

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

In the Matter of
Material to be Filed in Support of
2019 Annual Access Tariff Filings
WC Docket No. 19-47

ORDER

Adopted: May 1, 2019

Released: May 1, 2019

By the Acting Chief, Pricing Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we set forth the Tariff Review Plans (TRPs) to be used by incumbent LECs to substantiate their interstate access service tariff revisions filed in 2019 (the 2019 TRPs). We also clarify the calculation of Eligible Recovery for price cap incumbent local exchange carriers (LECs), and waive and extend by one day the effective date of incentive regulation for certain business data service offerings by electing rate-of-return LECs for this year's annual filing. In addition, because the 2019 TRPs include implementation of non-rate-level reforms associated with various Commission orders, we waive the provision of the Commission's rules that limits annual access tariff filings to rate-level changes.

2. The 2019 TRPs reflect implementation of the transitional rate changes and recovery rules adopted in the USF/ICC Transformation Order. The 2019 rate-of-return TRPs also implement the universal service reforms and related tariffing requirements adopted in the Rate-of-Return Reform Order, Rate-of-Return Business Data Services Order, and 2018 Jurisdictional Separations Order. Completed

1 TRP formats for the annual filings are developed for the specific circumstances of the tariff year in which the revised rates will become effective. The filing date and comment periods for this year's annual access charge filings were released earlier in a separate order, which modified the effective date of this year's filings from July 1, 2019, to July 2, 2019. See July 1, 2019 Annual Access Charge Tariff Filings, WC Docket No. 19-47, Order, DA 19-246 (WCB Apr. 4, 2019) (2019 Annual Filing Procedures Order).

2 See 47 CFR § 61.50.

3 See 47 CFR § 69.3(a).

4 See 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, 17934-35, para. 801 (2011) (USF/ICC Transformation Order), pets. for review denied sub nom. In re: FCC 11-161, 753 F.3d 1015 (10th Cir. 2014) (stating that although many of the switched access rate elements are subject to the transition adopted, other rates were not being specifically reduced at that time).

5 Connect America Fund et al., WC Docket No. 10-90 et al., Report and Order, Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3089 (2016) (Rate-of-Return Reform Order); Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers, WC Docket No. 17-144, Report and Order, Further Notice of Proposed Rulemaking, and Second Further Notice of Proposed Rulemaking, 33 FCC Rcd 10403 (2018) (Rate-of-Return Business Data Services Order); Jurisdictional Separations and Referral to the Federal-State Joint Board, CC Docket No. 80-286, Report and Order and Waiver (rel. Dec. 17, 2018) (2018 Jurisdictional Separations Order).

versions of the 2019 TRPs appended to this document will provide the supporting documentation to fulfill, in part, the requirements contained in sections 51.700 through 51.715, 51.901 through 51.919, 61.38, 61.39, and 61.41 through 61.50 of the Commission's rules.⁶ The 2019 TRPs display support data in a consistent manner, thereby facilitating review of the incumbent LECs' rate revisions by the Commission and interested parties. The annual TRPs have served this purpose effectively for many years.

II. BACKGROUND

3. In the *USF/ICC Transformation Order*, the Commission adopted a number of rules requiring incumbent LECs to adjust, over a period of years, many of their switched access charges effective on July 1 of each of those years, with the ultimate goal of transitioning to a bill-and-keep regime at the end of the transition.⁷ The Commission also adopted a recovery mechanism to mitigate the impact of reduced intercarrier compensation revenues on carriers and to facilitate continued investment in broadband infrastructure.⁸ As part of the recovery mechanism, the Commission defined as "Eligible Recovery" the amount of intercarrier compensation revenue reductions that incumbent LECs would be eligible to recover through a combination of end-user charges (Access Recovery Charge (ARC))⁹ and, where eligible and if an incumbent LEC elects to receive it, Connect America Fund support.¹⁰ An incumbent LEC's Eligible Recovery is based on a percentage of the reduction in revenue each year resulting from the intercarrier compensation reform transition.¹¹

4. In the *Rate-of-Return Reform Order*, the Commission modified the rules governing the provision of high-cost universal service support to rate-of-return incumbent LECs.¹² The Commission allowed rate-of-return incumbent LECs the option of electing model-based support for a term of 10 years in exchange for meeting defined build-out obligations.¹³ For rate-of-return incumbent LECs not electing model-based support, the Commission modernized the existing interstate common line support rules to provide support in situations where the customer no longer subscribes to traditional regulated local exchange voice service, i.e., subscribes to stand-alone broadband.¹⁴ This revised form of support is known as Connect America Fund Broadband Loop Support (CAF BLS). To implement these reforms, the Commission, among other things, revised certain cost allocation and tariffing rules for rate-of-return incumbent LECs to introduce supported Consumer Broadband-only Loop (CBOL) services.¹⁵

5. With respect to pricing considerations, the Commission required rate-of-return incumbent LECs offering CBOL service to move CBOL costs from the Special Access service category to a new CBOL service category.¹⁶ Beginning with last year's annual access tariff filing, the amount to be moved is to be determined consistent with the Part 36 and Part 69 cost allocation rules.¹⁷

⁶ 47 CFR §§ 51.700-51.715, 51.901-51.919, 61.38-61.39, 61.41-61.50.

⁷ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17934-35, para. 801.

⁸ *Id.* at 17677, para. 36.

⁹ *Id.* at 17958, para 852.

¹⁰ *Id.* at 17957, para. 850.

¹¹ *Id.* at 17957-58, paras. 850-51.

¹² *Rate-of-Return Reform Order*, 31 FCC Rcd at 3089, para. 1.

