

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

In the matter of)	WC Docket No. 02-340
)	
National Exchange Carrier Association, Inc.)	
Tariff FCC No. 5, Transmittal No. 951)	
)	
)	
)	

ORDER

Adopted: October 31, 2002

Released: October 31, 2002

Direct Case Due by: November 21, 2002

Oppositions to Direct Case Due by: December 5, 2002

Rebuttal Due by: December 12, 2002

By the Chief, Pricing Policy Division:

I. INTRODUCTION

1. In this order, we designate for investigation, pursuant to sections 204 and 205 of the Communications Act of 1934, as amended (the Act),¹ certain issues regarding the rates, terms, and conditions in tariff Transmittal No. 951 that the National Exchange Carrier Association, Inc., (NECA) filed to become effective September 5, 2002.² We suspended Transmittal No. 951 for five months on September 4, 2002, and initiated this investigation.³ As discussed below, we designate issues relating to NECA's provisions for security deposits contained in tariff Transmittal No. 951 for investigation to ensure that the proposed tariff provisions are not unjust, unreasonable, or unreasonably discriminatory in violation of sections 201 and 202 of the Act.⁴

II. BACKGROUND

2. A brief overview of the Commission's policies concerning security deposits and treatment of uncollectibles would be useful to the discussion of the issues presented by the present tariff revisions. Existing incumbent local exchange carrier (LEC) interstate access tariffs contain protections for uncollectibles. In 1984, the Commission rejected incumbent LECs' proposed security deposit tariff language and instead permitted dominant LECs to require

¹ 47 U.S.C. §§ 204 and 205.

² National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 951 (Aug. 21, 2002).

³ *National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 951*, Order, DA 02-2141 (WCB/Pricing, released Sept. 4, 2002).

⁴ 47 U.S.C. §§ 201 and 202.

security deposits from: (1) those carriers that have a proven history of late payments to the LEC; and (2) those carriers that have no established credit.⁵ These provisions since have become a standard term in interstate access tariffs.⁶ In 1987, the Commission addressed a BellSouth proposal to reduce the notice it must give to terminate service for nonpayment to 15 days from 30 days. The Commission allowed a 15-day notice period only if the customer received its bill within three days after the billing date.⁷

3. The Commission's ratemaking policies for incumbent LECs also account for interstate uncollectibles and provide for their recovery through interstate access charges. For rate-of-return carriers, uncollectibles are reflected in the rate base that they use to calculate the 11.25% allowed rate of return. An increase in uncollectibles will result in higher rates the following year. Upon a proper showing of an extraordinary rise in uncollectibles, rate-of-return carriers may file mid-term corrections to raise their rates to target an 11.25% rate of return.⁸

4. Under NECA's current tariff, it may require deposits from a customer that has a proven history of late payments or lacks established credit.⁹

5. Under NECA's proposed revisions, additional security deposits may be required from a customer following establishment of services pursuant to certain new criteria. These criteria are: (1) the customer has established a proven history of late payments which is defined as two or more occurrences in the preceding twelve-month period during which the company received remittance after the payment date; (2) the customer's average monthly billing for the preceding three months has increased beyond the amount initially used to estimate the currently held security deposit, if applicable; and/or (3) the company becomes aware that the customer's credit worthiness is below a commercially acceptable level. A commercially acceptable level of credit worthiness for a customer or its parent company is defined as having a corporate debt securities rating with respect to any outstanding general debt obligations of at least BBB according to Standard and Poor's or an equivalent rating from other debt rating agencies. For a customer that does not issue debt securities, a commercially acceptable credit worthiness is defined as having a composite credit appraisal rating published by Dun & Bradstreet of at least "good" or a Paydex score as published by Dun & Bradstreet of at least "average."¹⁰ Security deposits would be returned to the customer under two conditions: (1) the deposit will be credited to the customer's account to satisfy any amounts due when the provision of service is discontinued and any remaining credit balance will be refunded to the customer; or (2) when the customer has established a history of prompt payments and has established commercially acceptable credit.¹¹

⁵ *Investigation of Access and Divestiture Related Tariffs*, Phase I Order, CC Docket No. 83-1145, 97 FCC 2d 1082, 1169 (1984).

