

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

In the Matter of)
) CC Docket No. 98-104
1998 Annual Access)
Tariff Filings)

MEMORANDUM OPINION AND ORDER

Adopted: June 29, 1998

Released: June 29, 1998

By the Deputy Chief, Common Carrier Bureau:

I. INTRODUCTION

1. Local exchange carriers (LECs) are required by Section 69.3(a) of the Commission's rules, 47 C.F.R. § 69.3(a), to file annual revisions to their interstate tariffs to become effective July 1, 1998. Price cap LECs filed tariff review plans (TRPs) on April 2, 1998, and AT&T, MCI, and ACTA filed comments on April 23, 1998.¹ The price cap LECs filed replies on April 30, 1998. Price cap LECs and LECs subject to rate of return regulation filed their tariff transmittals on June 16, 1998,² with AT&T and MCI filing petitions to suspend and investigate on June 23, 1998. On June 26, 1998, the LECs filed replies to the petitions filed by AT&T and MCI.³

2. In this Memorandum Opinion and Order, we suspend for one day and set for investigation the price cap LECs' 1998 Annual Access Tariffs. As discussed below, because of the close relationships among the many changes that LECs made in their tariff transmittals, it is not possible at this time to exclude from our investigation any of the rate changes proposed by the price cap LECs. In addition, we also suspend for one day and set for investigation the tariffs of certain rate of return carriers, as discussed below. The Bureau will separately issue an order designating issues for investigation.

¹ As part of the annual access tariff filing, LECs subject to price cap regulation are required to file summary material, known as tariff review plans (TRP) to support the revisions to rates in their tariff filings. See Material to be Filed in Support of 1998 Annual Access Tariff Filings, 13 FCC Rcd 6702 (Com. Car. Bur., Comp. Pricing Div., released March 25, 1998). The TRPs partially fulfill the requirements of sections 61.38, 61.39, and 61.41 through 61.50 of the Commission's rules. 47 C.F.R. §§ 61.38, 61.39, and 61.40-61.50.

² Appendix A lists the price cap companies filing tariffs and their tariff transmittal numbers. The Sprint LTCs were granted permission to file their access tariff on June 19, 1998. In addition several LECs filed errata filings on June 19, 1998. The Competitive Pricing Division released an Order on June 18, 1998 that, among other things, extended the due date for petitions to reject or suspend and investigate the Sprint LTC and LEC errata filings to June 24, 1998, with replies to any petitions against these tariff filings due on June 26, 1998. See Material to be Filed in Support of 1998 Annual Access Tariff Filings, Order Modifying Deadlines, DA 98-1192 (Com. Car. Bur., Comp. Pricing Division., rel. June 18, 1998).

³ Appendix B lists the petitions and replies to the tariff filings and identifies the abbreviated names for the parties.

II. DISCUSSION

3. We find that AT&T, MCI, and ACTA present arguments in support of their petitions to suspend and investigate the price cap LECs' 1998 Annual Access Tariffs that raise substantial questions of lawfulness that warrant investigation of these tariffs.⁴ These issues include, but are not limited to, the following: whether the price cap LECs have projected per-line base factor portion (BFP) costs that are unreasonable; whether the price cap LECs' forecasts of the line port component of the BFP are unreasonable; whether the price cap LECs have filed line counts that are unreasonable; whether U S West has correctly reflected the price cap index (PCI) changes in its proposed rates; whether U S West, GTE, BellSouth, Ameritech, and SNET have failed to make the correct "R" value adjustments for the reversal of exogenous cost changes; whether all the price cap LECs have failed to calculate correctly the revenue impact of the application of the three-part transport rate structure; and whether Sprint LTC's and Ameritech's proposed exogenous cost increases in connection with Sprint's sale of telephone exchanges to Ameritech violate the Commission's rules and policies.

4. Initial review of the LECs' base factor portion revenue requirement (BFPRR) and access lines forecasts raises substantial questions of reasonableness and of lawfulness. Our rules require that a telephone company use its expertise and the information available to it to forecast its BFPRR for the projected tariff year. Much of this information is available only to the telephone company. The telephone company is also to use its expertise and information to forecast its total access lines. These two forecasts produce the projected BFPRR per line. As discussed at length in our *1997 Annual Access Investigation Order*,⁵ this projection is very significant in determining the levels of common line rate elements. As also discussed in that order, under certain circumstances LECs have a strong incentive to underestimate BFPRR per line.⁶

5. AT&T and MCI have also raised issues regarding the price cap LECs' compliance with the Commission's June 1, 1998 Order terminating the investigation of the price cap LECs' tariff revisions implementing the requirements of the Commission's *Access Charge Reform Proceeding*.⁷ These issues include, but are not limited to, the following: whether the price cap LECs have overstated their common line revenue requirements due to historical understatements of BFP; whether BellSouth, Pacific Bell and Bell Atlantic have improperly estimated the impact on the transport interconnection charge (TIC) arising from the use of actual rather than assumed minutes of use; and whether the price cap LECs have improperly implemented the Commission's methodology for calculating exogenous adjustments that reflect cost reallocations.

