July 1, 2002, \$6.00.
- (D) On July 1, 2003, \$6.50.

(2) In the event that GDP-PI exceeds 6.5% or is less than 0%, the maximum monthly charge in paragraph (d)(1)(ii) of this section and the cap will be adjusted pursuant to § 61.45(b)(1)(iii) of this chapter.

(e)(1) Beginning July 1, 2000, in a study area that does not have deaveraged End User Common Line Charges, the maximum monthly charge for each non-primary residential local exchange service subscriber line shall be the lesser of:

- (i) \$7.00; or
- (ii) The greater of:

(A) The rate as of June 30, 2000 less reductions needed to ensure over recovery of CMT Revenues does not occur; or

(B) The Average Price Cap CMT Revenue per Line month as defined in § 61.3(d) of this chapter.

(2) In the event that GDP-PI is greater than 6.5% or is less than 0%, the maximum monthly charge in paragraph (e)(1)(i) of this section and the cap will be adjusted pursuant to § 61.45(b)(1)(iii) of this chapter.

(3) Where the local exchange carrier provides a residential line to another carrier so that the other carrier may resell that residential line to a residence that already receives a primary residential line, the local exchange carrier may collect the non-primary residential charge described in paragraph (e) of this section from the other carrier.

(f) The charge for each primary residential local exchange service subscriber line shall be the same as the charge for each single-line business local exchange service subscriber line.

(g) A line shall be deemed to be a residential subscriber line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.

(h) Effective July 1, 1999, only one of the residential subscriber lines a price

cap local exchange carrier provides to a location shall be deemed to be a primary residential line.

(1) Effective July 1, 1999, for purposes of § 69.152(h) of this chapter, "residential subscriber line" includes residential lines that a price cap local exchange carrier provides to a competitive local exchange carrier that resells the line and on which the price cap local exchange carrier may assess access charges.

(2) Effective July 1, 1999, if a customer subscribes to residential lines from a price cap local exchange carrier and at least one reseller of the price cap local exchange carrier's lines, the line sold by the price cap local exchange carrier shall be the primary line, except that if a resold price cap LEC line is already the primary line, the resold line will remain the primary line should a price cap local exchange carrier subsequently sell an additional line to that residence.

(i) A line shall be deemed to be a single-line business subscriber line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.

(j) No charge shall be assessed for any WATS access line.

(k)(1) Beginning on July 1, 2000, for any study area that does not have deaveraged End User Common Line charges and in the absence of voluntary reductions, the maximum monthly End User Common Line Charge for multi-line business lines will be the lesser of:

- (i) \$9.20; or
- (ii) The greater of:

(A) The rate as of June 30, 2000, less reductions needed to ensure over recovery of CMT Revenues does not occur; or

(B) The Average Price Cap CMT Revenue per Line month as defined in § 61.3(d) of this chapter.

NOTE TO PARAGRAPH (k)(1): Except when the local exchange carrier reduces the rate through voluntary reductions, the multi-line business End User Common Line charge will be frozen until the study area's multi-line business PICC and CCL charge are eliminated.

(2) In the event that GDP-PI is greater than 6.5% or is less than 0%, the

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maximum monthly charge in paragraph (k)(1)(i) of this section and the cap will be adjusted pursuant to § 61.45(b)(1)(iii) of this chapter.

(1)(1) Beginning January 1, 1998, local exchange carrier shall assess no more than one End User Common Line charge as calculated under the applicable method under paragraph (e) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) Local exchange carriers shall assess no more than five End User Common Line charges as calculated under paragraph (k) of this section for Primary Rate Interface ISDN service.

(m) In the event the local exchange carrier charges less than the maximum End User Common Line charge for any subscriber lines, the local exchange carrier may not recover the difference between the amount collected and the maximum from carrier common line charges or PICCs.

(n)–(p) [Reserved]

(q) *End User Common Line Charge D averaging.* Beginning on July 1, 2000, local exchange carriers may geographically deaverage End User Common Line charges subject to the following conditions:

(1) In order for a price cap local exchange carrier to be allowed to de-average End User Common Line charges within a study area, the price cap local exchange carrier must have state Commission approved geographically deaveraged rates for UNE loops within that study area. Except where a LEC geographically deaverages through voluntary reductions, before a price cap local exchange carrier may geographically deaverage its End User Common Line rates, its Originating and Terminating CCL and Multi-line Business PICC rates in that study area must equal \$0.00.

(2) All geographic deaveraging of End User Common Line charges by customer class within a study area must be according to the state commission-approved UNE loop zone. Solely for the purposes of determining interstate subscriber line charges and the interstate access universal service support described in §§ 54.806 and 54.807 of this chapter, a price cap local exchange carrier may not have more than four geo-

graphic End User Common Line Charge/Universal Service zones absent a review by the Commission. Where a price cap local exchange carrier has more than four state-created UNE zones and the Commission has not approved use of additional zones, the price cap local exchange carrier will determine, at its discretion, which state-created UNE zones to consolidate so that it has no more than four zones for the purpose of determining interstate subscriber line charges and interstate access universal service support.

(3) Within a given zone, Multi-line Business End User Common Line rates cannot fall below Primary Residential and Single-Line Business or Non-Primary Residential End User Common Line charges. Non-Primary End User Common Line charges cannot fall below Primary Residential and Single-Line Business charges.

(4) For any given class of customer in any given zone, the Zone deaveraged End User Common Line Charge in that zone must be greater than or equal to the Zone deaveraged End User Common Line charge in the zone with the next lower Zone Average Revenue Per Line.

(5) The sum of all revenues per month that would be generated from all deaveraged End User Common Line charges in all zones within a study area plus Interstate Access Universal Service Support per Line month (as defined in § 54.807 of this chapter) for the applicable customer classes and zones receiving such support multiplied by corresponding base period lines, divided by the number of base period lines in that study area cannot exceed Average Price Cap CMT Revenue per Line month as defined in § 61.3(d) of this chapter for that study area. In addition, the sum of revenues per month that would be generated from all deaveraged End User Common Line charges in all End User Common Line charge deaveraging zones within a study area plus revenues per month from all End User Common Line charge, multi-line business PICC and CCL charges from study areas within that study area that have not geographically deaveraged End User Common Line charges plus the sum of all Interstate Access Universal Service Support per Line month (as defined in

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§ 54.807 of this chapter) for the applicable customer classes and zones receiving such support, multiplied by the corresponding base period lines for the applicable customer classes and zones within the study area, divided by the number of total base period lines in the study area cannot exceed Average Price Cap CMT Revenue per Line month as defined in § 61.3(d) of this chapter for the study area.

(6) *Maximum charge.* The maximum zone deaveraged End User Common Line Charge that may be charged in any zone is the applicable cap specified in § 69.152(d)(1), § 69.152(e)(1)(i) or § 69.152(k)(1)(i) Zone Average Revenue Per Line is the Average Price Cap CMT Revenue per Line month allocated to a particular state-defined zone used for deaveraging of UNE loop prices. The zone average revenue per line is computed pursuant to § 61.3 (zz) of this chapter.

(7) *Minimum charge.* Except where a local exchange carrier chooses to lower the deaveraged End User Common Line charge through voluntary reductions, the minimum zone deaveraged End User Common Line charge in any zone in a study area is at least the Minimum End User Common Line charge. Minimum End User Common Line charge is Zone Average Revenue Per Line for the zone with the lowest Zone Average Revenue Per Line in that study area plus an amount per line calculated to recover the difference between Interstate Access Universal Service Support Per Line (as defined in § 54.807 of this chapter) multiplied by base period lines for the applicable customer class and zones receiving such support and Study Area Above Benchmark Revenues, first from Zone 1 until the End User Common Line charges in Zone 1 equal the End User Common Line charges in Zone 2, and then from lines in Zones 1 and 2 equally until the End User Common Line charges in those Zones reach Zone 3 (with all End User Common Line charges subject to the applicable residential and multi-line business lines nominal caps).

