

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

In the Matter of	)	
	)	
Electronic Tariff Filing System (ETFS)	)	WC Docket No. 10-141
	)	

**REPORT AND ORDER**

**Adopted: June 9, 2011**

**Released: June 9, 2011**

By the Commission: Chairman Genachowski and Commissioners Copps, McDowell, and Clyburn  
issuing separate statements.

**I. INTRODUCTION**

1. In June 2010, the Commission launched the Data Innovation Initiative to continue to modernize and streamline how the Commission collects, uses, and disseminates data. As part of that initiative, this order adopts rule revisions enabling all tariff filers to file tariffs electronically over the Internet, using the Electronic Tariff Filing System (ETFS).<sup>1</sup> Currently, only incumbent local exchange carriers (LECs) file their tariffs and associated documents using the ETFS. The ETFS has improved the usefulness of tariff filings for filers, the public, and the Commission. Among the many benefits, using the ETFS for filing tariffs reduces the burden of filing tariffs for small carriers and allows them to save many of the costs associated with manual filing. We conclude that enabling all tariff filers to file electronically will create a more open, transparent and efficient flow of information to the public, and will benefit the public, carriers, and the Commission by creating a uniform system providing online access to all carrier tariffs filed with the Commission.

**II. BACKGROUND**

2. In the *ETFS NPRM*, we provided a detailed description of the Commission's implementation of the statutory tariff streamlining requirements and the development and implementation of the ETFS.<sup>2</sup> To summarize briefly, on September 6, 1996, the Commission released the *Tariff Streamlining NPRM*, proposing measures to implement the tariff streamlining requirements of section 204(a)(3) of the Communications Act of 1934, as amended (Act),<sup>3</sup> including a proposal that would

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<sup>1</sup> See *Electronic Tariff Filing System (ETFS)*, WC Docket No. 10-141, Notice of Proposed Rulemaking, 25 FCC Rcd 9513, 9513-17, paras. 2-6 (2010) (*ETFS NPRM*); see also Appendix A (Final Rules). AT&T Corp. (AT&T), Verizon (Verizon), and Sprint Nextel Corporation (Sprint) filed comments. Qwest Communications International, Inc. (Qwest) filed reply comments. No other parties participated in this proceeding.

<sup>2</sup> See *ETFS NPRM*, 25 FCC Rcd at 9513-17, paras. 2-6.

<sup>3</sup> See 47 U.S.C. § 204(a)(3).

require LECs to file tariffs electronically.<sup>4</sup> The Commission began implementing the electronic filing of tariffs on January 31, 1997, when it released the *Streamlined Tariff Order*.<sup>5</sup> On May 28, 1998, the Common Carrier Bureau (Bureau) released the *ETFS Order*, in which it established July 1, 1998, as the date after which incumbent LECs would be required to use the ETFS to file tariffs and associated documents.<sup>6</sup> Although the *Tariff Streamlining NPRM* proposed mandatory electronic filing by all local exchange carriers, the Bureau limited the scope of the *ETFS Order* to incumbent LECs.<sup>7</sup>

3. In 1996, the Commission ordered mandatory detariffing of most interstate, domestic interexchange services of nondominant interexchange carriers, but permitted some exceptions to the mandatory detariffing requirement.<sup>8</sup> In addition, nondominant carriers continued to file tariffs for other services that were unaffected by the *Detariffing Order*.<sup>9</sup> Competitive LECs are permitted to tariff interstate switched access charges if the charges are no higher than the rate charged for such services by the competing incumbent LEC except where the rural exemption applies.<sup>10</sup> Competitive LECs are also permitted to tariff other interstate access services such as special access. In contrast to tariff filings by incumbent LECs, tariff filings by nondominant carriers are currently submitted on diskette, CD-ROM accompanied by a cover letter, and paper for informational tariffs, all of which are cumbersome and costly for the carrier and the Commission, and make it difficult for interested parties to review the documents due to internal distribution and storage barriers.<sup>11</sup>

4. On July 15, 2010, the Commission released the *ETFS NPRM*,<sup>12</sup> which proposed to modify the Commission's rules to require all tariff filers to file tariffs and other associated documents via the ETFS. The Commission requested comments on the benefits these rule modifications would produce.<sup>13</sup> The Commission also requested comment on a number of technical rule modifications that

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<sup>4</sup> See *Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996*, CC Docket No. 96-187, Notice of Proposed Rulemaking, 11 FCC Rcd 11233, 11242, para. 21 (1996) (*Tariff Streamlining NPRM*).

<sup>5</sup> See *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 (1997) (*Streamlined Tariff Order*).

<sup>6</sup> See *Electronic Tariff Filing System (ETFS)*, Order, 13 FCC Rcd 12335, 12335-36, paras. 1, 5 (Common Car. Bur. 1998) (*ETFS Order*). The Bureau also released a Public Notice announcing the July 1, 1998 deadline. See *Common Carrier Bureau Establishes July 1, 1998 for Initiation of Mandatory Electronic Filing of Tariffs and Associated Documents by Incumbent Local Exchange Carriers*, Public Notice, 13 FCC Rcd 16443 (1998). The Common Carrier Bureau became the Wireline Competition Bureau in 2002. See generally *Establishment of the Media Bureau, the Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau*, Order, 17 FCC Rcd 4672 (2002).

<sup>7</sup> See *ETFS Order*, 13 FCC Rcd at 12336, para 5.

<sup>8</sup> See *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket No. 96-61, Second Report and Order, 11 FCC Rcd 20730 (1996) (*Detariffing Order*); see also 47 C.F.R. § 61.19(b)-(e) (allowing nondominant carriers to file tariffs for dial-around 1+ services, for customers that have contacted them to change their primary interexchange carrier, for international inbound collect calls, and for "on demand" Mobile Satellite Services).

<sup>9</sup> For example, domestic operator service providers (OSPs) must file informational tariffs pursuant to the Act and the Commission's rules. See 47 U.S.C. § 226(h); 47 C.F.R. § 64.709.

<sup>10</sup> See 47 C.F.R. § 61.26.

<sup>11</sup> See generally 47 C.F.R. §§ 61.20-.23. "The tariff must be submitted on a 3 ½ inch (8.89 cm) diskette, or a 5 inch CD-ROM, formatted in an IBM-compatible form using either WordPerfect 5.1, Microsoft Word 6, or Microsoft Word 97 software." 47 C.F.R. § 61.22(a).

<sup>12</sup> *ETFS NPRM*, 25 FCC Rcd at 9517, para. 7.

<sup>13</sup> *Id.* at 9517, para. 8.

would be necessary to implement the new electronic filing requirements.<sup>14</sup> Four comments were received, all urging the Commission to quickly adopt the proposed rules.<sup>15</sup>

### III. DISCUSSION

5. As shown below, electronic filing for all tariff filers will greatly benefit the public, carriers, and the Commission. Accordingly, we adopt rule modifications that require electronic tariff filing for all tariff filers. Specifically, we require all tariff filers to follow the Commission's rules for electronic tariff filing and file using the ETFS for their tariffs, tariff revisions, Base Documents, and associated documents, including applications for special permission, and petitions and replies to petitions against tariff filings.<sup>16</sup>

6. After review of the record, we conclude that electronic filing of all tariffs and associated documents will facilitate the administration of nondominant tariffs and therefore is in the public interest.<sup>17</sup> We also find that the same benefits realized from electronic tariff filing by incumbent LECs, as outlined in the *Tariff Streamlining NPRM*, will be realized by requiring electronic filing of tariffs and associated documents by nondominant carriers. These anticipated benefits include: reducing burdens on carriers and the Commission; facilitating access to tariffs and associated documents by the public; increasing the ease with which interested parties can review all tariffs; making all tariff information available to state and other federal regulators; and facilitating the compilation of aggregate carrier data for industry analysis purposes.<sup>18</sup> In addition, electronic filing of tariffs should enable the Commission and interested parties to more efficiently identify tariffs that may be unlawful and/or in violation of Commission rules and precedent.<sup>19</sup> We conclude that including all tariffs on the ETFS will improve public access to these filings and will greatly enhance the transparency and efficiency of the tariff filing process. For these reasons, we also require international dominant carriers filing pursuant to section 61.28 of the Commission's rules to be subject to electronic filing.<sup>20</sup>

7. *Filing Requirements.* In the *ETFS NPRM*, we proposed that all tariff filers file electronically subject to sections 61.14, 61.15, and 61.16 of the Commission's rules.<sup>21</sup> No comments

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<sup>14</sup> *Id.* at 9520, para. 17.