¹³ *Id.* at 3094-117, paras. 17-79.

¹⁴ *Id.* at 3117-57, paras. 80-187.

¹⁵ *Id.* at 3157-62, paras. 188-204.

¹⁶ *Id.* at 3158-59, paras. 190-91.

6. The Commission also adopted rules governing the tariffing of a broadband-only loop rate, including a \$42 per-loop, per-month rate cap for rate-of-return incumbent LECs electing model-based or Alaska Plan support and a rate methodology for rate-of-return LECs receiving CAF BLS.¹⁸ For rate-of-return incumbent LECs electing model-based support, the Commission determined that such carriers would not be eligible to participate in the National Exchange Carrier Association (NECA) Common Line pooling mechanism but could elect to have NECA tariff their common line rates.¹⁹ The Commission further required rate-of-return incumbent LECs to impute an amount equal to the ARC they assess on voice/broadband lines to their supported CBOL service.²⁰ Beginning with last year's annual access tariff filing, the ARC imputation rule was revised for a five-year period to require rate-of-return incumbent LECs to limit the imputed amount so that total ARC revenues and imputation for the current tariff period do not exceed a pre-*Rate-of-Return Order* baseline as a result of CBOL imputation, and rate-of-return incumbent LECs' filings must also reflect the true-up of that imputation made two years ago.²¹

7. The *Rate-of-Return Reform Order* also prescribed the authorized rate of return from 11.25 percent to 9.75 percent.²² The rate of return is a key input in a rate-of-return incumbent LEC's revenue requirement calculation, which is the basis for its common line and special access rates, and for any high-cost support it receives. Beginning July 1, 2016, the 11.25 percent rate of return is reduced by 25 basis points per year until it reaches the prescribed 9.75 percent in 2021.²³ Effective July 2, 2019, the authorized rate of return will be 10.25 percent.²⁴

8. In the *Rate-of-Return Business Data Services Order*, the Commission adopted rules allowing rate-of-return incumbent LECs receiving model-based or other forms of fixed high-cost universal service support to elect incentive regulation for their lower capacity (DS3 or lower) time division multiplexing (TDM) circuit-based transport and end user channel termination business data services (BDS) offerings effective July 1, 2019.²⁵ In the *2018 Jurisdictional Separations Order*, the Commission allowed rate-of-return incumbent LECs that elected to freeze their separations category relationships in 2001 to have the opportunity to opt out of the freeze and update their category relationships effective July 1, 2019.²⁶

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¹⁷ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Second Order on Reconsideration and Clarification, 32 FCC Rcd 2399, 2402-03, paras. 10-13 (2018) (*Second Order on Reconsideration and Clarification*). See 47 CFR §§ 69.311(b), 69.416. To the extent rule modifications are linked to the effective date of the 2019 annual access charge tariff filing, we note that on April 4, 2019, we waived the effective date for 2019 and established July 2, 2019 as the effective date for the 2019 annual access charge tariff filings. See *2019 Annual Filing Procedures Order* at paras. 3-4.

¹⁸ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3459-60, paras. 194, 197-98. See 47 CFR §§ 69.132(c)-(d).

¹⁹ *Id.* at 3160, paras. 195-96.

²⁰ *Id.* at 3161-62, para. 203.

²¹ *Second Order on Reconsideration and Clarification*, 32 FCC Rcd at 2404, paras. 16-17. See 47 CFR § 51.917(f).

²² *Rate-of-Return Reform Order* 31 FCC Rcd at 3171-3212, paras. 10, 226-326.

²³ *Id.* at 3212, para. 326.

²⁴ *Id.*

²⁵ *Rate-of-Return Business Data Services Order*, 33 FCC Rcd at 10454-57, para. 3. See *Business Data Services in an Internet Protocol Environment et al.*, WC Docket No. 16-143, et al., Report and Order, 32 FCC Rcd 3459 (2017) (*BDS Order*), remanded in part sub nom., *Citizens Telecomms. Co. of Minn., LLC v. FCC*, 901 F.3d 991 (8th Cir. 2018).

²⁶ *2018 Jurisdictional Separations Order*, paras. 29, 31, 34, 36-40.

III. IMPLEMENTATION OF THE COMMISSION'S ORDERS

A. Tariff Review Plan Content for Rate-of-Return Incumbent LECs

9. Prior to July 1, 2016, rate-of-return incumbent LECs using projected cost and demand data pursuant to section 61.38 filed access tariff revisions only in even-numbered years and carriers using historical cost and demand data pursuant to section 61.39 filed only in odd-numbered years.²⁷ Beginning July 1, 2016, however, all rate-of-return incumbent LECs must file access service tariff revisions each year in order to implement the required annual reductions to the authorized rate of return.²⁸ In addition, pursuant to the *USF/ICC Transformation Order*, all rate-of-return incumbent LECs must file a TRP this year to comply with the requirements of sections 51.909(i), 51.917(d)(iv), and 51.917(e) of the Commission's rules.²⁹

10. Rate-of-return incumbent LECs that provide CBOLs and receive CAF BLS are required to revise their CBOL rates to reflect the level of CAF BLS they expect to receive this coming tariff year.³⁰ Rate-of-return incumbent LECs subject to section 61.39 of the Commission's rules must base rate-of-return regulated rates for the coming tariff year on new cost studies and the new rules for moving costs from special access to the CBOL category.³¹ Rate-of-return incumbent LECs subject to section 61.38 may either do new cost studies to develop rates for services subject to rate-of-return regulation or adjust last year's studies to reflect this coming year's prescribed rate of return for these services.³²

11. We remind all rate-of-return incumbent LECs that they are responsible for ensuring that all relevant carrier data is reflected in TRPs filed with the Commission, whether CBOLs are provided on a tariffed or detariffed basis. Thus, for a carrier receiving CAF BLS that is tariffing a CBOL rate, the filing entity—whether the carrier, NECA or cost consultant—must include in the 2019 TRP the data necessary to determine the maximum permitted CBOL rate.³³ Similarly, the entity filing special access rates for a rate-of-return incumbent LEC—whether the carrier, NECA or a cost consultant—must include in the 2019 TRP data for the special access costs reallocated to the CBOL category. A carrier that has detariffed its CBOL rates shall provide the required information related to those rates in the relevant portion of the TRP.