⁶ In general, existing tariffs also provide that deposits may not exceed the actual or estimated rates and charges for service for a two-month period.

⁷ *Annual 1987 Access Tariff Filings*, Memorandum Opinion and Order, 2 FCC Rcd 280, 304-05 (1987). BellSouth apparently never implemented this provision.

⁸ See 47 C.F.R. § 69.3(b).

⁹ NECA F.C.C. Tariff No. 5, Fourth revised page 2-26, section 2.4.1(A).

¹⁰ NECA F.C.C. Tariff No. 5, second revised pages 2-26.1-2-26.2 and original pages 2-26.3-2-26.4, section 2.4.1(A).

¹¹ NECA F.C.C. Tariff No. 5, original page 2-26.4, section 2.4.1(A)(4).

The revisions would also shorten from thirty to ten days the notice period after which the company can refuse to process new orders or discontinue service.¹² Finally, the revisions provide that, if the company requires a deposit from a customer that has a specified term plan commitment, it will waive the termination liability charges if it terminates the service.¹³

6. As justification for this revision, NECA states that it is essential that incumbent local exchange carriers (LECs) participating in NECA's tariff be able to protect their ability to obtain payment for the services that they are required to provide all customers, including access services to financially troubled carriers.¹⁴ NECA further states that it "has experienced an increase in uncollectibles that is unprecedented in its history" and that this puts "NECA pooling companies at significant risk for millions of dollars."¹⁵ On August 28, 2002, Sprint Communications Company, L.P. (Sprint) and WorldCom, Inc. (WorldCom) filed petitions to reject, or, in the alternative, to suspend and investigate NECA's tariff.¹⁶ On September 3, 2002, NECA filed its reply.¹⁷

III. ISSUES DESIGNATED FOR INVESTIGATION

A. Basis for Requiring a Deposit from a Customer

1. Background

7. Under NECA's proposed revisions, additional security deposits may be required from a customer following establishment of services pursuant to certain new criteria. These criteria are: (1) the customer has established a proven history of late payments which is defined as two or more occurrences in the preceding twelve-month period during which the company received remittance after the payment date; (2) the customer's average monthly billing for the preceding three months has increased beyond the amount initially used to estimate the currently held security deposit, if applicable; and/or (3) the company becomes aware that the customer's credit worthiness is below a commercially acceptable level. A commercially acceptable level of credit worthiness for a customer or its parent company is defined as having a corporate debt securities rating with respect to any outstanding general debt obligations of at least BBB according to Standard and Poor's or an equivalent rating from other debt rating agencies. For a customer that does not issue debt securities, a commercially acceptable credit worthiness is defined as having a composite credit appraisal rating published by Dun & Bradstreet of at least "good" or a Paydex score as published by Dun & Bradstreet of at least "average."¹⁸

¹² NECA F.C.C. Tariff No. 5, second revised page 2-9, section 2.1.8(B).

¹³ NECA F.C.C. Tariff No. 5, original page 2-26.3, section 2.4.1(A)(2).

¹⁴ National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 951, Description and Justification at 1.

¹⁵ *Id.* at 3.

¹⁶ Petition of Sprint to Reject or Alternatively Suspend and Investigate (Aug. 28, 2002) (*Sprint Petition*); WorldCom Petition to Reject or, in the Alternative, Suspend and Investigate (Aug. 28, 2002) (*WorldCom Petition*).

¹⁷ National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 951, Reply of National Exchange Carrier Association, Inc. (September 3, 2002).

¹⁸ NECA F.C.C. Tariff No. 5, second revised pages 2-26.1-2-26.2 and original pages 2-26.3-2-26.4, section 2.4.1(A).

