

FACT SHEET*

Eliminating Outdated and Unnecessary Tariff Filing Requirements

Report and Order – WC Docket Nos. 18-276, 17-308

Background: Many of the FCC’s rules governing tariff filings were adopted many decades ago, when paper tariffs were filed at the Commission and interested parties had to visit FCC headquarters to review physical copies of those filings. Not surprisingly, technological advances that allow carriers and interested parties to submit and view information electronically have obviated the need for certain longstanding tariff rules that were predicated on the need for paper filings and lengthy review periods.

First, the FCC’s prohibition on cross-referencing in tariffs was adopted more than 75 years ago when tariffs were often voluminous and filed in hard copy, which made it difficult to follow cross-references from one tariff to another, including between a carrier’s own tariffs and those of its affiliates. Today, by contrast, all carriers are required to file tariffs electronically using the Commission’s Electronic Tariff Filing System, making it easy to find a cross-referenced tariff.

Second, the FCC’s requirement that price cap carriers file certain supporting information—known as a “short form tariff review plan”—90 days before their annual access charge filings are effective has also outlived its usefulness. Early submission of this information is no longer necessary in light of the ease of reviewing electronic filings and the decreased complexity of annual access charge filings.

This *Report and Order (Order)* would address these requirements as part of the Commission’s ongoing commitment to modernize its rules and remove unnecessary regulatory burdens.

What the Order Would Do:

- Amend the Commission’s tariffing rules to allow carriers to cross-reference their tariffs as well as those of their affiliates.
- Eliminate the requirement that price cap carriers file short form tariff review plans 90 days before their annual interstate access charge tariff filings are effective.

* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in WC Docket Nos. 18-276, 17-308, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR § 1.1200 *et seq.*

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

In the Matter of)
Reform of Certain Part 61 Tariff Rules) WC Docket No. 18-276
Petitions for Limited Waiver of Rule 61.74(a)) WC Docket No. 17-308

REPORT AND ORDER*

Adopted: []

Released: []

By the Commission:

I. INTRODUCTION

1. Electronic filing of tariffs and tariff publications has fundamentally changed the way the public can access those filings. But our filing requirements have not kept up with the pace of change. As part of our ongoing commitment to modernize our rules and eliminate unnecessary regulations, last year the Commission issued a Notice of Proposed Rulemaking (*Notice*) seeking comment on amending our tariff publication rules to better align them with the reality of easy electronic access to tariff filings.¹ We now amend our rules to effectuate the changes we proposed.

2. First, we amend our rules to allow a carrier to cross-reference its own tariffs and the tariffs of its affiliates in its tariff publications.² Second, we eliminate the requirement that incumbent local exchange carriers subject to price cap regulation (price cap LECs) submit short form tariff review plans 90 days before their annual access charge tariff filings are effective.³ Each of these changes will reduce unnecessary burdens on carriers and on our tariff review staff, and each received universal support from all parties that filed comments in response to the *Notice* in this proceeding.⁴

* This document has been circulated for tentative consideration by the Commission at its October open meeting. The issues referenced in this document and the Commission's ultimate resolution of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public's ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The FCC's *ex parte* rules apply and presentations are subject to "permit-but-disclose" *ex parte* rules. See, e.g., 47 C.F.R. §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR §§ 1.1200(a), 1.1203.

¹ *Reform of Certain Part 61 Tariff Rules; Petitions for Limited Waiver of Rule 61.74(a)*, WC Docket Nos. 18-276 and 17-308, Notice of Proposed Rulemaking and Interim Waiver Order, 33 FCC Rcd 10212, 10212, para. 1 (2018) (*Notice*).

² 47 CFR §§ 61.54, 61.74(a); *infra* Appx. A, 47 CFR §§ 61.54(k), 61.74(b).

³ 47 CFR § 61.49(k); *infra* Appx. A, 47 CFR § 61.49(k).

⁴ *Notice*, 33 FCC Rcd at 10212, para. 1; see AT&T Services, Inc. (AT&T) *Ex Parte* Comments at 3; CenturyLink Comments at 2; Frontier Communications (Frontier) Comments at 1-2; ITTA – The Voice of America's Broadband Providers (ITTA) Comments at 2 & n.10; Tyler Swanson Comments at 1; Verizon Comments at 2. AT&T filed comments after the comment deadline along with a Motion for Acceptance of Late-Filed Comments, WC Docket (continued....)