12. The *Rate-of-Return Reform Order* required rate-of-return incumbent LECs to impute an amount equal to the ARC they assess on voice/broadband lines to their supported CBOL lines.³⁴ Such ARC imputation applies to all supported lines, and is calculated based on the type of broadband-only line (i.e., residential, single-line business, or multi-line business).³⁵ Rate-of-return incumbent LEC tariff

²⁷ 47 CFR §§ 61.38-61.39, 69.3(f)(1), (2).

²⁸ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3212, para. 326.

²⁹ 47 CFR §§ 51.909(i), 51.917(d)(iv), (e).

³⁰ *Second Order on Reconsideration and Clarification*, 32 FCC Rcd at 2403, para. 13.

³¹ *Id.* at 2402-03, paras. 9-13. Section 61.39 carriers were not required to complete new cost studies last tariff year or adjust their existing studies to reflect the new rules for moving costs from special access to the CBOL category. *Id.*

³² *Id.* Section 61.38 carriers were required to complete new cost studies last tariff year and to follow the new rules for moving costs from special access to the CBOL category in those studies. These carriers must adhere to these new accounting rules in any new cost studies they choose to file for this year. *Id.*

³³ 47 CFR § 69.132(c) (“the single-line rate or charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the Consumer Broadband-Only Loop category (net of the projected annual Connect America Fund Broadband Loop Support attributable to consumer broadband-only loops) by the projected average number of consumer broadband-only service lines in use during such annual period”).

³⁴ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3161-62, para. 203.

³⁵ 47 CFR § 51.915(f)(4). *See Rate-of-Return Reform Order*, 31 FCC Rcd at 3161-62, para. 203.

filings must incorporate the new limit on imputed ARC revenues from CBOL lines and the true-up of the imputation made two years ago.³⁶

13. The *Rate-of-Return Business Data Services Order* required electing carriers that file their own tariffed rates to establish the initial rates (before adjustments for the X-factor, inflation factor, exogenous cost changes, and unfreezing category relationships) for lower-capacity TDM transport and end-user channel termination services, other than end-user channel termination services in areas deemed competitive, based on the electing carriers' tariffed rates in effect on January 1, 2019.³⁷ For rate-of-return incumbent LECs participating in the NECA traffic-sensitive tariff pool, electing carriers will establish initial BDS rates (before the adjustments mentioned above) under incentive regulation by multiplying the NECA pool rate in effect on January 1, 2019 by a net contribution or net recipient factor in accordance with the procedure set forth in the *Rate-of-Return Business Data Services Order*.³⁸

14. Rate-of-return incumbent LECs that elect to unfreeze their category relationships pursuant to the *2018 Jurisdictional Separations Order* must follow the implementation requirements established by the Commission. Carriers that file their own tariffs and unfreeze their category relationships are required to update their Part 36 category relationships in new cost studies on which their interstate tariffed rates, other than switched access rates, will be based going forward, beginning with the 2019 annual filing.³⁹ Rate-of-return incumbent LECs subject to sections 61.38 and 61.39 of the Commission's rules shall explain the impact of the unfreezing and describe these studies in the "Description & Justification" sections of their filings.⁴⁰ Carriers subject to section 61.38 shall include the results of these studies in their TRPs.⁴¹ Carriers subject to section 61.39 are not required to submit the supporting data at the time of filing, but the Commission and interested parties may request the data.⁴² NECA carriers that elect to unfreeze their category relationships must reflect these unfrozen relationships in the cost studies on which their pool settlements are based beginning with the last six months of studies for calendar year 2019.⁴³

15. All rate-of-return incumbent LECs unfreezing their category relationships must also take steps to prevent double recovery of costs. A carrier subject to sections 61.38 or 61.39 must calculate the difference between the interstate switched access costs in two cost studies—one based on unfrozen category relationships that is the basis for its tariff-year 2019-2020 rates and a second study that is the same except that it is based on frozen category relationships.⁴⁴ Each carrier must then adjust its base period revenue by an amount equal to the interstate switched access cost difference between the two cost studies before applying the annual 5% reduction to the base period revenue, as required by the *USF/ICC Transformation Order*.⁴⁵ A carrier that participates in the NECA interstate switched access tariff must report to NECA the interstate switched access cost difference between the two calendar year 2018 studies

³⁶ *Second Order on Reconsideration and Clarification*, 32 FCC Rcd at 2404, paras. 16-17. See 47 CFR § 51.917(f).

³⁷ *Rate-of-Return Business Data Services Order*, 33 FCC Rcd at 10418, para. 37.

³⁸ *Id.* at 10418-19, paras. 38-39. Electing carriers currently participating in NECA traffic-sensitive tariff pool for their BDS or special access service offerings must remove such offerings from the pool since those services will be subject to incentive regulation. *Id.* at 10414-15, para. 29.

