

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

In the Matter of)
Searsboro Telephone Company, Inc.)
and)
Killduff Telephone Company) CC Docket No. 96-45
Joint Petition for Waiver of the Study Area)
Boundary Freeze Codified in the Part 36,)
Appendix-Glossary of the Commission's Rules)
Petition for Waiver of Section 69.605(c) of the)
Commission's Rules)

ORDER

Adopted: July 27, 2004

Released: July 27, 2004

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant a request from Searsboro Telephone Company, Inc. (Searsboro Telephone) and Killduff Telephone Company (Killduff Telephone) for a waiver of the study area boundary freeze codified in the Appendix-Glossary of Part 36 of the Commission's rules. This waiver will permit Searsboro Telephone to remove a single exchange, the Killduff exchange, comprising approximately 190 access lines from its Iowa study area. This waiver also will permit Killduff Telephone to establish a new study area consisting of only the Killduff exchange. In addition, we grant the request of Killduff Telephone for a waiver of section 69.605(c) of the Commission's rules to allow Killduff Telephone to operate as an "average schedule company" after the acquisition of the Killduff exchange from Searsboro Telephone.

II. STUDY AREA WAIVER

A. Background

2. Study Area Boundaries. A study area is a geographic segment of an incumbent local exchange carrier's (LEC's) telephone operations. Generally, a study area corresponds to an incumbent LEC's entire service territory within a state. Thus, incumbent LECs operating in more than one state

1 See Searsboro Telephone Company, Inc. and Killduff Telephone Company Joint Petition for Waiver, CC Docket No. 96-45 (filed October 24, 2003) (Joint Petition); 47 C.F.R. § 36 app.

2 Killduff Telephone is a newly formed Iowa corporation. See Joint Petition at 2.

3 See 47 C.F.R. § 69.605(c).

typically have one study area for each state. The Commission froze all study area boundaries effective November 15, 1984, and an incumbent LEC must apply to the Commission for a waiver of the study area boundary freeze if it wishes to sell or purchase additional exchanges.⁴

3. Transfer of Universal Service Support. Section 54.305(a) of the Commission's rules provides that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost universal service support for which the acquired exchanges were eligible prior to their transfer.⁵ This limitation applies to high-cost loop support (HCLS), local switching support (LSS) and long term support (LTS). Section 54.305(a) is meant to discourage carriers from transferring exchanges merely to increase their share of high-cost universal service support.⁶ For example, if a rural carrier⁷ purchases an exchange from a non-rural carrier that receives support based on the Commission's high-cost support mechanism for non-rural carriers, the loops of the acquired exchange shall receive the same per-line support as calculated under the non-rural mechanism, regardless of the support the rural carrier purchasing the exchange may receive for any of its other exchanges.⁸

4. Notwithstanding the limitations provided in section 54.305(a), there are two circumstances under which rural carriers may receive additional high-cost support for acquired lines. First, a rural carrier may be eligible to receive additional high-cost loop support for new investments in acquired exchanges under the Commission's "safety valve" mechanism.⁹ The total safety valve support available to all eligible carriers is limited to no more than five percent of rural incumbent LEC support

⁴ See *MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72, 80-286, Recommended Decision and Order, 49 Fed. Reg. 48325 (1984); Decision and Order, 50 Fed. Reg. 939 (1985). See also 47 C.F.R. § 36 app.

⁵ 47 C.F.R. § 54.305.

⁶ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8942-43 (1997) (*First Report and Order*), as corrected by *Federal-State Joint Board on Universal Service*, Errata, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *affirmed in part, reversed in part and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

⁷ The term "rural carrier" refers to an incumbent LEC that meets the definition of "rural telephone company" in section 3(37) of the Communications Act of 1934, as amended (Act). See 47 U.S.C. § 153(37). Because each of the petitioners provides or will provide telephone exchange service to local exchange study areas with fewer than 100,000 access lines, they all meet the definition of "rural telephone company" in the Act.

⁸ Rural carriers receive HCLS based on the extent to which their reported average cost per loop exceeds 115% of the nationwide average cost per loop. See 47 C.F.R. §§ 36.601- 631. The mechanism for non-rural carriers directs support to carriers based on the forward-looking economic cost of operating a given exchange. See 47 C.F.R. § 54.309.

