

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

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

**NOTICE OF PROPOSED RULEMAKING AND INTERIM WAIVER ORDER**

**Adopted: October 16, 2018**

**Released: October 18, 2018**

**Comment Date: (30 days after date of publication in the Federal Register)**

**Reply Comment Date: (45 days after date of publication in the Federal Register)**

By the Commission:

**I. INTRODUCTION**

1. Over a span of decades, the Commission has maintained rules related to carriers' tariff filings. Many of these rules served a purpose previously but have become outdated due to more recent developments. For example, the Commission adopted a rule in 1940 prohibiting a tariff from cross-referencing other tariffs (the cross-referencing rule) because, back then, tariffs were filed in hard copy with the Commission and reviewing them was time consuming and expensive.<sup>1</sup> Similarly, so that interested stakeholders and Commission staff have ample opportunity to review certain information that price cap carriers plan to use in setting their rates, the Commission's rules require those carriers to file short form tariff review plans 90 days in advance of their annual access tariff filings.<sup>2</sup> In light of the ease of access to tariffs and related information that has come with electronic filing and the burden of preparing and filing short form tariff review plans, we propose to eliminate these requirements. In each case, it appears that today these rules provide little benefit while imposing burdens on carriers and unnecessary administrative review by Commission staff.

2. In addition to seeking comment on eliminating these requirements, we grant, in part, waiver requests filed by carriers seeking to be allowed to cross reference their own tariff filings.<sup>3</sup> In so doing, we provide all carriers an interim waiver of the cross-referencing rule to the extent necessary to

<sup>1</sup> See 47 CFR § 61.74(a) ("Except as otherwise provided in this and other sections of this part, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument").

<sup>2</sup> See 47 CFR § 61.49(k) (requiring price cap incumbent local exchange carriers (LECs) to file supporting materials for their interstate access tariffs 90 days before July 1).

<sup>3</sup> See *Verizon New England Inc., Verizon New York Inc., Verizon Delaware LLC, Verizon Virginia LLC, Verizon Washington D.C. Inc., Verizon Pennsylvania LLC, Verizon Maryland LLC, Verizon New Jersey Inc., Verizon North LLC and Verizon South Inc. Petition for Limited Waiver of Rule 61.74(a) to Allow a Verizon Tariff to Reference Another*, WC Docket No. 17-308 (filed Oct. 26, 2017) (Verizon Petition); *AT&T Services Petition for Limited Waiver of Rule 61.74(a) to Allow an AT&T Tariff to Reference Another*, WC Docket No. 17-308 (filed Nov. 30, 2017) (AT&T Petition). Because we do not grant Verizon and AT&T permanent waivers, but instead provide an interim waiver of the cross-referencing rule to all carriers, we consider our action today a partial grant of those waiver requests.

allow them to cross reference their own tariffs and those of their affiliates, pending resolution of the cross-referencing rule proposal in this Notice of Proposed Rulemaking (*NPRM*).

## II. DISCUSSION

### A. Amending the Cross-Referencing Rule

3. In light of the public's ability to access online all tariffs filed with the Commission through the Electronic Tariff Filing System (ETFS) on our website, we propose to amend our cross-referencing rule to allow a carrier to refer to its own tariff and the tariffs of its affiliated companies in its tariff publications.<sup>4</sup> We seek comment on this proposal.

4. The cross-referencing rule provides that, subject to certain exceptions, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument.<sup>5</sup> The rule was adopted more than 75 years ago when tariffs were filed in hard copy with the Commission and reviewing them was time consuming and expensive.<sup>6</sup> As the Commission explained in 1984, "[c]onfusion may result if references to other tariffs are allowed since all important information will not be consolidated in one place and references may be incomplete. In addition, referenced documents may not be easily accessible to the public."<sup>7</sup> We seek comment on whether those concerns are as legitimate today, as they were in past decades. Does the fact that all interstate tariffs are now filed electronically and are available to the public on our website alleviate concerns about the confusion that may result from a carrier cross-referencing its own or an affiliate's tariffs?<sup>8</sup> Does the nature of the cross-referencing rule as essentially a procedural requirement adopted decades ago counsel in favor of its modification at this juncture, given the passage of time since its adoption and the changed circumstances due to technological advances that make tariff information more publicly and readily accessible?

