

6. In the OCP NPRM, the Commission tentatively concluded that the ReachOut category of services (i.e., most domestic MTS OCPs) should be removed from Basket 1 because there is substantial competition among providers of discounted residential services.¹³ The Commission sought comment on whether the treatment of OCPs under the AT&T price cap plan should be changed, and, if so, in what manner. Specifically, the Commission sought comment on whether it should adjust the API or the PCI for Basket 1 to reflect the removal of OCPs from Basket 1. As an alternative to removal of OCPs from price cap regulation, it asked for comment on whether OCPs should remain subject to price cap regulation, but be placed in a separate basket.¹⁴

7. Because the issues presented in determining the regulatory treatment of promotions and OCPs were closely related, we consolidated these issues in a Further Notice of Proposed Rulemaking.¹⁵ In the Further NPRM, we made several tentative conclusions. We determined that Basket 1 domestic MTS promotions, domestic MTS OCPs, and basic schedule MTS offerings exhibit significant cross-elasticities of demand and are generally offered to the same class of customers, i.e., residential customers, following the removal of AT&T's domestic commercial services from price cap regulation.¹⁶ If we removed domestic MTS OCPs and promotions from price caps, the result would be that some of AT&T's offerings of domestic MTS for residential customers would be streamlined while retaining price cap regulation for similar offerings to the same class of customers. We declined to take this step and determined that the issue of further streamlining of OCPs and promotions might be better considered together with AT&T's motion for non-dominant status

¹³ OCP NPRM, 8 FCC Rcd at 5205-6. The price cap system's treatment of OCPs differs from that accorded promotions. OCPs are included in a separate service category (the ReachOut service category) from the basic MTS service categories within Basket 1, whereas promotions are included in the applicable MTS service categories. Changes in OCP rates, therefore, are not subject to the same limitations on rate changes as the basic schedule service categories. Further NPRM, 10 FCC Rcd at 7859.

¹⁴ The Commission also proposed a number of other changes to the price cap rules in the OCP NPRM, including whether to remove commercial, 800 Directory Assistance, and analog private line services from price caps. In the Report and Order in CC Docket No. 93-197, 10 FCC Rcd 3009 (1995), 60 FR 4569, January 24, 1995 (Commercial Services Price Cap Order), the Commission resolved these issues, removed commercial services from price cap regulation, and deferred the question of the regulatory treatment of OCPs to this proceeding.

¹⁵ Further NPRM, 10 FCC Rcd 7854.

¹⁶ *Id.* at 7861.

in a separate proceeding. We did propose, however, a number of related modifications to AT&T's price cap plan. Specifically, we recommended that, because promotions and OCPs are simply different ways of pricing the same service, they should be redefined as alternative pricing plans (APPs) for domestic, residential MTS, which co-exist with the basic domestic MTS rate schedule.¹⁷

8. On October 23, 1995, we released an order granting AT&T's motion to be reclassified as a non-dominant carrier.¹⁸ The Commission defined the relevant product and geographic market for AT&T, under the Competitive Carrier paradigm,¹⁹ as the interstate, domestic, interexchange market.²⁰ We then decided that the appropriate standard to evaluate AT&T's reclassification request was whether AT&T possessed market power in the overall relevant market, even if AT&T has the ability to control the prices of one or more services. Applying this standard to the record, the Commission concluded that the market structure characteristics and the indicia of market conduct and performance all indicate that AT&T lacks market power in the interstate, domestic, interexchange market.²¹

9. The Commission noted that the reclassification of AT&T as a non-dominant carrier would free AT&T from price cap regulation for its residential, operator, 800 directory assistance, and analog private line services.²² By subsequent order, we removed AT&T's international services from price cap

¹⁷ *Id.* at 7862.

¹⁸ AT&T Reclassification Order, 11 FCC Rcd 3271.

¹⁹ Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Thereof, CC Docket No. 79-252, Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 308 (1979), 44 FR 67445, November 26, 1979; First Report and Order, 85 FCC 2d 1 (1980), 45 FR 76148, November 18, 1980; Further Notice of Proposed Rulemaking, 84 FCC 2d 445 (1981), 46 FR 10924, February 5, 1981; Second Further Notice of Proposed Rulemaking, FCC 82-187, 47 FR 17308 (1982); Second Report and Order, 91 FCC 2d 59 (1982), 47 FR 37889, August 27, 1982; Order on Reconsideration, 93 FCC 2d 54 (1983); Third Further Notice of Proposed Rulemaking, 48 FR 28292 (1983); Third Report and Order, 48 FR 46791 (1983); Fourth Report and Order, 95 FCC 2d 554 (1983), 48 FR 52452, November 18, 1983, *vacated*, AT&T v. FCC, 978 F.2d 727 (D.C.Cir. 1992), *cert. denied*, MCI Telecommunications Corp. v. AT&T, 113 S.Ct. 3020 (1993); Fourth Further Notice of Proposed Rulemaking, 96 FCC 2d 922 (1984), 49 FR 11856, March 28, 1984; Fifth Report and Order, 98 FCC 2d 1191 (1984), 49 FR 34824, September 4, 1984; Sixth Report and Order, 99 FCC 2d 1020 (1985), 50 FR 1215, January 10, 1985, *vacated*, MCI Telecommunications Corp. v. FCC, 765 F.2d 1186 (D.C.Cir. 1985) (collectively referred to as the Competitive Carrier proceeding).

²⁰ AT&T Reclassification Order, 11 FCC Rcd at 3292.

²¹ *Id.* at 3347.