(i) For the purposes of this part, "Study Area Above Benchmark Revenues" is the sum of all Zone Above Benchmark Revenues.

(ii) For the purposes of this part, "Zone Above Benchmark Revenues" is calculated as follows:

Zone Above Benchmark Revenues is the sum of Zone Above Benchmark Revenues for Residential and Single-line Business lines and Zone Above Benchmark Revenues for Multi-line Business lines. Zone Above Benchmark Revenues for Residential and Single-line Business lines is, within each zone, (Zone Average Revenue Per Line minus \$7.00) multiplied by all eligible telecommunications carrier Base Period Residential and Single-line Business lines times 12. If negative, the Zone Above Benchmark Revenues for Residential and Single-line Business lines for the zone is zero. Zone Above Benchmark Revenues for Multi-line Business lines is, within each zone,

(Zone Average Revenue Per Line minus \$9.20) multiplied by all eligible telecommunications carrier zone Base Period Multi-line Business lines times 12. If negative, the Zone Above Benchmark Revenues for Multi-line Business lines for the zone is zero.

(8) *Voluntary Reductions.* A "Voluntary Reduction" is one in which the local exchange carrier reduces prices other than through offset of net increases in End User Common Line charge revenues or Interstate Access Universal Service support received pursuant to § 54.807 of this chapter, or through increases in other zone deaveraged End User Common Line charges.

[65 FR 38701, June 21, 2000; 65 FR 57744, Sept. 26, 2000]

§ 69.153 Presubscribed interexchange carrier charge (PICC).

(a) A charge expressed in dollars and cents per line may be assessed upon the Multi-line business subscriber's presubscribed interexchange carrier to recover revenues totaling Average Price Cap CMT Revenues per Line month times the number of base period lines less revenues recovered through the End User Common Line charge established under § 69.152 and Interstate Access Universal Service Support Per Line (as defined in § 54.807 of this chapter) multiplied by base period lines for the applicable customer class and zones

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receiving such support, up to a maximum of \$4.31 per line per month. In the event the ceilings on the PICC prevent the PICC from recovering all the residual common line/marketing and residual interconnection charge revenues, the PICC shall recover all residual common line/marketing revenues before it recovers residual interconnection charge revenues.

(b) If an end-user customer does not have a presubscribed interexchange carrier, the local exchange carrier may collect the PICC directly from the end user.

(c) [Reserved]

(d) Local exchange carriers shall assess no more than five PICCs as calculated under paragraph (a) of this section for Primary Rate Interface ISDN service.

(e) The maximum monthly PICC for Centrex lines shall be one-ninth of the maximum charge determined under paragraph (a) of this section, except that if a Centrex customer has fewer than nine lines, the maximum monthly PICC for those lines shall be the maximum charge determined under paragraph (a) of this section divided by the customer's number of Centrex lines.

(f) The PICC shall not be applicable to any payphone lines.

(g)–(h) [Reserved]

[65 FR 38703, June 21, 2000; 65 FR 57744, Sept. 26, 2000, as amended at 68 FR 43329, July 22, 2003]

§ 69.154 Per-minute carrier common line charge.

(a) Local exchange carriers may recover a per-minute carrier common line charge from interexchange carriers, collected on originating access minutes and calculated using the weighting method set forth in paragraph (c) of this section. The maximum such charge shall be the lower of:

(1) The per-minute rate using base period demand that would recover the maximum allowable carrier common line revenue as defined in § 61.46(d) of this chapter; or

(2) The sum of the local switching, carrier common line and interconnection charge charges assessed on originating minutes on December 31, 1997, minus the local switching charges assessed on originating minutes.

(b) To the extent that paragraph (a) of this section does not recover from interexchange carriers all permitted carrier common line revenue, the excess may be collected through a per-minute charge on terminating access calculated using the weighting method set forth in paragraph (c) of this section.

(c) For each Carrier Common Line access element tariff, the premium originating Carrier Common Line charge shall be set at a level that recovers revenues allowed under paragraphs (a) and (b) of this section. The non-premium charges shall be equal to .45 multiplied by the premium charges.

[62 FR 31935, June 11, 1997, as amended at 65 FR 38703, June 21, 2000]

§ 69.155 Per-minute residual interconnection charge.

(a) Local exchange carriers may recover a per-minute residual interconnection charge on originating access. The maximum such charge shall be the lower of:

(1) The per-minute rate that would recover the total annual residual interconnection charge revenues permitted less the portion of the residual interconnection charge allowed to be recovered under § 69.153; or

(2) The sum of the local switching, carrier common line and residual interconnection charges assessed on originating minutes on December 31, 1997, minus the local switching charges assessed on originating minutes, less the maximum amount allowed to be recovered under § 69.154(a).

(b) To the extent that paragraph (a) of this section prohibits a local exchange carrier from recovering all of the residual interconnection charge revenues permitted, the residual may be collected through a per-minute charge on terminating access.

(c) No portion of the charge assessed pursuant to paragraphs (a) or (b) of this section that recovers revenues that the local exchange carrier anticipates will be reassigned to other, facilities-based rate elements, including the tandem-switching rate element described in § 69.111(g), the three-part tandem switched transport rate structure described in § 69.111(a)(2), and port and multiplexer charges described in

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§ 69.111(l), shall be assessed upon minutes utilizing the local exchange carrier's local switching facilities, but not the local exchange carrier's transport service.

(2) If a local exchange carrier cannot recover its full residual interconnection charge revenues through the PICC mechanism established in § 69.153, and will consequently cover a portion of its residual interconnection charge revenues through per-minute charges assessed pursuant to paragraphs (a) and (b) of this section, then the local exchange carrier must allocate its residual interconnection charge revenues subject to the exemption established in paragraph (c)(1) of this section between the PICC and the per-minute residual interconnection charge in the same proportion as other residual interconnection charge revenues are allocated between these two recovery mechanisms.

[62 FR 31938, June 11, 1997; 62 FR 40460, July 29, 1997, as amended at 62 FR 56133, Oct. 29, 1997]

§ 69.156 Marketing expenses.

Effective July 1, 2000, the marketing expenses formerly allocated to the common line and traffic sensitive baskets, and the switched services within the trunking basket pursuant to § 32.6610 of this chapter and § 69.403 will now be recovered in the CMT basket created pursuant to § 61.42(d)(1) of this chapter. These marketing expenses will be recovered through the elements outlined in §§ 69.152, 69.153 and 69.154.

[65 FR 38703, June 21, 2000]

§ 69.157 Line port costs in excess of basic, analog service.

To the extent that the costs of ISDN line ports, and line ports associated with other services, exceed the costs of a line port used for basic, analog service, local exchange carriers may recover the difference through a separate monthly end-user charge. As of June 30, 2000, these rates will be capped until June 30, 2005.

[65 FR 38704, June 21, 2000; 65 FR 57744, Sept. 26, 2000]

§ 69.158 Universal service end user charges.

To the extent the company makes contributions to the Universal Service Support Mechanisms pursuant to §§ 54.706 and 54.709 of this chapter and the local exchange carrier seeks to recover some or all of the amount of such contribution, the local exchange carrier shall recover those contributions through a charge to end users other than Lifeline users. These contributions are not a part of any price cap baskets, and the charge to recover these contributions is not part of any other element established pursuant to part 69. Such a charge may be assessed on a per-line basis or as a percentage of interstate retail revenues, and at the option of the local exchange carrier it may be combined for billing purposes with other end user retail rate elements. A local exchange carrier opting to assess the Universal Service end-user rate element on a per-line basis may apply that charge using the "equivalency" relationships established for the multi-line business PICC for Primary Rate ISDN service, as per § 69.153(d), and for Centrex lines, as per § 69.153(e).

[65 FR 38704, June 21, 2000; 65 FR 57744, Sept. 26, 2000]

Subpart D—Apportionment of Net Investment

SOURCE: 52 FR 37312, Oct. 6, 1987, unless otherwise noted.

§ 69.301 General.