³⁹ *2018 Jurisdictional Separations Order*, para. 36.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.* at para. 38.

⁴⁵ *Id.*

and its base period revenue as revised to reflect the cost difference.⁴⁶ NECA must reflect these base period revenue changes in its settlement procedures.⁴⁷

B. Eligible Recovery Calculation for Price Cap Incumbent LECs

16. To address potential confusion, we clarify language in section 51.915(d)(1)(viii) of the Commission's rules regarding the calculation of Eligible Recovery.⁴⁸ Eligible Recovery for price cap incumbent LECs is based on a formula that: (1) calculates an amount for the rate reductions required by the intercarrier compensation transition based on Fiscal Year 2011 (FY2011) demand; (2) adjusts that amount downward by applying a 90% base factor and a traffic demand factor that decreases by 10 percent each year; and (3) adds to this adjusted amount the true-up of ARC revenue amounts for the year beginning July 1 two years earlier.⁴⁹ The *USF/ICC Transformation Order* specifies that “[p]rice cap incumbent LECs’ baseline for recovery will be 90 percent of their FY2011 interstate and intrastate access revenues for the rates subject to reform and net reciprocal compensation revenues.”⁵⁰ This year’s annual filing is governed by section 51.915(d)(1)(viii), which does not refer to the 90% base factor that is included in the corresponding text in other sections of section 51.95(d) governing earlier years of the intercarrier compensation transition.⁵¹

17. To address any uncertainty among interested parties, we clarify that section 51.915(d)(1)(viii) shall be read to include the 90% base factor. Section 51.915(d)(1)(viii) begins with Eligible Recovery calculated in 2018 as the starting point for calculating this year’s Eligible Recovery.⁵² The rule is written with the assumption that the 90% base factor is included in the relevant calculations and extends the process of the previous years’ calculations to subsequent years by revising the 2018 calculation to reflect updated traffic demand factors and true-up amounts. This reading of the rule is consistent with the *USF/ICC Transformation Order*. In that order, the Commission did not make any reference to a shift in the Eligible Recovery calculation procedure for 2019, as it would have done had the Commission intended to modify the procedure for this year. As a result, price cap incumbent LECs shall apply the 90% base factor to their Eligible Recovery calculations for the 2019 annual tariff filing, consistent with the procedures they have followed in prior years.

C. Effective Date of Rate-of-Return Carrier Incentive Regulation

18. We waive the July 1, 2019 effective date contained in section 61.50 for rate-of-return carriers that elect incentive regulation for certain BDS offerings, and establish a July 2, 2019 effective date.⁵³ Because the effective date for this year’s annual access tariff filing has been changed from July 1,

⁴⁶ *Id.* at para. 39.

⁴⁷ *Id.*

⁴⁸ *USF/ICC Transformation Order*, 26 FCC Rcd at 18149, para. 1404; 47 CFR § 0.291.

⁴⁹ 47 CFR § 51.915(d).

⁵⁰ *USF/ICC Transformation Order*, 26 FCC Rcd at 17957, para. 851.

⁵¹ Compare 47 CFR § 51.915(d)(1)(viii) (“Beginning July 1, 2019, and in subsequent years, a Price Cap Carrier's eligible recovery will be equal to the amount calculated in paragraph (d)(1)(vii)(A) through (d)(1)(vii)(H) of this section before the application of the Price Cap Carrier Traffic Demand Factor applicable in 2018 multiplied by the appropriate Price Cap Carrier Traffic Demand Factor for the year in question, and then adding an amount equal to True-up Revenues for Access Recovery Charges for the year beginning July 1 two years earlier”) with 47 CFR § 51.915(d)(i)(vii) (“Beginning July 1, 2018, a Price Cap Carrier's eligible recovery will be equal to ninety (90) percent of the sum of the amounts in paragraphs (d)(1)(vii)(A) through (d)(1)(vii)(G) of this section, and then adding the amount in paragraph (d)(1)(vii)(H) of this section to that amount”).

⁵² 47 CFR § 51.915(d)(1)(viii) (specifying that carriers shall start with an amount “equal to the amount calculated in paragraph (d)(1)(vii)(A) through (d)(1)(vii)(H) of this section” before applying the other steps specified in section 51.915(d)(i)(viii)).

⁵³ 47 CFR § 61.50. See *Rate-of-Return Business Data Services Order*, 33 FCC Rcd at 10412-13, para. 23.

2019, to July 2, 2019, we find that the effective date of the Commission's incentive regulation rules must also be changed.⁵⁴ This harmonizes the effective date of the rules with the date on which the tariffs implementing the incentive regulation rules take effect.⁵⁵ Absent the waiver, a NECA-pool carrier electing incentive regulation would improperly be charging a pooled rate for BDS on July 1, 2019. We therefore find it appropriate to waive the July 1, 2019 effective date of the incentive regulation rules in section 61.50 for purposes of the 2019 annual access tariff filing.

D. Annual Tariff Filing Rate-Level Limitation

19. Section 69.3(a) of the Commission's rules limits the annual access charge tariff filing to rate level changes.⁵⁶ Because the 2019 TRPs include implementation of non-rate-level reforms associated with the *USF/ICC Transformation Order*, *Rate-of-Return Reform Order*, *Rate-of-Return Business Data Services Order* and *2018 Jurisdictional Separations Order*, we find good cause to waive the limitation contained in section 69.3(a), consistent with prior annual access tariff filing periods.⁵⁷

IV. PRICE CAP TARIFF REVIEW PLAN

20. In the *LEC Price Cap Order*, the Commission adopted price cap regulation for certain incumbent LECs, effective January 1, 1991.⁵⁸ Price cap LECs file tariffs each year. All price cap incumbent LECs should file price cap 2019 TRPs as outlined below and contained in the Appendix.