II. BACKGROUND

3. Many of our rules governing tariff filings were adopted when paper tariffs were filed at the Commission and interested parties had to visit the Commission to review physical copies of those filings. Not surprisingly, technological advances that allow carriers and interested parties to submit and view information electronically have obviated the need for certain longstanding tariff rules that were predicated on the need for paper filings and protracted review periods. Last year, we proposed to amend two such sets of rules—those that prohibit a carrier from cross-referencing its tariffs and those of its affiliates, and the rule that requires price cap LECs to file short form tariff review plans well in advance of their annual tariff filings.⁵

4. *Cross-referencing.* When our cross-referencing rules were adopted more than 75 years ago, tariffs were often quite voluminous and were filed in hard copy, “making it quite cumbersome to retrieve and follow a tariff’s cross-reference to another.”⁶ To ensure that someone reviewing a paper copy of a tariff would have ready access to all of the terms of the tariff, the Commission adopted section 61.74, which, with certain exceptions, prohibits one tariff from cross-referencing another tariff, and section 61.54, which also has been interpreted as prohibiting cross-referencing between tariffs.⁷

5. Today, by contrast, carriers are required to file tariffs electronically using our Electronic Tariff Filing System (ETFS), and it only takes “a few seconds and a few clicks” to find a cross-referenced tariff.⁸ As a result, interested parties can now access tariffs through the ETFS via an Internet connection anywhere and electronically review and search the tariffs they are looking for.

6. Our current rules allow carriers to seek special permission to cross-reference their own tariffs and those of their affiliates, and carriers do so when, for example, they offer discount plans that cross different operating territories.⁹ The Wireline Competition Bureau (Bureau) has routinely granted requests for special permission to allow a carrier to cross-reference its own tariffs and those of its affiliates.¹⁰ In the *Notice*, we proposed to amend our rules to allow a carrier’s tariffs to refer to its own tariffs and those of its affiliates and provided an interim waiver of Section 61.74(a) to all carriers to allow carriers’ tariffs to reference their other tariffs and those of their affiliates pending resolution of the issues

(Continued from previous page) —————

Nos. 18-276 and 17-308 (filed Jan. 2, 2019) (AT&T Motion). We consider AT&T’s late-filed comments as an *ex parte* submission in this proceeding, and dismiss the AT&T Motion as moot.

⁵ *Notice*, 33 FCC Rcd at 10213-14, paras. 3, 8.

⁶ ITTA Comments at 1.

⁷ FCC, Part 61—Tariffs, 5 Fed. Reg. 5082, 5083 (Dec. 14, 1940) (adopting section 61.74); FCC, Title 47—Telecommunications, 4 Fed. Reg. 2287, 2289 (June 7, 1939) (adopting section 223.05(g) which is now contained in section 61.54); 47 CFR §§ 61.54, 61.74; *see Amendment of Parts 1 and 61 of the Commission’s Rules*, CC Docket No. 83-992, Report and Order, 98 F.C.C.2d 855, 865, paras. 40-41 (1984) (*Amendment of Parts 1 and 61 of the Commission’s Rules*) (recognizing that section 61.54(j) prohibits a carrier’s tariff from referring to the rates in another tariff); *AT&T Picturephone(r) Meeting Service*, Memorandum Opinion and Order, 84 F.C.C.2d 322, 333-34, para. 31 (1981) (*AT&T Picturephone(r) Meeting Service*).

⁸ Frontier Comments at 1; *see also* Verizon Comments at 2; ITTA Comments at 1; CenturyLink Comments at 2; *Electronic Tariff Filing System (ETFS)*, Order, 13 FCC Rcd 12335 (CCB 1998) (establishing mandatory electronic tariff filing for incumbent LECs); FCC, *Electronic Tariff Filing System*, <https://apps.fcc.gov/etfs/etfsHome.action> (last visited Sept. 27, 2019). The electronic filing requirement was extended to apply to all carriers in 2011. *Electronic Tariff Filing System*, WC Docket No. 10-141, Report and Order, 26 FCC Rcd. 8884, 8886, para. 6 (2011).

⁹ *Notice*, 33 FCC Rcd at 10213, para. 5; *see* Verizon Comments at 2.