5. We also seek comment on the burden to a carrier of complying with the prohibition on cross-referencing its own and its affiliates' tariffs. Currently, a carrier seeking to cross-reference its own tariffs can use the "special permission" procedures set forth in our rules, which require submission of an application requesting a one-time waiver of the rule.<sup>9</sup> The Wireline Competition Bureau (the Bureau) routinely grants such waivers and as a practical matter those waivers do not appear to have resulted in any negative consequences.<sup>10</sup> In their waiver requests, both Verizon and AT&T argue that the current process requiring a carrier to obtain special permission each time it seeks to refer to its own tariffs is unduly burdensome.<sup>11</sup> Do other commenters agree? What are the costs and benefits of requiring a carrier to follow the procedural rule of getting special permission to refer to its own or an affiliate's tariff in a tariff publication?

6. We invite commenters to identify any other costs and benefits of amending the cross-referencing rule to allow a carrier to refer to its own or an affiliate's tariff publications in its tariffs. Are

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<sup>4</sup> See 47 CFR § 61.74; see also Electronic Tariff Filing System, <https://apps.fcc.gov/etfs/etfsHome.action> (ETFS).

<sup>5</sup> 47 CFR § 61.74(a).

<sup>6</sup> See, e.g., 5 Fed. Reg. 5082 (1940).

<sup>7</sup> *Amendment of Parts 1 and 61 of the Commission's Rules*, Report and Order, 98 FCC 2d 855, 876, para. 80 (1984).

<sup>8</sup> See ETFS.

<sup>9</sup> 47 CFR § 61.17.

<sup>10</sup> See, e.g., *July 1, 2018 Annual Access Charge Tariff Filings*, WC Docket No. 18-100, DA 18-335, Order, paras. 6-7 (WCB Apr. 5, 2018) (*2018 Annual Access Charge Tariff Filing Order*).

<sup>11</sup> See Verizon Petition at 3-4 (arguing that the special permission process "creates unnecessary administrative steps that the Commission no longer should require"); AT&T Petition at 1-3.

there any disadvantages to permitting carriers' tariffs to include cross-references to their own or an affiliate's tariffs? Are there any different approaches we should take to this issue?

7. Consistent with the general approach of the cross-referencing rule and with the approach recommended by some stakeholders, our proposed amendments to the cross-referencing rule would apply to all carriers that file tariffs.<sup>12</sup> We seek comment on this approach. Are there reasons to exclude particular types of carriers from application of the proposed rule revision?

**B. Eliminating Advance Filing of Materials that Support Interstate Access Tariffs**

8. We propose to eliminate, as no longer necessary and unduly burdensome, the provision in our rules requiring price cap incumbent LECs to file short form tariff review plans 90 days before their access tariffs are due.<sup>13</sup> We seek comment on this proposal.

9. Eliminating the short form tariff review plan requirement is consistent with the Commission's past efforts to reduce the burden of tariff filings on price cap LECs while ensuring Commission staff and the public have sufficient information about such tariffs in advance of their effective date. Before 1997, the Commission required LECs to file their interstate access tariff revisions 90 days before the effective date of those tariffs, which gave the Commission staff and stakeholders a substantial amount of time to review those tariffs before they became effective.<sup>14</sup> Pursuant to section 204(a)(3) of the Communications Act of 1934, as amended (Act), the Commission modified its rules to permit tariff filings on a streamlined basis on either seven days' notice (for rate reductions) or 15 days' notice (for rate increases).<sup>15</sup> At the same time, in light of the shortened time for review and the high volume and complexity of tariff filings it was receiving, the Commission adopted a requirement that price cap carriers file supporting information, without rate data, 90 days in advance of the annual access tariff filing to allow the public and Commission staff the opportunity to review that information well in advance of the actual tariff filing.<sup>16</sup>

10. Typically, price cap carriers have satisfied the requirement to file material supporting their interstate access tariffs 90 days in advance of their tariff filings by filing standardized short form tariff review plans. The standardized short form tariff review plans are spreadsheets that detail exogenous cost adjustments that price cap LECs intend to make to their price cap indices.<sup>17</sup> For example, price cap carriers make exogenous cost adjustments related to: (1) regulatory fees; (2) Telecommunications Relay Service (TRS) expenses; (3) excess deferred taxes; and (4) North American Numbering Plan Administration (NANPA) expenses.