(a) For purposes of computing annual revenue requirements for access elements net investment as defined in § 69.2 (z) shall be apportioned among the interexchange category, the billing and collection category and access elements as provided in this subpart. For purposes of this subpart, local transport includes five elements: entrance facilities, direct-trunked transport, tandem-switched transport, dedicated signaling transport, and the interconnection charge. Expenses shall be apportioned as provided in subpart E of this part.

(b) The End User Common Line and Carrier Common Line elements shall

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be combined for purposes of this subpart and subpart E of this part. Those elements shall be described collectively as the Common Line element. The Common Line element revenue requirement shall be segregated in accordance with subpart F of this part.

[52 FR 37312, Oct. 6, 1987, as amended at 57 FR 54722, Nov. 20, 1992]

§ 69.302 Net investment.

(a) Investment in Accounts 2001, 1220 and Class B Rural Telephone Bank Stock booked in Account 1410 shall be apportioned among the interexchange category, billing and collection category and appropriate access elements as provided in §§ 69.303 through 69.309.

(b) Investment in Accounts 2002, 2003 and to the extent such inclusions are allowed by this Commission, Account 2005 shall be apportioned on the basis of the total investment in Account 2001, Telecommunications Plant in Service.

[52 FR 37312, Oct. 6, 1987, as amended at 54 FR 3456, Jan. 24, 1989; 67 FR 5703, Feb. 6, 2002]

§ 69.303 Information origination/termination equipment (IOT).

Investment in all other IOT shall be apportioned between the Special Access and Common Line elements on the basis of the relative number of equivalent lines in use, as provided herein. Each interstate or foreign Special Access Line, excluding lines designated in § 69.115(e), shall be counted as one or more equivalent lines where channels are of higher than voice bandwidth, and the number of equivalent lines shall equal the number of voice capacity analog or digital channels to which the higher capacity is equivalent. Local exchange subscriber lines shall be multiplied by the interstate Subscriber Plant Factor to determine the number of equivalent local exchange subscriber lines.

[52 FR 37312, Oct. 6, 1987, as amended at 62 FR 31938, June 11, 1997]

§ 69.304 Subscriber line cable and wire facilities.

(a) Investment in local exchange subscriber lines shall be assigned to the Common Line element.

(b) Investment in interstate and foreign private lines and interstate WATS access lines shall be assigned to the Special access element.

[52 FR 37312, Oct. 6, 1987, as amended at 62 FR 31938, June 11, 1997]

§ 69.305 Carrier cable and wire facilities (C&WF).

(a) Carrier C&WF that is not used for "origination" or "termination" as defined in § 69.2(bb) and § 69.2(cc) shall be assigned to the interexchange category.

(b) Carrier C&WF, other than WATS access lines, not assigned pursuant to paragraph (a), (c), or (e) of this section that is used for interexchange services that use switching facilities for origination and termination that are also used for local exchange telephone service shall be apportioned to the local Transport elements.

(c) Carrier C&WF that is used to provide transmission between the local exchange carrier's signalling transfer point and the database shall be assigned to the Line Information Database sub-element at § 69.120(a).

(d) All Carrier C&WF that is not apportioned pursuant to paragraphs (a), (b), (c), and (e) of this section shall be assigned to the Special Access element.

(e) Carrier C&WF that is used to provide transmission between the local exchange carrier's signalling transfer point and the local switch shall be assigned to the local switching category.

[52 FR 37312, Oct. 6, 1987, as amended at 57 FR 24380, June 9, 1992; 58 FR 30995, May 28, 1993; 62 FR 31938, June 11, 1997]

§ 69.306 Central office equipment (COE).

(a) The Separations Manual categories shall be used for purposes of apportioning investment in such equipment except that any Central office equipment attributable to local transport shall be assigned to the Transport elements.

(b) COE Category 1 (Operator Systems Equipment) shall be apportioned among the interexchange category and the access elements as follows: Category 1 that is used for intercept services shall be assigned to the Local Switching element. Category 1 that is used for directory assistance shall be

assigned to the Information element. Category 1 other than service observation boards that is not assigned to the Information element and is not used for intercept services shall be assigned to the interexchange category. Service observation boards shall be apportioned among the interexchange category, and the Information and Transport access elements based on the remaining combined investment in COE Category 1, Category 2 and Category 3.

(c) COE Category 2 (Tandem Switching Equipment) that is deemed to be exchange equipment for purposes of the Modification of Final Judgment in *United States v. Western Electric Co.* shall be assigned to the tandem switching charge subelement and the interconnection charge element. COE Category 2 which is associated with the signal transfer point function shall be assigned to the local switching category. COE Category 2 which is used to provide transmission facilities between the local exchange carrier's signalling transfer point and the database shall be assigned to the Line Information Database subelement at § 69.120(a). All other COE Category 2 shall be assigned to the interexchange category.

(d) COE Category 3 (Local Switching Equipment) shall be assigned to the Local Switching element except as provided in paragraph (a) of this section; and that,

(1) For telephone companies subject to price cap regulation set forth in part 61 of this chapter, line-side port costs shall be assigned to the Common Line rate element; and

(2) [Reserved]

(3) Beginning July 1, 2012, a non-price cap local exchange carrier shall assign line-side port costs to the Common Line rate element equal to the amount of line-side port costs it shifted in its 2011 projected Interstate Switched Access Revenue Requirement.

(e) COE Category 4 (Circuit Equipment) shall be apportioned among the interexchange category and the Common Line, Transport, and Special Access elements. COE Category 4 shall be apportioned in the same proportions as the associated Cable and Wireless Facilities; except that any DS1/voice-grade multiplexer investment associated with analog local switches and as-

signed to the local transport category by this section shall be reallocated to the local switching category.

[52 FR 37312, Oct. 6, 1987, as amended at 57 FR 54722, Nov. 20, 1992; 58 FR 30995, May 28, 1993; 62 FR 31938, June 11, 1997; 66 FR 59732, Nov. 30, 2001; 78 FR 26269, May 6, 2013; 81 FR 24345, Apr. 25, 2016]

§ 69.307 General support facilities.

(a) General purpose computer investment used in the provision of the Line Information Database sub-element at § 69.120(b) shall be assigned to that sub-element.

(b) General purpose computer investment used in the provision of the billing name and address element at § 69.128 shall be assigned to that element.

(c)(1) Until June 30, 2002, for all local exchange carriers not subject to price cap regulation and for other carriers that acquire all of the billing and collection services that they provide to interexchange carriers from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

(2) Beginning July 1, 2002, for all local exchange carriers that acquire all of the billing and collection services that they provide to interexchange carriers from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

(d) For local exchange carriers subject to price cap regulation and not

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covered by Section 69.307(c), a portion of General purpose computer investment (Account 2124), investment in Land (Account 2111), Buildings (Account 2121), and Office equipment (Account 2123) shall be apportioned to the billing and collection category on the basis of the Big Three Expense Factors allocator, defined in Section 69.2 of this Part, modified to exclude expenses that are apportioned on the basis of allocators that include General Support Facilities investment. The remaining portion of investment in these four accounts together with all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access Elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

(e) Beginning July 1, 2002, for non-price cap local exchange carriers not covered by § 69.307(c)(2), a portion of General purpose computer investment shall be apportioned to the billing and collection category on the basis of the Big Three Expense Factors allocator, defined in § 69.2, modified to exclude expenses that are apportioned on the basis of allocators that include General Support Facilities investment. The remaining General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access Elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

[58 FR 30995, May 28, 1993, as amended at 58 FR 36145, July 6, 1993; 62 FR 31939, June 11, 1997; 62 FR 40464, July 29, 1997; 62 FR 65622, Dec. 15, 1997; 66 FR 59732, Nov. 30, 2001]

§ 69.308 [Reserved]**§ 69.309 Other investment.**

Investment that is not apportioned pursuant to §§ 69.302 through 69.307 shall be apportioned among the interexchange category, the billing and collection category and access elements

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in the same proportions as the combined investment that is apportioned pursuant to §§ 69.303 through 69.307.

