

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

In the Matter of)	
)	
)	
December 17, 2001)	CCB/CPD No. 01-23
MAG Access Charge Tariff Filings)	
)	

ORDER

Adopted: December 28, 2001

Released: December 31, 2001

By the Chief, Competitive Pricing Division:

I. INTRODUCTION

1. In October 2001, the Commission adopted the *Rate-of-Return Access Charge Reform Order*, which reformed the interstate access charge regime and interstate universal service support for incumbent local exchange carriers (LECs) subject to rate-of-return regulation.¹ To implement the reforms adopted in that order, rate-of-return carriers were required to file revised interstate access charge tariffs, effective on January 1, 2002.² Under the Communications Act of 1934, as amended (the Act), and the Commission's rules, such tariffs must be filed with the Commission at least 15 days before their effective date.³ Thus, rate-of-return carriers, either individually or through the National Exchange Carrier Association (NECA), filed revised tariffs on or before December 17, 2001. In order to ensure that all rate-of-return carriers have complied with the access charge reforms adopted by the Commission, we suspend for one day and set for investigation the revised rates for interstate access services filed by the carriers listed in Appendix A.⁴

¹ *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 01-304 (rel. Nov. 8, 2001) (*Rate-of-Return Access Charge Reform Order*).

² *Id.* See *December 17, 2001 MAG Access Charge Tariff Filings*, CCB/CPD No. 01-23, Order, DA 01-2748 (rel. Nov. 26, 2001). See also *MAG Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Declaratory Ruling, DA 01-2871 (rel. Dec. 11, 2001) (*Declaratory Ruling*) (clarifying the proper reallocation of the transport interconnection charge pursuant to 47 C.F.R. § 69.415).

³ 47 U.S.C. § 203(a); 47 C.F.R. § 61.58(e).

⁴ Appendix A lists the carriers and their suspended tariffs, and includes all rate-of-return carriers filing interstate (continued....)

II. BACKGROUND

2. *Rate-of-Return Access Charge Reform Order.* In the *Rate-of-Return Access Charge Reform Order*, the Commission adopted comprehensive interstate access charge and universal service reforms for rate-of-return carriers. Among other things, the Commission revised several of the access charge rules contained in Part 69 of its rules, effective January 1, 2002. LECs subject to rate-of-return regulation must revise their existing interstate access tariffs to implement the rule changes. Specifically, the revisions increased, as of January 1, 2002, the residential and single-line business subscriber line charge (SLC) cap and the multi-line business SLC cap to \$5.00⁵ and \$9.20 per line, respectively, or if less than the cap, the monthly cost per line.⁶ Carriers may assess one multi-line business SLC for Basic Rate Interface (BRI) Integrated Services Digital Network (ISDN) service and five multi-line business SLCs for Primary Rate Interface (PRI) ISDN service.⁷ Limited SLC deaveraging is permitted. Carriers must recover their contributions to support universal service from a separately stated charge to be assessed on end users, rather than through access charges.⁸ Line port costs must be reallocated from local switching to the common line category.⁹ Carriers may shift 30 percent of their local switching costs to the common line category in lieu of conducting a cost study.¹⁰ ISDN line port costs in excess of basic analog line port costs are to be recovered through a new rate element.¹¹ The costs recovered through the transport interconnection charge (TIC) are to be reallocated among all the access categories, subject to a specific dollar limit equal to the TIC revenues for the twelve months ending June 30, 2001.¹² These cost reallocations require reassignment of certain costs from specified interstate access categories to the common line category. Many rate-of-return LECs file their own traffic-sensitive tariffs, but participate in the NECA common line tariff. Therefore, the line port costs and certain TIC costs of LECs that file their own traffic-sensitive tariffs must be removed from the LECs' revenue requirement and included in the NECA common line pool's revenue requirement.

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access charge tariffs effective January 1, 2002. This one-day suspension allows the tariffs to become effective after the suspension, subject to potential refund obligations pending the outcome of our investigation. *See infra* paras. 11-14.

⁵ *See Rate-of-Return Access Charge Reform Order*, FCC 01-304 at 22, para. 42.

⁶ 47 C.F.R. § 69.104, as revised. *See Rate-of-Return Access Charge Reform Order*, FCC 01-304 at 26, para. 51.

⁷ *See Rate-of-Return Access Charge Reform Order*, FCC 01-304 at 26, 28-29, paras. 51, 56.

⁸ *See Rate-of-Return Access Charge Reform Order*, FCC 01-304 at 76-77, para. 177.