11. Over the last few years, the Bureau has found that the information needed to populate the short form tariff review plans is often not available when the short form tariff review plans are due.<sup>18</sup> To address the insufficiency of available information, by waiver the Bureau reduced the time period for filing short form tariff review plans: first to 60 days prior to the annual access charge tariff filing and then to 45

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<sup>12</sup> See 47 CFR § 61.74 (imposing limits on tariff publications for all types of carriers); *see also, e.g.*, Comments of CenturyLink, WC Docket No. 17-308 at 2 (Dec. 11, 2017) (CenturyLink Comments).

<sup>13</sup> 47 CFR § 61.49(k).

<sup>14</sup> See *Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996*, Report and Order, 12 FCC Rcd 2170, 2216, para. 96 (1997) (*Tariff Streamlining Order*).

<sup>15</sup> 47 U.S.C. § 204(a)(3); *Tariff Streamlining Order*, 12 FCC Rcd 2170, 2219-20, paras. 101-02.

<sup>16</sup> *Tariff Streamlining Order*, 12 FCC Rcd 2170, 2219-20, para. 102.

<sup>17</sup> See, e.g., *2018 Annual Access Charge Tariff Filing Order*, paras. 6-7; *July 1, 2017 Annual Access Charge Tariff Filings*, WC Docket No. 17-65, Order, 32 FCC Rcd 3878, 3878-79, para. 2 (WCB 2017) (*2017 Short Form TRP Waiver Order*).

<sup>18</sup> See *id.*

days prior to the annual access charge tariff filing.<sup>19</sup> For the 2017 and 2018 tariff filing years, the Bureau waived the short form tariff review plan filing requirement altogether because some of the factors needed to calculate exogenous cost adjustments for regulatory fees and TRS and NANPA expenses were not going to be available prior to the short form tariff review plan filing deadline.<sup>20</sup> The Bureau found that absent such information the short form tariff review plans would provide little value to the Commission, industry, and consumers.<sup>21</sup> Also, over the last decade, the Commission has taken a variety of deregulatory actions, including access charge reform and the grant of forbearance to price cap LECs from dominant carrier regulation for their newer packet-based and higher bandwidth services, that have resulted in a decline in the number of interstate access tariff filings as the scope of services subject to price cap regulation has narrowed.<sup>22</sup>

12. We seek comment on our proposal to stop requiring the filing of materials supporting price cap LECs' interstate access tariffs 90 days in advance of their tariff filings. In both 2017 and 2018, this requirement was waived by the Bureau and it does not appear that the Bureau waivers have interfered with the ability of interested stakeholders to review the price cap LECs' more extensive tariff review plans filed with their annual access charge tariff filings in advance of the July 1 effective date. However, we seek comment on whether in previous years there was a benefit to stakeholders of the short form tariff review plan filings that we should consider? Were there any negative effects of either shortening the filing deadline for short form tariff review plans or waiving the short form tariff review plan requirement entirely? Does the decline in the number of interstate access tariff filings due to regulatory changes provide an additional basis for eliminating the short form tariff review plan requirement?

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<sup>19</sup> See, e.g., *July 1, 2009 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 09-02, Order, 24 FCC Rcd 3664 (WCB 2009) (establishing a short form TRP deadline of May 1st); *July 1, 2011 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 11-04, Order, 26 FCC Rcd 4933 (WCB 2011) (establishing a short form TRP deadline of May 17th).

<sup>20</sup> See *2018 Annual Access Charge Tariff Filing Order*, paras. 6-7; *2017 Short Form TRP Waiver Order*, 32 FCC Rcd at 3879, para. 3.

<sup>21</sup> See, e.g., *2018 Annual Access Charge Tariff Filing Order*, paras. 6-7.