<sup>15</sup> *See, e.g.,* Verizon Comments at 1; Sprint Comments at 1-2.

<sup>16</sup> *See* 47 C.F.R. §§ 61.13-17, 61.151-153.

<sup>17</sup> *See* Sprint Comments at 1; Verizon Comments at 1; AT&T Comments at 2; Qwest Reply Comments at 3.

<sup>18</sup> *See Tariff Streamlining NPRM*, 11 FCC Rcd at 11242, para. 21; *see also* Verizon Comments at 2; Sprint Comments at 2.

<sup>19</sup> *See* Sprint Comments at 1-2; *see also Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554 (2011) (seeking comment on proposed changes to the interstate access rules).

<sup>20</sup> *See* 47 C.F.R. § 61.28.

<sup>21</sup> *ETFS NPRM*, 25 FCC Rcd at 9518, para. 10. Section 61.14 of the Commission's rules details the appropriate format and method for electronic filing and section 61.15 provides details on letters of transmission and cover letters to accompany electronic tariff filing. 47 C.F.R. §§ 61.14-61.15. In addition, section 61.16 requires electronic filers to submit a Base Document within five business days of the initiation of mandatory electronic filing and must file a (continued . . .)

were filed opposing this proposal. Accordingly, we conclude that it is appropriate to apply the same electronic filing requirements to all tariff filers and we expand the applicability of sections 61.14, 61.15, and 61.16 of the Commission's rules to include all tariff filers.

8. We also adopt our proposals with regard to section 61.15's FCC Registration Number (FRN) requirements.<sup>22</sup> We require that, consistent with this rule, each letter of transmittal must contain the filing carrier's FRN. If more than one carrier participates in the tariff, the FRN for the filing carrier and the FRNs for each individual carrier that participates in the tariff must be included in the letter of transmittal. This will ensure that it is clear to Commission staff and the public which issuing, concurring, and other carriers are participating in a tariff. We also conclude that the use of consecutive transmittal numbers for letters of transmittal pursuant to the proposed revision of section 61.15 facilitates the Commission's ability to electronically match the mandatory tariff filing fee with the appropriate carrier's filing.<sup>23</sup>

9. In the *ETFS NPRM*, we invited specific comment on the use of transmittal numbers if mandatory electronic filing is required.<sup>24</sup> For carriers converting from non-electronic filing, we asked whether transmittal numbers should continue sequentially from the last non-electronic tariff or associated document transmission or whether transmittal numbers should start anew at the number one.<sup>25</sup> Similarly for special permission applications, we asked whether the first special permission application filed electronically for a carrier should start with number one or whether the special permission application should continue to be numbered sequentially from the last non-electronically filed special permission request.<sup>26</sup>

10. Commenters recommend that the existing sequential numbering be followed for both transmittal numbers and special permission applications.<sup>27</sup> For example, Sprint argues that it would be confusing for the Commission and customers who review tariff filings to have the numbering restart at number one for the electronic filings because there would be duplicate transmittal and application numbers.<sup>28</sup> We agree and clarify that for carriers converting from non-electronic filings, transmittal numbers must continue sequentially from the last non-electronic filing, consistent with section 61.15 of our rules. Special permission application numbers must also continue to be numbered sequentially from the last non-electronically filed application.

11. Currently, sections 61.52 and 61.54 of our rules, which require specific formatting and composition of tariffs, apply only to dominant carriers.<sup>29</sup> Because we will be requiring all carriers to file

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revised Base Document within the first five business days of the current month if there have been revisions that have become effective in the preceding month. 47 C.F.R. § 61.16.

<sup>22</sup> *ETFS NPRM*, 25 FCC Rcd at 9518, para 11; see also 47 C.F.R. §§ 1.8001-.8004, 61.15(a)(4).

<sup>23</sup> See, e.g., *Wireline Competition Bureau Common Carrier Services Fee Filing Guide*, Section 8 Fee Schedule and Filing Guide (Apr. 28, 2009), [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-290290A6.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-290290A6.pdf).

<sup>24</sup> *ETFS NPRM*, 25 FCC Rcd at 9518, para. 12.

<sup>25</sup> See *id.*

<sup>26</sup> *Id.*

<sup>27</sup> See Verizon Comment at 3; Sprint Comments at 5; Qwest Reply Comments at 6.

<sup>28</sup> Sprint Comments at 5.

<sup>29</sup> See 47 C.F.R. §§ 61.52, 61.54.

tariffs electronically, in the *ETFS NPRM*, we proposed that all carriers be required to comply with the formatting and composition requirements of our rules.<sup>30</sup> This would ensure that all tariffs have a basic uniformity that will facilitate an ease of review for customers and other entities examining such tariffs. In its comments, Sprint argues that certain of the section 61.54 requirements would be burdensome for nondominant carriers. For example, Sprint argues that nondominant carriers should not be required to comply with section 61.54(b)(2), which requires the exact name of the carrier, a brief statement showing each class of service provided, the geographic application, and the type of facilities used to provide service be included in the tariff.<sup>31</sup> Sprint also expresses concern about nondominant carriers having to comply with section 61.54(c)(3)(ii), which requires the carrier to “indicate the transmittal number under which that page was submitted.”<sup>32</sup>

12. We provide the following clarifications to address Sprint’s concerns that the filing requirements, particularly the requirements of section 61.54, would be overly burdensome for nondominant carriers.<sup>33</sup> Section 61.54(b)(2) requires the following information: (1) the exact name of the carrier; (2) a brief statement showing each class of service provided; (3) the geographical application; and (4) the type of facilities used to provide service to be included in the tariff. We note that most incumbent LECs comply with this requirement by including a brief statement on the Title page of the tariff, and we would expect that nondominant carriers would comply in a similar manner. Thus, we conclude that this is not an overly burdensome requirement and is helpful to Commission staff and the public reviewing the tariff by including some descriptive information on the Title page of the tariff. Therefore, we require that nondominant tariffs comply with section 61.54(b)(2), as proposed in the *ETFS NPRM*. With regard to the section 61.54(c)(3)(ii) transmittal number requirement, we clarify that this will be applied to nondominant carriers filing revisions to their tariff, on a prospective basis, once their initial Base Document has been filed electronically. This information is helpful in tracing modifications made to tariffs, so we conclude that it must be applied to all tariff filers. However, we do not expect nondominant carriers to research their previously filed tariff revisions to include different transmittal numbers on the initial Base Document. In the future, if a page is modified, the carrier must include the transmittal number under which the revised page is being submitted.

13. In the *ETFS NPRM*, we proposed amending the notice requirements of section 61.58 of our rules to add a provision requiring nondominant carriers that are eligible to file pursuant to the streamlining requirements of section 204(a)(3) of the Act, but choose not to file using these statutory time frames, to file tariffs on at least one day’s notice.<sup>34</sup> This addition to section 61.58 would permit us to delete section 61.23 as duplicative, and instead require all carriers to comply with the general notice requirements of section 61.58. No carriers filed comments objecting to this proposal. To streamline our rules, we adopt this proposal to require all carriers to comply with section 61.58 of the Commission’s rules and we delete section 61.23 as duplicative.

14. In the *ETFS NPRM*, we noted that a number of nondominant carriers operate under a “doing business as” or d/b/a name, and proposed to clarify that section 61.54 of the Commission’s rules requires carriers to use their legal names in tariffs and associated documents when filing via the ETFS.<sup>35</sup>

<sup>30</sup> *ETFS NPRM*, 25 FCC Rcd at 9518, para. 13.

<sup>31</sup> Sprint Comments at 4.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *ETFS NPRM*, 25 FCC Rcd at 9519, para. 13.

<sup>35</sup> *Id.* at 9519, para. 14.