⁹ See 47 C.F.R. § 54.305(b)-(f). See also *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11276-84 (2001), as corrected by Errata, CC Docket Nos. 96-45, 00-256 (Acc. Pol. Div. rel. Jun. 1, 2001). The "safety valve" mechanism enables rural carriers acquiring access lines to receive additional high-cost loop support over a period of five years reflecting post-transaction investments made to enhance the infrastructure of and improve the service in acquired exchanges. Safety valve support provides up to 50% of any positive difference between a rural carrier's index year high-cost loop support expense adjustment for the acquired exchanges and subsequent year expense adjustments.

available from the annual high-cost loop fund. Second, rate-of-return carriers may be eligible for interstate common line support (ICLS) and the Commission determined that the limitations set forth in section 54.305(a) would not apply to such support.¹⁰ Accordingly, an acquiring carrier is not limited to the amount of ICLS support that the selling carrier received.

5. The Joint Petition for Waiver. Searsboro Telephone and Killduff Telephone filed a joint petition for a waiver of the study area boundary freeze and Killduff Telephone also sought a waiver of section 69.605(c) of the Commission's rules on October 24, 2003.¹¹ On December 9, 2003, the Wireline Competition Bureau (Bureau) released a public notice seeking comment on the joint petition for waiver.¹² A study area waiver would permit Searsboro Telephone to alter the boundaries of its existing study area by removing a single exchange that it is transferring to Killduff Telephone. The waiver would also permit Killduff Telephone to establish a new study area consisting of a single exchange. As a result of this transaction, neither Searsboro Telephone nor Killduff Telephone will receive additional annual HCLS.¹³

6. Standards for Waiver. Generally, the Commission's rules may be waived for good cause shown.¹⁴ As noted by the Court of Appeals for the D.C. Circuit, however, agency rules are presumed valid.¹⁵ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹⁶ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁷ Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. In evaluating petitions seeking a waiver of the rule freezing study area boundaries, the Commission traditionally has applied a three-prong standard: (1) the change in study area boundaries must not adversely affect the universal service fund; (2) no state commission having regulatory authority over the transferred exchanges opposes

¹⁰ See also *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers in CC Docket No. 00-256, Federal-State Joint Board on Universal Service in CC Docket No. 96-45, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation in CC Docket No. 98-77, Prescribing the Authorized Rate of Return From Interstate Services of Local Exchange Carriers in CC Docket No. 98-166, Second Report and Order and Further Notice of Proposed Rulemaking, Fifteenth Report and Order, and Report and Order, 16 FCC Rcd 19613, 19667-69, paras. 155-57 (2001) (MAG Order/NPRM), recon. pending.*

¹¹ See Joint Petition at 1-12.

¹² See *Searsboro Telephone Company, Inc. and Killduff Telephone Company Seek a Waiver of the Study Area Boundary Freeze as Codified in Part 36 and Waivers of Section 69.605(c) of the Commission's Rules*, Public Notice, DA 03-3895 (rel. Dec. 9, 2003). No comments were filed in response to the Joint Petition.

¹³ See Joint Petition, Exh. A.

¹⁴ 47 C.F.R. § 1.3.

¹⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (*Wait Radio*), cert. denied, 409 U.S. 1027 (1972).

¹⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹⁷ *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

the transfer; and (3) the transfer must be in the public interest.¹⁸

7. In evaluating whether a study area boundary change will have an adverse impact on the universal service fund, we analyze whether a study area waiver will result in an annual aggregate shift in high-cost support in an amount equal to or greater than one percent of the total high-cost support fund for the year 2004.¹⁹ The Commission began applying the one-percent guideline in 1995 to limit the potential adverse impact of exchange sales on the overall fund, also recognizing that, because of the indexed cap, an increase in the draw of any fund recipient necessarily reduces the amounts that other LECs receive from the fund.²⁰ After adoption of section 54.305(a) of the Commission's rules, however, the one-percent guideline, was not, in practice, a necessary limitation because section 54.305(a) provides that a carrier purchasing exchanges from an unaffiliated carrier is permitted to receive only the same level of per-line high-cost support that the selling company was receiving for the exchanges prior to the transfer.²¹ Accordingly, by definition, section 54.305(a) ensures that there will be no adverse impact on the universal service fund. Consistent with past precedent, we apply the one-percent guideline to determine the impact on the universal service fund, in light of the adoption of safety valve support, which allows an acquiring carrier to receive support for new investments in acquired lines, and ICLS, which does not limit the amount of such support that a carrier can receive for acquired lines.²²

B. Discussion

8. We find that good cause exists to waive the study area boundary freeze codified in the Appendix-Glossary of Part 36 of the Commission's rules to permit Searsboro Telephone to alter the boundaries of its existing Iowa study area to remove the Killduff exchange that it is transferring to Killduff Telephone. We also find that good cause exists to permit Killduff Telephone to establish a new study area consisting of only the Killduff exchange. For the reasons discussed below, we conclude that petitioners have satisfied the three-prong standard the Commission has applied to determine whether a waiver is warranted.

