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

In the Matter of	)	
	)	
Petition by Eastex Telephone Cooperative, Inc.	)	CC Docket No. 80-286
Pursuant to 47 C.F.R Sections 36.3, 36.123–126,	)	
36.141, 36.152–157, 36.191, and 36.372–382 for	)	
Commission Approval to Unfreeze Part 36	)	
Category Relationships	)	

ORDER

Adopted: June 15, 2012 **Released: June 15, 2012**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant a request from Eastex Telephone Cooperative, Inc. (Eastex), a rural rate-of-return incumbent local exchange carrier (incumbent LEC) serving 11 counties in East Texas, for a waiver of sections 36.3, 36.123–126, 36.141, 36.152–157, 36.191, and 36.372–382 of the Commission's rules.[1] Eastex requests a waiver only to the extent that the rules freeze cost categories for purposes of jurisdictional separations.[2] Granting Eastex's waiver request will allow it to adjust cost category assignments to more accurately reflect its network investment, and will not result in additional support from the federal Universal Service Fund.[3] To prevent the possibility of double recovery,[4] we require, as a condition of the waiver, that Eastex file certain revised 2011 Rate of Return Base Period Revenue[5] data reflecting retroactively the changes in category relationships it makes pursuant to the relief granted in this order. As described below, this Order will reduce Eastex's reliance on universal service support. In addition, we expect that grant of this waiver will have little, if any, effect on interstate switched and special access rates. Eastex's interstate switched and special rates are based on NECA pool costs. As explained below,[6] unfreezing the Eastex's category relationships will result in some costs shifting within the NECA pool, however, the increase in special access costs will be offset to some extent

[1] Petition of Eastex Telephone Cooperative, Inc. to Unfreeze Part 36 Category Relationships, CC Docket No. 80-286 (filed May 25, 2011) (Eastex Petition); 47 C.F.R. §§ 36.3, 36.123–126, 36.141, 36.152–157, 36.191, 36.372–382.

[2] Eastex Petition at 1.

[3] *See id*. at 8–10.

[4] *See generally*, *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 at 17676-77, para. 35 (2011),(*USF/ICC Transformation Order*), *pets. for review pending, In re FCC 11-161,* No. 11-9900 (10th Cir. filed Dec. 8, 2011) (and consolidated cases).

[5] 47 C.F.R. § 51.917(c).

[6] *See infra* para. 14.

by the decrease in switched access costs and, in both instances, the total shift represents a very small amount of NECA pool costs.

II. BACKGROUND

A. Jurisdictional Separations and the Separations Process

2. Jurisdictional separations is the process by which incumbent LECs apportion regulated costs between the intrastate and interstate jurisdictions. Historically, the separations process has been designed to prevent incumbent LECs from assigning the same costs in both the interstate and intrastate jurisdictions and to ensure that all regulated costs are assigned to a jurisdiction.

3. The jurisdictional separations process has two parts. First, incumbent LECs assign regulated costs to various categories of plant and expenses. In certain instances, costs are further disaggregated among service categories.[7] Second, the costs in each category are apportioned between the intrastate and interstate jurisdictions. These jurisdictional apportionments of categorized costs are based upon a relative use factor, a fixed allocator, or, when specifically allowed in the Part 36 rules, by direct assignment. For example, message loop costs are allocated by a fixed allocator, which allocates 25 percent of the message loop costs to the interstate jurisdiction and 75 percent of the costs to the intrastate jurisdiction.[8]

B. Separations Freeze Orders

4. On July 21, 2000, the Joint Board issued its *2000 Separations Recommended Decision*, recommending that, until comprehensive reform can be achieved, the Commission (i) freeze Part 36 category relationships and jurisdictional allocation factors for incumbent LECs subject to price cap regulation (price cap carriers), and (ii) freeze allocation factors only for incumbent LECs subject to rate-of-return regulation (rate-of-return carriers).[9] In the *2001 Separations Freeze Order*, the Commission generally adopted the Joint Board's recommendation.[10] The Commission concluded that the freeze would provide stability and regulatory certainty for incumbent LECs by minimizing any impacts not contemplated by the Commission's Part 36 rules, such as growth in local competition and new