<sup>22</sup> See, e.g., *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011), *pets. for review denied sub nom. In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) (adopting reforms for switched access services that limited the applicability of the short form tariff review plan to common line and special access services); *Business Data Services in an Internet Protocol Environment et al.*, Report and Order, 32 FCC Rcd 3459, 3529, 3531, paras. 155, 160 (2017) (*BDS Order*) *remanded in part sub nom.*, *Citizens Telecomms. Co. of Minn., LLC v. FCC*, \_\_ F.3d \_\_, 2018 WL 4083352 (8th Cir. Aug. 28, 2018) (forbearing from application of section 203 of the Act to each price cap LEC in its provision of any packet-based business data services or circuit-based business data services above the DS3 bandwidth level, in its provision of business data services elements that comprise transport pursuant to section 69.709(a)(4) of the Commission's rules, and to DS1 and DS3 end user channel terminations services and any other special access services currently tariffed in competitive counties or in non-competitive counties previously subject to Phase II pricing flexibility); see also *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services*; *Petition of BellSouth Corp. for Forbearance Under Section 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services*, Memorandum Opinion and Order, 22 FCC Rcd 18705, 18706, para. 1, n.5 (2007), *aff'd sub nom. Ad Hoc v. FCC*, 572 F.3d 903 (D.C. Cir. 2009) (forbearing from application of dominant carrier regulation, including tariffing under section 203 of the Act, to certain then existing packet-based and optical transmission broadband data services); *Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160(c) from Application of Computer Inquiry and Certain Title II Common-Carriage Requirements*, *Petition of the Frontier and Citizens ILECs for Forbearance under Section 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Their Broadband Services*, Memorandum Opinion and Order, 22 FCC Rcd 19478, 19479, para. 1 n. 5 (2007), *aff'd sub nom. Ad Hoc v. FCC*, 572 F.3d 903 (same).

13. We also seek comment on the burden of filing the short form tariff review plans. What were the costs to filers that had to file short form tariff review plans in previous years? The same exogenous cost information collected in the short form tariff review plans is also required in the long form tariff review plans submitted 15 days before the annual access tariff filing. Is submission of the same information twice unduly burdensome? Are there benefits to price cap carriers from filing the short form tariff review plans? What would be the practical consequences of eliminating the short form tariff review plan requirement? Should carriers be given the option to file the short form tariff review plan or should the rule be completely eliminated? Finally, we seek comment on whether there are alternatives to eliminating the rule that the Commission should consider.

**C. Implementing the Proposed Rule Changes**

14. We seek comment on the timing for making the changes to our Part 61 rules proposed herein. We propose an effective date that is thirty (30) days following publication of any revised rules in the Federal Register, which will effectuate application of any such rules in a timely manner. We invite parties to comment on this proposal and to explain the implications of different effective dates for any changes we make to our Part 61 rules. We further note that none of the rule modifications proposed herein would affect either the Commission's authority to reject, suspend, and investigate particular tariff filings or parties' ability to challenge a tariff filing on the grounds that it is unjust and unreasonable.<sup>23</sup> Do commenters have input on these or other issues related to the legal ramifications or implementation of the proposed rule amendments?

**D. Providing an Interim Waiver**

15. We also take this opportunity to provide an interim waiver of the cross-referencing rule to allow carriers to cross reference their own tariff filings and those of their affiliates, while the issue of amending our rules to allow such cross referencing is pending before the Commission. In providing this interim waiver we grant, in part, petitions filed by Verizon and AT&T requesting waiver of the cross-referencing rule when one of Verizon's or AT&T's FCC tariffs references another and we extend the waiver to all other carriers.<sup>24</sup>

16. Verizon and AT&T argue that the requirement that a carrier obtain special permission in advance of a tariff filing when the company revises or introduces a tariff provision that includes a cross reference to another company tariff is burdensome and serves no public policy purpose. According to Verizon, seeking special permission to cross-reference its tariff filings compels it to "telegraph upcoming filings, which can impede and delay" its "ability to respond in the marketplace."<sup>25</sup> For its part, AT&T argues that "[t]here is no public policy purpose that would justify the continued use of the special permission process for the innocuous instances where an [incumbent LEC] wishes to insert in its own tariff a cross-reference to another one of its tariffs."<sup>26</sup> Verizon and AT&T also argue that good cause for the requested waivers exists, explaining that the requests are limited to situations where the companies seek to refer to their own tariffs and do not extend to the prohibition against referencing other documents.<sup>27</sup> Verizon further asserts that its request is consistent with the public interest because

<sup>23</sup> See 47 U.S.C. §§ 201, 204, 208.