A. Price Cap TRP Spreadsheets and Workpapers

21. We adopt several changes for the 2019 price cap annual access TRP. The spreadsheets and workpapers are discussed below and are contained in the Appendix.

1. ARC Spreadsheets

22. The ARC spreadsheets consist of six individual spreadsheets that demonstrate the calculations necessary to determine an ARC rate. These spreadsheets were created to comply with sections 51.915(e) and (f) of the Commission's rules, and include the Rate Ceiling CAF and No CAF spreadsheets, the Tariff Rate Comparison CAF and No CAF spreadsheets, and the True-up spreadsheets.⁵⁹ This year, the Rate Ceiling and Tariff Rate Comparison spreadsheets have been modified to comply with section 51.915(f)(5).⁶⁰ This rule specifies that a price cap incumbent LEC may no longer recover any amount related to revenue recovery under this paragraph from CAF ICC.⁶¹

2. Access Reduction Spreadsheets

23. The Access Reduction spreadsheets (standalone and regional) identify the intrastate and

⁵⁴ *2019 Annual Filing Procedures Order*, paras. 3-4. See 47 CFR § 1.3 ("Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown"). See also *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1969), citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (waivers must show special circumstances warranting a deviation from the general rule, and show such a deviation will serve the public interest).

⁵⁵ *Rate-of-Return Business Data Services Order*, 33 FCC Rcd at 10414-15, 10444-45, paras. 29, 117-119.

⁵⁶ 47 CFR § 69.3(a).

⁵⁷ See *Material to be Filed in Support of 2018 Annual Access Charge Tariff Filings*, Order, 33 FCC Rcd 3859, para. 1 (WCB 2018) (*2018 Annual Filing Procedures Order*).

⁵⁸ *Policy and Rules Concerning Rates for Dominant Carriers*, Second Report and Order, 5 FCC Rcd 6786 (1990) (*LEC Price Cap Order*), *aff'd sub nom. National Rural Telecom Ass'n v. FCC*, 988 F.2d 174 (D.C. Cir. 1993).

⁵⁹ 47 CFR §§ 51.915(e), (f).

⁶⁰ *Id.* See § 51.915(f)(5).

⁶¹ *Id.*

interstate rates that are required to be reduced pursuant to section 51.907(b)-(h) of the Commission's rules and calculate the amount of the reductions.⁶² This year, the Access Reduction Spreadsheets have been eliminated because the adjustment to bill-and-keep required by section 51.907(h) of the Commission's rules is complete.⁶³

3. Eligible Recovery Spreadsheet

24. The Eligible Recovery spreadsheet calculates the amount of Eligible Recovery a price cap incumbent LEC is entitled to receive pursuant to section 51.915(d) of the Commission's rules.⁶⁴ This year, the Eligible Recovery Spreadsheet has been modified to change formulas in compliance with section 51.915(d)(viii) of the Commission's rules.⁶⁵

4. Reciprocal Compensation Spreadsheets

25. The Reciprocal Compensation spreadsheets demonstrate the calculations necessary to comply with sections 51.705 and 51.915(d) of the Commission's rules.⁶⁶ This year, the Reciprocal Compensation spreadsheets have been eliminated because the adjustment to bill-and-keep required by section 51.705(c)(4) of the Commission's rules is complete.⁶⁷

5. ICC Summary Spreadsheet

26. The ICC Summary Spreadsheet provides a summary of data contained in the ARC, Eligible Recovery, and True-up spreadsheets.

6. IND1 Spreadsheet

27. The IND1 spreadsheet displays price cap indices (PCIs), actual price indices (APIs), service band indices (SBIs), and upper SBI limits. There are no changes to this spreadsheet. For the special access basket, to assist in verifying the historical indices reported in IND1, price cap incumbent LECs must continue to file workpapers that identify transmittals in which the current index levels became effective.

7. CAP Spreadsheets

28. Price cap incumbent LECs develop the End User Common Line (EUCL) Charge, the Presubscribed Interexchange Carrier Charge (PICC) and Carrier Common Line (CCL) rates, which are the rates that recover common line, marketing and transport interconnection (CMT) revenue, on CAP-1, CAP-2, CAP-3, CAP-4, and CAP-5.

29. Price cap incumbent LECs that price certain common line rate elements separately by jurisdiction within a study area are required to develop such individual rates, instead of a roll up or average rate, on the CAP-1J form.

8. PCI1 Spreadsheet

30. The PCI1 spreadsheet displays the calculation of the PCIs for the price cap baskets and includes the following data: (1) the Gross Domestic Product Price Index (GDP-PI) measuring inflation; (2) the productivity offset (X-Factor);⁶⁸ (4) the exogenous cost change (Z); (5) the base-year (calendar-

⁶² *Id.* See §§ 51.907(b)-(h).

⁶³ *Id.* See §§ 51.907(h).

⁶⁴ *Id.* See § 51.915(d).

⁶⁵ *Id.* See § 51.915(d)(viii).

⁶⁶ *Id.* See §§ 51.705, 51.915(d).

⁶⁷ *Id.* § 51.705(c)(4).

⁶⁸ The X-Factor is set pursuant to section 61.45 of the Commission's rules. See 47 CFR § 61.45.

year 2018) revenue (R) for each basket; and (6) the weighting factor (w) used in computing the PCIs. There are no revisions to this spreadsheet.