If carriers use a d/b/a name in addition to their legal name, we proposed that the d/b/a name be noted on the Title page of the tariff in addition to the “exact name of the carrier.” No commenters objected, and we adopt this proposal to ensure that the legal name of the carrier is clear.<sup>36</sup>

15. *Compliance Deadline.* We note that ETFS has been available for use since November 17, 1997 and its use has been mandatory for incumbent LECs since July 1, 1998.<sup>37</sup> Given that the ETFS has been used by the public for more than a decade, in the *ETFS NPRM*, we sought comment on the amount of time parties believe all tariff filers will need before they can comply with the mandatory tariff filing requirement.<sup>38</sup> Specifically, we proposed that all tariff filers must use the ETFS for all tariff and associated document filing 120 days after a final order in this docket implementing such a requirement (or summary thereof) is published in the Federal Register. We also proposed that affected carriers must file their currently effective tariffs on the ETFS no later than 120 days after the revised rules become effective, which will be the carrier’s initial Base Document.<sup>39</sup>

16. Commenters generally supported this time period. For example, Sprint stated that 120 days should be sufficient for carriers to modify and file their tariffs.<sup>40</sup> Qwest also noted that the time period was reasonable.<sup>41</sup> We reject AT&T’s proposal that the time period for filing electronic tariffs should be shortened to 30 days after the Commission has upgraded the ETFS to accept competitive LEC filings.<sup>42</sup> We want to ensure that nondominant carriers have sufficient time to prepare for the change and Commission staff has sufficient time to respond to nondominant carrier inquiries. Accordingly, we adopt our proposal to provide a 120-day transition period, but to ensure that the ETFS will be able to process all of the new tariff filings, we also provide a window to allow carriers time to file their tariffs using the ETFS. We, therefore, conclude that the revised rules will become effective 120 days after this order is published in the Federal Register.<sup>43</sup> Once the rules are effective, we require all tariff filers to use ETFS to file their currently effective tariffs within 60 days after the revised rules become effective. This filing will be the carrier’s initial Base Document. The two-stage process will provide nondominant carriers with sufficient notice to prepare for electronic filing, and will allow greater flexibility as to the timing of the filings and help ensure that the ETFS can handle all of the new incoming filings. Therefore, once the revised rules become effective, nondominant tariff filers may file their initial Base Document any time within the 60-day period.

17. We encourage tariff filers to plan appropriately and not wait until the last day of the 60-day period, to ensure that the ETFS will be able to accept their filing. Once the initial Base Documents are filed on the ETFS, all future tariff revisions also are required to be filed electronically on the ETFS. To ensure that carriers will not continue to rely on manually filed tariffs, all tariffs previously filed with

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<sup>36</sup> See 47 C.F.R. § 61.54(b)(2); see also 47 C.F.R. § 61.52(b)(1).

<sup>37</sup> See *ETFS Order*, 13 FCC Rcd at 12335, para. 2.

<sup>38</sup> *ETFS NPRM*, 25 FCC Rcd at 9519, para. 15.

<sup>39</sup> *Id.* “The Base Document is a complete tariff which incorporates all effective revisions, as of the last day of the preceding month.” 47 C.F.R. § 61.16.

<sup>40</sup> Sprint Comments at 5.

<sup>41</sup> Qwest Reply Comments at 6.

<sup>42</sup> See AT&T Comments at 3.

<sup>43</sup> We note that the requirement to file tariffs electronically constitutes a modified information collection that is subject to the Office of Management and Budget (OMB) approval. If OMB approval does not occur until later than 120 days after this order is published in the Federal Register, the effective date will be the date of OMB approval.

the Commission not using ETFS will be cancelled pursuant to section 61.87 of the Commission's rules. Cancellation will be effective on filing of the initial Base Document replacing the tariff or at the end of the 60-day filing window if no initial Base Document has been filed in ETFS. Because section 61.87 requires carriers, once they cancel a tariff, to revise the Title page to indicate the tariff is no longer effective, for the purpose of this initial Base Document filing only, we waive, on our own motion, the requirements to file new Title pages when a carrier cancels a tariff pursuant to section 61.87 of the Commission's rules.<sup>44</sup> After the rules become effective, tariff filers will no longer be permitted to file diskette, CD-ROM and/or paper copies of tariffs and associated documents that otherwise would be filed with the Secretary, the Chief of the Pricing Policy Division of the Wireline Competition Bureau, and the Commission's commercial contractor.<sup>45</sup>

18. For consistency and administrative clarity, we proposed changes to additional sections in Part 61 of the Commission's rules as shown in Appendix A of the *ETFS NPRM*.<sup>46</sup> For example, we proposed consolidating the requirements for letters of transmittal and cover letters in section 61.15 of the Commission's rules, and therefore, proposed to delete sections 61.21 and 61.33 of our rules because those rules would be duplicative of section 61.15. Commenters did not object to these proposals, and we adopt the rule revisions in Appendix A.<sup>47</sup>

19. *Administration.* As we proposed in the *ETFS NPRM* and consistent with the *Streamlined Tariff Order*,<sup>48</sup> we conclude that the Chief of the Wireline Competition Bureau will be responsible for administering the adoption of electronic tariff filing requirements for all tariff filers.<sup>49</sup>

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<sup>44</sup> See 47 C.F.R. § 61.87. We note that the Commission has discretion to waive its rules on its own motion at any time "for good cause shown." See 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a regulation where the particular facts make strict compliance unnecessary or inconsistent with the public interest. See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Here, we find that waiver of section 61.87 is warranted in order to streamline the initial electronic filing of Base Documents. We note after these initial Base Document filings are complete, carriers cancelling tariffs would have to comply with all requirements of section 61.87 of the Commission's rules.

<sup>45</sup> See 47 C.F.R. § 61.20(b)(2); see also 47 C.F.R. § 64.709(d)(2). The Tariff and Pricing Analysis Branch is now known as the Pricing Policy Division of the Wireline Competition Bureau.

<sup>46</sup> See *ETFS NPRM*, 25 FCC Rcd at 9524-50.

<sup>47</sup> We make two minor changes to the proposed rules. First, Verizon noted that although we exempted informational tariffs from the formatting requirements in section 61.51, we neglected to include such an exemption in section 61.14 of our proposed rules. See Letter from Ann D. Berkowitz, Director, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-141 at 1 (filed Oct. 20, 2010). We correct this oversight and clarify that informational tariffs will not be subject to the formatting requirements of sections 61.52 and 61.54. We also delete section 61.16(b) of the Commission's rules, which requires carriers to file a Base Document within five days of the initiation of mandatory electronic filing. Because we are requiring carriers to file their initial Base Documents 60 days after the revised rules become effective, this requirement is no longer applicable.

<sup>48</sup> *Streamlined Tariff Order*, 12 FCC Rcd at 2195, para. 48 ("We delegate authority to the Chief, Common Carrier Bureau to establish this program . . .").

<sup>49</sup> *ETFS NPRM*, 25 FCC Rcd at 9519, para. 16.

#### IV. PROCEDURAL MATTERS

##### A. Final Regulatory Flexibility Analysis

20. An Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *ETFS NPRM*.<sup>50</sup> The Commission sought written public comment on the proposals in the *ETFS NPRM*, including comment on the IRFA. No comments were received on the IRFA. The Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and is set forth in Appendix B.<sup>51</sup>

##### B. Final Paperwork Reduction Act of 1995 Analysis

21. This order contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), 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.

22. In this order, we have assessed the effects of electronic filing on small entities and believe the burden will be minimal. In addition, to assist tariff filers that have not used the ETFS previously, including small entity filers, the Commission is allowing carriers a 180-day transition period to begin using the ETFS.

#### V. ORDERING CLAUSES

23. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 201-205, and 226(h)(1)(A) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201-205, 226(h)(1)(A), that this Report and Order IS ADOPTED.

24. IT IS FURTHER ORDERED that the final rules and rule revisions adopted in this Report and Order SHALL BECOME EFFECTIVE either one hundred and twenty (120) days after publication in the Federal Register or following approval by the Office of Management and Budget, whichever date is later. The Commission will publish a document at a later date establishing the effective date.

25. IT IS FURTHER ORDERED that nondominant carriers SHALL FILE their initial Base Document using the Electronic Tariff Filing System no later than sixty (60) days after the final rules and revisions adopted in this Report and Order become effective.

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<sup>50</sup> *See* 5 U.S.C. § 603. The RFA has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>51</sup> 5 U.S.C. § 604.



26. 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 Analysis, 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 parts 61 and 64 as follows:

**PART 61 – TARIFFS**

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

Authority: Secs. 1, 4(i), 4(j), 201-205 and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201-205 and 403, unless otherwise noted.

2. Section 61.3 is amended by redesignating paragraphs (t) through (y) as paragraphs (u) through (z) and by adding paragraph (t) to read as follows:

**§ 61.3 Definitions.**

\* \* \* \* \*

(t) Incumbent Local Exchange Carrier. “Incumbent Local Exchange Carrier” or “ILEC” has the same meaning as that term is defined in 47 U.S.C. 251(h).

\* \* \* \* \*

3. Section 61.13 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 61.13 Scope.**

(a) This applies to all tariff publications of issuing carriers required to file tariff publications electronically, and any tariff publication that a carrier chooses to file electronically.

(b) All issuing carriers that file tariffs are required to file tariff publications electronically.