[62 FR 31939, June 11, 1997]

§ 69.310 Capital leases.

Capital Leases in Account 2680 shall be directly assigned to the appropriate interexchange category or access elements consistent with the treatment prescribed for similar plant costs or shall be apportioned in the same manner as Account 2001.

§ 69.311 Consumer Broadband-Only Loop investment.

(a) Each non-price cap local exchange carrier shall remove consumer broadband-only loop investment assigned to the special access category by §§ 69.301 through 69.310 from the special access category and assign it to the Consumer Broadband-Only Loop category when the tariff charge described in § 69.132 of this part becomes effective.

(b) Until June 30, 2018, the consumer broadband-only loop investment to be removed from the special access category shall be determined using the following estimation method.

(1) To determine the investment in Common Line facilities as if 100 percent were allocated to the interstate jurisdiction, a carrier shall use 100 percent as the interstate allocator in determining investment and the allocation of investment to the common line category under part 36 of this chapter and this part.

(2) The result of paragraph (b)(1) of this section shall be divided by the number of voice and voice/data lines in the study area to produce an average investment per line.

(3) The average investment per line determined by paragraph (b)(2) of this section shall be multiplied by the number of Consumer Broadband-only Loops in the study area to derive the investment to be shifted from the Special Access category to the Consumer Broadband-only Loop category.

(c) Beginning July 1, 2018, each carrier shall determine, consistent with the Part 36 and Part 69 cost allocation rules, the amount of Consumer Broadband-Only Loop investment and related reserves and other investment

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assigned to the interstate Special Access category that is to be shifted to the Consumer Broadband-Only Loop category.

[81 FR 24345, Apr. 25, 2016, as amended at 82 FR 14340, Mar. 20, 2017; 83 FR 14189, Apr. 3, 2018]

Subpart E—Apportionment of Expenses

SOURCE: 52 FR 37313, Oct. 6, 1987, unless otherwise noted.

§ 69.401 Direct expenses.

(a) Plant Specific Operations Expenses in Accounts 6110 and 6120 shall be apportioned among the interexchange category, the billing and collection category and appropriate access elements on the following basis:

(1) Account 6110—Apportion on the basis of other investment apportioned pursuant to § 69.309.

(2) Account 6120—Apportion on the basis of General and Support Facilities investment pursuant to § 69.307.

(b) Plant Specific Operations Expenses in Accounts 6210, 6220, and 6230, shall be apportioned among the interexchange category and access elements on the basis of the apportionment of the investment in Accounts 2210, 2220, and 2230, respectively; provided that any expenses associated with DS1/voice-grade multiplexers, to the extent that they are not associated with an analog tandem switch, assigned to the local transport category by this paragraph shall be reallocated to the local switching category; provided further that any expenses associated with common channel signalling included in Account 6210 shall be assigned to the local transport category.

(c) Plant Specific Operations Expenses in Accounts 6310 and 6410 shall be assigned to the appropriate investment category and shall be apportioned among the interexchange category and access elements in the same proportions as the total associated investment.

(d) Plant Non Specific Operations Expenses in Accounts 6510 and 6530 shall be apportioned among the interexchange category, the billing and collection category, and access elements in the

same proportions as the combined investment in COE, IOT, and C&WF apportioned to each element and category.

(e) Plant Non Specific Operations Expenses in Account 6540 shall be assigned to the interexchange category.

(f) Plant Non Specific Operations Expenses in Account 6560 shall be apportioned among the interexchange category, the billing and collection category, and access elements in the same proportion as the associated investment.

(g) Amortization of embedded customer premises wiring investment shall be deemed to be associated with § 69.303(b) IOT investment for purposes of the apportionment described in paragraph (c) of this section.

[52 FR 37313, Oct. 6, 1987, as amended at 62 FR 31939, June 11, 1997]

§ 69.402 Operating taxes (Account 7200).

(a) Federal income taxes, state and local income taxes, and state and local gross receipts or gross earnings taxes that are collected in lieu of a corporate income tax shall be apportioned among the interexchange category, the billing and collection category and all access elements based on the approximate net taxable income on which the tax is levied (positive or negative) applicable to each element and category.

(b) All other operating taxes shall be apportioned among the interexchange category, the billing and collection category and all access elements in the same manner as the investment apportioned to each element and category pursuant to § 69.309 Other Investment.

§ 69.403 Marketing expense (Account 6610).

Marketing expense shall be apportioned among the interexchange category and all access elements in the same proportions as the combined investment that is apportioned pursuant to § 69.309.

§ 69.404 Telephone operator services expenses in Account 6620.

Telephone Operator Services expenses shall be apportioned among the interexchange category, and the Local Switching and Information elements

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based on the relative number of weighted standard work seconds. For those companies who contract with another company for the provision of these services, the expenses incurred shall be directly assigned among the interexchange category and the Local Switching and Information elements on the basis of the bill rendered for the services provided.

§ 69.405 Published directory expenses in Account 6620.

Published Directory expenses shall be assigned to the Information element.

§ 69.406 Local business office expenses in Account 6620.

(a) Local business office expenses shall be assigned as follows:

(1) End user service order processing expenses attributable to presubscription shall be apportioned among the Common Line, Switching, and Transport elements in the same proportion as the investment apportioned to those elements pursuant to § 69.309.

(2) End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own interstate private line and special access service shall be assigned to the Special Access element.

(3) End user service order processing, payment and collection, and billing inquiry expenses attributable to interstate private line service offered by an interexchange carrier shall be assigned to the billing and collection category.

(4) End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own interstate message toll service shall be assigned to the interexchange category. End user service order processing, payment and collection, and billing inquiry expenses attributable to interstate message toll service offered by an interexchange carrier shall be assigned to the billing and collection category. End user payment and collection and billing inquiry expenses attributable to End User Common Line access billing shall be assigned to the Common Line element.

(5) End user service order processing, payment and collection, and billing inquiry expenses attributable to TWX

service shall be assigned to the Special Access element.

(6) Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to private lines and special access shall be assigned to the Special Access element.

(7) Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to interstate switched access and message toll, shall be apportioned among the Common Line, Local Switching and Transport elements in the same proportion as the investment apportioned to those elements pursuant to § 69.309.

(8) Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to billing and collection service shall be assigned to the billing and collection category.

[52 FR 37313, Oct. 6, 1987, as amended at 62 FR 31939, June 11, 1997]

§ 69.407 Revenue accounting expenses in Account 6620.

(a) Revenue accounting expenses that are attributable to End User Common Line access billings shall be assigned to the Common Line element.

(b) Revenue Accounting Expenses that are attributable to carrier's carrier access billing and collecting expense shall be apportioned among all carrier's carrier access elements except the Common Line element. Such expenses shall be apportioned in the same proportion as the combined investment in COE, C&WF and IOT apportioned to those elements.

(c) Revenue Accounting Expenses allocated to the interstate jurisdiction that are attributable to the provision of billing name and address information shall be assigned to the Billing Name and Address element.

(d) All other Revenue Accounting Expenses shall be assigned to the billing and collection category.

[52 FR 37313, Oct. 6, 1987, as amended at 58 FR 65671, Dec. 16, 1993]

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§ 69.408 All other customer services expenses in Account 6620.

All other customer services expenses shall be apportioned among the Interexchange category, the billing and collection category and all access elements based on the combined expenses in §§ 69.404 through 69.407.

[52 FR 37313, Oct. 6, 1987, as amended at 54 FR 3456, Jan. 24, 1989]

§ 69.409 Corporate operations expenses (included in Account 6720).

All corporate operations expenses shall be apportioned among the interexchange category, the billing and collection category and all access elements in accordance with the Big 3 Expense Factor as defined in § 69.2(f).

§ 69.411 Other expenses.

Except as provided in §§ 69.412, 69.413, and 69.414, expenses that are not apportioned pursuant to §§ 69.401 through 69.409 shall be apportioned among the interexchange category and all access elements in the same manner as § 69.309 Other investment.

