



PUBLIC NOTICE

Federal Communications Commission
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DA 04-31
January 8, 2004

Parties Asked To Refresh Record Regarding Reconsideration of Rules Adopted in 1999 Access Reform Docket

CC Docket Nos. 96-262, 94-1, 98-63, 98-157

COMMENTS DUE: 30 days after Federal Register publication of this Notice

REPLY COMMENTS DUE: 45 days after Federal Register publication of this Notice

The Wireline Competition Bureau (the Bureau) invites interested parties to update the record pertaining to petitions for reconsideration and clarification filed with respect to the rules the Commission adopted in the 1999 *Access Reform Fifth Report and Order*.¹

After the Commission on August 27, 1999 released the *Access Reform Fifth Report and Order*, which established a framework for granting greater pricing flexibility for price cap carriers as competition develops, some parties filed petitions for reconsideration and clarification of that order.² Since then, the Commission has received and granted a number of petitions seeking pricing flexibility. In addition, AT&T recently filed a petition for rulemaking regarding the pricing of special access services.³ This petition asks the Commission to revisit its pricing flexibility rules, and parties have responded by filing extensive comments. Because the petitions for reconsideration and clarification were filed several years ago, the intervening developments and passage of time may have rendered the records developed by those petitions stale. Issues raised in the pending petitions for reconsideration and clarification may have become moot or irrelevant. As a result, it is not clear what issues arising out of the *Access Reform Fifth Report and Order*, if any, remain in dispute.

¹ *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers, Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA*, CC Docket Nos. 96-262, 94-1, 98-63, 98-157, Fifth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 14221 (1999) (*Access Reform Fifth Report and Order*).

² The following parties filed petitions for reconsideration and/or clarification: Bell Atlantic, GTE, Network Access Solutions Corporation, and the United States Telephone Association.

³ AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, RM No. 10593, Petition for Rulemaking (2002).

For these reasons, the Bureau requests that parties that filed petitions for reconsideration and clarification of the *Access Reform Fifth Report and Order* now file a supplemental notice indicating those issues that they still wish to be reconsidered or clarified. These parties may refresh the record with any new information or arguments that they believe to be relevant to deciding *only* those issues that they previously raised in their petitions for reconsideration and clarification. To the extent that these parties do not indicate an intent to pursue these petitions, the Commission will deem them withdrawn and will dismiss them.

Interested parties may file comments updating their previously filed petitions for reconsideration no later than **30 days after this Public Notice appears in the Federal Register**, with the Secretary, FCC at 445 12th Street, SW, TW-A325, Washington, DC 20554. Oppositions or responses to these comments may be filed with the Secretary, FCC no later than **45 days after this Public Notice appears in the Federal Register**. All pleadings are to reference **CC Docket Nos. 96-262, 94-1, 98-63, and 98-157**. All pleadings may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

Filings made through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Commenters must transmit one electronic copy of the comments to each docket number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit electronic comments by Internet e-mail. To get filing instructions for e-mail pleadings, filers should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

- The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street SW, Washington, D.C. 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th St. SW, Suite TW-A325, Washington, DC 20554.

Two (2) copies of the comments and reply comments should also be sent to Deena Shetler, Deputy Division Chief, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Room 5-A121, Washington, D.C. 20554. Parties shall also serve one copy with Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 863-2893, or via email to <qualexint@aol.com>.

The original petitions for reconsideration and clarification filed by the parties in CC Docket Nos. 96-262, 94-1, 98-63, and 98-157 are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, DC 20554. The documents may also be purchased from Qualex International, telephone (202) 863-2893, facsimile (202) 863-2898.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations 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. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

For further information, contact Marvin Sacks, Pricing Policy Division, Wireline Competition Bureau, (202) 418-1520.

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