8. Several carriers petitioned against NECA's Transmittal No. 951.¹⁹ These parties question whether the revisions violate a Commission prescription, are unjust and unreasonable in violation of section 201(b) of the Act, are unreasonably discriminatory in violation of section 202(a) of the Act, and are impermissibly vague in violation of sections 61.2 and 61.54(j) of the Commission's rules.²⁰

2. Discussion

9. The initial issue designated for investigation is whether the revised security deposit provisions applicable to interstate access customers are reasonable and not so vague as to permit carriers participating in the NECA tariff to discriminate unreasonably among interstate access customers, whether they be interexchange carriers, competitive LECs, or business end-user subscribers. The interstate access market has two distinct characteristics – carriers participating in the NECA tariff must provide access services to IXC's and competitive LECs requesting such service, and those carriers must use access services of carriers participating in the NECA tariff to originate or terminate many of their interstate calls. The proposed revisions to the security deposit terms significantly alter the balance between the carriers participating in the NECA tariff and their interstate access customers with respect to the risks of nonpayment of interstate access bills that was struck in the early 1980s when access charges were instituted. The revisions raise the question whether circumstances have changed so as to warrant the imposition of additional security deposits. The tariff also raises concerns about whether the tariff language clearly and unambiguously sets forth a standard that can be objectively administered in a nondiscriminatory manner. We therefore direct NECA to respond to the matters discussed below and provide the requested information in its direct case.²¹ Nonetheless, NECA may, as part of its direct case, seek to justify its expansion of the instances in which security deposits may be required of interstate access customers.

10. The increased security deposits proposed in Transmittal No. 951 appear to address the same risk as the proposed increase in traffic-sensitive and special access rates proposed in Transmittal No. 952 to reflect a higher allowance for uncollectibles. NECA shall address why both forms of relief are necessary, or what modifications to either form of relief could be made if the other proposed tariff revision were allowed to take effect.

11. As part of its direct case, NECA shall explain why it believes its rates do not adequately compensate its carrier participants for the risk of uncollectibles. NECA's rates include a \$15,000 revenue requirement component for uncollectible debts. NECA is directed to submit the level of uncollectible debts from interstate access services and the actual return on investment for the years 1990 to the present. For the period from January 2000 to July 31, 2002,

¹⁹ Sprint and WorldCom allege that NECA's tariff filing violates a Commission prescription from 1984. *See supra*, note 5; Sprint Petition at 1-3; WorldCom Petition at 7. Even if Sprint and Worldcom are correct, a tariff investigation is a valid means of reviewing a Commission prescription. *Pacific Northwest Bell Telephone Company*, Revisions to Tariff FCC No. 9, Transmittal No. 159, Memorandum Opinion and Order (released Oct. 11, 1985).

²⁰ 47 C.F.R. §§ 61.2, 61.54(j). *See, e.g.*, Sprint Petition at 1, 5, 6; WorldCom Petition at 2, 4, 5.

²¹ Because the issues presented in this tariff investigation are closely related to those raised in connection with NECA's Transmittal No. 952, which has also been suspended, we may use data submitted in response to the upcoming designation of issues relating to that transmittal in resolving this investigation. *National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 952*, Order, DA 02-2263 (WCB/Pricing, released Sept. 13, 2002).

NECA shall also provide the totals of each of the individual defaults grouped into the following ranges: less than \$250,000; \$250,001-\$500,000; \$500,001-\$1,000,000; and more than \$1,000,000. For each range, NECA shall indicate the number of defaulting entities. NECA shall then address whether the variation in uncollectible levels for 2000 and 2001 is merely a normal fluctuation in uncollectibles, which would be covered by the business risks anticipated in the 11.25 percent authorized rate of return, or whether it reflects some long term trend that warrants expanded security deposits from customers meeting NECA's proposed standards. NECA shall also indicate the total dollar amount of security deposits held by its carrier participants that are attributable to interstate access services and the percentage relationship of that amount to average monthly interstate access billings. The changes in the security deposit provisions of NECA's interstate access tariff would increase customer-supplied funding as well as reduce the exposure of carriers participating in the NECA tariff to defaults. NECA should accordingly address what modifications should be made to its authorized rate of return to account for these changes to the capital and risk parameters.