[62 FR 31639, June 11, 1997]

§ 69.412 Non participating company payments/receipts.

For telephone companies that are not association Common Line tariff participants, the payment or receipt of funds described in § 69.612(a) and (b) shall be apportioned, respectively, as an addition to or a deduction from their common line revenue requirement.

§ 69.413 High cost loop support universal service fund expenses.

Beginning April 1, 1989, expenses allocated to the interstate jurisdiction pursuant to §§ 54.1310 and 36.641 of this chapter shall be assigned to the Universal Service Fund Element.

[79 FR 39193, July 9, 2014]

§ 69.414 Lifeline assistance expenses.

Expenses allocated to the interstate jurisdiction pursuant to § 36.741 shall be assigned to the Carrier Common Line element until March 31, 1989. Beginning April 1, 1989, such expenses shall be as-

signed to the Lifeline Assistance element.

§ 69.415 Reallocation of certain transport expenses.

(a)–(c) [Reserved]

(d) Beginning July 1, 2012, the amount of the Transport Interconnection Charges to be reallocated to each category shall be equal to the amount of Transport Interconnection Charge costs the non-price cap local exchange carrier was projected to shift to each category in projecting its 2011 Interstate Switched Access Revenue Requirement.

[66 FR 59733, Nov. 30, 2001, as amended at 78 FR 5750, Jan. 28, 2013; 78 FR 26269, May 6, 2013; 81 FR 24346, Apr. 25, 2016]

§ 69.416 Consumer Broadband-Only Loop expenses.

(a) Each non-price cap local exchange carrier shall remove consumer broadband-only loop expenses assigned to the Special Access category by §§ 69.401 through 69.415 from the special access category and assign them to the Consumer Broadband-Only Loop category when the tariff charge described in § 69.132 of this Part becomes effective.

(b) Until June 30, 2018, the consumer broadband-only loop expenses to be removed from the special access category shall be determined using the following estimation method.

(1) The expenses assigned to the Common Line category as if the common line expenses were 100 percent interstate shall be determined using the methodology employed in § 69.311(b)(1).

(2) The result of paragraph (b)(1) of this section shall be divided by the number of voice and voice/data lines in the study area to produce an average expense per line.

(3) The average expense per line determined by paragraph (b)(2) of this section shall be multiplied by the number of Consumer Broadband-only Loops in the study area to derive the expenses to be shifted from the Special Access category to the Consumer Broadband-only Loop category.

(c) Beginning July 1, 2018, each carrier shall determine, consistent with the Part 36 and Part 69 cost allocation rules, the amount of Consumer

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Broadband-Only Loop expenses assigned to the interstate Special Access category that are to be shifted to the Consumer Broadband-Only Loop category.

[81 FR 24346, Apr. 25, 2016, as amended at 83 FR 14189, Apr. 3, 2018]

Subpart F—Segregation of Common Line Element Revenue Requirement

§ 69.501 General.

(a) [Reserved]

(b) Until December 31, 2001, any portion of the Common Line element annual revenue requirement that is attributable to CPE investment or expense or surrogate CPE investment or expense shall be assigned to the Carrier Common Line element or elements.

(c) Until December 31, 2001, any portion of the Common Line element annual revenue requirement that is attributable to customer premises wiring included in IOT investment or expense shall be assigned to the Carrier Common Line element or elements.

(d) [Reserved]

(e) Until December 31, 2001, any portion of the Common Line element revenue requirement that is not assigned to Carrier Common Line elements pursuant to paragraphs (b) and (c) of this section shall be apportioned between End User Common Line and Carrier Common Line pursuant to § 69.502. Such portion of the Common Line element annual revenue requirement shall be described as the base factor portion for purposes of this subpart.

(f) Beginning January 1, 2002, the Common Line element revenue requirement shall be apportioned between End User Common Line and Carrier Common Line pursuant to § 69.502. The Common Line element annual revenue requirement shall be described as the base factor portion for purposes of this subpart.

[48 FR 10358, Mar. 11, 1983, as amended at 50 FR 18262, Apr. 30, 1985; 52 FR 21542, June 8, 1987; 52 FR 37314, Oct. 6, 1987; 61 FR 65364, Dec. 12, 1996; 62 FR 31939, June 11, 1997; 66 FR 59733, Nov. 30, 2001]

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§ 69.502 Base factor allocation.

Projected revenues from the following shall be deducted from the base factor portion to determine the amount that is assigned to the Carrier Common Line element:

(a) End User Common Line charges, less any marketing expense revenues recovered through end user common line charges pursuant to § 69.156;

(b) Special Access surcharges; and

(c) Beginning July 1, 2002, the portion of per-line support that carriers receive pursuant to § 54.901 of this chapter; and

(d) Line port costs in excess of basic analog service pursuant to § 69.130.

[62 FR 31939, June 11, 1997, as amended at 62 FR 40464, July 29, 1997; 66 FR 59733, Nov. 30, 2001; 78 FR 5750, Jan. 28, 2013]

Subpart G—Exchange Carrier Association

§ 69.601 Exchange carrier association.

(a) An association shall be established in order to prepare and file access charge tariffs on behalf of all telephone companies that do not file separate tariffs or concur in a joint access tariff of another telephone company for all access elements.

(b) All telephone companies that participate in the distribution of Carrier Common Line revenue requirement, pay long term support to association Common Line tariff participants, or receive payments from the transitional support fund administered by the association shall be deemed to be members of the association.

(c) All data submissions to the association required by this title shall be accompanied by the following certification statement signed by the officer or employee responsible for the overall preparation for the data submission:

CERTIFICATION

I am (title of certifying officer or employee). I hereby certify that I have overall responsibility for the preparation of all data in the attached data submission for (name of carrier) and that I am authorized to execute this certification. Based on information known to me or provided to me by employees responsible for the preparation of the data in this submission, I hereby certify that the data have been examined and reviewed and are complete, accurate, and consistent with

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the rules of the Federal Communications Commission.

Date: _____

Name: _____

Title: _____

(Persons making willful false statements in this data submission can be punished by fine or imprisonment under the provisions of the U.S. Code, Title 18, Section 1001).

[48 FR 10358, Mar. 11, 1983, as amended at 52 FR 21542, June 8, 1987; 60 FR 19530, Apr. 19, 1995]

§ 69.602 Board of directors.

(a) For purposes of this section, the association membership shall be divided into three subsets:

(1) The first subset shall consist of the telephone companies owned and operated by the seven Regional Bell Holding Companies;

(2) The second subset shall consist of all other telephone companies with annual operating revenues in excess of forty million dollars;

(3) The third subset shall consist of all other telephone companies. All commonly controlled companies shall be deemed to be one company for purposes of this section.

(b) There shall be fifteen directors of the association.

(c) Two directors shall represent the first subset, two directors shall represent the second subset, six directors shall represent the third subset, and five directors shall represent all three subsets.

(d) No director who represents all three subsets shall be a current or former officer or employee of the association or of any association member, or have a business relationship or other interest that could interfere with his or her exercise of independent judgment.

(e) Each subset of the association membership shall select the directors who will represent it through elections in which each member of the subset shall be entitled to one vote for each director position within that subset.

(f) The association membership shall select the directors who will represent all three subsets through an election in which each member of the association shall be entitled to one vote for each director position. No director representing all three subsets may serve

for more than six consecutive calendar years without standing for an election in which that director is opposed by at least one other candidate meeting the qualifications in paragraph (d) of this section.

(g) At least one director representing all three subsets shall be a member of each committee of association directors.

(h) For each access element or group of access elements for which voluntary pooling is permitted, there shall be a committee that is responsible for the preparation of charges for the associated access elements that comply with all applicable sections in this part.

[60 FR 19530, Apr. 19, 1995, as amended at 68 FR 46502, Aug. 6, 2003]

§ 69.603 Association functions.

(a) The Association shall not engage in any activity that is not related to the preparation of access charge tariffs or the collection and distribution of access charge revenues or the operation of a billing and collection pool on an untariffed basis unless such activity is expressly authorized by order of the Commission.