⁹ *See Rate-of-Return Access Charge Reform Order*, FCC 01-304 at 42, para. 90.

¹⁰ *See Rate-of-Return Access Charge Reform Order*, FCC 01-304 at 42, para. 90.

¹¹ *See Rate-of-Return Access Charge Reform Order*, FCC 01-304 at 44, para. 96.

¹² *See Rate-of-Return Access Charge Reform Order*, FCC 01-304 at 37, 46, paras. 76, 103; *Declaratory Ruling*, DA 01-2871 at 2-3, paras. 3-5.

3. *GCI v. ACS Holdings*. In addition to the reforms adopted in the *Rate-of-Return Access Charge Reform Order*, the Commission's decision issued earlier this year in *GCI v. ACS Holdings*¹³ may have implications for this tariff filing. There, the Commission found, *inter alia*, that ATU, an incumbent LEC wholly owned and controlled by ACS Holdings, (1) improperly exceeded its prescribed rate-of-return in violation of the Act;¹⁴ (2) improperly assigned the costs of internet service provider (ISP) traffic to the interstate jurisdiction for separations purposes, rather than the intrastate jurisdiction, contrary to Commission orders;¹⁵ and (3) counted each minute of an intraoffice call as one dial equipment minute (DEM), rather than two,¹⁶ contrary to section 36.125(a)(3) of the Commission's rules.¹⁷ The Commission directed ATU to assign to the intrastate jurisdiction for separations purposes the traffic-sensitive costs of carrying ISP traffic, and to count DEMs for intraoffice calls in the manner described in the order.¹⁸ The Commission also awarded damages, with prejudgment interest, to GCI for ATU's overearnings.¹⁹

4. *Tariff Filings*. To implement the Commission's access charge reforms, effective January 1, 2002, Madison River Telephone Company, filed its revised rates on December 14, 2001, while all of the other rate-of-return LECs filed their revised rates on December 17, 2001. General Communication, Inc. (GCI) and AT&T Corp. (AT&T) filed petitions to suspend and investigate certain tariffs on December 21 and 26, 2001, respectively.²⁰ On December 28, 2001, the LECs listed in Appendix C filed replies to the petitions.

III. DISCUSSION

5. Because of the complex nature of the tariff filings, the interrelationship between certain individual carrier tariffs and the NECA tariffs, and the issues raised by GCI and AT&T in their petitions to suspend and investigate, we find that a one-day suspension is warranted pending investigation of the tariff revisions of the carriers listed in Appendix A, pursuant to section 204 of

¹³ *General Communication, Inc. v. Alaska Communications Systems Holdings*, 16 FCC Rcd 2834 (2001), *appeal docketed*, No. 01-1059 (D.C. Cir.) (*GCI v. ACS Holdings*).

¹⁴ See *GCI v. ACS Holdings*, 16 FCC Rcd at 2853-54, paras. 49-50.

¹⁵ See *GCI v. ACS Holdings*, 16 FCC Rcd at 2840-50, paras. 16-39.

¹⁶ See *GCI v. ACS Holdings*, 16 FCC Rcd at 2851, para. 43 (explaining that carriers are required to count the holding time for both the originating *and* the terminating equipment, and thus a one-minute intraoffice call generates two DEMs, not one).

¹⁷ 47 C.F.R. § 36.125(a)(3).

¹⁸ *GCI v. ACS Holdings*, 16 FCC Rcd at 2863-64, paras. 75, 77, 79.

¹⁹ *Id.*

²⁰ Petition of GCI (filed Dec. 21, 2001) (GCI Petition); Petition of AT&T Corp. (filed Dec. 26, 2001) (AT&T Petition).

the Act.²¹ Therefore, as explained below, we suspend for one day the revised rates for interstate access services filed by the carriers listed in Appendix A.

6. We find that AT&T presents arguments in support of its petition to suspend and investigate the LECs' tariff filings that raise substantial questions of lawfulness warranting investigation of the LECs' tariffs listed in Appendix B.²² The issues raised by AT&T warranting investigation are whether: (1) certain LECs failed to correctly allocate line port costs from the local switching category to the common line category;²³ (2) certain LECs misallocated TIC costs among the access categories;²⁴ (3) the tariff filed by ACS of Anchorage, Inc. (ACS) is unlawful because it violates Commission rules and orders;²⁵ and (4) several parties failed to submit cost support information sufficient to permit parties to review their tariffs.²⁶