²² *Id.* at 3281.

regulation as well, thus completing the process of ending price cap regulation of AT&T.²³

III. Discussion

10. In the AT&T Reclassification Order, we granted AT&T's motion to be reclassified as a non-dominant carrier.²⁴ The reclassification of AT&T as a non-dominant carrier resulted in the end of price cap regulation for AT&T's residential, operator, 800 directory assistance, and analog private line services. Since AT&T's domestic MTS, including promotions and OCPs, is no longer subject to price caps, the issues raised in our tentative conclusions and proposals in the Further NPRM concerning whether to remove promotions and OCPs from price cap regulation are now moot. Similarly, the issues raised by the D.C. Circuit in the Remand Order in CC Docket No. 87-313 are moot. Accordingly, we will terminate as moot CC Docket Nos. 87-313 and 93-197.

IV. Ordering Clause

11. Accordingly, it is ordered that CC Docket Nos. 87-313 and 93-197 are terminated as moot.

List of Subjects in 47 CFR Part 61

Communications common carriers.
Federal Communications Commission
Shirley S. Suggs,
Chief, Publications Branch.
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BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Status Reviews for the Alexander Archipelago Wolf and Queen Charlotte Goshawk

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status reviews; extension of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the comment period on the rangewide status reviews for the Queen Charlotte goshawk (*Accipiter gentilis laingi*) and the Alexander Archipelago wolf (*Canis lupus ligoni*) is extended. The Service solicits any information, data,

²³ Motion of AT&T Corp. to be Declared Non-Dominant for International Service, Order, FCC 96-209 (rel. May 14, 1996).

²⁴ AT&T Reclassification Order, 11 FCC Rcd 3271.

comments, and suggestions from the public, other government agencies, the scientific community, industry, or other interested parties concerning the status of these species.

DATES: The comment period, originally scheduled to close January 21, 1997, is extended and will now close on February 5, 1997. Any comments received by the closing date will be considered in the findings.

ADDRESSES: Comments and materials should be sent to Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 3000 Vintage Blvd., Suite 201, Juneau, Alaska 99801-7100.

FOR FURTHER INFORMATION CONTACT: Mr. John Lindell at the above address (907/586-7240).

SUPPLEMENTARY INFORMATION:

Background

The Service will issue separate findings on petitions to list the Queen Charlotte goshawk and the Alexander Archipelago wolf under the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Queen Charlotte Goshawk

The Queen Charlotte goshawk occurs in forested areas throughout coastal mainland and insular areas of British Columbia, Canada, and southeastern Alaska. On May 9, 1994, the Service received a petition to list the Queen Charlotte goshawk as endangered under the Act, from Mr. Peter Galvin of the Greater Gila Biodiversity Project, Silver City, New Mexico, and nine copetitioners including, the Southwest Center for Biological Diversity, the Biodiversity Legal Foundation, Greater Ecosystem Alliance, Save the West, Save America's Forests, Native Forest Network, Native Forest Council, Eric Holle, and Don Muller. On August 26, 1994, the Service announced a 90-day finding (59 FR 44124) that the petition

presented substantial information indicating that the requested action may be warranted, and opened a public comment period until November 25, 1994. The Service extended the public comment period until February 28, 1995, through two subsequent Federal Register notices on January 4, 1995 (60 FR 425), and February 24, 1995 (60 FR 10344). The Service issued its 12-month finding on June 29, 1995 (60 FR 33784), indicating that listing the Queen Charlotte goshawk under the Act was not warranted.

On July 16, 1995, the petitioners filed a 60-day notice of intent to sue the Service over its 12-month finding, and on November 17, 1995, they filed suit in the United States District Court for the District of Columbia challenging the not warranted finding made by the Service. As a result of the court proceedings the Service is reevaluating the status of the Queen Charlotte goshawk. The Service is requesting any information, data, comments, and suggestions from the public, other government agencies, the scientific community, industry, or other interested parties concerning the status of this species.

Alexander Archipelago Wolf

The Alexander Archipelago wolf occurs in forested areas of insular and mainland southeast Alaska, from Dixon Entrance (US/Canada border) to Yakutat Bay, including all large islands of the Alexander Archipelago except Admiralty, Baranof, and Chichagof islands. On December 17, 1993, the Service received a petition to list the Alexander Archipelago wolf as threatened under the Act, from the Biodiversity Legal Foundation, Eric Holle and Martin J. Berghoffen. A 90-day finding was made by the Service that the petition presented substantial information indicating that the requested action may be warranted. The 90-day finding was announced (59 FR

26476) and a status review was initiated on May 20, 1994. The public comment period was open between May 20, and October 1, 1994 (59 FR 26476 and 59 FR 44122). The Service announced its finding that listing the Alexander Archipelago wolf was not warranted on February 23, 1995 (60 FR 10056).

The petitioners issued a 60-day notice of intent to sue over the Service's not warranted finding on November 13, 1995. On February 7, 1996, they filed suit in the United States District Court for the District of Columbia challenging the not-warranted finding made by the Service. As a result of the court proceedings the Service is reevaluating the status of the Alexander Archipelago wolf. The Service is requesting any information, data, comments, and suggestions from the public, other government agencies, the scientific community, industry, or other interested parties concerning the status of this species.

Author

This primary author of this notice is Janet E. Hohn, U.S. Fish and Wildlife Service, Alaska Region, 1011 E. Tudor Road, Anchorage, Alaska 99503.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.

Dated: December 24, 1996.

Robyn Thorson,

Acting Regional Director, Region 7, Fish and Wildlife Service.

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