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[7] For example, central office equipment (COE) Category 1 is Operator Systems Equipment, Account 2220. The Operator Systems Equipment account is further disaggregated or classified according to the following arrangements: (i) separate toll boards; (ii) separate local manual boards; (iii) combined local manual boards; (iv) combined toll and DSA boards; (v) separate DSA and DSB boards; (vi) service observing boards; (vii) auxiliary service boards; and (viii) traffic service positions. *See* 47 C.F.R. § 36.123.

[8] *See* 47 C.F.R. § 36.154(c).

[9] *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Recommended Decision, 15 FCC Rcd 13160 (Fed-State Jt. Bd. 2000) (*2000 Separations Recommended Decision*). The Commission sought public comment on the *2000 Separations Recommended Decision*. *See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Public Notice, 15 FCC Rcd 15054 (Common Carr. Bur. 2000) (*2000 Separations Public Notice*). Part 32 contains the Uniform System of Accounts for Telecommunications Companies. It specifies the accounts that incumbent LECs must use to record their costs. *See* 47 C.F.R. Part 32. "Category relationships" are the percentage relationships of each Part 36 category to the total amount recorded in its corresponding Part 32 account(s). *See* 47 C.F.R. Parts 32, 36. "Jurisdictional allocation factors" are the percentage relationships that allocate costs recorded in Part 32 accounts for jointly used plant and certain expenses between the interstate (federal) and intrastate (state) jurisdictions. *See 2000 Separations Recommended Decision*, 15 FCC Rcd at 13172, para. 20.

[10] *2001 Separations Freeze Order*, 16 FCC Rcd at 11387–88, para. 9.

technologies.[11] Further, the Commission found that a freeze of the separations process would reduce regulatory burdens on incumbent LECs during the transition from a regulated monopoly to a deregulated, competitive environment in the local telecommunications marketplace.[12] Under the freeze, price cap carriers calculate: (1) the relationships between categories of investment and expenses within Part 32 accounts; and (2) the jurisdictional allocation factors, as of a specific point in time, and then lock or "freeze" those category relationships and allocation factors in place for a set period of time. The carriers use the "frozen" category relationships and allocation factors for their calculations of separations results and therefore are not required to conduct traditional separations studies for the duration of the freeze. Rate-of-return carriers were required to freeze their allocation factors, but were given the option of freezing their category relationships as well.[13]

5. The Commission ordered that the freeze would be in effect for a five-year period beginning July 1, 2001, or until the Commission completed comprehensive separations reform, whichever came first.[14] In addition, the Commission stated that, prior to the expiration of the separations freeze, the Commission would, in consultation with the Joint Board, determine whether the freeze period should be extended.[15] The Commission further stated that any decision to extend the freeze beyond the five-year period in the *2001 Separations Freeze Order* would be based "upon whether, and to what extent, comprehensive reform of separations has been undertaken by that time."[16]

6. In 2006, and, again, in 2009, 2010, 2011, and 2012 the Commission adopted orders extending the freeze of Part 36 category relationships and jurisdictional cost allocation factors.[17] In those orders, the Commission found that extending the freeze would allow the Commission to provide stability for carriers that must comply with the Commission's separations rules while the Commission considers

[11] *Id*. at 11389–90, para. 12. Jurisdictional cost shifts in separations results generally are caused by changes in any of three areas: overall cost levels, categorization of costs (*i.e*., relative category assignments), or jurisdictional allocation factors. A carrier's increased overall cost level in a Part 32 account that has a high cost allocation to the interstate jurisdiction will cause shifts to the interstate jurisdiction for other investment and expense accounts whose jurisdictional allocations are dependent on that account. Increasing investment in specific categories (e.g., interexchange cable and wire facilities) may also contribute to jurisdictional shifts in the final results. Likewise, changes in customer calling patterns (e.g., increased interstate calling) will cause shifts in the jurisdictional allocation factors, many of which are based on usage. These factors allocate a significant portion of a carrier's investment between the interstate and intrastate jurisdictions.