<sup>24</sup> See Verizon Petition; AT&T Petition. The Bureau sought comment on the Verizon Petition by releasing a Public Notice on November 9, 2017. *Wireline Competition Bureau Seeks Comment on Verizon Petition for Waiver of the Commission's Rule for Tariffs Referring to Tariffs*, WC Docket No. 17-308, Public Notice, 32 FCC Rcd 9407 (2017). Comments supporting Verizon's petition were filed by AT&T Services, Inc., and CenturyLink filed comments supporting both petitions. See Comments of AT&T Services, WC Docket No. 17-308 (Nov. 30, 2017) (AT&T Comments); CenturyLink Comments.

<sup>25</sup> Verizon Petition at 1.

<sup>26</sup> AT&T Petition at 3.

<sup>27</sup> Verizon Petition at 4; AT&T Petition at 2-3. See 47 CFR § 61.74(a).

eliminating extra administrative steps necessitated by the special permission process would allow it to respond more quickly to marketplace developments and customer demand, while AT&T similarly argues that the rule “not only places unnecessary filing burdens and pre-approval requirements on incumbent carriers but also harms competition by impinging on the carriers’ ability to quickly respond to customers’ demands and places a needless layer of regulatory uncertainty on the parties’ negotiations.”<sup>28</sup> CenturyLink supports the requested relief.<sup>29</sup> No commenter opposes Verizon’s and AT&T’s requests.

17. The Commission’s rules may be waived for good cause shown.<sup>30</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>31</sup> Waiver of the Commission’s rules is therefore appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.<sup>32</sup>

18. In light of our current proposal to allow all carriers to cross-reference their own tariffs on an interim basis and the Bureau’s repeated finding that the public interest justifies waiver of the cross-referencing rule in individual instances, we find that good cause exists to grant Verizon, AT&T, and all other carriers an interim waiver of section 61.74(a) pending resolution of the cross-referencing issues addressed in the *NPRM*. For the same reason, we do not find that a permanent waiver of section 61.74(a) as requested by Verizon and AT&T is necessary or appropriate at this time. An interim waiver of section 61.74(a), which is a procedural rather than substantive rule, will reduce burdens and facilitate carriers’ tariff filings, which will in turn advance the public interest. Special circumstances exist to support an interim waiver for all carriers because technological developments appear to have overtaken the purpose originally served by the prohibition on cross-referencing given the publicly available, centralized access to tariff information on our website.<sup>33</sup> These special circumstances apply to all carriers receiving the relief provided by the interim waiver, in that electronic versions of their tariffs are publicly available on our website for review and analysis. Further, it appears that no harm will result from an interim waiver because interested parties may access all tariff information while the interim waiver is in effect. We emphasize that this waiver is temporary in nature and may be modified or discontinued after full consideration of the record developed pursuant to this *NPRM*. The interim waiver of section 61.74(a) shall be effective upon release of this *NPRM*.

### III. PROCEDURAL MATTERS

19. *Comment Filing Procedures.* Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this

<sup>28</sup> Verizon Petition at 3-4; AT&T Petition at 2-3. *See BDS Order*.

<sup>29</sup> *See CenturyLink Comments* at 1-2.

<sup>30</sup> 47 CFR § 1.3.

<sup>31</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

<sup>32</sup> The Commission may, on an individual basis, take into account considerations of hardship, equity, or more effective implementation of overall policy. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

<sup>33</sup> *See ETFS*.



proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

20. *Ex Parte Presentations.* The proceeding this *NPRM* initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>34</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

21. *Paperwork Reduction Act.* This document eliminates, and thus does not contain new or revised, information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.<sup>35</sup> In addition, therefore, it does not contain any new or modified “information burden for small business concerns with fewer than 25 employees” pursuant to the Small Business Paperwork Relief Act of 2002.<sup>36</sup>

<sup>34</sup> 47 CFR §§ 1.1200 *et seq.*

<sup>35</sup> 44 U.S.C. §§ 3501-3520.