(b) Participation in Commission or court proceedings relating to access charge tariffs, the billing and collection of access charges, the distribution of access charge revenues, or the operation of a billing and collection pool on an untariffed basis shall be deemed to be authorized association activities.

(c)-(e) [Reserved]

(f) The association shall also prepare and file an access charge tariff containing terms and conditions for access service and form for the filing of rate schedules by telephone companies that choose to reference these terms and conditions while filing their own access rates.

(g) The association shall divide the expenses of its operations into two categories. The first category ("Category I Expenses") shall consist of those expenses that are associated with the preparation, defense, and modification of association tariffs, those expenses that are associated with the administration of pooled receipts and distributions of exchange carrier revenues resulting from association tariffs, those

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expenses that are associated with association functions pursuant to paragraphs (c) through (g) of this section, and those expenses that pertain to Commission proceedings involving this subpart. The second category ("Category II Expenses") shall consist of all other association expenses. Category I Expenses shall be sub-divided into three components in proportion to the revenues associated with each component. The first component ("Category I.A Expenses") shall be in proportion to High Cost Loop Support revenues. The second component ("Category I.B Expenses") shall be in proportion to the sum of the association End User Common Line revenues and the association Special Access Surcharge revenues. Interstate Common Line Support Revenues and Connect America Fund Broadband Loop Support revenues shall be included in the allocation base for Category I.B expenses. The third component ("Category I.C Expenses") shall be in proportion to the revenues from all other association interstate access charges.

(h)(1) The revenue requirement for association tariffs filed pursuant to § 69.4(c) shall not include any association expenses other than Category I.A Expenses.

(2) The revenue requirement for association tariffs filed pursuant to § 69.4(a) and (b)(2) shall not include any Association expenses other than Category I.B Expenses.

(3) The revenue requirement for association tariffs filed pursuant to § 69.4(b)(1) and (3)–(7) shall not include any association expenses other than Category I.C Expenses.

(4) No distribution to an exchange carrier of High Cost Loop Support revenues shall include adjustments for association expenses other than Category I.A. Expenses.

(5) No distribution to an exchange carrier of revenues from association End User Common Line charges shall include adjustments for association expenses other than Category I.B Expenses. Interstate Common Line Support and Connect America Fund Broadband Loop Support shall be subject to this provision.

(6) No distribution to an exchange carrier of revenues from association

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interstate access charges other than End User Common Line charges and Special Access Surcharges shall include adjustments for association expenses other than Category I.C Expenses.

(7) The association shall separately identify all Category I.A, I.B and I.C expenses in cost support materials filed with each annual association access tariff filing.

[54 FR 8197, Feb. 27, 1989, as amended at 54 FR 8199, Feb. 27, 1989; 62 FR 41306, Aug. 1, 1997; 63 FR 70578, Dec. 21, 1998; 66 FR 59733, Nov. 30, 2001; 81 FR 24346, Apr. 25, 2016]

§ 69.604 Billing and collection of access charges.

(a) Telephone companies shall bill and collect all access charges except those charges specified in §§ 69.116 and 69.117.

(b) All access charges shall be billed monthly.

[51 FR 9012, Mar. 17, 1986, as amended at 52 FR 21543, June 8, 1987]

§ 69.605 Reporting and distribution of pool access revenues.

(a) Access revenues and cost data shall be reported by participants in association tariffs to the association for computation of monthly pool revenues distributions in accordance with this subpart.

(b) Association expenses incurred during the month that are allowable access charge expenses shall be reimbursed before any other funds are disbursed.

(c) Except as provided in paragraph (b) of this section, payments to average schedule companies that are computed in accordance with § 69.606 shall be disbursed before any other funds are disbursed. For purposes of this part, a telephone company that was participating in average schedule settlements on December 1, 1982, shall be deemed to be an average schedule company except that any company that does not join in association tariffs for all access elements shall not be deemed to be an average schedule company.

(d) The residue shall be disbursed to telephone companies that are not average schedule companies in accordance with §§ 69.607 through 69.610.

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(e) The association shall submit a report on or before February 1 of each calendar year describing the association's cost study review process for the preceding calendar year as well as the results of that process. For any revisions to cost study results made or recommended by the association that would change the respective carrier's calculated annual common line or traffic sensitive revenue requirement by ten percent or more, the report shall include the following information:

- (1) The name of the carrier;
- (2) A detailed description of the revisions;
- (3) The amount of the revisions;
- (4) The impact of the revisions on the carrier's calculated common line and traffic sensitive revenue requirements; and
- (5) The carrier's total annual common line and traffic sensitive revenue requirement.

[48 FR 10358, Mar. 11, 1983, as amended at 51 FR 17027, May 8, 1986; 52 FR 21543, June 8, 1987; 54 FR 11537, Mar. 21, 1989; 60 FR 19530, Apr. 19, 1995]

§ 69.606 Computation of average schedule company payments.

(a) Payments shall be made in accordance with a formula approved or modified by the Commission. Such formula shall be designed to produce disbursements to an average schedule company that simulate the disbursements that would be received pursuant to § 69.607 by a company that is representative of average schedule companies.

(b) The association shall submit a proposed revision of the formula for each annual period subsequent to December 31, 1986, or certify that a majority of the directors of the association believe that no revisions are warranted for such period on or before December 31 of the preceding year.

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 10358, Mar. 11, 1983, as amended at 50 FR 41356, Oct. 10, 1985; 55 FR 6990, Feb. 28, 1990]

§ 69.607 Disbursement of Carrier Common Line residue.

(a) The association shall compute a monthly net balance for each member

telephone company that is not an average schedule company. If such a company has a negative net balance, the association shall bill that amount to such company. If such a company has a positive net balance, the association shall disburse that amount to such company.

(b) The net balance for such a company shall be computed by multiplying a hypothetical net balance for such a company by a factor that is computed by dividing the Carrier Common Line residue by the sum of the hypothetical net balances for such companies.

(c) The hypothetical net balance for each company shall be the sum of the hypothetical net balances for each access element. Such hypothetical net balances shall be computed in accordance with §§ 69.608 to 69.610.

[48 FR 10358, Mar. 11, 1983, as amended at 51 FR 42237, Nov. 24, 1986]

§ 69.608 Carrier Common Line hypothetical net balance.

The hypothetical net balance shall be equal to a Carrier Common Line revenue requirement for each such company that is computed in accordance with subpart F of this part.

§ 69.609 End User Common Line hypothetical net balances.

(a) If the company does not participate in the association tariff for such element, the hypothetical net balance shall be zero.

(b) If the company does participate in the association tariff for such element, the hypothetical net balance shall be computed by multiplying an amount that is computed by deducting access revenues collected by such company for such element from an End User Common Line revenue requirement for such company that is computed in accordance with subpart F of this part by a factor that is computed by dividing access revenues collected by all such companies for such element by an End User Common Line revenue requirement for all such companies that is computed in accordance with subpart F of this part. For purposes of this calculation, access revenues collected

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shall include any revenues foregone because of a voluntary reduction made pursuant to § 69.104(r)(7).

[48 FR 10358, Mar. 11, 1983, as amended at 66 FR 59733, Nov. 30, 2001]

§ 69.610 Other hypothetical net balances.

(a) The hypothetical net balance for an access element other than a Common Line element shall be computed as provided in this section.

(b) If the company does not participate in the association tariff for such element, the hypothetical net balance shall be zero.

(c) If the company does participate in the association tariff for such element, the hypothetical net balance shall be computed by deducting access revenues collected for such element from the sum of expense attributable to such element and the element residue apportioned to such company. The element residue shall be apportioned among such companies in the same proportions as the net investment attributable to such element.

(d) The element residue shall be computed by deducting expenses of all participating companies attributable to such element from revenues collected by all participating companies for such element.