[12] Although incumbent LECs were required under the Part 36 rules to perform separations studies, competitive carriers had no similar requirements. The Commission found that a freeze would further the Commission's goal of achieving greater competitive neutrality during the transition to a competitive marketplace by simplifying the separations process for those carriers subject to Part 36. *Id.* at 11390, para. 13.

[13] *Id.* at 11388–89, para. 11.

[14] *See id*. at 11387–88, para. 9.

[15] *See id*. at 11397, para. 29.

[16] *Id*.

[17] *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Order and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5516 (2006) (*2006 Separations Freeze Extension Order*); *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 24 FCC Rcd 6162 (2009) (*2009 Separations Freeze Extension Order*); *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 25 FCC Rcd 6046 (2010) (*2010 Separations Freeze Extension Order*); *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 26 FCC Rcd 7133, 7137, para. 11 (2011) (*2011 Separations Freeze Extension Order*); *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, __ FCC Rcd __, __, para. 12 (FCC 12-47, rel. May 8, 2012) (*2012 Separations Freeze Extension Order*).

issues relating to possible reform of the jurisdictional separations process.[18] When it extended the freeze in 2009, the Commission referred to the Joint Board a number of issues regarding interim and comprehensive reform of the jurisdictional separations process and asked it to prepare a recommended decision.[19]

C. Eastex's Petition

7. On May 25, 2011, Eastex filed a petition seeking a waiver of sections 36.3, 36.123–126, 36.141, 36.152–157, 36.191,and 36.372–382 of the Commission's rules to unfreeze Eastex's category relationships.[20]

8. Eastex is an incumbent LEC that serves 11 rural counties in East Texas.[21] Eastex has more than 24,000 lines and is the second largest telephone cooperative in Texas.[22] Its service territory stretches 125 miles from its upper to its lower boundaries, extends to 21 exchanges, and is comprised of six noncontiguous portions in one study area.[23] Eastex states that its costs are significant due to the vastness and unique configuration of its territory and that, without Eastex, many of its residential customers would have "no service of any kind at their residence."[24]

9. At the initiation of the separations freeze in 2001, Eastex elected to freeze its separations category relationships.[25] Eastex states that, since then, it has made substantial changes to its network, including investing $55 million in plant additions between January 2007 and December 2010 to meet growing demand for telephone and broadband service.[26] Eastex claims that the Part 36 category relationships that applied in 2011 no longer reflect its current networking facilities.[27] In the intervening time, for example, Eastex equipped all of its exchanges with digital switches and converted all of its switches to new softswitches.[28] Eastex claims that because of the Part 36 category freeze, it is prevented from accurately assigning its costs related to broadband deployment.[29] Because of the freeze, Eastex is not allowed to update category relationships, which would increase the proportion of net investment allocated to the interstate jurisdiction.[30] Eastex indicates that when it voluntarily opted into the category relationship freeze, it did not anticipate that the freeze would extend beyond June 30, 2006.[31] Eastex claims that, if its petition were granted, it would use additional cost-based settlements from the NECA

[18] *See, e.g., 2012 Separations Freeze Extension Order*, __ FCC Rcd at __, para 13.

[19] *2009 Separations Freeze Order*, 24 FCC Rcd at 6167–69, paras. 15–20.

[20] *See* Eastex Petition at 1.

[21] *Id*. at 2.

[22] *Id*.

[23] *Id*.

[24] *Id*. at 3, 5.

[25] *Id*. at 5.

[26] *Id*.

[27] *Id*. at. 6.

[28] *Id*. at 3.

[29] *Id*. at 8–9.

[30] *Id*.