\* \* \* \* \*

4. Section 61.14 is amended by revising paragraphs (b) and (e) to read as follows:

**§ 61.14 Method of filing publications.**

\* \* \* \* \*

(b) In addition, except for issuing carriers filing tariffing fees electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of

the cover letter (without attachments), FCC Form 159, and the appropriate fee to the address set forth in §1.1105 of this chapter.

\* \* \* \* \*

(e) Carriers that are required to file publications electronically must comply with the format requirements set forth in §§61.52 and 61.54, with the exception of the informational tariffs filed pursuant to 47 U.S.C. 226(h)(1)(A).

5. Section 61.15 is revised to read as follows:

**§ 61.15 Letters of transmittal and cover letters.**

(a) All tariff publications filed with the Commission electronically must be accompanied by a letter of transmittal. All letters of transmittal filed with the Commission must be numbered consecutively by the issuing carrier beginning with Number 1. All letters of transmittal must also:

- (1) Concisely explain the nature and purpose of the filing;
- (2) Specify whether supporting information is required for the new tariff or tariff revision, and specify the Commission rule or rules governing the supporting information requirements for that filing;
- (3) Contain a statement indicating the date and method of filing of the original of the transmittal as required by §61.14(b);
- (4) Include the FCC Registration Number (FRN) of the carrier(s) on whose behalf the cover letter is submitted. See subpart W of part 1 of this title.

(b) Local exchange carriers filing tariffs electronically pursuant to the notice requirements of section 204(a)(3) of the Communications Act shall display prominently, in the upper right hand corner of the letter of transmittal, a statement that the filing is made pursuant to that section and whether the tariff is filed on 7 or 15 days notice.

(c) Any carrier filing a new or revised tariff made on 15 days' notice or less shall include in the letter of transmittal the name, room number, street address, telephone number, and facsimile number of the

individual designated by the filing carrier to receive personal or facsimile service of petitions against the filing as required under §1.773(a)(4) of this chapter.

(d) International carriers must certify that they are authorized under Section 214 of the Communications Act of 1934, as amended, to provide service, and reference the FCC file number of that authorization.

(e) In addition to the requirements set forth in paragraph (a) of this section, any incumbent local exchange carrier choosing to file an Access Tariff under §61.39 must include in the transmittal:

(1) A summary of the filing's basic rates, terms and conditions;

(2) A statement concerning whether any prior Commission facility authorization necessary to the implementation of the tariff has been obtained; and

(3) A statement that the filing is made pursuant to §61.39.

(f) In addition to the requirements set forth in paragraph (a) of this section, any price cap local exchange carrier filing a price cap tariff must include in the letter of transmittal a statement that the filing is made pursuant to §61.49.

(g) The letter of transmittal must specifically reference by number any special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication and may not be requested in the transmittal letter.

(h) The letter of transmittal must be substantially in the following format:

\_\_\_\_\_

(Exact name of carrier in full)

\_\_\_\_\_

(Post Office Address)

\_\_\_\_\_

(Date)

\_\_\_\_\_

Transmittal No.

Secretary, Federal Communications Commission; Washington, DC 20554

Attention: Wireline Competition Bureau

The accompanying tariff (or other publication) issued by \_\_\_\_, and bearing FCC No. \_\_\_\_, effective \_\_\_\_, 20 \_\_\_\_, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. (Here give the additional information required.)

\_\_\_\_\_  
(Name of issuing officer or agent)

\_\_\_\_\_  
(Title) \_\_\_\_\_

(h)(1) A separate letter of transmittal may accompany each publication, or the above format may be modified to provide for filing as many publications as desired with one transmittal letter.

(i) All submissions of documents other than a new tariff or revisions to an existing tariff, such as Base Documents or Tariff Review Plans, must be accompanied by a cover letter that concisely explains the nature and purpose of the filing. Publications submitted under this paragraph are not required to submit a tariffing fee.

6. Section 61.16 is revised to read as follows:

**§ 61.16 Base documents.**

(a) The Base Document is a complete tariff which incorporates all effective revisions, as of the last day of the preceding month. The Base Document should be submitted with a cover letter as specified in §61.15(i) and identified as the Monthly Updated Base Document.

(b) If there have been revisions that became effective up to and including the last day of the preceding month, a new Base Document must be submitted within the first five business days of the current month that will incorporate those revisions.

7. Section 61.17 is revised to read as follows:

**§ 61.17 Applications for special permission.**



(a) All issuing carriers that file applications for special permission, associated documents, such as transmittal letters, requests for special permission, and supporting information, shall file those documents electronically.

(b) Applications for special permission must contain:

(1) A detailed description of the tariff publication proposed to be put into effect;

(2) A statement citing the specific rules and the grounds on which waiver is sought;

(3) A showing of good cause; and

(4) The appropriate Illustrative tariff pages the issuing carrier wishes to either revise or add as new pages to its tariff.

(c) An application for special permission must be addressed to “Secretary, Federal Communications Commission, Washington, DC 20554.” The Electronic Tariff Filing System will accept filings 24 hours a day, seven days a week. The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in §1.4(e)(2) of this chapter, the filing will be date and time stamped as of the opening of the next business day.

(d) In addition, except for issuing carriers filing tariffing fees electronically, for special permission applications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the application letter (without attachments), FCC Form 159, and the appropriate fee to the address set forth in §1.1105 of this chapter.

(e) In addition, if an issuing carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from FCC tariff numbers and Letters of Transmittal, bear the signature of the officer or agent of the carrier, and be in the following format:

Application No. \_\_\_\_\_

(Date)\_\_\_\_\_

Secretary

Federal Communications Commission

Washington, DC 20554.

Attention: Wireline Competition Bureau (here provide the statements required by section 61.17(b)).

(Exact name of carrier) \_\_\_\_\_

(Name of officer or agent) \_\_\_\_\_

(Title of officer or agent) \_\_\_\_\_

(f) If approved, the issuing carrier must comply with all terms and use all authority specified in the grant.

If a carrier elects to use less than the authority granted, it must apply to the Commission for modification of the original grant. If a carrier elects not to use the authority granted within sixty days of its effective date, the original grant will be automatically cancelled by the Commission.

8. Section 61.20 is amended by revising paragraphs (a) and (b) and deleting paragraph (c) to read as follows:

**§ 61.20 Method of filing publications.**

(a) All issuing carriers that file tariffs shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and supporting information, electronically in accordance with the requirements set forth in §61.13 through §61.17.

(b) In addition, except for issuing carriers filing tariffing fees electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the cover letter (without attachments), FCC Form 159, and the appropriate fee to the address set forth in §1.1105 of this chapter.

**§§ 61.21 through 61.23 [Removed]**

9. Remove §§ 61.21 through 61.23.

**§§ 61.32 and 61.33 [Removed]**

10. Remove §§ 61.32 and 61.33.

11. Section 61.38 is revised to read as follows:

**§ 61.38 Supporting information to be submitted with letters of transmittal.**

(a) Scope. This section applies to dominant carriers whose gross annual revenues exceed \$500,000 for the most recent 12 month period of operations or are estimated to exceed \$500,000 for a representative 12 month period. Incumbent Local Exchange Carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in §69.602 of this chapter may submit Access Tariff filings for that study area pursuant to either this section or §61.39. However, the Commission may require any issuing carrier to submit such information as may be necessary for a review of a tariff filing. This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings proposing rates for services identified in §61.42 (d), (e), and (g).

(b) Explanation and data supporting either changes or new tariff offerings. The material to be submitted for a tariff change which affects rates or charges or for a tariff offering a new service, must include an explanation of the changed or new matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.

(1) For a tariff change the issuing carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A cost of service study for all elements for the most recent 12 month period;

(ii) A study containing a projection of costs for a representative 12 month period;

(iii) Estimates of the effect of the changed matter on the traffic and revenues from the service to which the changed matter applies, the issuing carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (b)(1)(ii) above.

(2) For a tariff filing offering a new service, the issuing carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the issuing carrier's other service classifications, and the issuing carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in paragraph (b)(2)(i) of this section.

(3) [Reserved]

(4) For a tariff that introduces a system of density pricing zones, as described in §69.123 of this chapter, the issuing carrier must, before filing its tariff, submit a density pricing zone plan including, inter alia, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

(c) Working papers and statistical data. (1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the issuing carrier must file the working papers containing the information underlying the data supplied in response to paragraph (b) of this section, and a clear explanation of how the working papers relate to that information.

(2) All statistical studies must be submitted and supported in the form prescribed in §1.363 of this chapter.