7. We also find that GCI presents arguments in support of its petition to suspend and investigate ACS' tariff that raise substantial questions of lawfulness warranting investigation of ACS' tariff.²⁷ The issues raised by GCI warranting investigation are whether: (1) ACS improperly allocated ISP minutes to both the interstate and local jurisdictions in violation of the Commission's order in *GCI v. ACS Holdings*; and (2) ACS correctly reallocated line port costs from the local switching revenue requirement.²⁸

8. In addition to the issues raised by AT&T and GCI, we have identified other issues that raise substantial questions of lawfulness warranting investigation of all of the LECs' tariffs. The rules require LECs to reallocate certain costs to other access categories pursuant to specified procedures; to establish new universal service and line port rate elements; to increase SLCs based on new, higher caps that include the cost of a common line as part of the cap setting mechanism; and to adjust the carrier common line charge to reflect each of these ratemaking changes. In some cases, it appears that the cost reallocations were not applied to the proper baseline revenue requirement amount. In other cases, local switching costs increase despite the fact that most LECs appear to reduce their local switching rates based on the use of thirty percent as the surrogate for estimating line port costs to be reallocated. Errors in these reallocations would

²¹ 47 U.S.C. § 204(a)(1).

²² 47 U.S.C. § 204(a).

²³ See AT&T Petition at 3-5.

²⁴ See AT&T Petition at 5-8.

²⁵ See AT&T Petition at 10-13.

²⁶ See AT&T Petition at 5. In its petition, AT&T also argues that the Commission should modify the limitation on the amount of the TIC that must be reallocated to non-transport revenue requirement categories. See AT&T Petition at 13-15. This issue is beyond the scope of this proceeding and is more appropriately raised in a petition for reconsideration.

²⁷ 47 U.S.C. § 204(a).

²⁸ See generally GCI Petition at 2-17.

affect the development of the common line revenue requirement, and thus the appropriate levels for charges recovering the common line revenue requirements.

9. Accordingly, given the complex and interrelated nature of the different access charge revisions included in the tariff filings listed in Appendix A, we will suspend those filings in their entirety. 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 identify discrete issues that do not warrant further investigation.

IV. *EX PARTE* REQUIREMENTS

10. With the exception of the issues described below, this investigation is a permit-but-disclose proceeding and subject to the requirements of section 1.1206(b) of the rules.²⁹ 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-sentence or two-sentence description of the views and arguments presented is generally required.³⁰ Any person who makes a presentation in this proceeding regarding issues raised in *GCI v. ACS Holdings* must file a detailed summary in the record of this proceeding and in the record of *GCI v. ACS Holdings* and serve a copy on the parties to that proceeding (namely GCI and ACS). This procedure must be followed because *GCI v. ACS Holdings* is a restricted proceeding in which *ex parte* presentations are prohibited under section 1.1208 of the Commission's rules.

V. ORDERING CLAUSES

11. 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 pursuant to the authority delegated by sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, the tariffs of the carriers identified in Appendix A, ARE SUSPENDED for one day and an investigation IS INSTITUTED.

12. 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 pursuant to the authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the carriers listed in Appendix A SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are subject to this investigation.

13. IT IS FURTHER ORDERED that each LEC required to suspend its tariff revisions for one day pursuant to this order MAY FILE a supplement advancing the currently scheduled effective date to December 31, 2001, and then SUSPEND its tariff revisions for one day, until January 1, 2002. For this purpose, we waive sections 61.58 and 61.59 of the

²⁹ 47 C.F.R. § 1.1206(b).

³⁰ 47 C.F.R. § 1.1206(b)(2).

Commission's rules, 47 C.F.R. §§ 61.58 and 61.59.

14. IT IS FURTHER ORDERED that each LEC 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.

15. IT IS FURTHER ORDERED that AT&T's petition to suspend and investigate the December 17, 2001 MAG Access Charge Tariff Filings IS GRANTED to the extent indicated herein and otherwise IS DENIED.

16. IT IS FURTHER ORDERED that GCI's petition to suspend and investigate the December 17, 2001 MAG Access Charge Tariff Filings IS GRANTED to the extent indicated herein and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss
Chief, Competitive Pricing Division
Common Carrier Bureau