[31] *See id*. at 5–6.

interstate traffic-sensitive pool that includes interstate special access to pay back debt it has incurred and to continue to upgrade its broadband network in rural Texas.[32]

10. Eastex argues that granting its waiver request is in the public interest because it would allow Eastex to continue to expand its network and enhance its subscribers' broadband service.[33] Eastex states that the additional settlements would be used, among other things, to shorten loop lengths and install more fiber to anchor institutions.[34] Eastex estimates that, if the Commission grants the request to waive the Part 36 category freeze for Eastex, the company would receive an additional $2,577,407 in cost-based settlements and lose $584,005 in universal service support, for a net gain to Eastex of $1,993,402 annually.[35]

11. On February 8, 2012, the Wireline Competition Bureau sought comment on the Eastex petition.[36] Two commenters supported the petition, generally asserting that Eastex elected to freeze its category relationships with the understanding that the freeze would not last more than five years, and that the extended freeze has created a "cost-revenue mismatch."[37] No commenter opposed granting Eastex's petition.

III. DISCUSSION

12. We conclude that there is good cause and that it is in the public interest to grant Eastex's petition. We find that Eastex has demonstrated good cause to waive sections 36.3, 36.123–126, 36.141, 36.152–157, 36.191, and 36.372–382 of the Commission's rules to unfreeze Eastex's category relationships.[38] Allowing Eastex to unfreeze its category relationships will permit Eastex to more accurately allocate its investment and will encourage further network upgrades. In addition, granting a waiver will reduce the burden on the Universal Service Fund.[39]

13. Section 254 of the Communications Act of 1934 (Act), as amended, provides, among other things, that consumers in rural, insular, and high-cost areas should have access to telecommunications and information services at rates that are "reasonably comparable to rates charged for similar services in urban areas."[40] The Commission is committed to and has found it is in the public

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[32] *Id*. at 9.

[33] *Id*.

[34] *Id*.

[35] *Id*. at 8–9 (calculation based upon 2009 cost data).

[36] *Comment Sought on a Petition Filed by Eastex Telephone Cooperative, Inc. for Waiver Concerning the Commission's Part 36 Jurisdictional Separations Rules*, CC Docket No. 80-286, Public Notice, 27 FCC Rcd 1400 (2012). A list of commenters on the petition is included in the Appendix.

[37] *See, e.g.*, Moss Adams Comments at 2–3; NTCA Reply Comments at 4.

[38] Generally, the Commission's rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. 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. *Northeast Cellular*, 897 F.2d at 1166. Moreover, in demonstrating whether a waiver is warranted, the burden of proof rests with the petitioner. *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).

[39] Eastex Petition at 8–9, App. 2.

[40] 47 U.S.C. § 254(b).

interest to ensure that communities have adequate access to these services. Allowing Eastex to unfreeze its category relationships should improve its ability to provide broadband service in rural Texas. For example, Eastex states that it plans to shorten loop lengths to provide more bandwidth and install additional fiber that will be used by other providers, including wireless providers, in that part of the country.[41]

14. We also conclude that granting the waiver will not unduly affect consumers or other carriers. Because Eastex is a participant in NECA pools, the net shift of allocated costs permitted by this order will have only a *de minimis* effect on overall pool costs, and therefore will have little effect on switched or special access rates.[42] Additionally, granting Eastex's request will not increase the burden on the Universal Service Fund; instead, it will reduce it.[43]

15. The Commission will not routinely grant waivers of its jurisdictional separations freeze. We granted one carrier, Gila River Telecommunications, Inc. (GRTI), a waiver in 2010 in recognition of GRTI's unique service area.44 Although the circumstances presented in Eastex's petition are not identical to the circumstances that GRTI faced, we find that Eastex serves a unique, hard-to-serve area. For example, Eastex's service area encompasses a large expanse of multiple non-contiguous areas that pose unique obstacles to facilities deployment.45 Granting a waiver will better enable Eastex to provide high-quality service to that community. We also note that, individually, Eastex's petition, which was filed before the USF/ICC Transformation Order, will not have a significant impact on rates, and in fact, granting this petition will reduce demand on the Universal Service Fund. If we receive similar waiver requests from other carriers, we would need to consider the potential collective impact of such requests on rates and the Universal Service Fund. In addition, the relief granted in this order requires Eastex to file revised a revised 2011 revenue requirement before implementation of the recovery mechanism described below. Granting similar relief to other carriers in the future would involve more complex reassessment of revenue recovery given that reforms will be underway. The Joint Board is continuing to consider comprehensive reforms to the jurisdictional separations process. Notwithstanding the waiver granted in this order, Eastex will be required to comply with any new separations rules.