12. To assist the Commission in understanding the increase in the level of uncollectibles, NECA should describe the billing and collection procedures used by carriers participating in the NECA tariff and explain any changes in those billing and collection procedures or the accounting treatment of disputed amounts on bills within the past two years that could have affected the levels of uncollectibles. NECA shall, to the extent it has the data, indicate the average length of time from the bill date until the bill is sent to the carrier customer and what percentage of those bills, by number of entities and by billed amount, is sent electronically. In addition, NECA shall provide the Commission, to the extent it has the data, with the number of customers that have been sent non-payment, discontinuance of service, or refusal of new orders letters in the past year and the average length of time from a bill's being delinquent until the letter was sent. To provide information on possible changes in customer behavior, NECA shall provide the Commission with the percent of carrier bills disputed, the percent of carrier-billed revenues disputed, and the percentage of the disputed amounts that were successfully disputed by the carrier for billing periods beginning with January 2000 to the present. NECA should also indicate if its carrier participants deduct disputed amounts from amounts billed for purposes of determining whether a carrier has complied with a deadline.

13. NECA shall indicate which services in its interstate access tariff, including the subscriber line charge and other common line services, are billed in advance and those that are billed in arrears. It shall indicate the percentage of interstate billings that are billed in advance, how this level has changed over the past five years, and how this change has affected the risk carriers participating in the NECA tariff face. In this connection, NECA should discuss whether different security deposit provisions should apply depending upon whether the service is billed in advance or billed in arrears. NECA shall also discuss the extent to which carriers participating in the NECA tariff have a debtor relationship with their customers and how that may affect those carriers' credit risk. NECA should indicate the amount of unpaid bills of defaulting customers that have gone into bankruptcy since January 2000 and the percentage of that amount that has been recovered through bankruptcy proceedings.

14. If NECA believes that the risk of uncollectible debts has increased permanently, it should explain what accounts for this change, *e.g.*, the general economic climate or some structural change in the market. If the change is a structural one, are there methods other than the NECA proposal that would adequately address this additional risk, *e.g.*, is there a subset of carriers that can be identified that are the major cause of the increased risk? Alternatively, is

there some means of accelerated billing that could, if there were a nonpayment, trigger the existing security deposit provisions and thus offer some additional protection to carriers participating in the NECA tariff? NECA should also discuss any other steps, other than requiring additional security deposits, it might take to mitigate the risk. For example, could it adopt some form of advance payment for services currently billed in arrears and, if so, what modifications to its tariff and billing programs would be necessary? How difficult would such changes be to implement? NECA's tariff revisions increasing the security deposits would impose additional costs on carriers that may also be competitors of carriers participating in the NECA tariff at a time when access to capital markets is extremely limited. This could adversely affect the competitiveness of telecommunications markets. Thus, if some measures are necessary, an approach that has the fewest adverse effects on the competitive market while protecting the interests of carriers participating in the NECA tariff would be preferred.

15. NECA's proposed security deposit revisions also raise questions about whether they are sufficiently clear and unambiguous to preclude discriminatory or anticompetitive application. Section 61.54(j) of the Commission's rules provides that "[t]he general rules (including definitions), regulations, exceptions, and conditions which govern the tariff must be stated clearly and definitely."²² Presently, Section 2.4.1(A) of the tariff allows NECA to obtain a deposit for a period of no more than two months estimated billings.²³ Proposed Section 2.4.1(A)(1) would allow NECA to obtain a deposit for new service for a two month period due to a customer's late payments or lack of established credit.²⁴ In addition, proposed Section 2.4.1(A)(2) would allow NECA to obtain a deposit or an additional deposit after service is established for no more than two months actual billings based on an average of the customer's most recent three months billing.²⁵ How does the proposed Section 2.4.1(A)(1) work with the proposed Section 2.4.1(A)(2)? Could NECA collect more than two months' deposit?

16. In addition, the revisions in proposed Section 2.4.1(A)(2) state that, "[a] deposit or an additional deposit may be required from a customer at any time following establishment of service when..."²⁶ The term "may" gives NECA considerable discretion to enforce these provisions. Without definitive criteria in the tariff, what would prevent NECA companies from collecting a deposit from one customer and nothing from another customer given that both meet one of the criteria for deposits?

