

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
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)	
2001 Annual Access Tariff Filings)	CCB/CPD No. 01-08
)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: July 2, 2001

Released: July 2, 2001

By the Chief, Competitive Pricing Division:

I. INTRODUCTION

1. Local exchange carriers (LECs) are required by section 69.3(a) of the Commission's rules to file annual revisions to their interstate tariffs to become effective July 1, 2001.¹ Price cap LECs and LECs subject to rate-of-return regulation filed their tariff transmittals on June 18, 2001, with AT&T filing a petition to suspend and investigate on June 25, 2001.² On June 29, 2001, certain LECs filed replies to AT&T's petition.³

2. In this Memorandum Opinion and Order, we suspend for five months and set for investigation the rates for the traffic sensitive basket filed by Moultrie Independent Telephone Company (Moultrie) in its 2001 Annual Access Tariff. We also suspend for one day and set for investigation the following LECs' 2001 Annual Access Tariffs in the stated areas: 1) ALLTEL Telephone Systems' (ALLTEL's) rates for local switching; and 2) Ameritech Operating Companies' (Ameritech's), Frontier Telephone of Rochester, Inc.'s (Frontier of Rochester's), Pacific Bell Telephone Company's (PacBell's), Qwest Communications, Inc.'s (Qwest's), and Sprint Local Telephone Companies-Nevada's (Sprint Nevada's) rates for the multi-line business subscriber line charge.⁴

¹ 47 C.F.R. § 69.3(a). The filing deadline of July 1, 2001 was modified to July 3, 2001 because of the weekend schedule in June and July 2001 in order to accommodate the filing of tariff revisions under section 204(a)(3) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. *July 3, 2001 Annual Access Charge Tariff Filings*, CCB/CPD 01-08, Order, DA 01-838 (rel. Apr. 6, 2001).

² Petition of AT&T Corp., CCB/CPD 01-08 (filed June 25, 2001) (AT&T Petition).

³ Appendix A lists the parties filing replies to AT&T's Petition.

⁴ Appendix B lists the carriers' affected tariff filings.

II. DISCUSSION

3. The LECs' annual tariff filings are largely compliant with Commission rules. Nevertheless, certain tariff filings require further inquiry.

4. Moultrie has filed revisions to its tariff that would greatly increase the traffic sensitive rates charged to interexchange carriers (IXCs). Moultrie's interpretation of the Commission's sale/lease-back rules appears to have been the driving factor behind the significant proposed increase in its traffic sensitive rates. We note that Moultrie has filed a Petition for Declaratory Ruling regarding the treatment of sale/lease-back arrangements between a carrier and its affiliate.⁵ The Commission has not yet ruled on Moultrie's Petition.⁶ Because Moultrie's interpretation of the Commission's sale/lease-back rules has not been found to be correct at this time, we are suspending and setting for investigation Moultrie's traffic sensitive rates.

5. We find that a full, five-month statutory suspension is warranted pending investigation of Moultrie's tariff revisions pursuant to section 204 of the Communications Act of 1934, as amended.⁷ Therefore, we suspend, pending completion of the investigation, the revisions that propose to increase the traffic sensitive rates in Moultrie's Tariff FCC No. 1.

6. We find that AT&T presents arguments in support of its petition to suspend and investigate the LECs' 2001 Annual Access Tariffs that raise substantial questions of lawfulness that warrant investigation of ALLTEL's tariff.⁸ The issue raised by AT&T warranting investigation is whether ALLTEL incorrectly derived its dial equipment minutes (DEM) allocation factor for setting local switching rates.

7. In addition to the issues raised by the petitioner, we have identified other issues that raise substantial questions of lawfulness that warrant investigation of certain price cap LECs' tariffs. These include whether Ameritech, Frontier of Rochester, PacBell, Qwest, and Sprint Nevada are improperly imposing a multi-line business subscriber line charge that is higher than their CMT revenue per line.