(d) Form and content of additional material to be submitted with certain rate increases. In the circumstances set out in paragraphs (d)(1) and (2) of this section, the issuing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate increase. The issuing carrier must submit this information in suitable form to serve as the carrier's direct case in the event the rate increase is set by the Commission for investigation.

(1) Rate increases affecting single services or tariffed items.

(i) A rate increase in any service or tariffed item which results in more than \$1 million in additional annual revenues, calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

- (ii) A single rate increase in any service or tariffed item, or successive rate increases in the same service or tariffed item within a 12 month period, either of which results in:
- (A) At least a 10 percent increase in annual revenues from that service or tariffed item, and
  - (B) At least \$100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.
- (2) Rate increases affecting more than one service or tariffed item.
- (i) A general rate increase in more than one service or tariffed item occurring at one time, which results in more than \$1 million in additional revenues calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or
- (ii) A general rate increase in more than one service or tariffed item occurring at one time, or successive general rate increases in the same services or tariffed items occurring within a 12 month period, either of which results in:
- (A) At least a 10 percent increase in annual revenues from those services or tariffed items, and
  - (B) At least \$100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.
- (e) Submission of explanation and data by connecting carriers. If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.
- (f) Copies of explanation and data to customers. Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the issuing carrier must transmit to the customer a copy of the explanation and data required by paragraphs (b) and (c) of this section.
- (g) On each page of cost support material submitted pursuant to this section, the issuing carrier shall indicate the transmittal number under which that page was submitted.



12. Section 61.39 is revised to read as follows:

**§ 61.39 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings by incumbent local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in §69.602.**

(a) Scope. This section provides for an optional method of filing for any incumbent local exchange carrier that is described as subset 3 carrier in §69.602 of this chapter, which elects to issue its own Access Tariff for a period commencing on or after April 1, 1989, and which serves 50,000 or fewer access lines in a study area as determined under §36.611(a)(8) of this chapter. However, the Commission may require any issuing carrier to submit such information as may be necessary for review of a tariff filing. This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings of price cap local exchange carriers.

(b) Explanation and data supporting tariff changes. The material to be submitted to either a tariff change or a new tariff which affects rates or charges must include an explanation of the filing in the transmittal as required by §61.15. The basis for ratemaking must comply with the following requirements. Except as provided in paragraph (b)(5) of this section, it is not necessary to submit this supporting data at the time of filing. However, the incumbent local exchange carrier should be prepared to submit the data promptly upon reasonable request by the Commission or interested parties.

(1) For a tariff change, the incumbent local exchange carrier that is a cost schedule carrier must propose Tariff Sensitive rates based on the following:

(i) For the first period, a cost of service study for Traffic Sensitive elements for the most recent 12 month period with related demand for the same period.

(ii) For subsequent filings, a cost of service study for Traffic Sensitive elements for the total period since the incumbent local exchange carrier's last annual filing, with related demand for the same period.

(2) For a tariff change, the incumbent local exchange carrier that is an average schedule carrier must propose Traffic Sensitive rates based on the following:

- (i) For the first period, the incumbent local exchange carrier's most recent annual Traffic Sensitive settlement from the National Exchange Carrier Association pool.
- (ii) For subsequent filings, an amount calculated to reflect the Traffic Sensitive average schedule pool settlement the carrier would have received if the carrier had continued to participate, based upon the most recent average schedule formulas approved by the Commission.

(3) For a tariff change, the incumbent local exchange carrier that is a cost schedule carrier must propose Common Line rates based on the following:

- (i) For the first biennial filing, the common line revenue requirement shall be determined by a cost of service study for the most recent 12-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{CCL \text{ Rev Req}}{CCL \text{ MOU}_b * (1+h/2)^2}$$

where:

$$h = \frac{CCL \text{ MOU}_1}{CCL \text{ MOU}_0} - 1$$

And where:

*CCL Rev Req* = carrier common line revenue requirement for the most recent 12-month period;

*CCL MOU<sub>b</sub>* = carrier common line minutes of use for the most recent 12-month period;

*CCL MOU<sub>1</sub>* = *CCL MOU<sub>b</sub>*; and

*CCL MOU<sub>0</sub>* = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

- (ii) For subsequent biennial filings, the common line revenue requirement shall be determined by a cost of service study for the most recent 24-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{CCL Rev Req}{CCL MOU_b * (1+h/2)^{5/2}}$$

Where:

$$h = \frac{CCL MOU_1}{CCL MOU_0} - 1$$

And where:

*CCL Rev Req* = carrier common line revenue requirement for the most recent 24-month period;

*CCL MOU<sub>b</sub>* = carrier common line minutes of use for the most recent 24-month period;

*CCL MOU<sub>1</sub>* = carrier common line minutes of use for the 12-month period; and

*CCL MOU<sub>0</sub>* = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(4) For a tariff change, the incumbent local exchange carrier which is an average schedule carrier must propose common line rates based on the following:

(i) For the first biennial filings, the common line revenue requirement shall be determined by the incumbent local exchange carrier's most recent annual Common Line settlement from the National Exchange Carrier Association. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{CCL Rev Req}{CCL MOU_b * (1+h/2)^2}$$

Where:

$$h = \frac{CCL MOU_1}{CCL MOU_0} - 1$$

And where:

*CCL Rev Req* = carrier common line settlement for the most recent 12-month period;

*CCL MOU<sub>b</sub>* = carrier common line minutes of use for the most recent 12-month period;

*CCL MOU<sub>1</sub>* = *CCL MOU<sub>b</sub>*; and

$CCL\ MOU_0$  = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be an amount calculated to reflect the average schedule pool settlements the carrier would have received if the carrier had continued to participate in the carrier common line pool, based upon the average schedule Common Line formulas developed by the National Exchange Carrier Association for the most recent 24-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{CCL\ Rev\ Req}{CCL\ MOU_b * (1+h/2)^{5/2}}$$

Where:

$$h = \frac{CCL\ MOU_1}{CCL\ MOU_0} - 1$$

And where:

$CCL\ Rev\ Req$  = carrier common line settlement for the most recent 24-month period;

$CCL\ MOU_b$  = carrier common line minutes of use for the most recent 24-month period;

$CCL\ MOU_1$  = carrier common line minutes of use for the most recent 12-month period; and

$CCL\ MOU_0$  = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(5) For End User Common Line charges included in a tariff pursuant to this Section, the incumbent local exchange carrier must provide supporting information for the two-year historical period with its letter of transmittal in accordance with §61.38.

(c) Maximum allowable rate of return. Incumbent Local exchange carriers filing tariffs under this section are not required to comply with §§65.700 through 65.701 of this chapter, except with respect to periods during which tariffs were not subject to this section. The Commission may require any carrier to submit such information if it deems it necessary to monitor the carrier's earnings. However, rates must be

calculated based on the incumbent local exchange carrier's prescribed rate of return applicable to the period during which the rates are effective.

(d) Rates for a new service that is the same as that offered by a price cap local exchange carrier providing service in an adjacent serving area are deemed presumptively lawful, if the proposed rates, in the aggregate, are no greater than the rates established by the price cap local exchange carrier. Tariff filings made pursuant to this paragraph must include the following:

(1) A brief explanation of why the service is like an existing service offered by a geographically adjacent price cap local exchange carrier; and

(2) Data to establish compliance with this paragraph that, in aggregate, the proposed rates for the new service are no greater than those in effect for the same or comparable service offered by that same geographically adjacent price cap regulated local exchange carrier. Compliance may be shown through submission of applicable tariff pages of the adjacent carrier; a showing that the serving areas are adjacent; any necessary explanations and work sheets.

(e) Average schedule companies filing pursuant to this section shall retain their status as average schedule companies.

(f) On each page of cost support material submitted pursuant to this section, the issuing carrier shall indicate the transmittal number under which that page was submitted.

13. Section 61.40 is amended by revising paragraph (a) introductory text to read as follows:

**§ 61.40 Private line rate structure guidelines.**

(a) The Commission uses a variety of tools to determine whether a dominant carrier's private line tariffs are just, reasonable, and nondiscriminatory. The dominant carrier's burden of cost justification can be reduced when its private line rate structures comply with the following five guidelines.

