

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

In the Matter of)	
)	WC Docket No. 12-233
Investigation of Certain 2012 Annual)	
Access Tariffs)	WCB/Pricing No. 12-09
)	
)	

ORDER

Adopted: April 19, 2013**Released: April 19, 2013**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. On November 18, 2011, the Commission released the *USF/ICC Transformation Order*,¹ which created an incentive-based, market-driven approach to the intercarrier compensation (ICC) systems, designed to reduce arbitrage and competitive distortions in the marketplace. Since the release of the *USF/ICC Transformation Order*, the Commission, the states and the carriers have been working to implement the first phase of the transition. In July 2012, the Wireline Competition Bureau (Bureau) initiated an investigation of all ILEC Access Recovery Charge (ARC) rates contained in the 2012 Annual Access Tariff Filings. On December 3, 2012, the Commission released an order concluding this investigation.² The *Termination Order* concluded that the vast majority of ARC rates under investigation were just and reasonable, and therefore lawful.³ The Commission, however, identified certain carriers in the National Exchange Carrier Association's (NECA) Tariff F.C.C. No. 5 (NECA Issuing Carriers) that had not properly justified their ARC rates. The Commission required NECA to make further compliance filings with the Commission on behalf of these carriers.⁴ Specifically, the Commission directed NECA to file: (1) compliance documents demonstrating that the NECA Issuing Carriers have reasonably determined the amount of their Base Period Revenue for Eligible Recovery purposes; and (2) new Tariff

¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (*USF/ICC Transformation Order*), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. Filed Dec. 8, 2011).

² *Investigation of Certain 2012 Annual Access Tariffs*, WC Docket No. 12-233, WCB/Pricing No. 12-09, Order, 27 FCC Rcd 15577 (2012) (*Termination Order*).

³ *Id.* at 15577-8, para. 2. In two prior orders, we held that certain ILECs' suspended tariff filings were reasonable and therefore were in compliance with the Commission's rules and no longer subject to the tariff investigation process. See *July 3, 2012 Annual Access Tariff Filings*, WCB/Pricing No. 12-09, Order on Reconsideration, 27 FCC Rcd 8948 (Wireline Comp. Bur. 2012) (*Reconsideration Order*) and *Investigation of Certain 2012 Annual Access Tariffs*, WC Docket No. 12-233, WCB/Pricing No. 12-09, Order Designating Issues for Investigation, 27 FCC Rcd 10311 (Wireline Comp. Bur. 2012) (*Designation Order*).

⁴ *Id.*

Review Plans (TRPs) that provide sufficient justification for the NECA Issuing Carriers' annualized projected demand loss for intrastate switched access minutes of use.⁵

2. In this Order, the Bureau concludes that the NECA Issuing Carriers listed in Appendices A and B of the *Termination Order* and listed in the attached appendix to this order have provided sufficient justification to demonstrate that the currently effective ARC rates are just and reasonable, and therefore lawful. On January 17, 2013, NECA filed the required compliance documents and revised TRPs with the Bureau on behalf of the NECA Issuing Carriers.⁶ In addition, NECA filed with the Bureau revised explanations for a handful of the NECA Issuing Carriers on February 11, 2013.⁷ The Bureau has reviewed these compliance documents and revised TRPs and finds that they provide sufficient justification for the currently effective ARC rates filed by NECA on behalf of the NECA Issuing Carriers.⁸

II. DISCUSSION

A. Whether Each NECA Issuing Carrier Reasonably Determined the Amount of Its Base Period Revenue

3. The Commission's rules require ILECs to calculate their Eligible Recovery amounts by using revenues "received" (rather than simply billed) by March 31, 2011, for services provided between October 1, 2010, and September 30, 2011.⁹ In the *Termination Order*, the Commission concluded that the NECA Issuing Carriers listed in Appendix A of that Order had failed to demonstrate that they reasonably determined the amount of their Base Period Revenue to be used as the starting point for calculating their Eligible Recovery.¹⁰ Because of this failure, the Commission directed NECA, on behalf of each NECA Issuing Carrier listed in Appendix A of the *Termination Order*, to make a compliance filing with the Commission within sixty days of the release date of the *Termination Order*.¹¹ Additionally, in cases in which the amount of collected revenue changed any Base Period Revenue amount in the filed TRP, the Commission directed NECA to file a revised TRP on behalf of each NECA Issuing Carrier listed in Appendix A of the *Termination Order* that reflected the carrier's revised Base Period Revenue in all of the TRP calculations where Base Period Revenue is used.¹² The Commission also extended the accounting order for the NECA Issuing Carriers listed in Appendix A of the

⁵ *Id.* at paras. 12, 20.