17. Proposed Section 2.4.1(A)(2) defines the type of funds for a deposit as "U.S. Federal Reserve Bank wire transfers, U.S. Federal Reserve notes (i.e., paper cash), and/or U.S. Postal Money Orders."²⁷ Many customers may not be able to make these types of payments, but would be able to obtain irrevocable letters of credit from a financial institution. NECA should explain why it limited the type of funds it would accept for a deposit. Why would an irrevocable letter of credit from a financial institution be unacceptable for a deposit?

²² 47 C.F.R. § 61.54(j).

²³ NECA F.C.C. Tariff No. 5, 5th Revised Page 2-26, section 2.4.1(A).

²⁴ NECA F.C.C. Tariff No. 5, 2nd Revised Page 2-26.1, section 2.4.1(A)(1).

²⁵ NECA F.C.C. Tariff No. 5, 2nd Revised Page 2-26.1, section 2.4.1(A)(2).

²⁶ NECA F.C.C. Tariff No. 5, 2nd Revised Page 2-26.1, section 2.4.1(A)(2).

²⁷ NECA F.C.C. Tariff No. 5, 2nd Revised Page 2-26.2, section 2.4.1(A)(2).

18. NECA's proposed tariff revisions provide that a security deposit may be required when the company becomes aware that the customer's credit worthiness is below a commercially acceptable level. A commercially acceptable level of credit worthiness for a customer or its parent company is defined as having a corporate debt securities rating with respect to any outstanding general debt obligations of at least BBB according to Standard and Poor's or an equivalent rating from other debt rating agencies. For a customer that does not issue debt securities, a commercially acceptable credit worthiness is defined as having a composite credit appraisal rating published by Dun & Bradstreet of at least "good" or a Paydex score as published by Dun & Bradstreet of at least "average."²⁸ NECA has not shown that these factors are valid predictors of the likelihood of a customer paying its access bill, or that they are better predictors of whether a customer will pay its bills in the future than the customer's past payment history. As part of its direct case, NECA shall explain how each of these factors is a valid predictor of whether the carrier will pay its interstate access bill. NECA shall also explain how the provisions can be applied in a manner that will not produce arbitrary and/or discriminatory results. This is especially important because in some cases the entity upon which the carrier participating in the NECA tariff would impose the security deposit would also be a competitor. In this connection, NECA shall provide the Commission with information concerning the security deposits that carriers participating in the NECA tariff have required of any long-distance or competitive LEC affiliate. NECA shall also indicate how those affiliates would score under its proposed credit-rating procedures and what actions it anticipates carrier participants in the NECA tariff would take in response to that rating. NECA shall also indicate how its carrier participants would score under its credit-rating methodology. We note that most of these criteria relate to ratings for carriers and large businesses. NECA should discuss its intentions, if any, with respect to residential end users.

19. NECA shall provide the Commission with data on the payment characteristics of defaulting interstate access customers during the year prior to the time the account was 90 days overdue from January 1, 2000, to the present. NECA shall present the data in terms that will enable the Commission to identify patterns that may exist in a customer's payment practices prior to default that may permit alternatives to security deposits to be identified and evaluated.

20. Finally, we ask NECA to provide data, to the extent available, on the level of uncollectibles of other regulated utilities, or in the broader marketplace. It should also discuss the means those businesses use to address the risks of default, especially how they manage bad credit risks while continuing to provide goods or services to the customer.

B. Application of Revised Deposit Requirements to Term Plan Customers

1. Background

21. NECA's tariff revisions provide that "[i]f... the Telephone Company requires a deposit from an existing customer that has a term plan commitment(s) in place on or before September 5, 2002 under either an Optional Rate Plan and/or DSL Access Services Discount Pricing Arrangement... and such customer rejects the condition that continuation of its service(s) is contingent upon its provision to the Telephone Company of the required deposit, then upon discontinuance of the customer's service(s) and the resulting termination of the associated term

²⁸ NECA F.C.C. Tariff No. 5, 5th Revised Page 2-26, section 2.4.1(A).

plan commitment(s), the Telephone Company will waive the applicable termination liability charge(s) for each such term plan commitment terminated.”²⁹