9. SUM1 Spreadsheet

31. This is a summary spreadsheet displaying the revenues in baskets and categories. It displays the base-year demand multiplied by: (1) current rates; and (2) proposed rates. SUM1 calculates the difference in revenues using base-year demand, under current and proposed rates. There are no revisions to the SUM1 spreadsheet.

10. EXG Spreadsheets

32. The EXG1 spreadsheet displays the exogenous cost changes to the PCIs attributable to any: (1) sale of exchanges; (2) FCC regulatory fees; (3) excess deferred taxes; (4) amortization of investment tax credits; (5) low end adjustment calculations; (6) fees associated with Telecommunications Relay Service (TRS); (7) changes in the allocation of costs between regulated and unregulated activities; (8) North American Numbering Plan Administration (NANPA) expenses; (9) removal of thousand block number pooling; or (10) other exogenous cost changes the price cap incumbent LECs may file. There are no revisions to the EXG1 spreadsheet. The EXG2 spreadsheet displays the net exogenous shifts related to bands and zones. Price cap LECs shall reflect any exogenous cost adjustment for TRS in the TRP for the annual filing if the final contribution factor is known by May 1. Otherwise, they should reflect this exogenous cost change in rates to become effective October 1. In the latter case, the exogenous cost adjustment for TRS shall be “grossed up” to spread the entire adjustment over the remaining months in the tariff year. The exogenous cost adjustment for regulatory fees shall be reflected in rates that take effect October 1, as is the adjustment for NANPA fees, reflecting that these fees are obligations covering a fiscal year that begins October 1. Any gross-up amount reflected in existing rates through an exogenous cost adjustment for TRS or regulatory fees in a prior filing must be removed in this year’s annual filing via an exogenous cost adjustment. There are no revisions to the EXG2 spreadsheet.

11. RTE1 Spreadsheets

33. These spreadsheets display information used to compute the APIs, SBIs, and upper SBI. They display base year 2018 demand, current rates, proposed rates, and revenues computed by multiplying the 2018 demand by current and proposed rates. The RTE1 spreadsheets enable the Commission to verify the accuracy of “R,” the revenue variable in the PCI formula that equals base period demand multiplied by rates. Demand and price data are reported in the aggregate under the primary rate elements of each category. The level of aggregation in the RTE1 spreadsheets allows rapid, consistent verification of index calculations across all companies. There are no revisions to these spreadsheets.

12. Rate Detail Spreadsheet

34. In their previous annual filings, each price cap incumbent LEC provided a spreadsheet that gave complete rate element detail, i.e., demand, existing rates, and proposed rates for each rate element subject to price caps. Price cap incumbent LECs should again file this spreadsheet with their 2019 annual access tariff filing. We leave unspecified the exact format of the rate detail spreadsheet because each price cap incumbent LEC has a different number of rate elements. For each rate element, however, price cap incumbent LECs should display the rate element name, jurisdiction, base period demand, current rates, and proposed rates. Price cap incumbent LECs also may include a rate identifying code. The revenue amounts for baskets and categories should be totaled to assist in verifying the agreement between this form and the revenue amounts in RTE1. The variation in the number of rate elements among price cap incumbent LECs prevents us from specifying the row numbers, but each row of this spreadsheet should correspond to only one rate element. The rows should reflect the basket and service category sequence used in RTE1. There are no revisions to this spreadsheet.

13. Services Excluded from Price Caps

35. For the 2019 filing, we require price cap incumbent LECs to provide a list of services that

are tariffed but excluded from price caps. The list should identify the tariff section containing each service. Rate element details must be provided for the following categories: Special Construction/Individual Case Basis; End User Charges (e.g., USF charges, LNP); Government Services (e.g., FTS); Miscellaneous/Other (e.g., engineering services); and services that were in price caps but have been removed (e.g., interexchange services). Price cap incumbent LECs do not have to include in this list services not subject to price cap regulation pursuant to the *USF/ICC Transformation Order* or *BDS Order*.⁶⁹ For the remaining services included in the list, price cap incumbent LECs must identify the service, indicate whether the rate is recurring or non-recurring, and the authority relied on to remove the service, where applicable. Price cap incumbent LECs must also clearly state in their cover letter where this information can be found in their TRP.

B. Miscellaneous

36. In addition to the above specifications, price cap incumbent LECs must include with their support materials a list of all currently applicable Part 69 waivers. The list should include the following information: (1) a citation to the Commission or Bureau order granting the waiver; (2) a brief description of the waiver, including whether any new rate elements were authorized; and (3) the basket and, if applicable, service category of each rate element affected by the waiver.

V. RATE-OF-RETURN TARIFF REVIEW PLAN

A. Modifications to the Rate-of-Return TRP

37. In the 2019 rate-of-return TRP, we adopt certain modifications to the 2018 rate-of-return TRP to continue to implement the *USF/ICC Transformation Order* and other Commission reforms. These modifications are reflected in the workbooks referenced below. In addition, we attach a new TRP for rate-of-return incumbent LECs that elect inventive regulation for certain BDS offerings. These TRPs are contained in the Appendix.

38. For special access, common line, and CBOL services for section 61.38 carriers that elect to complete new cost studies, the 2018 workbooks related to rate-of-return regulation of these services are modified to reflect the results of the two 2018 cost studies that carriers that unfreeze their category relationships must submit as support for their proposed rates and to adjust base period revenue.⁷⁰ The 2019 Annual Filing RoR CAF-BLS and 2019 Annual Filing RoR ACAM workbooks apply to section 61.38 carriers that receive CAF-BLS and ACAM-based support, respectively. Worksheet COS-1(H) in each of these workbooks displays the results of the 2018 cost study that supports the proposed rates, i.e., the cost study that reflects unfrozen category relationships for carriers that unfreeze their category relationships, and frozen or unfrozen category relationships for the other carriers, whichever is applicable.⁷¹ Worksheet COS-1(H) Frozen Cat. Rel., a new worksheet included in these workbooks, displays the results of the cost study that reflects frozen category relationships for carriers that unfreeze their category relationships.