9. Because the proposed study area waiver will not result in a shift in high-cost support in an amount equal to or greater than one percent of the total high-cost support fund, we conclude that the universal service fund will not be adversely affected. HCLS, LSS, and LTS are limited by section 54.305(a) of the Commission's rules.²³ Accordingly, Killduff Telephone is limited to the same per-line level of support that Searsboro Telephone was receiving prior to the acquisition. In this instance, there

¹⁸ See, e.g., *US WEST Communications, Inc., and Eagle Telecommunications, Inc., Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules*, AAD 94-27, Memorandum Opinion and Order, 10 FCC Rcd 1771, 1772 (1995) (*PTI/Eagle Order*).

¹⁹ See *PTI/Eagle Order* at 1774, paras. 14-17. See *US WEST Communications, Inc., and Eagle Telecommunications, Inc., Joint Petition for Waiver of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules, and Petition for Waiver of Section 61.41(c) of the Commission's Rules*, AAD 94-27, Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 4644 (1997).

²⁰ See *PTI/Eagle Order* at 1773, para. 13.

²¹ See 47 C.F.R. § 54.305(a).

²² See *supra* para. 4 (discussing "safety valve" support and ICLS).

²³ See 47 C.F.R. § 54.305(a).

will be a slight reduction in high-cost support as a result of this transaction.²⁴ Although Killduff Telephone may be eligible for safety valve support for investments in the acquired lines, we have no reason to believe that this amount would realistically exceed one percent of the total high-cost support fund. In reaching this conclusion, we note that the proposed study area waiver involves the transfer of only one exchange consisting of approximately 190 access lines. Moreover, an individual rural carrier's safety valve support is capped at 50 percent of any positive difference between the amount of HCLS that the rural carrier would qualify for in the index year for the acquired access lines and the support amounts that the carrier would qualify for in subsequent years.²⁵ The total amount of safety valve support available to rural carriers is also capped at five percent of annual HCLS available to rural carriers in any particular year, thereby providing an additional limitation on the amount of safety valve support available to carriers.²⁶

10. Likewise, we find that providing HCLS support to Killduff Telephone will not result in more than a one percent change in the total high-cost fund.²⁷ Killduff Telephone estimates that it may be eligible to receive annual HCLS in the amount of \$25,967.39.²⁸ The total high-cost fund for the year 2004 is projected to be \$3.7 billion dollars, one percent of which would be \$37 million dollars.²⁹ We therefore conclude that the \$25,967.39 Killduff Telephone estimates that it will receive in HCLS, in addition to any amounts that Killduff Telephone may be eligible to receive in safety valve support, will not have an adverse impact on the universal service fund.

11. Second, the state commission with regulatory authority over the transferred exchanges does not oppose the transfer. On September 12, 2003, the Iowa Utilities Board issued an order approving the sale of the Killduff exchange from Searsboro Telephone to Killduff Telephone and stating that it does not object to the transfer or a grant of the study area waiver.³⁰

12. Third, we conclude that the public interest is served by a waiver of the study area freeze rule to permit Searsboro Telephone to remove from its Iowa study area the Killduff exchange and permit Killduff Telephone to establish a new study area consisting of only the Killduff exchange. In the Joint Petition, petitioners contend that this transaction will directly benefit customers in both the Killduff and Searsboro exchanges.³¹ For example, petitioners indicate that Killduff Telephone intends to make several improvements to the facilities serving the Killduff exchange resulting in the availability of enhanced

²⁴ See Joint Petition, Exh. A.

²⁵ See 47 C.F.R. § 54.305(d). See *supra* n.7, 8.

²⁶ See 47 C.F.R. § 54.305(e).

²⁷ See 47 C.F.R. § 54.902.

²⁸ See Joint Petition, Exh. A.

²⁹ Federal Universal Support Mechanisms Fund Size Projections for the Third Quarter 2004, USAC, April 30, 2004, corrected May 13, 2004, Appendix HC02 3Q2004 - High Cost Projected Support by State 2004 - Annual.