6. In addition to the issues raised by the petitioners, we have identified other issues regarding

⁴ 47 U.S.C. § 204(a).

⁵ *Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, Memorandum Opinion and Order, FCC 98-106 (rel. June 1, 1998) (*Access Charge Reform Tariffs Investigation Order*).

⁶ Order at ¶22.

⁷ See *Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, Memorandum Opinion and Order, FCC 98-106 (rel. June 1, 1998) (*Access Charge Reform Tariffs Investigation Order*); *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997); Order on Reconsideration, 12 FCC Rcd 10119 (1997); Second Order on Reconsideration, 12 FCC Rcd 16606 (1997) (collectively, *Access Charge Reform Proceeding*).

compliance with the Commission's *Access Charge Reform Tariffs Investigation Order* that raise substantial questions of lawfulness that warrant investigation of the price cap LECs' tariffs. These include, but are not limited to, the following: whether the price cap LECs complied with the Commission's methodology for calculating exogenous adjustments to recover SS7-STP costs; whether the price cap LECs properly calculated exogenous adjustments to the TIC and the tandem switched transport category; and whether Frontier Communications of Minnesota and Iowa, Frontier of Rochester, GTE, Nevada Bell, and Sprint LTC over-targeted the "GDP-PI minus X" factor to the non-facilities-based TIC.

7. We also find that the issues raised by AT&T in support of its petition to suspend and investigate the annual access tariffs filed by the rate of return carriers raise substantial questions of lawfulness that warrant investigation of several of the rate of return carriers' tariffs. These issues include whether Sugar Land Telephone Company, Century Telephone Company of Ohio, ALLTEL of Missouri, and ALLTEL of Georgia have understated their test-period demands.

8. The rate changes and exogenous adjustments, which include those required by the *Access Charge Reform Tariffs Investigation Order*, made by the price cap carriers in their tariff revisions are complex and interdependent. We are therefore unable at this time to limit our investigation to discrete rates or provisions of the price cap LECs' tariff filings. We will, accordingly, suspend all tariff revisions contained in the price cap LECs' 1998 Annual Access Tariff filings for one day and set those provisions for investigation. We will also suspend the above-named rate of return carriers' June 16, 1998 tariffs for one day and initiate an investigation into the lawfulness of the proposed tariffs. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but may not be limited to, the issues identified in this Order. We may also, by order, identify discrete issues that do not warrant further investigation.

III. EX PARTE REQUIREMENTS

9. This investigation is a permit-but-disclose proceeding and subject to the requirements under Section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation 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)(2), as revised. Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b), as well.

IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 204 (a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204 (a) and through the authority delegated pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the tariff revisions filed by Aliant Communications Company, Ameritech Operating Companies, Bell Atlantic Operating Companies, NYNEX Telephone Companies, BellSouth Telecommunications, Inc., Cincinnati Bell Telephone Company, Citizens Telecommunications Companies, Frontier Communications of Minnesota and Iowa, Frontier Telephone of Rochester, GTE Systems Telephone Companies, GTE Telephone Operating Companies, Nevada Bell, Pacific Bell, Southern New England Telephone Company, Southwestern Bell Telephone Company, Sprint Local Telephone Companies, and U S West Communications, Inc., as detailed in Appendix A for price cap local exchange carriers, ARE SUSPENDED for one day and an investigation IS INSTITUTED.

11. IT IS FURTHER ORDERED that, pursuant to Sections 204(a) and 4(i) of the

Communications Act of 1934, as amended, 47 U.S.C. §§ 204(a), 154(i), and through the authority delegated pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, Aliant Communications Company, Ameritech Operating Companies, Bell Atlantic Operating Companies, NYNEX Telephone Companies, BellSouth Telecommunications, Inc., Cincinnati Bell Telephone Company, Citizens Telecommunications Companies, Frontier Communications of Minnesota and Iowa, Frontier Telephone of Rochester, GTE Systems Telephone Companies, GTE Telephone Operating Companies, Nevada Bell, Pacific Bell, Southern New England Telephone Company, Southwestern Bell Telephone Company, Sprint Local Telephone Companies, and U S West Communications, Inc. SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are subject to this investigation.

12. IT IS FURTHER ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through authority delegated pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the tariff revisions filed by Sugar Land Telephone Company, Century Telephone Company of Ohio, ALLTEL of Missouri, and ALLTEL of Georgia ARE SUSPENDED for one day and an investigation IS INSTITUTED.

13. IT IS FURTHER ORDERED that, pursuant to Sections 204(a) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 204(a), 154(i), and through authority delegated pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, Sugar Land Telephone Company, Century Telephone Company of Ohio, ALLTEL of Missouri, and ALLTEL of Georgia SHALL KEEP ACCURATE ACCOUNTS of all amounts received that are associated with the rates that are subject to this investigation.

14. IT IS FURTHER ORDERED that each local exchange carrier required to suspend its tariff revisions for one day pursuant to this Order, SHALL FILE a supplement advancing the currently scheduled effective date to June 30, 1998, and at the same time file a supplement reflecting the one day suspension. For this purpose, we waive Sections 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.58, 61.59. Carriers should cite the "DA" number on the instant Order as the authority for the filings.