⁶⁹ See *USF/ICC Transformation Order*, 26 FCC Rcd 17663; *BDS Order*, 32 FCC Rcd 3459.

⁷⁰ See 47 CFR § 61.39.

⁷¹ Carriers subject to section 61.38 set their rates to recover projected costs. As part of its annual tariff filing, each of these carriers is required to submit a historical cost study for the most recent 12-month period and a study containing a projection of costs for a representative 12-month period. See 47 CFR § 61.38(b)(1). Each such carrier that chooses to update its category relationships must reflect the updated relationships in the historical cost study it submits with its annual filing for tariff-year 2018-2019 and apply these updated relationships in its study of projected costs. The carrier must base the difference between the interstate switched access costs (calculated in order to adjust base period revenue) on the costs in the historical cost study that reflects unfrozen category relationships and the costs in a second study that is the same except that it reflects frozen category relationships. See 47 CFR §§ 61.38(b)(1)(i), (ii); *2018 Jurisdictional Separations Order* at 15, n. 111; and *Rate-of Return Business Data Services Order*, 33 FCC Rcd at 10425-26, para. 56.

39. Section 61.38 carriers that do not elect to complete new cost studies for services subject to rate-of-return regulation should submit the “2019 61.38 ILEC RR @ 10.25%” workbook.⁷² Inputs to this workbook include this year’s expected CAF-BLS support, the projected revenue requirements for common line, special access, and CBOL rate categories from the 2018 tariff-year filing, adjusted to reflect this year’s prescribed rate of return of 10.25 percent, and projected rate level demand from that year’s filing. This workbook compares expected common line and special access revenues, based on proposed tariff-year 2019-2020 rates and tariff-year 2018-2019 projected demand, plus expected support in the case of common line, to the adjusted revenue requirements for these categories, to demonstrate compliance. This workbook also calculates the maximum permitted CBOL rate for section 61.38 carriers that receive CAF-BLS. Section 61.38 carriers that receive CAF-BLS support should submit the required information for the common line, special access, and CBOL rate categories, while section 61.38 carriers that receive model-based or Alaska Plan support should submit this information only for special access.⁷³

40. For special access and CBOL services, section 61.39 carriers that receive CBOL support should submit the “2019 section 61.39 ILEC Special Access Reallocation” workbook.⁷⁴ This workbook requires data and uses formulas to calculate the required cost reallocation from special access to the CBOL category. It also calculates the maximum permitted CBOL rate for 61.39 carriers that receive CAF BLS.

41. For switched access services, incumbent LECs regulated pursuant to sections 61.38 and 61.39 of the Commission’s rules should complete the ARC-related workbooks,⁷⁵ “2019 Rate Ceiling CAF RoR ILEC” or “2019 Rate Ceiling No CAF RoR ILEC,” “2019 Tariff Rate Comp CAF RoR ILEC” or “2019 Tariff Rate Comp No CAF RoR ILEC,” and “2019 True-Up RoR ILEC” workbooks, and the rate and eligible recovery-related workbook, “2019 RoR ILEC ICC Data.”⁷⁶ The “2019 RoR-ILEC-ICC-Data” workbook contains worksheets for carriers to determine their intrastate and interstate rates and Eligible Recovery, pursuant to sections 51.909(b)-(i) and 51.917(d) of the Commission’s rules.⁷⁷ In addition, there are worksheets for carriers to calculate their reciprocal compensation rates and Eligible Recovery pursuant to sections 51.705(c)(4) and 51.917(d) of the Commission’s rules, and to summarize their Eligible Recovery.⁷⁸ These worksheets are modified to the extent necessary to implement the requirements of the *USF/ICC Transformation Order* for the step of the transition required for the July 1, 2019 annual access charge tariff filing.⁷⁹ Also, the “2019 RoR ILEC Interstate Rates” worksheet in this workbook is modified to adjust base period revenue for the effect of unfreezing category relationships, as applicable. Carriers filling out these worksheets must also must provide a summary of the data from these worksheets in the “RoR ILEC Summary” workbook.

42. NECA has prepared a TRP for rate-of-return incumbent LECs electing incentive regulation for BDS services pursuant to the *Rate-of-Return Business Data Services Order*.⁸⁰ This TRP is for rate-of-return incumbent LECs for which NECA files special access rates, and it or its equivalent

⁷² See 47 CFR § 61.38.

⁷³ *Id.*

⁷⁴ See 47 CFR § 61.39.

⁷⁵ Carriers that calculate a weighted average business ARC rate rather than using separate single line business and multiline business ARC rates as part of the imputed ARC calculation must explain this methodology in detail and submit the data and the calculations used to determine this weighted average rate.

⁷⁶ See 47 CFR §§ 61.38, 61.39.

⁷⁷ See 47 CFR §§ 51.909(b)-(i), 51.917(d).

⁷⁸ See §§ 51.705(c)(4), 51.917(d).

⁷⁹ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17934-35, para. 801.