[48 FR 10358, Mar. 11, 1983, as amended at 51 FR 42237, Nov. 24, 1986]

Subpart H—Pricing Flexibility

SOURCE: 64 FR 51267, Sept. 22, 1999, unless otherwise noted.

§ 69.701 Application of the rules in this subpart.

The rules in this subpart apply to all incumbent LECs subject to price cap regulation, as defined in § 61.3(bb) of this chapter, seeking pricing flexibility on the basis of the development of competition in parts of its service area for switched access services only.

[82 FR 25711, June 2, 2017]

§ 69.703 Definitions.

For purposes of this subpart:

(a) *Channel terminations.* (1) A channel termination between an IXC POP and a serving wire center is a dedicated

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channel connecting an IXC POP and a serving wire center, offered for purposes of carrying special access traffic.

(2) A channel termination between a LEC end office and a customer premises is a dedicated channel connecting a LEC end office and a customer premises, offered for purposes of carrying special access traffic.

(b) *Metropolitan Statistical Area (MSA).* This term shall have the definition provided in § 22.909(a) of this chapter.

(c) *Interexchange Carrier Point of Presence (IXC POP).* The point of interconnection between an interexchange carrier's network and a local exchange carrier's network.

(d) *Wire center.* For purposes of this subpart, the term "wire center" shall refer to any location at which an incumbent LEC is required to provide expanded interconnection for special access pursuant to § 64.1401(a) of this chapter, and any location at which an incumbent LEC is required to provide expanded interconnection for switched transport pursuant to § 64.1401(b)(1) of this chapter.

(e) *Study area.* A common carrier's entire service area within a state.

§ 69.705 Procedure.

Price cap LECs filing petitions for pricing flexibility shall follow the procedures set forth in § 1.774 of this chapter.

§ 69.707 Geographic scope of petition.

(a) *MSA.* (1) A price cap LEC filing a petition for pricing flexibility in an MSA shall include data sufficient to support its petition, as set forth in this subpart, disaggregated by MSA.

(2) A price cap LEC may request pricing flexibility for two or more MSAs in a single petition, provided that it submits supporting data disaggregated by MSA.

(b) *Non-MSA.* (1) A price cap LEC will receive pricing flexibility with respect to those parts of a study area that fall outside of any MSA, provided that it provides data sufficient to support a finding that competitors have collocated in a number of wire centers in that non-MSA region sufficient to satisfy the criteria for the pricing flexibility sought in the petition, as set

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forth in this subpart, if the region at issue were an MSA.

(2) The petitioner may aggregate data for all the non-MSA regions in a single study area for which it requests pricing flexibility in its petition.

(3) A petitioner may request pricing flexibility in the non-MSA regions of two or more of its study areas, provided that it submits supporting data disaggregated by study area.

§ 69.709 Dedicated transport and special access services other than channel terminations between LEC end offices and customer premises.

(a) **Scope.** This paragraph governs requests for pricing flexibility with respect to the following services:

(1) Entrance facilities, as described in § 69.110.

(2) Transport of traffic over dedicated transport facilities between the serving wire center and the tandem switching office, as described in § 69.111(a)(2)(iii).

(3) Direct-trunked transport, as described in § 69.112.

(4) Special access services, as described in § 69.114, other than channel terminations as defined in § 69.703(a)(2) of this part.

(b) **Phase I triggers.** To obtain Phase I pricing flexibility, as specified in § 69.727(a) of this part, for the services described in paragraph (a) of this section, a price cap LEC must show that, in the relevant area as described in § 69.707 of this part, competitors unaffiliated with the price cap LEC have collocated:

(1) In fifteen percent of the petitioner's wire centers, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center; or

(2) In wire centers accounting for 30 percent of the petitioner's revenues from dedicated transport and special access services other than channel terminations between LEC end offices and customer premises, determined as specified in § 69.725 of this part, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center.

(c) **Phase II triggers.** To obtain Phase II pricing flexibility, as specified in § 69.727(b) of this part, for the services described in paragraph (a) of this section, a price cap LEC must show that, in the relevant area as described in § 69.707 of this part, competitors unaffiliated with the price cap LEC have collocated:

(1) in 50 percent of the petitioner's wire centers, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center; or

(2) in wire centers accounting for 65 percent of the petitioner's revenues from dedicated transport and special access services other than channel terminations between LEC end offices and customer premises, determined as specified in § 69.725 of this part, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center.

§ 69.711 Channel terminations between LEC end offices and customer premises.

(a) **Scope.** This paragraph governs requests for pricing flexibility with respect to channel terminations between LEC end offices and customer premises.

(b) **Phase I triggers.** To obtain Phase I pricing flexibility, as specified in § 69.727(a) of this part, for channel terminations between LEC end offices and customer premises, a price cap LEC must show that, in the relevant area as described in § 69.707 of this part, competitors unaffiliated with the price cap LEC have collocated:

(1) In 50 percent of the petitioner's wire centers, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center; or

(2) In wire centers accounting for 65 percent of the petitioner's revenues from channel terminations between LEC end offices and customer premises, determined as specified in § 69.725 of this part, and that at least one such

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collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center.

(c) *Phase II triggers.* To obtain Phase II pricing flexibility, as specified in § 69.727(b) of this part, for channel terminations between LEC end offices and customer premises, a price cap LEC must show that, in the relevant area as described in § 69.707, competitors unaffiliated with the price cap LEC have collocated:

(1) In 65 percent of the petitioner's wire centers, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center; or

(2) In wire centers accounting for 85 percent of the petitioner's revenues from channel terminations between LEC end offices and customer premises, determined as specified in § 69.725, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center.

§ 69.713 Common line, traffic-sensitive, and tandem-switched transport services.

(a) *Scope.* This paragraph governs requests for pricing flexibility with respect to the following services:

(1) Common line services, as described in §§ 69.152, 69.153, and 69.154.

(2) Services in the traffic-sensitive basket, as described in § 61.42(d)(2) of this chapter.

(3) The traffic-sensitive components of tandem-switched transport services, as described in §§ 69.111(a)(2)(i) and (ii).

(b) *Phase I triggers.* (1) To obtain Phase I pricing flexibility, as specified in § 69.727(a), for the services identified in paragraph (a) of this section, a price cap LEC must provide convincing evidence that, in the relevant area as described in § 69.707, its unaffiliated competitors, in aggregate, offer service to at least 15 percent of the price cap LEC's customer locations.

(2) For purposes of the showing required by paragraph (b)(1) of this section, the price cap LEC may not rely

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on service the competitors provide solely by reselling the price cap LEC's services, or provide through unbundled network elements as defined in § 51.5 of this chapter, except that the price cap LEC may rely on service the competitors provide through the use of the price cap LEC's unbundled loops.

(c) [Reserved]

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§ 69.725 Attribution of revenues to particular wire centers.

If a price cap LEC elects to show, in accordance with § 69.709 or § 69.711, that competitors have collocated in wire centers accounting for a certain percentage of revenues from the services at issue, the LEC must make the following revenue allocations:

(a) For entrance facilities and channel terminations between an IXC POP and a serving wire center, the petitioner shall attribute all the revenue to the serving wire center.

(b) For channel terminations between a LEC end office and a customer premises, the petitioner shall attribute all the revenue to the LEC end office.

(c) For any dedicated service routed through multiple wire centers, the petitioner shall attribute 50 percent of the revenue to the wire center at each end of the transmission path, unless the petitioner can make a convincing case in its petition that some other allocation would be more representative of the extent of competitive entry in the MSA or the non-MSA parts of the study area at issue.

§ 69.727 Regulatory relief.

(a) *Phase I relief.* Upon satisfaction of the Phase I triggers specified in § 69.709(b), § 69.711(b), or § 69.713(b) for an MSA or the non-MSA parts of a study area, a price cap LEC will be granted the following regulatory relief in that area for the services specified in § 69.709(a), § 69.711(a), or § 69.713(a), respectively:

(1) Volume and term discounts;

(2) Contract tariff authority, provided that

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

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(ii) The price cap LEC excludes all contract tariff offerings from price cap regulation pursuant to § 61.42(f)(1) of this chapter.