³⁰ See Joint Petition, Exh. B (*Searsboro Telephone Company, Inc., and Killduff Telephone Company*, Order Approving the Joint Application for Discontinuance of Service, Amending Certificate, Granting Partial Transfer of Certificate, Approving Tariff, and Granting Waiver, Docket Nos. SPU-03-6, TF-03-132, WRU-03-57-478 (Iowa Utilities Bd. Sept. 12, 2003) (finding, among other things, that Killduff Telephone has demonstrated that it has the necessary technical, financial, and managerial abilities to provide local exchange service)).

³¹ Joint Petition at 6.

features and an improvement in the reliability of service.³² Specifically, Killduff Telephone plans to build a fiber ring structure throughout the exchange that will enhance the redundancy and reliability of the network as well as extend high-speed digital transmission capabilities to areas not currently served by fiber.³³ Petitioners also assert that Searsboro Telephone intends to use the economic gains from the sale of the Killduff exchange to make upgrades to its equipment which will permit Searsboro Telephone to offer additional and enhanced services in the Searsboro exchange.³⁴ Based on these representations, we conclude that petitioners have demonstrated that grant of this waiver request will serve the public interest.

III. AVERAGE SCHEDULE WAIVER

A. Background

13. Incumbent LECs that participate in National Exchange Carrier Association (NECA) pools collect access charges from interexchange carriers at the rates contained in the tariffs filed by NECA.³⁵ Each pool participant receives settlements from the pools to recover the cost of providing service plus a pro-rata share of the pool's earnings.³⁶ NECA pool participants' interstate access charge settlements are determined either on the basis of cost studies or average schedule formulas. Cost companies are incumbent LECs that receive compensation for interstate telecommunications services based on their actual interstate investment and expenses, calculated from detailed cost studies. Average schedule companies are those incumbent LECs that receive compensation for use of their interstate telecommunications services on the basis of formulas that are designed to simulate the disbursements that would be received by a cost company that is representative of average schedule companies.³⁷ In electing average schedule status, companies are able to avoid the administrative and financial burdens of performing interstate cost studies.

14. Section 69.605(c) of the Commission's rules provides, in pertinent part, that "a telephone company that was participating in average schedule settlements on December 1, 1982, shall be deemed to be an average schedule company."³⁸ The definition of "average schedule company" includes existing average schedule incumbent LECs, but does not allow the creation of new average schedule companies or the conversion of cost-based carriers or a portion of the lines of such a carrier to average schedule status without a waiver of the Commission's rules.³⁹ The definition was designed to limit the use of average schedule formulas to companies that operated as average schedule companies prior to adoption of the rule

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ See 47 C.F.R. § 69.601.

³⁶ See 47 C.F.R. §§ 69.601-69.610.

³⁷ See 47 C.F.R. § 69.606(a).

³⁸ 47 C.F.R. § 69.605(c).

³⁹ An incumbent LEC may convert from an average schedule company to a cost company, but a carrier must obtain a waiver of the definition of "average schedule company" in section 69.605(c) to change from a cost company to an average schedule company. See 47 C.F.R. § 69.605(c).

or that are able to demonstrate compelling circumstances sufficient to warrant a special exception.⁴⁰ Accordingly, Killduff Telephone would be required to operate, absent a waiver, as a cost-based company. Our action on Killduff Telephone's request, therefore, is guided by the principle that incumbent LECs should settle on a cost basis whenever possible without undue hardship.⁴¹

15. The Bureau, however, has granted waivers to certain small carriers that lacked the resources to operate on a cost-study basis.⁴² Killduff Telephone seeks a waiver of the definition of "average schedule company" in section 69.605(c) so that it may operate as an average schedule company after acquiring the Killduff exchange from Searsboro Telephone, an average schedule company in Iowa.⁴³ Killduff Telephone argues that a waiver permitting it to operate as an average schedule company is justified due to its small size and given the small size of the exchange.⁴⁴ It asserts that it lacks the administrative resources to perform cost studies and that its limited resources are better spent on customer service and network improvements.⁴⁵ Killduff Telephone also notes that it is the type of small rural company to which the Commission envisioned conferring average schedule company status because of the undue hardship such a company would suffer if it were required to operate as a cost-based company.⁴⁶

B. Discussion

16. We conclude that good cause exists for us to grant Killduff Telephone's request for a

⁴⁰ See *Petition for Waiver Filed by Heartland Telecommunications Company of Iowa and Hickory Tech Corporation*, AAD File No. 96-94, Memorandum Opinion and Order, 14 FCC Rcd 13661, 13662, para. 3 (Wireline Comp. Bur. 1999) (*Heartland*).