⁸⁰ *Rate-of-Return Business Data Services Order*, 33 FCC Rcd 10403.

should be used by carriers that file their own special access rates. This new TRP calculates the PCI, API, SBIs, upper SBI limits, and exogenous cost adjustments pursuant to section 61.50, displays the initial and proposed rates for DS3 or lower TDM circuit-based transport and end-user channel termination BDS services, other than end-user channel termination services in areas deemed competitive, and demonstrates compliance with section 61.50.⁸¹ This TRP also adjusts January 1, 2019 rates to determine the initial rates (prior to adjustments for inflation, productivity, and exogenous cost changes) under incentive regulation based on the category relationships factor for carriers that elect to unfreeze their category relationships and the net contribution/net recipient factor for carriers that leave NECA's traffic-sensitive pool. Rate-of-return incumbent LECs electing incentive regulation for BDS shall reflect any exogenous cost adjustment for TRS in the TRP for the annual filing if the final contribution factor is known by May 1. Otherwise, they shall reflect this exogenous cost change in rates to become effective October 1. In the latter case, the exogenous cost adjustment for TRS shall be "grossed up" to spread the entire adjustment over the remaining months in the tariff year. The exogenous cost adjustments for NANPA and regulatory fees shall be reflected in rates that take effect October 1, reflecting that these fees are obligations covering a fiscal year that begins October 1. This TRP is in the Appendix. Rate-of-return incumbent LECs that elect incentive regulation and unfreeze their category relationships also must submit the results of their two 2018 cost studies (one cost study with unfrozen category relationships and one with frozen category relationships) on which adjustments to January 1, 2019 special access rates and switched access base period revenue are based. The results of these cost studies should be filed in worksheets "COS-1(H)" and "COS-1(H) Frozen Cat. Rel." in workbook "2019 Annual Filing RoR ACAM."

B. General Guidelines Applicable to NECA

43. We have not adopted a TRP for NECA for services other than BDS, although NECA should refer to the rate-of-return TRP for guidance on the level of support materials to provide in its annual filing.

VI. GENERAL INSTRUCTIONS

44. The following general instructions apply to all incumbent LECs. These instructions pertain to the TRP and other documentation filed in support of access charges. Carriers should submit their data and formulas in Excel rather than PDF files.

A. Revised TRPs

45. If an incumbent LEC files to revise its TRP after June 17, 2019, the TRP should be refiled in its entirety, rather than just the parts of the TRP that are changed. The latest TRP filed becomes the TRP of record. Other parts of the original filing, e.g., portions of the explanations, Description and Justification, and workpapers, may be omitted if unchanged by the revision.

B. Certification

46. The filing of inaccurate or incomplete data may seriously detract from the ability of the Commission and interested parties to evaluate the revised rates. All incumbent LECs must certify that their historical and forecast data are accurate by including a signed statement that the support data are true, correct, and complete to the best of the carrier's knowledge. This certification will apply to all data submitted in support of revised rates, including the data that are filed in the TRP. Moreover, incumbent LECs are required to make several additional certifications pursuant to the *USF/ICC Transformation Order*.⁸² These certifications should be displayed as the last pages in each company's filing containing its

⁸¹ See 47 CFR § 61.50.

⁸² See *USF/ICC Transformation Order*, 26 FCC Rcd at 17987, para. 905 ("Carriers recovering eligible recovery will be required to certify annually that they are entitled to receive the recovery they are claiming and that they are complying with all rules pertaining to such recovery"). See also *id.* at 17964-65, para. 862 & note 1664 (incumbent LECs receiving Eligible Recovery must certify as part of their tariff filings, to both the FCC and any state

(continued...)

TRP. Incumbent LECs are also under a continuing legal obligation to correct any inaccurate or incomplete data subsequently discovered in the TRP or other support data.

C. Compliance with the Paperwork Reduction Act

47. As is the case with each year's TRPs, the TRPs contained in this Order contain modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).⁸³ The TRP collections were approved by the Office of Management and Budget (OMB) under the PRA.⁸⁴ In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002,⁸⁵ we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

48. In this Order, we have assessed the effects on incumbent LECs of filing the TRP and have minimized the burden to the extent possible. We minimize the regulatory burden on the incumbent LECs by deleting obsolete sections of the TRP that have not proven to be useful and by not requiring carriers to file historical data that was filed in previous years.⁸⁶

VII. ORDERING CLAUSES

49. Accordingly, IT IS ORDERED that, pursuant to sections 1, 4(i) and (j), 5, and 201-209 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 155, 201-209, and sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, this Order IS ADOPTED.

50. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, section 61.50 of the Commission's rules, 47 CFR § 61.50, IS WAIVED to the extent specified in *supra* paragraph 18.

51. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, section 69.3(a) of the Commission's rules, 47 CFR § 69.3(a), IS WAIVED to the extent specified in *supra* paragraph 19.

FEDERAL COMMUNICATIONS COMMISSION

Gil M. Strobel
Chief, Pricing Policy Division
Wireline Competition Bureau

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commission exercising jurisdiction over the incumbent LEC's intrastate costs, that they are not seeking duplicative recovery in the state jurisdiction for any Eligible Recovery subject to the recovery mechanism).

⁸³ Public Law 104-13.

⁸⁴ See OMB Control No. 3060-0400. In the submission to OMB, we noted that the "Commission updates the price cap and rate-of-return TRP every year to eliminate respondents' requirements to file cost and demand data that may be more than two years old and to bring the TRP data into conformance with current Commission policies."

⁸⁵ Public Law 107-198; see 44 U.S.C. § 3506(c)(4).

⁸⁶ See, e.g., *supra* para. 35.

APPENDIX

Tariff Review Plans

[<https://www.fcc.gov/2019-tariff-review-plans>]