(iii) Before the price cap LEC provides a contract tariffed service, under § 69.727(a), to one of its long-distance affiliates, as described in section 272 of the Communications Act of 1934, as amended, or § 64.1903 of this chapter, the price cap LEC certifies to the Commission that it provides service pursuant to that contract tariff to an unaffiliated customer.

(b) *Phase II relief.* Upon satisfaction of the Phase II triggers specified in § 69.709(c) or § 69.711(c) for an MSA or the non-MSA parts of a study area, a price cap LEC will be granted the following regulatory relief in that area for the services specified in §§ 69.709(a) or 69.711(a), respectively:

(1) Elimination of the rate structure requirements in subpart B of this part;

(2) Elimination of price cap regulation; and

(3) Filing of tariff revisions on one day's notice, notwithstanding the notice requirements for tariff filings specified in § 61.58 of this chapter.

§ 69.729 New services.

(a) Except for new services subject to paragraph (b) of this section, a price cap LEC may obtain pricing flexibility for a new service that has not been incorporated into a price cap basket by demonstrating in its pricing flexibility petition that the new service would be properly incorporated into one of the price cap baskets and service bands for which the price cap LEC seeks pricing flexibility.

(b) Notwithstanding paragraph (a) of this section, a price cap LEC must demonstrate satisfaction of the triggers in § 69.711(b) to be granted pricing flexibility for any new service that falls within the definition of a “channel termination between a LEC end office and a customer premises” as specified in § 69.703(a)(2).

§ 69.731 Low-end adjustment mechanism.

(a) Any price cap LEC obtaining Phase I or Phase II pricing flexibility for any service in any MSA in its service region, or for the non-MSA portion

of any study area in its service region, shall be prohibited from making any low-end adjustment pursuant to § 61.45(d)(1)(vii) of this chapter in all or part of its service region.

(b) Any affiliate of any price cap LEC obtaining Phase I or Phase II pricing flexibility for any service in any MSA in its service region shall be prohibited from making any low-end adjustment pursuant to § 61.45(d)(1)(vii) of this chapter in all or part of its service region.

Subpart I—Business Data Services

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

§ 69.801 Definitions.

(a) *Business data services.* The dedicated point-to-point transmission of data at certain guaranteed speeds and service levels using high-capacity connections.

(b) *Competitive market test.* The competitive market test is defined in § 69.803.

(c) *County.* A county or county equivalent as defined in § 10.10 of this chapter. County-equivalents include parishes, boroughs, independent cities, census areas, the District of Columbia, and various entities in the territories.

(d) *End user channel termination.* A dedicated channel connecting a local exchange carrier end office and a customer premises, offered for purposes of carrying special access traffic.

(e) *Grandfathered market.* A county that does not satisfy the competitive market test set forth in § 69.803 for which a price cap local exchange carrier obtained Phase II relief pursuant to § 69.711(c).

(f) *Market deemed competitive.* A county that satisfies the competitive market test set forth in § 69.803.

(g) *Market deemed non-competitive.* A county that does not satisfy the competitive market test set forth in § 69.803.

(h) *Non-disclosure agreement.* A non-disclosure agreement is a contract, contractual provision, or tariff provision wherein a party agrees not to disclose certain information shared by the other party.

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(i) *Special access data collection.* The special access data collection refers to the data and other information the Commission collected from business data services providers and purchasers pursuant to its December 18, 2012 Report and Order in WC Docket 05-25.

(j) *Transport* includes interoffice facilities, channel terminations between the serving wire center and point of presence, and all special access services that are described in § 69.114 other than end user channel terminations.

§ 69.803 Competitive market test.

(a) The competitive market test is used to determine which counties served by a price cap local exchange carrier, as defined in § 61.3(bb) of this chapter, are deemed competitive and therefore warrant relief from price cap regulation and detariffing of DS1 and DS3 end user channel terminations, and certain other business data services, sold by such carriers.

(b) *Initial test.* A county is deemed competitive in the initial competitive market test if:

(1) Either 50 percent of the locations with business data services demand within the county are within one half mile of a location served by a competitive provider based on data from the special access data collection, or 75 percent of the census blocks within the county are reported to have broadband connection availability by a cable operator based on Form 477 data as of December 2016. Lists of counties deemed competitive, non-competitive or grandfathered by the initial competitive market test are published on the Commission's Web site.

(2) The DS1 and DS3 end user channel terminations sold by price cap local exchange carriers in counties deemed competitive are no longer subject to price cap regulation and are detariffed according to § 61.201.

(c) *Subsequent tests.* The results of the initial competitive market test will be updated every three years following the effective date of the initial test.

(1) A county will be deemed competitive in a subsequent competitive market test if 75 percent of the census blocks within the county are reported to have broadband connection availability by a cable operator based on

Form 477 data as of the date of the most recent collection.

(2) No later than three years following the effective date of the previous test, the Wireline Competition Bureau will conclude a subsequent test and will publish a revised list of counties deemed competitive at the conclusion of the test.

(3) A county deemed competitive in the competitive market test will retain its status in subsequent tests.

§ 69.805 Prohibition on certain non-disclosure agreement conditions.

(a) In markets deemed non-competitive, buyers and sellers of business data services shall not enter into a tariff, contract-based tariff, or commercial agreement, including but not limited to master service agreement, that contains a non-disclosure agreement as defined in § 69.801(g), that restricts or prohibits disclosure of information to the Commission, or requires a prior request or legal compulsion by the Commission to effect such disclosure.

(b) Confidential information subject to a protective order as defined in § 0.461 of this chapter in effect as of the effective date of a tariff, contract-based tariff, or commercial agreement must be submitted pursuant to the terms of that protective order or otherwise pursuant to the Commission's rules regarding submission of confidential data in §§ 0.457(d) and 0.459.

§ 69.807 Regulatory relief.

(a) Price cap local exchange carrier TDM transport, end user channel terminations in markets deemed competitive, and end user channel terminations in grandfathered markets for a price cap local exchange carrier that was granted Phase II pricing flexibility prior to June 2017, are granted the following regulatory relief:

(1) Elimination of the rate structure requirements contained in subpart B of this part;

(2) Elimination of price cap regulation; and

(3) Elimination of tariffing requirements as specified in § 61.201 of this chapter.

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(b) Price cap local exchange carrier end user channel terminations in markets deemed non-competitive are granted the following regulatory relief:

(1) Ability to offer volume and term discounts;

(2) Ability to enter into contract-based tariffs, provided that:

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

(ii) The price cap local exchange carrier excludes all contract-based tariff offerings from price cap regulation pursuant to § 61.42(f) of this chapter;

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

(c) A price cap local exchange carrier that was granted Phase II pricing flexibility prior to June 2017 in a grandfathered market must retain its business data services rates at levels no higher than those in effect as of April 20, 2017, pending the detariffing of those services pursuant to § 61.201 of this chapter.

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

§ 69.809 Low-end adjustment mechanism.

(a) Any price cap local exchange carrier or any affiliate of any price cap local exchange carrier that had obtained Phase II pricing flexibility under § 69.709 or § 69.711 for any service in any MSA in its service region, or for the non-MSA portion of any study area in its service region, shall be prohibited from making any low-end adjustment pursuant to § 61.45(d)(1)(vii) of this chapter in all or part of its service region.

(b) Any price cap local exchange carrier or any affiliate of any price cap local exchange carrier that exercises the regulatory relief pursuant to § 69.807 in any part of its service region shall be prohibited from making any low-end adjustment pursuant to § 61.45(d)(1)(vii) of this chapter in all or part of its service region.

(c) Any price cap local exchange carrier or any affiliate of any price cap local exchange carrier that exercises the option to use generally accepted accounting principles rather than the uniform system of accounts pursuant to § 32.11(g) of this chapter shall be prohibited from making any low-end adjustment pursuant to § 61.45(d)(1)(vii) of this chapter in all or part of its service region.