8. Accordingly we will suspend the 2001 Annual Access Tariff filings of ALLTEL, Ameritech, Frontier of Rochester, PacBell, Qwest, and Sprint Nevada to the extent indicated in paragraph 2, *supra*. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but may not be limited to, the issues identified in this Order. We may also, by order, identify discrete issues that do not warrant further

⁵ See *Moultrie Independent Telephone Company*, CC Docket No. 96-45, Petition for Declaratory Ruling (filed Mar. 29, 1999).

⁶ See *Common Carrier Bureau Seeks Comment on Moultrie Independent Telephone Company's Request for Clarification of the Affiliate Sale/Lease-Back Rules Under Part 36 of the Commission's Rules*, CC Docket No. 96-45, Public Notice, DA 01-267 (rel. Feb. 1, 2001).

⁷ See 47 U.S.C. § 204(a)(1).

⁸ 47 U.S.C. § 204(a).

investigation.

III. *EX PARTE* REQUIREMENTS

9. This investigation is a permit-but-disclose proceeding and subject to the requirements of section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.⁹ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b), as well.

IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, the traffic sensitive rates of Moultrie Independent Telephone Company, ARE SUSPENDED for five months and an investigation IS INSTITUTED.

11. IT IS FURTHER ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the local switching rates of ALLTEL Telephone Systems, ARE SUSPENDED for one day and an investigation IS INSTITUTED.

12. IT IS FURTHER ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the revised tariff rates for the multi-line business subscriber line charge of Ameritech Operating Companies, Frontier Telephone of Rochester, Inc., Pacific Bell Telephone Company, Qwest Communications, Inc., and Sprint Local Telephone Companies-Nevada, ARE SUSPENDED for one day and an investigation IS INSTITUTED.

13. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, ALLTEL Telephone Systems, Ameritech Operating Companies, Frontier Telephone of Rochester, Inc., Pacific Bell Telephone Company, Qwest Communications, Inc., and Sprint Local Telephone Companies-Nevada, SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are subject to this investigation.

14. IT IS FURTHER ORDERED that each local exchange carrier required to suspend its tariff revisions for one day pursuant to this Order MAY FILE a supplement advancing the

⁹ See 47 C.F.R. § 1.1206(b)(2), as revised.

currently scheduled effective date to July 2, 2001, and then SUSPEND its tariff revisions for one day, until July 3, 2001. For this purpose, we waive sections 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.58, 61.59.

15. IT IS FURTHER ORDERED that each local exchange carrier required to suspend its tariff revisions pursuant to this Order SHALL FILE a supplement within five business days from the release date of this Order reflecting the suspension. Carriers should cite the "DA" number on the instant Order as the authority for the filings.

16. IT IS FURTHER ORDERED that AT&T's petition to suspend and investigate or to reject the 2001 Annual Access Tariff Filings IS GRANTED to the extent indicated herein and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Richard D. Lerner
Deputy Chief, Competitive Pricing Division
Common Carrier Bureau

APPENDIX A**REPLIES FILED IN THE 2001 ANNUAL ACCESS TARIFF FILINGS PROCEEDING**

ALLTEL Corporation
Beehive Telephone Company
BellSouth Telecommunications, Inc.
Citizens Communications Companies
Frontier Communications of Rochester, Inc.
Iowa Telecommunications Services, Inc.
John Staurulakis, Inc.
National Exchange Carrier Association, Inc.
Puerto Rico Telephone Company, Inc.
Qwest Corporation
SBC Communications Inc.
Sprint Corporation
TXU Communications Telephone Company
Valor Telecommunications Enterprises, LLC
Verizon

APPENDIX B**AFFECTED TARIFF FILINGS**

Moultrie Independent Telephone Company	Transmittal No. 4	Tariff FCC No. 1
ALLTEL Telephone System	Transmittal No. 90	Tariff FCC No. 1
Ameritech Operating Companies	Transmittal No. 1270	Tariff FCC No. 2
Frontier Telephone of Rochester, Inc.	Transmittal No. 48	Tariff FCC No. 1
Pacific Bell Telephone Company	Transmittal No. 37	Tariff FCC No. 1
Qwest Communications, Inc.	Transmittal Nos. 76 & 80	Tariff FCC No. 1
Sprint Local Telephone Companies	Transmittal No. 153	Tariff FCC No. 3