APPENDIX A

**TARIFFS FILED BY RATE-OF-RETURN CARRIERS IN THE DECEMBER 17, 2001
MAG ACCESS CHARGE TARIFF FILING PROCEEDING**

FILER	TRANSMITTAL #
Issued: December 14, 2001	Effective: January 1, 2002
Madison River Telephone Company	Transmittal No. 2
Issued: December 17, 2001	Effective: January 1, 2002
ACS of Anchorage	Transmittal No. 6
Alltel Telephone Services Corporation	Transmittal No. 95
Bay Springs Telephone Company	Transmittal No. 82
Beehive Telephone Companies	Transmittal No. 22
Bixby Telephone Company	Transmittal No. 7
Blue Earth Valley Telephone Company	Transmittal No. 4
Century Telephone Companies	Transmittal No. 14
The Champaign Telephone Company	Transmittal No. 3
Chariton Valley Telephone Corporation	Transmittal No. 6
Chillicothe Telephone Company	Transmittal No. 68
City of Brookings Municipal Telephone Department	Transmittal No. 13
Contoocook Valley Telephone Company	Transmittal No. 11
Dunkirk & Fredonia Telephone Company	Transmittal No. 27
East Ascension Telephone Company	Transmittal No. 4
Easton Telephone Company	Transmittal No. 3
Eckles Telephone Company	Transmittal No. 3
Elkhart Telephone Company	Transmittal No. 58
Etex Telephone Cooperative	Transmittal No. 7
Fidelity Telephone Company	Transmittal No. 12
Geneseo River Telephone Company	Transmittal No. 5
Great Plains Communications, Inc.	Transmittal No. 75
Gridley Telephone Company	Transmittal No. 4
GVMW Management Company	Transmittal No. 179
Harrisonville Telephone Company	Transmittal No. 23
Hills Telephone Company (Iowa)	Transmittal No. 3
ICORE	Transmittal No. 35
Illinois Consolidated Telephone Company	Transmittal No. 111
James Valley Cooperative Telephone Company	Transmittal No. 3
John Staurulakis, Inc. (JSI)	Transmittal No. 63
Leaf River Telephone Company	Transmittal No. 4
Lexcom Telephone Company	Transmittal No. 5
McCook Cooperative Telephone Company	Transmittal No. 2

Midstate Telephone Company	Transmittal No. 5
Minnesota Lake Telephone Company	Transmittal No. 3
Moultrie Independent Telephone Company	Transmittal No. 11
National Exchange Carrier Association (NECA)	Transmittal No. 919
NTELOS	Transmittal No. 3
Puerto Rico Telephone Company	Transmittal No. 43
Roseville Telephone Company	Transmittal No. 85
Shell Rock Telephone Company	Transmittal No. 3
Sioux Valley Telephone Company	Transmittal No. 3
Smart City Telecommunications LLC	Transmittal No. 6
Smithville Telephone Company	Transmittal No. 4
South Central Telephone Association	Transmittal No. 8
Southern Kansas Telephone Company	Transmittal No. 10
Splitrock Telecom Cooperative	Transmittal No. 4
Telephone Utilities Exchange Carrier Assoc. (TUECA)	Transmittal No. 168
Tri-County Telephone Association	Transmittal No. 7
TXU Communications Telephone Company	Transmittal No. 7
Union Telephone Company	Transmittal No. 71
Utelco, Inc.	Transmittal No. 8
Virgin Islands Telephone Corporation	Transmittal No. 45
Winterhaven Telephone Company	Transmittal No. 9

APPENDIX B

**TARIFFS FILED IN THE DECEMBER 17, 2001 MAG ACCESS CHARGE TARIFF
FILING PROCEEDING IDENTIFIED BY AT&T AS WARRANTING INVESTIGATION**

FILER	TRANSMITTAL #
Issued: December 17, 2001	Effective: January 1, 2002
ACS of Anchorage	Transmittal No. 6
ALLTEL	Transmittal No. 95
Beehive	Transmittal No. 22
CenturyTel	Transmittal No. 14
ETEX	Transmittal No. 7
Great Plains	Transmittal No. 75
Harrisonville	Transmittal No. 23
ICORE	Transmittal No. 35
JSI	Transmittal No. 63
Lexcom	Transmittal No. 5
Madison River	Transmittal No. 2
South Central	Transmittal No. 8
Southern Kansas Telephone Co.	Transmittal No. 10
Tri County	Transmittal No. 7
TUECA	Transmittal No. 168

APPENDIX C**REPLIES FILED IN THE DECEMBER 17, 2001 MAG ACCESS CHARGE TARIFF
FILING PROCEEDING**

ALLTEL Communications, Inc.
Beehive Telephone Companies
CenturyTel, Inc. (for CenturyTel and TUECA)
Etex Telephone Cooperative, Inc.
Great Plains Communications, Inc.
ICORE, Inc.
John Staurulakis, Inc.
Lexcom Telephone Company
Madison River Telephone Company, LLC
South Central Telephone Association
Southern Kansas Telephone Company
Tri County Telephone Association, Inc.