22. WorldCom asserts that NECA has not demonstrated substantial cause for a material change in a provision of a term plan, citing *RCA Communications, Inc.*³⁰ WorldCom asserts that NECA has not shown that it has experienced any material change in its business circumstances, much less a change that would constitute an injury to carriers participating in the NECA tariff that would outweigh the existing customers’ legitimate expectations of stability.³¹ Moreover, WorldCom states that the increase in uncollectibles is merely the normal effect of the business cycle, with only a negligible effect on NECA’s financial performance.³²

2. Discussion

23. The second issue designated for investigation is whether the imposition of revised security deposit provisions constitutes a material change to NECA’s term contracts, and, if so, whether it is reasonable for NECA to apply the revised deposit provisions to term plans. If a carrier would have to provide a new or increased security deposit to NECA, its operating capital would be significantly reduced. This could affect other capital or loan commitments it had, potentially causing the carrier to need to restructure or terminate some services. This would be a serious destabilizing event in the competitive marketplace. We direct NECA to respond to the matters discussed below and provide the requested information in its direct case. Nonetheless, NECA may, as part of its direct case, seek to justify applying the revised security deposit provisions to term plans.

24. NECA shall explain in its direct case the reasons increased security deposits should be required of customers with existing term plans and how that is consistent with the Commission’s decision in *RCA Communications, Inc.* This could have significant financial and competitive consequences for existing term plan customers that could also be competitors of carriers participating in the NECA tariff. NECA shall provide the Commission with data on the share of interstate access revenues that are received from services subject to term plans and, of that amount, what portion is attributable to services that are paid in advance. If the majority of term plans require prepayment, the risk to carriers participating in the NECA tariff would appear to be much less than if they were all paid in arrears. Moreover, we recognize that when customers’ existing term plans expire carriers participating in the NECA tariff will be able to apply prevailing security deposit provisions to new plans taken by such carriers.

C. Shortened Termination Period

1. Background

25. The proposed tariff revisions provide that “[i]f a customer fails to comply with Section 2.4.1 following (Payment of Rates, Charges and Deposits), including the customer’s

²⁹ NECA F.C.C. Tariff No. 5, original page 2-26.3, section 2.4.1(A)(2).

³⁰ *RCA Communications, Inc., Revisions to FCC Tariff Nos. 1 and 2*, CC Docket No. 80-766, Transmittal Nos. 191 and 273, Memorandum Opinion and Order, 94 FCC 2d 1338 (1983); see, e.g., WorldCom Petition at 7-8.

³¹ WorldCom Petition at 7-8.

³² *Id.*

failure to make payments on the dates and in the methods specified therein, the Telephone Company may, on ten (10) days written notice to the customer by Certified U.S. Mail, take the following actions: (1) refuse additional applications for service and/or refuse to complete any pending orders for service, and/or (2) discontinue the provision of service to the customer.”³³

26. WorldCom argues that NECA’s proposal to reduce the notice period for disconnections from 30 days to 10 days is unjust and unreasonable.³⁴

2. Discussion

27. The third issue designated for investigation is whether NECA’s proposal to reduce the notice required before termination of a service, or refusal to process an order, may occur from 30 days to 10 days is just and reasonable. We direct NECA to respond to the matters discussed below and provide the requested information in its direct case. Nonetheless, NECA may, as part of its direct case, seek to justify the reduced notice provisions in its proposed tariff revision.

28. As part of its direct case, NECA shall explain why it believes that the increased security deposit provisions it proposes are inadequate and why it needs shortened notice periods as well; or, conversely, why a shortened notice period would not be adequate by itself. NECA shall also submit information for the most recent twelve months, to the extent it possesses such data, as to the timeliness of the billings of carriers participating in the NECA tariff. In this connection, it shall address the relationship of the billing date to the delivery date (indicating the percentage of bills and billed amounts that were delivered electronically). It shall also discuss the appropriateness of prescribing the time within which a bill must be presented to the customer if a shortened notice period were to be allowed in order to permit the customer sufficient time to review the bill and pursue its dispute rights under the tariff. In particular, NECA should address whether the carriers participating in its tariff could meet the three-day requirement the Commission adopted in 1987.³⁵