16. Eastex filed its petition before the Commission adopted the *USF/ICC Transformation Order*.[46] That order implemented substantial reforms of the universal service and intercarrier compensation systems. As discussed below, the *USF/ICC Transformation Order* provides incumbent LECs limited recovery of certain revenues; this recovery is based upon data in carriers' 2012 tariff

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[41] *See* Eastex Petition at 9. ("[E]astex provides copper and fiber facilities to cell towers enabling wireless carriers to provide service in this rural portion of Texas.")

[42] A review of cost data from Eastex and NECA pooling data, assuming accumulated depreciation of 20 percent, indicates that the shift in net investment in the NECA traffic sensitive pool will equal approximately one half of one percent of total NECA traffic sensitive pool net investment. Thus, because the total shift represents a very small amount of NECA pool costs, we believe that the overall impact of the waiver on NECA pool costs (and, by extension, rates) will be insignificant. Eastex Petition at Attachments 2 and 3; Universal Service Monitoring Report, 2011, CC Docket No. 98-202, December 2011 Monitoring Report, Supplementary Report Material, NECA Pool Results.xls, http://transition.fcc.gov/wcb/iatd/monitor.html.

[43] *Id*. at 9.

[44] *In the Matter of Petition by Gila River Telecommunications, Inc. Pursuant to 47 C.F.R. Sections 36.3, 36.123-126, 36.152-157, and 36.372-382 for Commission Approval to Unfreeze Part 36 Category Relationships*, CC Docket No. 80-286, Report and Order, 25 FCC Rcd 17459, 17464–65, paras 12–13.

[45] Eastex Petition at 2 and at Attachment 1.

[46] The *USF/ICC Transformation Order* was adopted on November 18, 2011; Eastex's petition was filed on May 25, 2011.

filings[47] and did not address the possibility that frozen separations cost category assignments, upon which such filings may be based, might be unfrozen. In order to reflect this waiver and prevent the potential for double recovery for interstate switched access revenues, we are requiring Eastex to file revised 2011 Rate of Return Base Period Revenue figures as set forth below.[48]

17. In the *USF/ICC Transformation Order*, the Commission adopted a uniform national bill-and-keep framework as the ultimate intercarrier compensation end state for all telecommunications traffic exchanged with a LEC, and established a gradual, measured transition that focused initially on reducing certain terminating switched access rates.[49] The Commission also adopted a transitional recovery mechanism to mitigate the effect of reduced intercarrier revenues on carriers and to facilitate continued investment in broadband infrastructure, while providing greater certainty and predictability going forward than the *status quo ante*.[50]

18. As part of the transitional recovery mechanism, the Commission defined as "Eligible Recovery" the amount of intercarrier compensation revenue reductions that incumbent LECs would be eligible to recover.[51] Carriers are permitted to recover a limited portion of their Eligible Recovery from their end users through a monthly fixed charge called an Access Recovery Charge (ARC). To the extent that an incumbent LEC's Eligible Recovery exceeds its permitted ARC, the incumbent LEC may recover from the Connect America Fund (CAF). For a rate-of-return carrier, like Eastex, its Eligible Recovery is based upon its 2011 interstate switched access revenue requirement,[52] plus intrastate switched access revenues and net reciprocal compensation revenues for the period of October 1, 2010 through September 30, 2011 ("FY2011").[53] Absent an adjustment to Eastex's 2011 interstate switched access revenue requirement, it is possible that Eastex would be able to recover from the interstate recovery mechanism costs that it has moved out of interstate switched access categories pursuant to this waiver.[54]