¹⁰ *Notice*, 33 FCC Rcd at 10213, para. 5.

addressed in the *Notice*.¹¹

7. *Short form tariff review plans.* Prior to 1997, annual interstate access tariffs were filed 90 days before the effective date of such tariffs, thereby allowing a significant amount of time for the Commission and interested parties to review the filings and associated cost support.¹² In 1997, when the Commission modified its rules to permit price cap carriers to file tariffs on either 7 days' notice (for rate reductions) or 15 days' notice (for rate increases), it also adopted a requirement that price cap carriers submit supporting information, without rate data, 90 days prior to the annual access tariff filing effective date.¹³ This filing, known as the “short form tariff review plan,” consists of a standardized spreadsheet showing data regarding exogenous cost adjustments that price cap carriers seek to make to their price cap indices.¹⁴ Exogenous cost adjustments are made, for example, to the following cost input categories: (1) regulatory fees; (2) Telecommunications Relay Services (TRS) expenses; (3) excess deferred taxes; and (4) North American Numbering Plan Administration (NANPA) expenses.¹⁵

8. In the years following adoption of the short form tariff review plan filing requirement, the Bureau often granted waivers of the filing deadline and of the requirement to provide certain data in advance of the annual access tariff filing.¹⁶ In 2014, at USTelecom’s request, the Bureau granted a waiver which reduced the 90-day filing deadline for the short form tariff review plan to approximately 45 days before the annual access tariff effective date.¹⁷

9. In 2017, the Bureau waived the short form tariff review plan filing requirement in its entirety, finding that the “factors needed to calculate three of the most common exogenous cost adjustments—regulatory fees, TRS fees, and NANPA expenses—will not be available prior to the short form filing deadline,” so the short form tariff review plan would be of little value to the Commission.¹⁸ The Bureau found multiple reasons to waive the short form tariff review plan requirement again in 2018 and 2019, including that: (1) it was unlikely that the necessary information would be available by the required filing date; and (2) exogenous cost data contained in the short form tariff review plan would be included with the information filed directly prior to the annual filing effective date (assuming the availability of such data), at which time the information could be reviewed by the Commission and

¹¹ *Id.* at 10213, 10216-17, paras. 3, 14-18.

¹² See *Access Tariff Filing Schedules*, CC Docket No. 88-286, Report and Order, 3 FCC Rcd 5495, 5498, paras. 24-25 (1988).

¹³ *Notice*, 33 FCC Rcd at 10214, para. 9; see 47 U.S.C. § 204(a)(3); *Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996*, CC Docket No. 96-187, Report and Order, 12 FCC Rcd 2170, 2172-73, 2219, paras. 2, 102 (1997).

¹⁴ *Notice*, 33 FCC Rcd at 10214, para. 10.

¹⁵ *Id.* Although the short form tariff review plan formerly included data pertaining to non-exogenous cost data, the requirement to provide such information has been waived since 2014. See, e.g., *July 1, 2014 Annual Access Charge Tariff Filings*, WC Docket No. 14-48, Order, 29 FCC Rcd 3133, 3135-36, para. 6 (WCB 2014) (*2014 Annual Access Charge Filing Order*).

¹⁶ See, e.g., *July 3, 2012 Annual Access Charge Tariff Filings*, Order, 27 FCC Rcd 2981, 2983-84, para. 5 (WCB 2012); *Material to Be Filed in Support of 2013 Annual Access Tariff Filings*, WC Docket No. 13-76, Order, 28 FCC Rcd 5224, 5226, paras. 6-7 (WCB 2013).

¹⁷ *2014 Annual Access Charge Filing Order*, 29 FCC Rcd at 3135-36, para. 6.

¹⁸ *Materials to Be Filed in Support of 2017 Annual Access Tariff Filings*, WC Docket No. 17-65, Order, 32 FCC Rcd 3878, 3878-79, paras. 2-3 (WCB 2017). The Bureau also acknowledged that “there is a legitimate question as to whether the short form [tariff review plan] serves a necessary purpose given its limited utility and [the Bureau’s] collection of exogenous cost information in the long form [tariff review plans].” *Id.*

interested parties.¹⁹

10. In the *Notice*, the Commission recognized that the value of the short form tariff review plan has declined. This is because the complexity and number of interstate access tariff filings has decreased over the last decade as the scope of services subject to price cap regulation has narrowed.²⁰ In light of the Commission’s experience that waiving the short form tariff review plan requirement had not negatively affected the ability of interested parties and staff to review tariffs in a timely fashion, the Commission proposed to eliminate it as unnecessary and unduly burdensome.²¹

III. DISCUSSION

11. We received no opposition to the proposals set forth in the *Notice*. Instead, commenters all agree that, in their experience, the ease of making and reviewing electronic tariff filings obviates the need for the prohibition on carriers cross-referencing their own or their affiliates’ tariffs and the need for the short form tariff review plan.²² We therefore amend our rules to reduce unnecessary filing burdens to allow stakeholders to benefit from current technology.