IV. PROCEDURAL MATTERS

A. Filing Schedules

29. This investigation is designated WC Docket No. 02-340. The National Exchange Carrier Association, Inc., is designated a party to this investigation. NECA shall file its direct case no later than November 21, 2002. The direct case must present NECA’s position with respect to the issues described in this Order. Pleadings responding to the direct case may be filed no later than December 5, 2002, and must be captioned “Oppositions to Direct Case” or “Comments on Direct Case.” NECA may file a “Rebuttal” to oppositions or comments no later than December 12, 2002.

30. An original and four copies of all pleadings shall be filed with the Secretary of the Commission. In addition, parties shall serve with three copies: Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A104, Washington, D.C. 20554,

³³ NECA F.C.C. Tariff No. 5, second revised page 2-9, section 2.1.8(B).

³⁴ WorldCom Petition at 3-5.

³⁵ *See supra*, note 7.

Attn: Julie Saulnier. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. Such comments should specify the docket number of this investigation, WC Docket No. 02-340. Parties are also strongly encouraged to submit their pleadings via the Internet through the Electronic Comment Filing System at <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, which in this instance is WC Docket No. 02-340. Parties may also submit an electronic comment via Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <ecfs@fcc.gov>, and should include the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply.

31. Interested parties who wish to file comments via hand-delivery are also notified that effective December 18, 2001, the Commission will only receive such deliveries weekdays from 8:00 a.m. to 7:00 p.m., via its contractor, Vistrionix, Inc., located at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. **The Commission no longer accepts these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743.** Please note that all hand deliveries must be held together with rubber bands or fasteners, and envelopes must be disposed of before entering the building. In addition, this is a reminder that as of October 18, 2001, the Commission no longer accepts hand-delivered or messenger-delivered filings at its headquarters at 445 12th Street, SW, Washington, DC 20554. Messenger-delivered documents (*e.g.*, FedEx), including documents sent by overnight mail (other than United States Postal Service (USPS) Express and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location is open weekdays from 8:00 a.m. to 5:30 p.m. USPS First-Class, Express, and Priority Mail should be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC 20554. The following chart summarizes this information:

TYPE OF DELIVERY	PROPER DELIVERY ADDRESS
Hand-delivered paper filings	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (Weekdays - 8:00 a.m. to 7:00 p.m.)
Messenger-delivered documents (<i>e.g.</i> , FedEx), including documents sent by overnight mail (this type excludes USPS Express and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (Weekdays - 8:00 a.m. to 5:30 p.m.)
USPS First-Class, Express, and Priority Mail	445 12 th Street, SW Washington, DC 20554

32. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information, or a writing containing the nature and source of such information, is placed in the public file, and provided that the fact of reliance on such information is noted in the order.

***Ex Parte* Requirements**

33. This investigation is a permit-but-disclose proceeding and is subject to the requirements of section 1.1206(b) of the Commission's 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.³⁶ Other rules pertaining to oral and written presentations are also set forth in section 1.1206(b).

34. Interested parties are to file any written *ex parte* presentations in this proceeding with the Commission's Secretary, Marlene Dortch, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, and serve with three copies: Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A104, Washington, D.C. 20554, Attn: Julie Saulnier. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893.

Paperwork Reduction Act

35. This order designating issues for investigation contains no new or modified information collections subject to the Paperwork Reduction Act of 1995, Pub. Law 104-13.

ORDERING CLAUSES

36. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 4(i), 4(j), 201-205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201-205, and 403, and pursuant to the authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

37. IT IS FURTHER ORDERED that the National Exchange Carrier Association, Inc., SHALL BE a party to this proceeding.

38. IT IS FURTHER ORDERED that the National Exchange Carrier Association, Inc., SHALL INCLUDE, in its direct case, a response to each request for information that it is required to answer by this Order.

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss
Chief, Pricing Policy Division
Wireline Competition Bureau

³⁶ See 47 C.F.R. §1.1206(b)(2), as revised.