19. Eastex has proposed to address this possibility for over-recovery by recalculating Eastex's revenue requirement for the period July 1, 2011 through June 30, 2012 based upon actual, unfrozen categories.[55] Eastex asserts that "[t]his would result in a reduction of the 2011 Interstate Switched Access Revenue Requirement included in the 2011 Rate-of-Return Carrier Baseline Period and reflect an increase to the Interstate Special Access cost elements. In addition, costs would be shifted from

[47] *USF/ICC Transformation Order*, 26 FCC Rcd at 17983, para. 899.

[48] Eastex asserts that its intrastate switched access revenues are not based on costs. Supplement to Petition of Eastex Telephone Cooperative, Inc. to Unfreeze Part 36 Category Relationships, CC Docket No. 80-286, 3–4 (filed May 24, 2012) (Eastex May 24, 2012 Supplement. Accordingly, we only require Eastex to file revised figures for the interstate jurisdiction.

[49] *USF/ICC Transformation Order*, 26 FCC Rcd at 17676–77, para. 35.

[50] *USF/ICC Transformation Order*, 26 FCC Rcd at 17677, para. 36. In adopting the recovery mechanism, the Commission explained that it did so in large part "to provide predictability to incumbent carriers that had been receiving implicit ICC subsidies [and] to mitigate marketplace disruption during the reform transition. . . ." *Id.* at 17962, para. 858.

[51] *USF/ICC Transformation Order*, 26 FCC Rcd at 17956, para. 847.

[52] *Id*. at n. 1727.

[53] *Id.* at 17977, para. 892.

[54] Eastex has indicated that its intrastate switched access rates are not based on Eastex's costs. Therefore Eastex's intrastate rate calculations need not be revised. Eastex May 24, 2012 Supplement; 47 C.F.R. §§ 36.3, 36.123–126, 36.141, 36.152–157, 36.191, 36.372–382.

[55] Eastex May 24, 2012 Supplement at 2. ("[Eastex] would make no changes to any of the inputs except to change the 'frozen categories' to 'unfrozen categories.'")

the Interstate Common Line cost elements to the Interstate Special Access cost elements."[56] We find that this proposal, by removing from Eligible Recovery an amount representative of the FY2011 interstate revenue attributable to the investment being shifted from interstate switched access to other categories, adequately protects consumers and the CAF. We therefore condition the grant of this waiver upon Eastex revising its FY2011 interstate switched access revenue as set forth in the Eastex May 24, 2012 Supplement.

20. Accordingly, we grant Eastex's petition to unfreeze its category relationships as of June 15, 2012 and to reflect its revised category relationships in its filings consistent with this order and the Commission's rules.[57] As a condition of the relief granted in this order, we require Eastex to file a revised 2011 interstate switched access revenue requirement as provided below.

IV. ORDERING CLAUSES

21. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1–4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151–154, 254, and pursuant to sections 0.291 and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.291 1.3, that sections 36.14, 36.191, 36.3, 36.123–126, 36-141, 36.152–157, and 36.372–382 of the Commission's rules, 47 C.F.R. §§ 36.14, 36.191, 36.3, 36.123–126, 36.141, 36.152–157, 36.372–382, 36.191, ARE WAIVED to the extent provided herein.

22. IT IS FURTHER ORDERED that, pursuant to section 408 of the Communications Act of 1934, as amended, 47 U.S.C. § 408, this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief
Wireline Competition Bureau

[56] *Id.*

[57] We note that Eastex may not refreeze its category relationships.

APPENDIX

List of Commenters

Commenter	Abbreviation
Moss Adams, LLP	Moss Adams

Reply Commenter	Abbreviation
Eastex Telephone Cooperative, Inc.	Eastex
National Telecommunications Cooperative Association	NTCA