A. Updating and Amending Tariff Cross-Referencing Rules

12. First, we amend our tariffing rules to allow carriers to cross-reference their own and their affiliates’ tariffs. Comments in the record unanimously support amending section 61.74 of our rules to permit carriers to cross-reference their own and their affiliates’ tariff filings.²³ We agree with the commenters that those modifications are justified because the prohibition on a carrier’s tariff cross-referencing that carrier’s tariffs and those of its affiliates no longer serves a functional purpose, in light of the ease with which the public can now access and search tariffs.²⁴

13. Moreover, as commenters explain, the current obligation to seek and receive special permission to cross-reference a carrier’s own tariffs imposes unnecessary costs on the carriers that file those requests and on the Commission staff that consider and act on those requests.²⁵ The need to request special permission also harms competition by “impinging the carriers’ ability to quickly respond to customers’ demands,” and by forcing carriers to “telegraph a planned tariff filing.”²⁶ Furthermore, there is no record of any negative consequences arising from previous grants of special permission.

¹⁹ July 1, 2019 Annual Access Charge Tariff Filing, WC Docket No. 19-47, Order, 34 FCC Rcd 2067, 2070, para. 9 (WCB 2019); July 1, 2018 Annual Access Charge Tariff Filing, WC Docket No. 18-100, Order, 33 FCC Rcd 3497, 3499-3500, paras. 6-7 (WCB 2018).

²⁰ *Notice*, 33 FCC Rcd at 10215, para. 11.

²¹ *Id.* at 1021, para. 8.

²² Some commenters provided input on only one issue and some commented on both. Frontier Comments at 2; AT&T *Ex Parte* Comments at 3; CenturyLink Comments at 2-3; Verizon Comments at 2-5 (all commenting on both issues presented in the *Notice*). ITTA Comments at 1; Tyler Swanson Comments at 1 (both commenting only on the tariff cross-referencing issue).

²³ Frontier Comments at 1-2; AT&T *Ex Parte* Comments at 3; CenturyLink Comments at 2; ITTA Comments at 1-3; Tyler Swanson Comments at 1; Verizon Comments at 1-3.

²⁴ See Frontier Comments at 1-2; AT&T *Ex Parte* Comments at 3; Verizon Comments at 1-3. We do not adopt ITTA’s recommendation that we eliminate entirely the cross-referencing prohibition. ITTA Comments at 3. There is no evidence in the record of the benefits and drawbacks to allowing unaffiliated carriers to cross-reference each other’s tariffs. Also, the *Notice* only sought comment on amending the cross-referencing rules with respect to carriers’ own and their affiliates’ tariff filings. See *Notice*, 33 FCC Rcd at 10213-14, paras. 3-7.

²⁵ Frontier Comments at 1-2; see AT&T *Ex Parte* Comments at 3; CenturyLink Comments at 2; ITTA Comments at 2-3; Tyler Swanson Comments at 1; Verizon Comments at 2-3.

²⁶ AT&T *Ex Parte* Comments at 3; Verizon Comments at 3.

14. We therefore amend section 61.74 as proposed in the *Notice* to expressly allow a carrier to reference other tariffs issued by the carrier or any of its affiliates. To effectuate our decision to allow carriers to cross-reference their own and their affiliates' tariffs, we also amend section 61.54 of our rules, which applies to the composition of tariffs, and has been interpreted as prohibiting a carrier's tariff from referring to rates in other tariffs.²⁷ We do so by adding a subsection (k) which specifies that “[n]otwithstanding any other provisions in [that] section, tariff publications filed by a carrier may reference other tariff publications filed by that carrier or its affiliates.”²⁸

15. The rationale for amending section 61.54 is identical to the rationale for amending section 61.74: There are clear benefits, and no drawbacks, to allowing a carrier's tariff to refer to other tariffs filed by that carrier and its affiliates. Our amendment to section 61.54 is necessary to ensure consistency between the rules that govern tariff filings. Given that all parties to this proceeding that commented on the cross-referencing issue support our decision to allow carriers to cross-reference their own and their affiliates' tariffs, it follows that the record supports our decision to amend section 61.54 to achieve the desired result.²⁹