15. IT IS FURTHER ORDERED that all local exchange carriers noted above SHALL FILE these supplements no later than five business days from the release date of this Order.

16. IT IS FURTHER ORDERED that the petitions to suspend and investigate or to reject the Annual 1998 Access Tariff Filings ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION



James D. Schlichting
Deputy Chief, Common Carrier Bureau

APPENDIX A

FILINGS MADE BY PRICE CAP CARRIERS FOR ANNUAL ACCESS 1998

June 16, 1998

Aliant Communications Company	Transmittal No. 17
Ameritech Operating Companies	Transmittal No. 1160
Bell Atlantic Operating Companies	Transmittal No. 1057
BellSouth Telecommunications, Inc.	Transmittal No. 465
Cincinnati Bell Telephone Company	Transmittal No. 722
Citizens Telecommunications Companies	Transmittal No. 49
Frontier Communications of Minnesota and Iowa	Transmittal No. 15
Frontier Communications of Rochester	Transmittal No. 7
GTE System Telephone Companies	Transmittal No. 247
GTE Telephone Operating Companies	Transmittal No. 1155
Nevada Bell	Transmittal No. 241
New York Telephone Company	Transmittal No. 1179
NYNEX Telephone Companies	Transmittal No. 505
Pacific Bell	Transmittal No. 1988
Southern New England Telephone	Transmittal No. 712
Southwestern Bell Telephone Company	Transmittal No. 2705
U S West Communications, Inc.	Transmittal No. 926

June 19, 1998

Southwestern Bell Telephone Company	Transmittal No. 2707
Sprint Local Telephone Companies	Transmittal No. 57
U S West Communications, Inc.	Transmittal No. 927

June 22, 1998

GTE System Telephone Companies	Transmittal No. 248
GTE Telephone Operating Companies	Transmittal No. 1156

June 23, 1998

New York Telephone Company	Transmittal No. 1180
NYNEX Telephone Companies	Transmittal No. 507

June 25, 1998

Ameritech Operating Companies	Transmittal No. 1163
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June 29, 1998

Bell Atlantic Operating Companies	Transmittal No. 1059
BellSouth Telecommunications, Inc.	Transmittal No. 467
NYNEX Telephone Companies	Transmittal No. 508
Pacific Bell	Transmittal No. 1990
Sprint Local Telephone Companies	Transmittal No. 58
U S West Communications, Inc.	Transmittal No. 928

FILINGS MADE BY RATE OF RETURN CARRIERS FOR ANNUAL ACCESS 1998June 16, 1998

Alltel Telephone Services Corporation	Transmittal No. 61
CenturyTel Operating Companies	Transmittal No. 2
Chillicothe Telephone Company	Transmittal No. 61
Dunkirk and Fredonia Telephone Company	Transmittal No. 25
ICORE	Transmittal No. 14
Illinois Consolidated Telephone Company	Transmittal No. 101
John Staurulakis, Inc. (JSI)	Transmittal No. 31
Lufkin-Conroe Telephone Exchange, Inc.	Transmittal No. 39
Minnesota Independent Equal Access Corp.	Transmittal No. 11
National Exchange Carrier Association	Transmittal No. 800
Puerto Rico Telephone Company	Transmittal No. 30
Roseville Telephone Company	Transmittal No. 57
South Dakota Network, Inc.	Transmittal No. 7
Telephone Utilities Exchange Carrier Association	Transmittal No. 153
Utelco, Inc.	Transmittal No. 6
Virgin Islands Telephone Corporation	Transmittal No. 37
Winterhaven Telephone Company	Transmittal No. 5
Wood County Telephone Company	Transmittal No. 28

Note: Iowa Network Services filed a letter stating that it had made all calculations and no rate changes were necessary.

June 24, 1998

Anchorage Telephone Utility	Transmittal No. 97
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June 29, 1998

CenturyTel Operating Companies	Transmittal No. 3
Roseville Telephone Company	Transmittal No. 58

APPENDIX B**Petitions**

The following parties filed petitions against the 1998 Annual Access Tariff Filings. The names in parenthesis are used for these parties throughout the Order.

AT&T Corp. (AT&T)
MCI Telecommunications Corporation (MCI)

Replies

ALLTEL Communications Services Corporation (ALLTEL)
Ameritech Operating Companies (Ameritech)
Bell Atlantic Telephone Companies and NYNEX Telephone Companies (Bell Atlantic)
BellSouth Telecommunications, Inc. (BellSouth)
CenturyTel Operating Companies (Century)
Chillicothe Telephone Company (Chillicothe)
GTE Telephone Operating Companies and GTE System Telephone Companies (GTE)
Illinois Consolidated Telephone Company (ICTC)
Lufkin-Conroe Telephone Exchange, Inc. (Lufkin-Conroe)
Puerto Rico Telephone Company (PRTC)
Roseville Telephone Company (Roseville)
SBC Communications Inc. (SBC)
Southern New England Telephone Company (SNET)
Sprint Local Telephone Companies (Sprint LTC)
Telephone Utilities Exchange Carrier Association (TUECA)
U S West Communications, Inc. (U S West)