\* \* \* \* \*

14. Section 61.41 is amended by revising paragraph (a)(2) to read as follows:

**§ 61.41 Price cap requirements generally.**



(a) \* \* \*

(2) To such price cap local exchange carriers as specified by Commission order, and to all local exchange carriers, other than average schedule companies, that are affiliated with such carriers;  
and

\* \* \* \* \*

15. Section 61.42 is amended by revising paragraphs (d) introductory text, (d)(4)(i) and (ii), (e)(1) introductory text, and (f) to read as follows:

**§ 61.42 Price cap baskets and service categories.**

\* \* \* \* \*

(d) Each price cap local exchange carrier shall establish baskets of services as follows:

(4)(i) To the extent that a price cap local exchange carrier specified in §61.41(a) (2) or (a)(3) offers interstate interexchange services that are not classified as access services for the purpose of part 69 of this chapter, such exchange carrier shall establish a fourth basket for such services. For purposes of §§61.41 through 61.49, this basket shall be referred to as the “interexchange basket.”

(ii) If a price cap local exchange carrier has implemented interLATA and intraLATA toll dialing parity everywhere it provides local exchange services at the holding company level, that price cap carrier may file a tariff revision to remove corridor and interstate intraLATA toll services from its interexchange basket.

\* \* \* \* \*

(e)(1) The traffic sensitive switched interstate access basket shall contain such services as the Commission shall permit or require, including the following service categories:

\* \* \* \* \*

(f) Each price cap local exchange carrier shall exclude from its price cap baskets such services or portions of such services as the Commission has designated or may hereafter designate by order.

\* \* \* \* \*

16. Section 61.43 is revised to read as follows:

**§ 61.43 Annual price cap filings required.**

Price cap local exchange carriers shall submit annual price cap tariff filings that propose rates for the upcoming tariff year, that make appropriate adjustments to their PCI, API, and SBI values pursuant to §§61.45 through 61.47, and that incorporate new services into the PCI, API, or SBI calculations pursuant to §§61.45(g), 61.46(b), and 61.47 (b) and (c). Price cap local exchange carriers may propose rate, PCI, or other tariff changes more often than annually, consistent with the requirements of §61.59.

17. Section 61.45 is amended by revising paragraphs (a), (b)(1)(i) introductory text, and (d)(2) to read as follows:

**§ 61.45 Adjustments to the PCI for Local Exchange Carriers.**

(a) Price cap local exchange carriers shall file adjustments to the PCI for each basket as part of the annual price cap tariff filing, and shall maintain updated PCIs to reflect the effect of mid-year exogenous cost changes.

(b)(1)(i) Adjustments to price cap local exchange carrier PCIs, in those carriers' annual access tariff filings, the traffic sensitive basket described in §61.42(d)(2), the trunking basket described in §61.42(d)(3), the special access basket described in §61.42(d)(5) and the Interexchange Basket described in §61.42(d)(4)(i), shall be made pursuant to the following formula:

\* \* \* \* \*

(d) \* \* \*

(2) Price cap local exchange carriers specified in §§61.41(a)(2) or (a)(3) shall, in their annual access tariff filing, recognize all exogenous cost changes attributable to modifications during the coming tariff year in their Subscriber Plant Factor and the Dial Equipment Minutes factor, and completions of inside wire amortizations and reserve deficiency amortizations.

\* \* \* \* \*

Section 61.46 is amended by revising paragraph (a) introductory text to read as follows:

**§ 61.46 Adjustments to the API.**

(a) Except as provided in paragraphs (d) and (e) of this section, in connection with any price cap tariff filing proposing rate changes, the price cap local exchange carrier must calculate an API for each affected basket pursuant to the following methodology:

\* \* \* \* \*

18. Section 61.47 is amended by revising paragraphs (f), (i)(2), and (i)(5) to read as follows:

**§ 61.47 Adjustments to the SBI; pricing bands.**

\* \* \* \* \*

(f) A price cap local exchange carrier may establish density zones pursuant to the requirements set forth in §69.123 of this chapter, for any service in the trunking and special access baskets, other than the interconnection charge set forth in §69.124 of this chapter. The pricing flexibility of each zone shall be limited to an annual increase of 15 percent, relative to the percentage change in the PCI for that basket, measured from the levels in effect on the last day of the preceding tariff year. There shall be no lower pricing band for any density zone.

\* \* \* \* \*

(i)(1) \* \* \*

(2) Effective January 1, 1998, notwithstanding the requirements of paragraph (a) of this section, if a price cap local exchange carrier is recovering interconnection charge revenues through per-minute rates pursuant to §69.155 of this chapter, any reductions to the PCI for the basket designated in §61.42(d)(3) resulting from the application of the provisions of §61.45(b)(1)(i) and from the application of the provisions of §§61.45(i)(1) and 61.45(i)(2) shall be directed to the SBI of the service category designated in §61.42(d)(i).

\* \* \* \* \*

(5) Effective July 1, 2000, notwithstanding the requirements of paragraph (a) of this section and subject to the limitations of §61.45(i), if a price cap local exchange carrier is recovering an ATS charge greater than its Target Rate as set forth in §61.3(qq), any reductions to the PCI for the traffic sensitive or trunking baskets designated in §§61.42(d)(2) and 61.42(d)(3) resulting from the application of the provisions of §61.45(b), and the formula in §61.45(b) and from the

application of the provisions of §§61.45(i)(1), and 61.45(i)(2) shall be directed to the SBIs of the service categories designated in §§61.42(e)(1) and 61.42(e)(2).

\* \* \* \* \*

19. Section 61.48 is amended by revising paragraphs (i)(2), (i)(3) introductory text, (i)(4), and (l)(2) to read as follows:

**§ 61.48 Transition rules for price cap formula calculations.**

\* \* \* \* \*

(i) \* \* \*

(2) Simultaneous Introduction of Special Access and Transport Zones. Price cap local exchange carriers that have established density pricing zones pursuant to §69.123 of this chapter, and whose special access zone date and transport zone date occur on the same date, shall initially establish density pricing zone SBIs and bands pursuant to the methodology in §§61.47(e) through (f).

(3) Sequential Introduction of Zones in the Same Tariff Year. Notwithstanding §§61.47(e) through (f), price cap local exchange carriers that have established density pricing zones pursuant to §69.123 of this chapter, and whose special access zone date and transport zone date occur on different dates during the same tariff year, shall, on the earlier date, establish density pricing zone SBIs and pricing bands using the methodology described in §§61.47(e) through (f), but applicable to the earlier service only. On the later date, such carriers shall recalculate the SBIs and pricing bands to limit the pricing flexibility of the services included in each density pricing zone category, as reflected in its SBI, as follows:

\* \* \* \* \*

(4) Introduction of Zones in Different Tariff Years. Notwithstanding §§61.47(e) through (f), those price cap local exchange carriers that have established density pricing zones pursuant to §69.123 of this chapter, and whose special access zone date and transport zone date do not occur within the same tariff year, shall, on the earlier date, establish density pricing zone

SBIs and pricing bands using the methodology described in §§61.47(e) through (f), but applicable to the earlier service only.

\* \* \* \* \*

(1) \* \* \*

(2) Once the reductions in paragraph (l)(1)(i) and paragraphs (l)(1)(ii)(A) and (l)(1)(ii)(B) of this section are identified, the difference between those reductions and \$2.1 billion is the total amount of additional reductions that would be made to ATS rates of price cap local exchange carriers. This amount will then be restated as the percentage of total price cap local exchange carrier Local Switching revenues as of June 30, 2000 using 2000 annual filing base period demand (“June 30 Local Switching revenues”) necessary to yield the total amount of additional reductions and taking into account the fact that, if participating, a price cap local exchange carrier would not reduce ATS rates below its Target Rate as set forth in §61.3(qq). Each price cap local exchange carrier then reduces ATS rate elements, and associated SBI upper limits and PCIs, by a dollar amount equivalent to the percentage times the June 30 Local Switching revenues for that filing entity, provided that no price cap local exchange carrier shall be required to reduce its ATS rates below its Target Rate as set forth in §61.3(qq). Each price cap local exchange carrier can take its additional reductions against any of the ATS rate elements, provided that at least a proportional share must be taken against Local Switching rates.

\* \* \* \* \*

20. Section 61.49 is amended by revising paragraphs (f)(2), (f)(3), (f)(4), (g) introductory text, (g)(2), (h), (k) and (l) to read as follows:

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

\* \* \* \* \*

(f) \* \* \*

(2) Each tariff filing submitted by a price cap local exchange carrier that introduces a new loop-based service, as defined in §61.3(pp) of this part—including a restructured unbundled basic service element (BSE), as defined in §69.2(mm) of this chapter, that constitutes a new loop-based service—that is or will later be included in a basket, must be accompanied by cost data sufficient to establish that the new loop-based service or unbundled BSE will not recover more than a just and reasonable portion of the carrier's overhead costs.