⁶ See Letter from Richard A. Askoff, Executive Director-Regulatory, National Exchange Carrier Association, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 12-233, WCB/Pricing No. 12-09 (filed Jan. 17, 2013).

⁷ See Letter from Richard A. Askoff, Executive Director-Regulatory, National Exchange Carrier Association, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 12-233, WCB/Pricing No. 12-09 (filed Feb. 11, 2013).

⁸ We note that there are three study areas for which the ARC rates will be increasing based on the revised data NECA submitted in its compliance filing. We conclude that NECA has provided sufficient justification for these revised ARC rates.

⁹ See 47 C.F.R. 51.917(b)(7), *2011 Rate-of-Return Carrier Base Period Revenue*. *2011 Rate-of-Return Carrier Base Period Revenue* is the sum of: (i) 2011 Interstate Switched Access Revenue Requirement; (ii) Fiscal Year 2011 revenues from Transitional Intrastate Access Service received by March 31, 2012; and (iii) Fiscal Year 2011 reciprocal compensation revenues received by March 31, 2012, less Fiscal Year 2011 reciprocal compensation payments paid and/or payable by March 31, 2012 (as of March 12, 2013).

¹⁰ See *Termination Order*, 27 FCC Rcd at 15581-2, para. 12.

¹¹ *Id.*

¹² *Id.*

Termination Order that would require refunds if modifications to a NECA Issuing Carrier's Base Period Revenues result in lower allowed ARC rate(s) for a carrier than the rate(s) contained in the revised NECA tariff.¹³

4. After reviewing NECA's compliance filings and revised TRPs, the Bureau finds that each of the NECA Issuing Carriers listed in Appendix A complied with the requirements of the *Designation Order*, and we conclude that these carriers have reasonably determined the amount of their Base Period Revenue to be used as the starting point for calculating their Eligible Recovery.¹⁴ The Bureau further finds that no refunds of ARC rates are required for the NECA Issuing Carriers listed in Appendix A.

B. Whether Each NECA Issuing Carrier Reasonably Estimated its Projected Interstate and Intrastate Switched Access Demand

5. In the *Designation Order*, the Bureau directed NECA to determine whether the NECA Issuing Carriers had reasonably estimated their projected interstate and intrastate switched access demand loss for the 2012-13 tariff filing year.¹⁵ In the *Termination Order*, the Commission noted that 42 carriers filed TRPs that reflected annualized intrastate demand loss of greater than 15 percent¹⁶ and the Commission determined that the NECA Issuing Carriers listed in Appendix B of the *Termination Order*¹⁷ provided insufficient justification for their intrastate demand loss in excess of 15 percent.¹⁸ Therefore, the Commission directed NECA to refile, within sixty days from the release date of the *Termination Order*, new TRPs reflecting an annualized projected intrastate demand loss of no greater than 15 percent for each of the NECA Issuing Carriers listed in Appendix B.¹⁹ Finally, the Commission extended the accounting order established in the *2012 Annual Access Tariff Suspension Order* for these NECA Issuing Carriers requiring refunds to the extent that carriers' demand adjustments resulted in lower ARC rates.²⁰

6. The Bureau finds that the NECA Issuing Carriers listed in Appendix B have reasonably utilized an annual intrastate demand loss projection no greater than 15 percent and that NECA filed amended TRPs on their behalf that implemented revised demand loss projections. Further, the Bureau concludes that these carriers have reasonably estimated their projected interstate and intrastate switched access demand. Thus, the Bureau finds that the revised TRPs filed by NECA on behalf of the NECA Issuing Carriers establish that their current ARC rates are just and reasonable, and lawful for the NECA Issuing Carriers listed in Appendix B, and that no refunds are required.

¹³ *Id.*

¹⁴ See *Designation Order*, 27 FCC Rcd at 10314-16, paras. 8-12. Here, the Bureau provided specific guidance as to how the ILECs should comply with the requirements of the *USF/ICC Transformation Order* and these ILECs made the sufficient requisite filings.

¹⁵ *Id.*, 27 FCC Rcd at 10318, para. 21.

¹⁶ See *Termination Order*, 27 FCC Rcd at 15584, para. 19. The *Designation Order* also required justification of interstate demand losses greater than 15%, given, in part, NECA's methodology for allocating projected revenues. See *Designation Order*, 27 FCC Rcd at 10318, para. 21. The Bureau determined that the administrative cost of revising the pool allocation of projected revenue to reflect the small number of carriers with unsupported interstate demand losses greater than 15% exceeded any benefits from requiring NECA to reallocate what would likely be a *de minimis* reduction in projected revenues.

¹⁷ *Id.*, 27 FCC Rcd at 15593, Appendix B.