B. Eliminating Advanced Filing of Materials that Support Interstate Access Tariffs for Price Cap LECs

16. As proposed in the *Notice*, and supported by the record, we also eliminate the requirement that price cap LECs file short form tariff review plans 90 days before their annual interstate access tariff filings are effective.³⁰ Consistent with the view of all parties that commented on this issue agree, we find that the filing of short form tariff review plans is no longer necessary and is unduly burdensome.³¹

17. As Verizon explains, the decreased complexity of the annual filings obviates the need for early notice of the information contained in the short form tariff review plan.³² AT&T also points out that, even when the required data are available by the filing deadline, some of the information may later change, forcing carriers to redo their calculations before they submit their annual access tariff filings.³³ Both AT&T and Frontier argue that the lack of data and/or use of temporary or preliminary factors renders the short form tariff review plan of little practical value.³⁴

18. Notably, commenters agree that there have been no adverse consequences from the suspension of the requirement in recent years to prepare and file a short form tariff review plan.³⁵ As Verizon, for example, explains, the waivers of the entire filing requirement “did not impede parties’ ability to review the annual filings.”³⁶ Frontier agrees that there is no evidence that the Bureau’s previous

²⁷ 47 CFR § 61.54; *Amendment of Parts 1 and 61 of the Commission’s Rules*, 98 F.C.C.2d at 865, paras. 40-41; *AT&T Picturephone(r) Meeting Service*, 84 F.C.C.2d at 333-34, para. 31.

²⁸ *Infra* Appx. A, 47 CFR § 61.54(k).

²⁹ See AT&T *Ex Parte* Comments at 3; CenturyLink Comments at 2; Frontier Comments at 1-2; ITTA Comments at 2 & n.10; Tyler Swanson Comments at 1; Verizon Comments at 2.

³⁰ *Notice*, 33 FCC Rcd at 10214, para. 8; *infra* Appx. A, 47 CFR § 61.49(k).

³¹ AT&T *Ex Parte* Comments at 3; CenturyLink Comments at 2; Frontier Comments at 2; Verizon Comments at 3.

³² Verizon Comments at 4. CenturyLink asserts that there is no evidence of harm from the waivers that were granted. CenturyLink Comments at 3.

³³ AT&T *Ex Parte* Comments at 4.

³⁴ *Id.* at 4; Frontier Comments at 2.

³⁵ E.g., CenturyLink Comments at 3.

³⁶ Verizon Comments at 4.

waivers of the filing requirements caused any harm.³⁷

19. Although the short form tariff review plan filing serves little, if any, useful purpose, it requires effort from the filing carriers. Parties estimate that the time required to prepare and file the short form tariff review plan can range from 40 to 160 hours.³⁸ Also, as CenturyLink explains, the timing of the short form tariff review plan is inconvenient, requiring that carriers and the Commission expend resources completing and reviewing the short form tariff review plan at a time “when the larger [a]nnual [f]iling needs the greater attention.”³⁹ Thus, the current rule requiring price cap carriers to file short form tariff review plans is burdensome and provides little benefit, if any, especially given that the remaining annual filing notice requirements “will provide adequate time for the Commission and the industry to review carrier tariff filings.”⁴⁰ As Frontier aptly explains, eliminating the short form tariff review plan “will free up valuable carrier resources with no discernable downside for Commission staff.”⁴¹

C. Effective Date and Sunsetting of Interim Waiver of the Prohibition on Referencing Other Tariffs

20. Because both the prohibition on a carrier cross-referencing its own tariffs and those of its affiliates and the short form tariff review plan requirement no longer serve any useful purpose, we see no reason to delay the effective date of today’s rule changes.⁴² In the *Notice*, the Commission proposed that the rule changes would take effect 30 days after Federal Register publication of a summary of this Report and Order.⁴³ No commenters opposed this proposal, which we now adopt.⁴⁴

21. Finally, the interim waiver the Commission granted to all carriers of the prohibition on cross-referencing their own tariffs and those of their affiliates will end 30 days after Federal Register publication of a summary of this Report and Order, when the revised rules become effective.⁴⁵

IV. PROCEDURAL ISSUES

22. *Paperwork Reduction Act.* This document eliminates certain information collection requirements but does not contain any new or modified information collection requirements within the meaning of the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.⁴⁶

23. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA),⁴⁷ requires that a regulatory flexibility analysis be prepared for notice-and-comment

³⁷ Frontier Comments at 2 n.5.