(3) A price cap local exchange carrier may submit without cost data any tariff filings that introduce new services, other than loop-based services.

(4) A price cap local exchange carrier that has removed its corridor or interstate intraLATA toll services from its interexchange basket pursuant to §61.42(d)(4)(ii), may submit its tariff filings for corridor or interstate intraLATA toll services without cost data.

(g) Each tariff filing submitted by a price cap local exchange carrier that introduces a new loop-based service or a restructured unbundled basic service element (BSE), as defined in §69.2(mm) of this chapter, that is or will later be included in a basket, or that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in §69.121 of this chapter, must also be accompanied by:

(1) \* \* \*

(2) Working papers and statistical data. (i) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the issuing carriers must file the working papers containing the information underlying the data supplied in response to paragraph (h)(1) of this section, and a clear explanation of how the working papers relate to that information.

(ii) All statistical studies must be submitted and supported in the form prescribed in §1.363 of the Commission's rules.

(h) Each tariff filing submitted by a price cap local exchange carrier that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in §69.121 of this chapter, must be accompanied by cost data sufficient to establish that such charges will not recover more than a just and reasonable portion of the carrier's overhead costs.

\* \* \* \* \*

(k) In accordance with §§61.41 through 61.49, price cap local exchange carriers that elect to file their annual access tariff pursuant to section 204(a)(3) of the Communications Act shall submit supporting material for their interstate annual access tariffs, absent rate information, 90 days prior to July 1 of each year.

(l) On each page of cost support material submitted pursuant to this section, the issuing carrier shall indicate the transmittal number under which that page was submitted.

**Subpart H—[Removed]**

21. Remove Subpart H consisting of §§ 61.151 through 61.153.

**Subpart G—[Redesignated as Subpart H]**

22. Redesignate Subpart G (§§ 61.131 to 61.136) as Subpart H.

**Subpart F—[Redesignated as Subpart G]**

23. Redesignate Subpart F (§§ 61.66 to 61.87) as Subpart G.

24. Designate §§ 61.51 through 61.59 as subpart F, and add a new subpart F heading to read as follows:

**Subpart F—Formatting and Notice Requirements for Tariff Publications**

25. Section 61.51 is added to read as follows:

**§ 61.51 Scope.**

The rules in this subpart apply to tariffs filed by issuing carriers, with the exception of the informational tariffs filed pursuant to 47 U.S.C. 226(h)(1)(A), unless otherwise noted.

26. Section 61.52 is amended by removing paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (a) and (b) and revising new paragraph (a) introductory text, and paragraph (b) to read as follows:

**§ 61.52 Form, size, type, legibility, etc.**

(a) Pages of tariffs must be numbered consecutively and designated as “Original title page,” “Original page 1,” “Original page 2,” etc.

\* \* \* \* \*

(b) All issuing carriers shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and supporting information, electronically in accordance with the requirements set forth in §61.13 through §61.17.

27. Section 61.55 is amended by revising paragraph (a) to read as follows:

**§ 61.55 Contract-based tariffs.**

(a) This section shall apply to price cap local exchange carriers permitted to offer contract-based tariffs under §69.727(a) of this chapter.

\* \* \* \* \*

28. Section 61.58 is amended by revising paragraphs (a)(2)(ii), (d), (e)(1) and adding new paragraph (f) to read as follows:

**§ 61.58 Notice requirements.**

(a) \* \* \*

(2) \* \* \*



(ii) Local exchange carriers may elect not to file tariffs pursuant to section 204(a)(3) of the Communications Act. For dominant carriers, any such tariffs shall be filed on at least 16 days' notice. For nondominant carriers, any such tariffs shall be filed on at least one days' notice.

\* \* \* \* \*

(d)(1) A price cap local exchange carrier that is filing a tariff revision to remove its corridor or interstate intraLATA toll services from its interexchange basket pursuant to §61.42(d)(4)(ii) shall submit such filing on at least fifteen days' notice.

(2) A price cap local exchange carrier that has removed its corridor and interstate intraLATA toll services from its interexchange basket pursuant to §61.42(d)(4)(ii) shall file subsequent tariff filings for corridor or interstate intraLATA toll services on at least one day's notice.

(e) Non-price cap local exchange carriers and/or services. (1) Tariff filings in the instances specified in paragraphs (e)(1) (i), (ii), and (iii) of this section by dominant carriers must be made on at least 15 days' notice.

\* \* \* \* \*

(f) All tariff filings of domestic and international non-dominant carriers must be made on at least one days' notice.

29. Section 61.59 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 61.59 Effective period required before changes.**

\* \* \* \* \*

(b) Changes to rates and regulations for dominant carriers that have not yet become effective, i.e., are pending, may not be made unless the effective date of the proposed changes is at least 30 days after the scheduled effective date of the pending revisions.

(c) Changes to rates and regulations for dominant carriers that have taken effect but have not been in effect for at least 30 days may not be made unless the scheduled effective date of the proposed changes is at least 30 days after the effective date of the existing regulations.

30. Section 61.66 is revised to read as follows:

**§ 61.66 Scope.**

The rules in this subpart apply to all issuing carriers, unless otherwise noted.

31. Section 61.68 is amended by revising paragraph (a) to read as follows:

**§ 61.68 Special notations.**

(a) Any tariff filing made pursuant to an Application for Special Permission, Commission decision or order must contain the following statement:

Issued under authority of (specific reference to the special permission, Commission decision, or order) of the Commission.

\* \* \* \* \*

32. Section 61.83 is revised to read as follows:

**§ 61.83 Consecutive numbering.**

Issuing carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted.

Supplements to a tariff must be numbered consecutively in a separate series.

33. Section 61.86 is revised to read as follows:

**§ 61.86 Supplements.**

An issuing carrier may not file a supplement except to suspend or cancel a tariff publication, or to defer the effective date of pending tariff revisions. A carrier may file a supplement for the voluntary deferral of a tariff publication.

34. Section 61.87 is amended by revising paragraph (a) introductory text, paragraphs (a)(1)(i), (a)(1)(ii), (a)(3), and (c) to read as follows:

**§ 61.87 Cancellation of tariffs.**

(a) An issuing carrier may cancel an entire tariff. Cancellation of a tariff automatically cancels every page and supplement to that tariff except for the canceling Title Page or first page.

\* \* \* \* \*

(i) The issuing carrier whose tariff is being canceled must revise the Title Page or the first page of its tariff indicating that the tariff is no longer effective, or

(ii) The issuing carrier under whose tariff the service(s) will be provided must revise the Title Page or first page of the tariff to be canceled, using the name and numbering shown in the heading of the tariff to be canceled, indicating that the tariff is no longer effective. This carrier must also file with the Commission the new tariff provisions reflecting the service(s) being canceled. Both filings must be effective on the same date and may be filed under the same transmittal.

\* \* \* \* \*

(3) A carrier canceling its tariff, as described in this section, must comply with §§61.54(b)(1) and 61.54(b)(5), as applicable.

\* \* \* \* \*

(c) When a carrier ceases to provide service(s) without a successor, it must cancel its tariff pursuant to the notice requirements of §61.58, as applicable, unless otherwise authorized by the Commission.

35. Section 61.132 is revised to read as follows:

**§ 61.132 Method of filing concurrences.**

A carrier proposing to concur in another carrier's effective tariff must deliver one copy of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must file one copy of the concurrence electronically with the Commission in accordance with the requirements set forth in §61.13 through §61.17. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence. Carriers shall file revisions reflecting concurrences in their tariffs on the notice period specified in §61.58.

36. Section 61.134 is revised to read as follows:

**§ 61.134 Concurrences for through services.**

An issuing carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting or other participating carriers as provided in §61.54 (f), (g) and (h). A concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

37. Section 61.191 is revised to read as follows:

**§ 61.191 Carrier to file supplement when notified of suspension.**

If an issuing carrier is notified by the Commission that its tariff publication has been suspended, the carrier must file, within five business days from the release date of the suspension order, a consecutively

numbered supplement without an effective date, which specifies the schedules which have been suspended.

**PART 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

38. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(K); secs. 403(b)(2)(B), (c), Pub. L. 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254(k) unless otherwise noted.

39. Section 64.709 is amended by revising paragraphs (d)(1) and (d)(2) to read as follows:

**§ 64.709 Informational tariffs.**

\* \* \* \* \*

(d) \* \* \*

(1) The original of the cover letter shall be submitted to the Secretary without attachments, along with FCC Form 159, and the appropriate fee to the address set forth in §1.1105 of this chapter.