¹⁸ *Id.*, 27 FCC Rcd at 15584-5, para. 20.

¹⁹ *Id.*

²⁰ *Id.*

III. ORDERING CLAUSES

7. ACCORDINGLY, IT IS ORDERED that, the currently effective Access Recovery Charge rates filed by the National Exchange Carrier Association on behalf of the NECA Issuing Carriers listed in Appendices A and B are just and reasonable, and therefore lawful.

8. IT IS FURTHER ORDERED that, pursuant to the authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the accounting order applicable to the NECA Issuing Carriers listed in Appendices A and B IS TERMINATED.

9. IT IS FURTHER ORDERED that each NECA Issuing Carrier listed in Appendices A and B whose ICC replacement Connect America Fund recovery amount has changed as a result of this proceeding SHALL FILE a revised Tariff Review Plan with USAC within thirty (30) days from the release date of this Order, and USAC shall process the revised filings and make the necessary adjustments to the carrier's Connect America Fund support.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Chief, Wireline Competition Bureau

APPENDIX A

STUDY AREA ID	ISSUING CARRIER NAME
120042	DIXVILLE TELEPHONE COMPANY
140053	FRANKLIN TELEPHONE COMPANY
170171	HICKORY TELEPHONE COMPANY
170215	YUKON-WALTZ TELEPHONE COMPANY
190248	SCOTT COUNTY TELEPHONE COOPERATIVE, INC.
270432	KAPLAN TELEPHONE COMPANY
290562	DEKALB TELEPHONE COOPERATIVE, INC.
290598	WEST KENTUCKY RURAL TELEPHONE COOPERATIVE CORPORATION, INC.
310688	CLIMAX TELEPHONE COMPANY
310703	KALEVA TELEPHONE COMPANY
310704	ACE TEL. CO. OF MICHIGAN INC.
310725	SAND CREEK TELEPHONE COMPANY
330971	WEST WISCONSIN TELCOM COOP., INC.
431977	CENTRAL OKLAHOMA TELEPHONE COMPANY
431979	CHEROKEE TELEPHONE COMPANY
462188	FARMERS TELEPHONE COMPANY, INC.
462201	RICO TELEPHONE COMPANY
492262	E.N.M.R. TEL. COOPERATIVE, INC.-NM
502279	GUNNISON TELEPHONE COMPANY

APPENDIX B

STUDY AREA ID	ISSUING CARRIER NAME
522419	HOOD CANAL TELEPHONE CO.
613013	KETCHIKAN PUBLIC UTILITIES TELEPHONE DIVISION
140069	WAITSFIELD/FAYSTON TELEPHONE CO., INC.
190239	NEW HOPE TELEPHONE COOPERATIVE
220381	PUBLIC SERVICE TELEPHONE COMPANY
230491	NORTH STATE TELEPHONE COMPANY. D/B/A NORTH STATE COMMUNICATIONS
250283	BRINDLEE MOUNTAIN TELEPHONE LLC
250290	FARMERS TELECOMUNICATIONS COOPERATIVE, INC.
250300	HOPPER TELECOMMUNICATIONS LLC
250322	UNION SPRINGS TELEPHONE COMPANY, INC.
270433	LAFOURCHE TELEPHONE COMPANY, L.L.C.
290565	HIGHLAND TELEPHONE COMPANY, INC.
300606	CONNEAUT TELEPHONE COMPANY
300634	MINFORD TELEPHONE COMPANY
310777	ACE TELEPHONE COMPANY OF MICHIGAN, INC. - OLD MISSION
330920	NIAGARA TELEPHONE COMPANY
341025	SHAWNEE TELEPHONE. COMPANY
341060	MOULTRIE INDEPENDENT TELEPHONE COMPANY
341062	NEW WINDSOR TELEPHONE COMPANY
351346	ACE TELEPHONE ASSOCIATION-IA
361346	ACE TELEPHONE ASSOCIATION-MN
371537	DALTON TELEPHONE COMPANY
452176	VALLEY TELEPHONE COOPERATIVE, INC.-AZ
482242	INTERBEL TEL. COOP., INC.
482244	LINCOLN TELEPHONE COMPANY, INC.
532364	COLTON TELEPHONE COMPANY
532371	CASCADE UTILITIES, INC.
532378	TRANS-CASCADE TELEPHONE COMPANY
532388	NORTH STATE TELEPHONE COMPANY
542338	SIERRA TELEPHONE COMPANY, INC.
552351	LINCOLN COUNTY TELEPHONE SYSTEM, INC.
432016	PANHANDLE TELEPHONE COOPERATIVE, INC.
472423	INLAND TELEPHONE COMPANY-ID