³⁸ *Id.* at 2 (40 hours or more); Verizon Comments at 5 (160 hours).

³⁹ CenturyLink Comments at 3.

⁴⁰ *Id.*

⁴¹ Frontier Comments at 2.

⁴² See AT&T *Ex Parte* Comments at 1 (stating the rules have “outlived their needs or purpose”).

⁴³ *Notice*, 33 FCC Rcd at 10216, para. 14.

⁴⁴ See ITTA Comments at 3 (requesting that we implement the rule change as “quickly as permissible”).

⁴⁵ *Notice*, 33 FCC Rcd at 10216-17, paras. 15-18 (granting the waiver, in part, in response to petitions filed by Verizon and AT&T).

⁴⁶ See 44 U.S.C. § 3506(c)(4).

⁴⁷ The RFA, 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”⁴⁸ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁴⁹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁵⁰ A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁵¹

24. The Commission included an Initial Regulatory Flexibility Analysis in the *Notice*, and received no comments addressing this issue.

25. In this Report and Order, we amend two of the Commission’s tariff rules by adding sections 61.54(k) and 61.74(b), and eliminate one tariff rule, section 61.49(k), to minimize burdens associated with filing tariffs, as part of the Commission’s efforts to reduce unnecessary regulations that no longer serve the public interest.⁵² The addition of sections 61.54(k) and 61.74(b) is procedural in nature, and the impact is minor. These revisions impact large and small telephone companies. The elimination of section 61.49(k) impacts only price cap LECs for services that continue to be subject to price cap regulation, and any impact of this rule change is minor. Price cap LECs are some of the largest telephone companies. Therefore, we certify that the rule amendments will not have a significant economic impact on a substantial number of small entities.

26. The Commission will send a copy of the Report and Order, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.⁵³ In addition, the Report and Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the Federal Register.⁵⁴

27. *Congressional Review Act.* [The Commission will submit this draft Report and Order to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for concurrence as to whether these rules are “major” or “non-major” under the Congressional Review Act, 5 U.S.C. § 804(2).] The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

V. ORDERING CLAUSES

28. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i)-(j), and 201-203 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i)-(j), 201-203, this Report and Order IS ADOPTED.

29. IT IS FURTHER ORDERED that this Report and Order SHALL BE EFFECTIVE thirty (30) days after publication of a summary in the Federal Register.

⁴⁸ 5 U.S.C. § 605(b).

⁴⁹ 5 U.S.C. § 601(6).

⁵⁰ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

⁵¹ 15 U.S.C. § 632.

⁵² *Infra* Appx. A, 47 CFR §§ 61.49(k), 61.54(k), 61.74(b).

⁵³ See 5 U.S.C. § 801(a)(1)(A).

⁵⁴ See 5 U.S.C. § 605(b).

30. IT IS FURTHER ORDERED that part 61 of the Commission's rules, 47 CFR part 61, IS AMENDED as set forth in Appendix A, and such rule amendments SHALL BE EFFECTIVE thirty (30) days after publication of a summary of the Report and Order in the Federal Register.

31. IT IS FURTHER ORDERED that the interim waiver of the prohibition on a carrier's tariff referencing the carrier's other tariff publications and tariffs of its affiliates, as adopted in the *Notice*, WILL END thirty (30) days after a summary of this Report and Order is published in the Federal Register.

32. IT IS FURTHER ORDERED that the Motion to Accept Late-Filed Comments filed by AT&T IS DISMISSED AS MOOT.

33. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 61 as follows:

PART 61—TARIFFS

1. The authority citation for part 61 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154(i), 154(j), 201-205 and 403, unless otherwise noted.

2. Amend § 61.49 by removing and reserving paragraph (k).

§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.

* * * * *

(k) [Reserved]

3. Amend § 61.54 by adding new paragraph (k) to read as follows:

§ 61.54 Composition of tariffs.

* * * * *

(k) Notwithstanding any other provisions in this section, tariff publications filed by a carrier may reference other tariff publications filed by that carrier or its affiliates.

3. Amend § 61.74 by redesignating paragraphs (c) to (e) as paragraphs (d) to (f), and adding new paragraph (b) to read as follows:

§ 61.74 References to other instruments.

* * * * *

(b) Tariff publications filed by a carrier may reference other tariff publications filed by that carrier or its affiliates.

* * * * *