(2) Carriers should file informational tariffs and associated documents, such as cover letters and attachments, electronically in accordance with §§61.13 and 61.14 of this chapter.

\* \* \* \* \*

## APPENDIX B

## Final Regulatory Flexibility Analysis

1. An initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *ETFS NPRM*.<sup>1</sup> The Commission sought written public comment on the proposals in the *ETFS NPRM*, including comment on the IRFA. No comments were received. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>2</sup>

**A. Need for, and Objectives of, the Proposed Rules**

2. Today, the Commission adopts a Report and Order to extend the requirement to file tariffs and associated documents electronically via the Electronic Tariff Filing System (ETFS) to all tariff filing entities. The Commission concludes that requiring the electronic filing of all tariffs and associated documents would benefit the public. The Commission concludes that the proposed rules will become effective, and therefore, the ETFS will be available for all tariff filers to use 120 days after a final order in this docket implementing such a requirement (or summary thereof) is published in the Federal Register. After the final rules are effective, tariff filers will have a 60 day transition to begin using the ETFS system to file their tariffs and associated documents. The Commission also concluded that the Chief of the Wireline Competition Bureau would administer the adoption of this extended electronic filing requirement.

**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

3. There were no comments raised that specifically addressed the rules and policies proposed in the IRFA.

**C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply**

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>3</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>4</sup> In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act.<sup>5</sup> A “small-business

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<sup>1</sup> The RFA has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA); *see also ETFS NPRM*, 25 FCC Rcd at 9551-54.

<sup>2</sup> See 5 U.S.C. § 604.

<sup>3</sup> See 5 U.S.C. § 603(b)(3).

<sup>4</sup> See 5 U.S.C. § 601(6).

<sup>5</sup> See 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.”

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.<sup>6</sup>

**5. Total Number of Telephone Companies Affected.** The United States Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.<sup>7</sup> This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not “independently owned and operated.”<sup>8</sup> For example, a personal communications service (PCS) provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the proposed rules, herein adopted.

**6. Competitive Access Providers.** Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than except radiotelephone (wireless) companies.<sup>9</sup> According to the most recent data, there are 349 CAPs and competitive LECs engaged in the provision of competitive local exchange services.<sup>10</sup> We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 349 small entity CAPs providing competitive local exchange services that may be affected by the Report and Order.

**7. Interexchange Carriers.** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.<sup>11</sup> According to the most recent data, there are 204 carriers engaged in the provision of interexchange services.<sup>12</sup> We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 204 small entity IXCs that may be affected by the Report and Order.

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<sup>6</sup> See 15 U.S.C. § 632.

<sup>7</sup> U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) (*1992 Census*).

<sup>8</sup> See generally 15 U.S.C. § 632(a)(1).

<sup>9</sup> 13 C.F.R. § 121.201, NAICS codes 51331, 51333, and 51334.

<sup>10</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Carrier Locator* at Table 1.

<sup>11</sup> 13 C.F.R. § 121.201, NAICS codes 51331, 51333, and 51334.

<sup>12</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Carrier Locator* at Table 1.

8. **Operator Service Providers (OSPs).** Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>13</sup> According to Commission data, 28 carriers have reported that they are engaged in the provision of operator services.<sup>14</sup> Of these, an estimated 27 have 1,500 or fewer employees and one has more than 1,500 employees.<sup>15</sup> Consequently, the Commission estimates that the majority of OSPs are small entities.

**D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements**

9. In this Report and Order, the Commission is expanding mandatory electronic filing to all tariff filers, which include competitive LECs. The Report and Order requires that all tariff filers must follow the Commission's rules for electronic tariff filing and file via ETFS their tariffs, tariff revisions, base documents and associated documents, including applications for special permission. Moreover, in order to provide uniformity for tariff filings, the Report and Order extends certain procedural requirements to all tariff filing entities, including: specific formatting and composition requirements, the use of FCC registration numbers and the use of transmittal numbers.

**E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

10. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”<sup>16</sup>

11. In the *ETFS NPRM*, we sought comment from all interested parties and no parties objected to the electronic filing proposals. The Commission believes that most carriers are familiar with the Electronic Tariff Filing System, if not currently using it. As such, the Commission believes the burden on small entities will be minimal. In addition, to assist tariff filers that have not used ETFS previously, including small entity filers, the Commission is allowing carriers a 180-day transition period before they will be required to begin using ETFS.

**F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

12. None.

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<sup>13</sup> See 13 C.F.R. § 121.201, NAICS code 517110.

<sup>14</sup> See *Trends in Telephone Service* at Table 5.3.

<sup>15</sup> See *id.*

<sup>16</sup> 5 U.S.C. § 603(c)(1)–(c)(4).



**STATEMENT OF  
CHAIRMAN JULIUS GENACHOWSKI**

Re: *Electronic Tariff Filing System*, WC Docket No. 10-141

When I became Chairman in 2009, I said that this Commission would “use technology and new media to . . . improve [the] overall operations of the FCC – running efficiently [and] communicating effectively.” Moving government processes from paper to digital, and from offline to online, is central to this commitment, and is important for several reasons. It drives additional broadband use; it empowers app developers and consumers to use public data in innovative ways; and it drives process efficiencies and reduces costs both for the private sector and for government.

Over the last two years, thanks to the excellent leadership of our Managing Director, Steve Van Roekel; our Bureau Chiefs; and our Data Innovation Initiative team, we’ve made substantial progress on this agenda. We’ve shifted toward electronic notification of docket filings and fees, moved filings on privacy policies and international telephone traffic from paper to digital, and made all information associated with docketed proceedings available electronically.

Today, we take another step to modernize the Commission’s processes by enabling all carriers to file tariffs in digital form, over the Internet, rather than sending in copies on paper or CDs, as some carriers have been required to do for many years.

This reform will have several benefits. It will make it easier for carriers to comply with their obligations, it will allow state and federal officials, the public, and the media easier and more transparent access to tariff filings, and it will help the Commission conduct industry analysis more efficiently and effectively. It will also save a lot of trees.

Going forward, we will continue to scour the Commission for opportunities to move processes from paper to digital, and act as quickly as we can to get the job done. I look forward to hearing additional ideas about how to continue integrating digital technology into the way we work here at the FCC from our Bureaus and Offices in the coming months. And I thank the staff of the Wireline Competition Bureau for their work on this item.

**STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

Re: *Electronic Tariff Filing System*, WC Docket No. 10-141

I'm happy to support today's Order which extends electronic tariff filing to all carriers submitting tariffs and tariff-related documents to the Commission. This Order is a good reminder that as we seek to extend the tools of the Digital Age to every citizen in the land, we need to keep pace here at the FCC. We are long overdue to address some of these areas, but with items like this we are making progress. This Commission is doing more than ever before to make the information we collect easily available to and usable by the public we are here to serve. My thanks to the staff in the Wireline Competition Bureau and the Office of the Managing Director for their work on this Order.

**STATEMENT  
COMMISSIONER ROBERT M. McDOWELL**

Re: *Electronic Tariff Filing System*, WC Docket No. 10-141

As a general matter, I support efforts to streamline Commission procedures to make them more efficient for both the government and the public. This order achieves that goal. It makes good sense that nondominant carriers be required to follow the same electronic tariff filing system that incumbent local exchange carriers have used for years.

So, after today's order goes into effect, gone are the days of relying on an antiquated process of filing tariffs on physical paper and diskettes. At least the "filing process" of the tariff system will be modernized. On that note, I hope that in the future the Commission will look beyond reforming the filing procedures and also consider whether the day will ever come when we can discard the tariff system overall. In fact, I propose that the Commission initiate a proceeding to examine whether, how and when we could accomplish such a goal. If history is to be our guide, we are likely to find that markets and innovation have moved beyond the regulatory structures of the past.

I thank the Wireline Competition Bureau staff their diligence on this order. Also, I commend the Chairman for his leadership in finding ways to modernize the Commission's data collection procedures overall and look forward to working with all of my colleagues on streamlining other cumbersome and outdated FCC procedures.

**STATEMENT OF  
COMMISSIONER MIGNON L. CLYBURN**

Re: *Electronic Tariff Filing System*, WC Docket No. 10-141

Consumers, carriers, and this agency stand to benefit from an electronic tariff filing system that's available online. An easier administrative process that all carriers must use will be more efficient and effective. It will save time, money, and trees, and ultimately, should result in better service. This is another example of a good government result from an agency that is focused on encouraging broadband deployment, adoption, and use. I would like to thank the staff for their work on this item, which I expect, will be a welcome and universally embraced improvement to many who frequently work with and rely upon tariffs.