⁴¹ See *Nemont Telephone Cooperative, Inc., Missouri Valley Communications, Inc., Reservation Telephone Cooperative and Citizens Telecommunications Company of North Dakota*, Order, 18 FCC Rcd 838, 849, para. 28 (Wireline Comp. Bur. 2003); *Dickey Rural Telephone Cooperative, Dickey Rural Access, Inc., Polar Telecommunications, Inc., Red River Rural Telephone Association, Red River Telecom, Inc. and Citizens Telecommunications Company of North Dakota*, Order, 17 FCC Rcd 16881, 16892, para. 29 (Wireline Comp. Bur. 2002).

⁴² See *BPS Telephone Co. Petition for Waiver of Section 69.605(c) of the Commission's Rules*, AAD No. 95-67, Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 13820, 13824 (Acc. Aud. Div. 1997) (*BPS*). See, e.g., *Dumont Telephone Company, Inc. and Universal Communications, Inc., Request for Extraordinary Relief*, AAD 96-94, Memorandum Opinion and Order, 13 FCC Rcd 17821 (Acc. Saf. Div. 1998) (waiver granted to Dumont Telephone Company, Inc. and Universal Communications, Inc., which had approximately 1,544 access lines); *Petitions for Waiver Filed by Accent Communications, et al.*, AAD No. 95-124, Memorandum Opinion and Order, 11 FCC Rcd 11513 (Acc. Aud. Div. 1996) (waiver granted to Moberidge Telecommunications Company, which had approximately 2,400 access lines); *National Utilities, Inc. and Bettles Telephone Co., Inc. Petition for Waiver of Section 69.605(c) of the Commission's Rules*, Report and Order, 8 FCC Rcd 8723 (Comm. Car. Bur. 1993) (waiver granted to National Utilities, which had 2,350 access lines, and Bettles, which had 50 access lines); *Newcastle Telephone Co. Petition for Waiver of Section 69.605(c)*, AAD No. 90-18, Memorandum Opinion and Order, 7 FCC Rcd 2081 (Com. Car. Bur. 1992) (waiver granted to small company with 1550 access lines, two exchanges).

⁴³ Joint Petition at 9.

⁴⁴ *Id.* at 10.

⁴⁵ *Id.* at 10-11.

⁴⁶ *Id.* at 11.

waiver of section 69.605(c). In the instant case, a new company, Killduff Telephone, is being established to acquire an exchange currently owned by an average schedule company. This is different from the usual average schedule waiver case in which an average schedule company is acquiring lines from a cost company or a price cap carrier and wishes to continue operating after the acquisition as an average schedule company.⁴⁷ New companies have been granted average schedule status pursuant to a waiver in the past.⁴⁸ In *Wilderness Valley*, for example, the Accounting and Audits Division of the Common Carrier Bureau (predecessor to the Wireline Competition Bureau) granted a new company serving a previously unserved area average schedule status.⁴⁹ As in *Wilderness Valley*, the high cost of completing cost studies relative to the small size of Killduff Telephone, establishes the special circumstances that warrant granting its request for a waiver of section 69.605(c).⁵⁰ It is especially significant in this instance that Killduff Telephone is acquiring access lines that were currently owned by Searsboro Telephone, an average schedule company. Thus, there would be no change in the status of the acquired lines if Killduff Telephone is permitted to operate as an average schedule company. The 190 lines affected by this waiver is within the range of the number of lines that the Commission has permitted to be added to an existing average schedule company's operations pursuant to a waiver of section 69.605(c).⁵¹ We therefore find that Killduff Telephone's requested waiver of section 69.605(c) of the Commission rules is in the public interest and should be granted.

IV. ORDERING CLAUSES

17. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), and 254 and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the joint petition for waiver of the study area boundary freeze as codified in Part 36, Appendix-Glossary, of the Commission's rules, by Searsboro Telephone Company, Inc. and Killduff Telephone Company dated October 24, 2003, IS GRANTED.

18. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the petition for waiver of section 69.605(c) of the Commission's rules, 47 C.F.R. § 69.605(c), filed by Killduff Telephone Company dated October 24, 2003, IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

William F. Maher, Jr.
Chief, Wireline Competition Bureau

⁴⁷ See *supra* at n.41.

⁴⁸ See *Wilderness Valley Telephone Co., Inc.* AAD No. 96-99, Order, 13 FCC Rcd 4511 (Acc. Aud. Div. 1998) (*Wilderness Valley*).

⁴⁹ See *id.*

⁵⁰ *Id.*

⁵¹ See *supra* at n.41.