<sup>36</sup> See 44 U.S.C. § 3506(c)(4).

22. *Initial Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980 (RFA), as amended,<sup>37</sup> requires agencies to prepare a regulatory flexibility analysis for rulemaking proceedings, unless the agency certifies that “the rule will not have a significant economic impact on a substantial number of small entities.”<sup>38</sup> The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>39</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>40</sup> A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>41</sup>

23. In this *NPRM*, we propose to amend two of the Commission’s rules applicable to tariffs, sections 61.49(k) and 61.74(a), in order to minimize burdens associated with such rules and as part of the Commission’s efforts to reduce unnecessary regulations that no longer serve the public interest.<sup>42</sup> These proposed revisions to section 61.49(k) only impact price cap LECs for the services that continue to be tariffed and any impact of these rule changes is minor, while the proposed revisions to section 61.74(a) are procedural in nature and the impact is likewise minor. Therefore, we certify that the proposals in this *NPRM*, if adopted, will not have a significant economic impact on a substantial number of small entities.

24. The Commission will send a copy of this *NPRM*, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.<sup>43</sup> The initial certification will also be published in the Federal Register.<sup>44</sup>

25. *Contact Person.* For further information regarding this proceeding, contact Robin Cohn, Pricing Policy Division, Wireline Competition Bureau, at (202) 418-1540, or [robin.cohn@fcc.gov](mailto:robin.cohn@fcc.gov).

#### IV. ORDERING CLAUSES

26. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i), 201-205, 215, 218, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 201-05, 215, 218, 220, this Notice of Proposed Rulemaking and Interim Waiver Order IS ADOPTED.

27. IT IS FURTHER ORDERED that, pursuant to sections 1, 4(i), and 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 201(b) that the prohibition on carriers’ tariff publications referring to the carriers’ own tariff publications in section 61.74(a) of the Commission’s rules, 47 CFR § 61.74(a), IS WAIVED to the extent described herein.

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<sup>37</sup> See 5 U.S.C. § 601 *et seq.*

<sup>38</sup> 5 U.S.C. § 605(b).

<sup>39</sup> 5 U.S.C. § 601(6).

<sup>40</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in 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.” 5 U.S.C. § 601(3).

<sup>41</sup> Small Business Act, 15 U.S.C. § 632.

<sup>42</sup> See 47 CFR §§ 61.49(k), 61.74(a).

<sup>43</sup> 5 U.S.C. § 605(b).

<sup>44</sup> 5 U.S.C. § 605(b).



28. IT IS FURTHER ORDERED that, pursuant to sections 1, 4(i), and 201(b) of the Communication Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 201(b), the Petitions for Waiver filed by Verizon and AT&T in this proceeding ARE GRANTED to the extent described herein.

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

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A****Proposed Rules for Comment**

For the reasons discussed in the preamble, the Federal Communications Commission amends Part 61 of Title 47 of the Code of Federal Regulations 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. Amend § 61.49 by removing and reserving paragraph (k).
3. Amend § 61.74 by revising it to read as follows:

**§ 61.74 References to other instruments.**

\* \* \* \* \*

- (a) Except as otherwise provided in this and other sections of this part, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument.
- (b) Tariff publications filed by a carrier may reference other tariff publications filed by that carrier or its affiliates.
- (c) Tariffs for end-on-end through services may reference the tariffs of other carriers participating in the offering.
- (d) Tariffs may reference concurrences for the purpose of stating where rates or regulations applicable to a service not governed by the tariff may be found.
- (e) Tariffs may reference other FCC tariffs that are in effect and on file with the Commission for purposes of determining mileage, or specifying the operating centers at which a specific service is available.
- (f) Tariffs may reference technical publications which describe the engineering, specifications, or other technical aspects of a service offering, provided the following conditions are satisfied: