

between neighboring incumbent LECs provides the appropriate model for the proper access billing arrangement for interim number portability, but states that carriers are not required to modify their billing systems to track and record the details of every call. Such determination recognizes that number portability will cause some carriers, including small entities, to incur costs that they would not ordinarily have incurred in providing telecommunications services, but attempts to keep such costs to a minimum.

79. *Report to Congress*: The Commission will send a copy of this *Fourth Memorandum Opinion and Order*, including this supplemental RFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. See 5 U.S.C. 801(a)(1)(A). A copy of the *Third Report and Order* and this supplemental FRFA (or summaries thereof) will be sent to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 604(b).

80. *Paperwork Reduction Act*: This *Fourth Memorandum Opinion and Order* provides guidance regarding issues relating to cost recovery for interim number portability. The *Third Report and Order* concluded that carriers may recover the portion of their number portability joint costs that is demonstrably an incremental cost incurred in the provision of number portability. *Third Report and Order*, 13 FCC Rcd at 11,740, para. 73. The *Third Report and Order* also requires incumbent LECs that choose to recover their carrier-specific costs directly related to providing number portability to use federally-tariffed end-user charges. *Id.* at 11,776. The Commission also concluded that carriers may identify only those incremental overheads that they can demonstrate were incurred specifically in the provision of number portability. *Id.* at 11,740. In this *Fourth Memorandum Opinion and Order*, the Commission affirms its earlier decision that it has the authority to establish cost recovery guidelines for interim number portability. Second, the Commission rejects claims that the cost recovery guidelines for interim number portability set forth in the *First Report and Order* are arbitrary and capricious, or constitute an unconstitutional taking. This item denies the request that these cost recovery guidelines be applied retroactively. The item affirms the Commission's earlier decision to adopt general cost recovery guidelines for interim number portability while

allowing states flexibility to continue using a variety of cost recovery approaches that are consistent with its guidelines. The item also confirms an earlier Commission decision that a cost recovery mechanism based on a carrier's gross revenues is an acceptable means of allocation costs among carriers. The item states that no additional recordkeeping will be required for this option of recordkeeping, because such gross revenue reporting is readily available through such things as tax filings, annual reports and SEC filings, which are developed for other purposes. The item does not require carriers to adopt any one billing arrangement for sharing costs when they forward calls while utilizing interim number portability. The item allows carriers to determine the best method of splitting these costs between them, but requires them to adopt some method of sharing terminating access revenues. Additionally, the item affirms the Commission's earlier determination that meet-point billing between neighboring incumbent LECs provides the appropriate model for the proper access billing arrangement for interim number portability, but states that carriers are not required to modify their billing systems to track and record the details of every call. These information collection requirements are contingent upon approval of the Office of Management and Budget (OMB).

#### V. Ordering Clauses

81. Accordingly, *it is ordered* that pursuant to authority contained in sections 1, 2, 4(i), 201–205, 215, 251(b)(2), 251(e)(2), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201–205, 215, 251(b)(2), 251(e)(2), and 332, and Parts 1, 20 and 52 of the Commission's rules, 47 CFR 1.106, 20, and 52, the Petitions for Reconsideration and/or Clarification *are granted* to the extent indicated herein and otherwise *are denied*.

82. *It is further ordered* that the Motion to Accept Late-filed Comments of Telecommunications Resellers Association and the Motion to Accept Late-Filed Reply Comments of US WEST *are granted*.

83. *It is further ordered* that the Commission's Office of Public Affairs Reference Operations Division *shall send* a copy of this *Memorandum Opinion and Order* including the supplemental Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 52

Communications, Common Carriers, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–22131 Filed 8–25–99; 8:45 am]

BILLING CODE 6712–01–P

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Parts 61, 63 and 69

[CC Docket No. 98–131; FCC 99–173]

##### 1998 Biennial Regulatory Review

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** Section 11 of the Communications Act of 1934, as amended (Act), requires that the Commission, in every even-numbered year beginning in 1998, review all regulations that apply to the operations and activities of any provider of telecommunications service and determine whether any of these regulations are no longer necessary in the public interest as the result of meaningful economic competition between providers of the service. As part of its 1998 biennial regulatory review, the Commission revised part 61 to, among other things, eliminate several rules that no longer seem to serve any useful purpose, and to reorganize part 61 to clarify which rules apply to which carriers.

**DATES:** Effective September 27, 1999.

**FOR FURTHER INFORMATION CONTACT:** Judy Nitsche, Chief, Tariff and Pricing Analysis Branch, Competitive Pricing Division, Common Carrier Bureau, (202) 418–1540.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order and First Order on Reconsideration, adopted July 13, 1999, and released August 3, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th St., S.W., Washington, D.C. 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, 1231 20th St., N.W., Washington, D.C. 20036.

##### Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, as

amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWA), and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the NPRM in this docket. The Commission sought written public comment on the proposals in the Notice of Proposed Rulemaking (NPRM), 63 FR 49520 (September 16, 1998), including comment on the IRFA. The Commission has prepared this Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact this order might have on small entities, in conformance with the RFA.

#### *Need for and Objectives of Rules*

The Telecommunications Act of 1996 requires the Commission in every even-numbered year beginning in 1998 to review all regulations that apply to the operations or activities of any provider of telecommunications service and to determine whether any such regulation is no longer necessary in the public interest due to meaningful economic competition. Our objective is to repeal any rules in 47 CFR 61 that are no longer necessary in the public interest, as required by section 11 of the Communications Act of 1934, as amended.

#### *Summary of Significant Issues Raised by the Public Comments to the IRFA*

Only one party, NTCA, submitted comments directly in response to the IRFA. NTCA claims that the definition of "small business" in the Commission's IRFA does not comply with the RFA.<sup>1</sup> NTCA claims further that the Commission's IRFA resulted in inadequate consideration of whether the tariffs of small incumbent LECs should be subject to a different minimum effective period than the tariffs of large incumbent LECs.<sup>2</sup> We find that NTCA is mistaken on both its assertions.

The Commission has determined consistently that incumbent LECs are not "small entities" within the meaning of the RFA, and NTCA cites no legal authority that causes us to question this conclusion. Furthermore, regardless of the correct interpretation of the term "small entities" in this context, we included small dominant incumbent LECs in our IRFA. Therefore, NTCA has no basis to assert that the IRFA was inadequate. Second, all dominant LECs, including small dominant LECs, have market power by definition. As a result,

these carriers do not face sufficient competition to enable their customers to switch to another carrier if they believe that they revise their rates too frequently. In addition, excessive rate churn could make it difficult or impossible for customers to determine the rates in effect on any given day, which in turn would make difficult for a customer to file a complaint against a carrier. NTCA provides no explanation as to why rate churn committed by a small LEC affects customers any differently than rate churn committed by a large LEC.

Although no party other than NTCA commented directly in response to the IRFA, we have kept small entities in mind as we considered the more general comments filed in this proceeding, as discussed below.

#### *Description and Estimate of Number of Small Entities to Which the Rules Will Apply*

In the NPRM, the Commission stated that the proposals under consideration, if adopted, would affect all telecommunications carriers regulated by the Commission. The United States Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3497 firms engaged in providing telephone service, as defined therein, for at least one year. United States 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). This number contains a variety of different categories of carriers, including LECs, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not independently owned or operated. 15 U.S.C. 632(a)(1).

In the NPRM, Commission also explained that dominant carriers are not small businesses for IRFA purposes because they are dominant in their field of operation. We have found incumbent LECs to be "dominant in their field of operation" since the early 1980s, and we consistently have certified under the Regulatory Flexibility Act, 5 U.S.C. 605(b), that incumbent LECs are not subject to regulatory flexibility analysis requirements because they are not small businesses. In order to remove any possible issue of Regulatory Flexibility Act compliance, however, the NPRM tentatively concluded that dominant

carriers should be included in this IRFA. NTCA also argues that small dominant carriers should be included in the Regulatory Flexibility Act analysis. No one else commented on this issue.

#### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

In this document, we adopt several revisions to 47 CFR 61 that reduce the regulatory burdens placed on all telecommunications common carriers, including common carriers. The remaining rule revisions generally restate existing requirements in clearer terms. Consequently, we project that this Order imposes no significant new reporting, recordkeeping, or other compliance requirements on small carriers.

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

In this proceeding, we have taken several steps to minimize the economic impact of our existing 47 CFR 61 rules on all carriers, including small carriers. For example, we have substantially relaxed our posting requirements, we have eliminated our minimum notice requirements for nondominant carriers, and we have expanded carriers' ability to submit tariff filing fees electronically. We also decided against requiring carriers to separate their domestic and international tariffs when the record revealed that such a requirement would have been burdensome. Finally, we limited the Internet posting requirement to incumbent LECs who choose to establish web sites.

#### *Report to Congress*

The Commission will send a copy of this order, including the FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 801(a)(1)(A). A summary of this Report and Order and this FRFA will also be published in the **Federal Register**, 5 U.S.C. 604(b), and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

#### *Summary of Report and Order*

In the Telecommunications Act of 1996 (1996 Act), Congress directed the Commission in every even-numbered year beginning in 1998 to review all regulations that apply to the operations or activities of any provider of telecommunications service and to determine whether any such regulation is no longer necessary in the public interest due to meaningful economic competition. See 47 U.S.C. 161. As part

<sup>1</sup> NTCA Comments at 2-4.

<sup>2</sup> NTCA Comments at 4.

of the 1998 biennial regulatory review, the Commission has conducted a review of the tariffing requirements contained in 47 CFR 61 of its rules and other related requirements.

This document revises and removes several 47 CFR 61 rules, as well as certain 47 CFR 63 and 69 rules that are interrelated with 47 CFR 61, to eliminate those that no longer serve any useful purpose, or are duplicative, and to improve their organization.

#### Ordering Clause

Accordingly, *it is ordered*, pursuant to sections 4(i), 4(j), 201–205, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201–205, 303(r), 403, and section 553 of Title 5, United States Code, that revisions to 47 CFR 61, 63, 69, *are adopted* as set forth below.

*It is further ordered*, pursuant to sections 4(i), and 201–205 of the Communications Act, 47 U.S.C. 154(i), and 201–205, and 47 CFR 1.108, that revisions to 47 CFR 61.17(c) *are adopted* as set forth in below.

*It is further ordered* that the provision of this Order will be effective 30 days after a summary of this Order is published in the **Federal Register**.

#### List of Subjects

##### 47 CFR Part 61

Communications common carriers, Tariffs.

##### 47 CFR Parts 63 and 69

Communications common carriers, Tariffs.

Federal Communications Commission.

**Magalie Roman Salas**,  
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 61, 63, and 69 as follows:

#### PART 61—TARIFFS

1. The authority citation 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.

##### §§ 61.1 through 61.3 [Amended]

2. Designate §§ 61.1 through 61.3 as subpart A and add a subpart heading entitled “Subpart A—General” immediately preceding § 61.1.

3. Revise § 61.2 to read as follows:

##### § 61.2 General tariff requirements.

(a) In order to remove all doubt as to their proper application, all tariff publications must contain clear and

explicit explanatory statements regarding the rates and regulations.

(b) Tariff publications must be delivered to the Commission free from all charges, including claims of postage.

(c) Tariff publications will not be returned.

4. Remove the undesignated center heading “Definitions” immediately preceding § 61.3.

5. Amend § 61.3 by revising paragraphs (e), (f)(3), (m), (w), and (y), to read as follows:

##### § 61.3 Definitions.

\* \* \* \* \*

(e) *Base period*. For carriers subject to §§ 61.41–61.49, the 12-month period ending six months prior to the effective date of annual price cap tariffs. Base year or base period earnings shall exclude amounts associated with exogenous adjustments to the PCI for the lower formula adjustment mechanism permitted by § 61.45(d)(1)(vii).

\* \* \* \* \*

(f) \* \* \*

(3) The related revenues of which are reflected in a Price Cap Index.

\* \* \* \* \*

(m) *Contract-based tariff*. A tariff based on a service contract entered into between a nondominant carrier and a customer.

\* \* \* \* \*

(w) *Price Cap Index (PCI)*. An index of prices applying to each basket of services of each carrier subject to price cap regulation, and calculated pursuant to § 61.45.

\* \* \* \* \*

(y) *Price cap tariff filing*. Any tariff filing involving a service subject to price cap regulation, or that requires calculations pursuant to §§ 61.45, 61.46, or 61.47.

\* \* \* \* \*

6. Remove the undesignated center headings “GENERAL RULES” and “Rules for Electronic Filing” immediately preceding § 61.13.

##### §§ 61.13 through 61.17 [Amended]

7. Designate §§ 61.13 through 61.17 as subpart B and add a subpart heading entitled “Subpart B—Rules for Electronic Filing” immediately preceding § 61.13.

8. Amend § 61.14 by revising paragraph (b) to read as follows:

##### § 61.14 Method of filing publications.

\* \* \* \* \*

(b)(1) 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 Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105 of this chapter.

(2) Issuing carriers filing tariffing fees electronically must submit the Form 159. The issuing carrier may submit the Form 159 in either of the methods set forth in paragraphs (b)(2)(i) or (b)(2)(ii) of this section:

(i) Issuing carriers submitting tariffing fees electronically may submit a paper copy of the Form 159, and the original transmittal letter to the Secretary of the Commission in lieu of the Mellon Bank, or;

(ii) Issuing carriers submitting tariffing fees electronically may submit a copy of the Form 159 electronically as an associated document with their tariff filing publication. In this instance issuing carriers must provide an electronic signature on their letter of transmittal in accordance with section 1.52 of this chapter.

(iii) Regardless of whether the Form 159 is submitted pursuant to paragraph (b)(2)(i) or (b)(2)(ii) of this section, the Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked “reserved.” Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

\* \* \* \* \*

9. Amend § 61.17 by revising paragraph (c) to read as follows:

##### § 61.17 Method of filing applications for special permission.

\* \* \* \* \*

(c) In addition, if a 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, 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: Common Carrier Bureau  
(here provide the statements required by § 61.152).

(Exact name of carrier) \_\_\_\_\_  
(Name of officer or agent) \_\_\_\_\_  
(Title of officer or agent) \_\_\_\_\_

10. Remove the undesignated center heading “General Rules for Domestic

and International Nondominant Carriers" immediately preceding § 61.20.

**§§ 61.20 through 61.24 [Amended]**

11. Designate §§ 61.20 through 61.24 as subpart C and add a subpart heading entitled "Subpart C—General Rules for Nondominant Carriers" immediately preceding § 61.20.

12. Add § 61.18 to subpart C to read as follows:

**§ 61.18 Scope.**

The rules in this subpart apply to all nondominant carriers.

**§§ 61.20 through 61.24 [Redesignated as §§ 61.19 through 61.23]**

13. Redesignate §§ 61.20 through 61.24 as §§ 61.19 through 61.23.

14. In newly redesignated § 61.19, revise paragraphs (b) and (c) to read as follows:

**§ 61.19 Detariffing of domestic, interstate, interexchange services.**

\* \* \* \* \*

(b) Carriers that are nondominant in the provision of domestic, interstate, interexchange services are permitted to file tariffs for dial-around 1+services. For the purposes of this paragraph, dial-around 1+calls are those calls made by accessing the interexchange carrier through the use of that carrier's carrier access code.

(c) Carriers that are nondominant in the provision of domestic, interstate, interexchange services are permitted to file a tariff for such interstate service applicable to those customers who contact the local exchange carrier to designate an interexchange carrier or to initiate a change with respect to their primary interexchange carrier. Such tariff will enable the interexchange carrier to provide service to the customer until the interexchange carrier and the customer consummate a written agreement, but in no event shall the interexchange carrier provide service to its customer pursuant to such tariff for more than 45 days.

15. In newly redesignated § 61.20, revise paragraphs (b)(1) and (c) to read as follows:

**§ 61.20 Method of filing publications.**

\* \* \* \* \*

(b)(1) 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 Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105 of this

chapter. Issuing carriers submitting tariffing fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved." Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

\* \* \* \* \*

(c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the issuing carrier must send a copy of the cover letter with one 3½ inch diskette or CD-ROM containing both the complete tariff and any attachments, as appropriate, to the Secretary, Federal Communications Commission. In addition, the issuing carrier must send one diskette or CD-ROM of the complete tariff and a copy of the cover letter to the commercial contractor (at its office on Commission premises), and to the Chief, Tariff and Pricing Analysis Branch. The latter should be clearly labeled as the "Public Reference Copy." The issuing carrier should file the copies required by this paragraph so they will be received on the same date as the filings in paragraph (a) of this section. In cases where the a single diskette or CD-ROM does not provide sufficient capacity for the carrier's entire tariff filing, the issuing carrier may submit two or more diskettes, or two or more CD-ROMs, as necessary.

16. In newly redesignated § 61.21, revise paragraph (a)(1) to read as follows:

**§ 61.21 Cover letters.**

(a)(1) Except as specified in § 61.32(b), all publications filed with the Commission must be accompanied by a cover letter, 8.5 by 11 inches (21.6 cm × 27.9 cm) in size, and must be plainly printed in black ink. All transmittal letters should briefly explain the nature and purpose of the filing and indicate the date and method of filing of the original cover letter, as required by § 61.20(b)(1) of this part.

\* \* \* \* \*

17. Immediately after newly redesignated § 61.21, remove the undesignated center heading "Specific Rules For Domestic and International Nondominant Carriers".

18. In newly redesignated § 61.22, revise paragraph (a), redesignate paragraph (c) as paragraph (c)(1), and add paragraphs (c)(2) and (e) to read as follows:

**§ 61.22 Composition of tariffs.**

(a) The tariff must be submitted on a 3½ 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. No diskettes shall contain more than one tariff. The diskette or CD-ROM must be submitted in "read only" mode. The diskette or CD-ROM must be clearly labelled with the carrier's name, Tariff Number, software used, and the date of submission. When multiple diskettes or CD-ROMs are submitted, the issuing carrier shall clearly label each diskette in the following format: "1 of \_\_", "2 of \_\_", etc.

\* \* \* \* \*

(c) \* \* \*

(2) Any issuing carrier submitting an individual tariff that requires ten or more diskettes that wishes to revise its tariff is permitted to do so by filing a diskette containing only those pages on which the changed material is located. Any such carrier shall file a current effective version of its entire tariff on the first business day of each month. For purposes of this paragraph, "business day" is defined in § 1.4(e)(2) of this chapter.

\* \* \* \* \*

(e)(1) For contract-based tariffs defined in § 61.3(m), a separate letter of transmittal may accompany each tariff filed, or the above format may be modified for filing as many publications as may be desired with one transmittal letter. The transmittals must be numbered in a series separate from transmittals for non-contract tariff filing. Numbers must appear on the face of the transmittal and be in the form of "CTT No. \_\_\_\_\_", using CTT as an abbreviation for contract-based tariff transmittals, or some similar form that indicates that the transmittal is a contract-based tariff transmittal. Contract-based tariffs must also be numbered in a series separate from non-contract-based tariffs. Numbers must be in the form of "CT No. \_\_\_\_\_", using CT as an abbreviation for contract-based tariffs, or some similar form that indicates that the tariff is a contract-based tariff. Each contract-based tariff must be assigned a separate number. Transmittals and tariffs subject to this paragraph shall be filed beginning with the number "1" and shall be numbered consecutively.

(2) Composition of contract-based tariffs shall comply with §§ 61.54 (b) through (i).

(3) Contract-based tariffs shall include the following:

- (i) The term of the contract, including any renewal options;
- (ii) A brief description of each of the services provided under the contract;
- (iii) Minimum volume commitments for each service;
- (iv) The contract price for each service or services at the volume levels committed to by the customers;
- (v) A general description of any volume discounts built into the contract rate structure; and
- (vi) A general description of other classifications, practices and regulations affecting the contract rate.

19. In newly redesignated § 61.23, revise paragraph (c) to read as follows:

**§ 61.23 Notice requirements.**

\* \* \* \* \*

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

20. Add § 61.25 to subpart C to read as follows:

**§ 61.25 References to other instruments.**

In addition to the cross-references permitted pursuant to § 61.74, a non-dominant carrier may cross-reference in its tariff publication only the rate provisions of another carrier's FCC tariff publication, provided that the following conditions are met:

- (a) The tariff being cross-referenced must be on file with the Commission and in effect;
- (b) The issuing carrier must specifically identify in its tariff the cross-referenced tariff by Carrier Name and FCC Tariff Number;
- (c) The issuing carrier must specifically identify in its tariff the rates being cross-referenced so as to leave no doubt as to the exact rates that will apply, including but not limited to any applicable credits, discounts, promotions; and
- (d) The issuing carrier must keep its cross-references current.

21. Add a subpart D to part 61, consisting of § 61.28, to read as follows:

**Subpart D—General Tariff Rules for International Dominant Carriers**

**§ 61.28 International dominant carrier tariff filing requirements.**

- (a) Any carrier classified as dominant for the provision of particular international communications services on a particular route due only to a foreign carrier affiliation pursuant to § 63.10 of this Chapter shall file tariffs for those services on at least one day's notice without cost support.
- (b) Any carrier classified as dominant for the provision of particular international communications services

on a particular route for any reason other than a foreign carrier affiliation pursuant to § 63.10 shall file tariffs for those services pursuant to the notice and cost support requirements for tariff filings of dominant domestic carriers, as set forth in subpart E of this part.

(c) Other than the notice and cost support requirements set forth in paragraphs (a) and (b) of this section, all tariff filing requirements applicable to all carriers classified as dominant for the provision of particular international communications services on a particular route are set forth in subpart C of this part.

**§§ 61.32 through 61.52, 61.54, 61.58 and 61.59 [Amended]**

22. Designate §§ 61.32 through 61.52, 61.54, 61.58, and 61.59 as subpart E and add a subpart heading entitled "Subpart E—General Rules for Dominant Carriers" immediately preceding § 61.32.

23. Add § 61.31 to subpart E to read as follows:

**§ 61.31 Scope.**

The rules in this subpart apply to all dominant carriers.

24. Amend § 61.32 by revising paragraph (b) to read as follows:

**§ 61.32 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 transmittal letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA, at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved." Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

\* \* \* \* \*

25. In § 61.33, revise the first sentence of the introductory text of paragraph (a), remove and reserve paragraph (h)(2), and redesignate the note following paragraph (h)(2) as a note to § 61.33, to read as follows:

**§ 61.33 Letters of transmittal.**

(a) Except as specified in § 61.32(b), all publications filed on paper with the

Commission must be numbered consecutively by the issuing carrier beginning with Number 1, and must be accompanied by a letter of transmittal, A4 (21 cm x 29.7 cm) or 8½ by 11 inches (21.6 cm x 27.9 cm) in size.

\* \* \*

\* \* \* \* \*

**§ 61.35 [Removed]**

26. Remove § 61.35.

**§ 61.36 [Removed]**

27. Remove § 61.36.

28. Amend § 61.38 by revising paragraph (a), removing and reserving paragraph (b)(3), and adding paragraph (g) 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. 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 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).

\* \* \* \* \*

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

29. Amend § 61.39 by revising paragraph (a) and by adding paragraph (f) to read as follows:

**§ 61.39 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings effective on or after April 1, 1989, by 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 local exchange carrier that is described as subset 3 carrier in § 69.602, 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 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 local exchange carriers subject to price cap regulation.

\* \* \* \* \*

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

#### § 61.41 [Amended]

30. In § 61.41, remove and reserve paragraph (a)(1).

31. Amend § 61.42 by removing and reserving paragraphs (a), (b) and (c), by removing the semicolons at the end of paragraphs (d)(1), (d)(2), and (d)(3) and, in their place, adding periods, by adding a sentence at the end of paragraphs (d)(1), (d)(2), (d)(3), (d)(4), and (d)(6), and by revising the first sentence of paragraph (g) to read as follows:

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

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \* For purposes of §§ 61.41 through 61.49 of this chapter, this basket shall be referred to as the "common line basket."

(2) \* \* \* For purposes of §§ 61.41 through 61.49 of this chapter, this basket shall be referred to as the "traffic-sensitive basket."

(3) \* \* \* For purposes of §§ 61.41 through 61.49 of this chapter, this basket shall be referred to as the "trunking basket."

(4) \* \* \* For purposes of §§ 61.41 through 61.49 of this chapter, this basket shall be referred to as the "interexchange basket."

\* \* \* \* \*

(6) \* \* \* For purposes of §§ 61.41 through 61.49 of this chapter, this basket shall be referred to as the "marketing expense basket."

\* \* \* \* \*

(g) New services, other than those within the scope of paragraph (f) of this section, must be included in the affected basket at the first annual price cap tariff filing following completion of the base period in which they are introduced.

\* \* \*

32. Revise § 61.43 to read as follows:

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

Carriers subject to price cap regulation 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). Carriers may propose rate, PCI, or other tariff changes more often than annually, consistent with the requirements of § 61.59.

#### § 61.44 [Removed and Reserved]

33. Remove and reserve § 61.44.

34. § 61.45 is amended as follows:

a. Revise paragraphs (b) and (c);

b. Revise paragraph (d)(1)(iv);

c. In paragraph (f), remove the words "paragraph (c)" and add, in their place, the words "paragraphs (b) and (c)"; and

d. Revise paragraphs (i) and (j)(2).

e. Remove paragraphs (k) and (l).

#### § 61.45 Adjustments to the PCI for local exchange carriers.

\* \* \* \* \*

(b)(1)(i) Adjustments to local exchange carrier PCIs, in those carriers' annual access tariff filings, for the traffic-sensitive basket described in § 61.42(d)(2), the trunking basket described in § 61.42(d)(3), and the marketing expense basket described in § 61.42(d)(6), shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w(GDP-PI - X) + \Delta Z / R]$$

Where

GDP-PI = the percentage change in the GDP-PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year,

X = 6.5%,

$\Delta Z$  = the dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to  $PCI_{t-1}$ , measured at base period level of operations,

R = an amount calculated by multiplying base period quantities for each rate element in the basket by the price for that rate element at the time the PCI was updated to  $PCI_{t-1}$ , inclusive of the products of base period quantities for each PCCC established in § 69.153 of this Chapter and the portion of that PCCC that is associated with the basket, and summing the results,  $w = R + \Delta Z$ , all divided by R,  $PCI_t$  = the new PCI value, and  $PCI_{t-1}$  = the immediately preceding PCI value.

(ii) Adjustments to local exchange carrier PCIs for the interexchange basket described in § 61.42(d)(4), in those carriers' annual access tariff filings, shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w(GDP-PI - X) + \Delta Z / R + \Delta Y / R]$$

Where

w = R - (access rate in effect at the time the PCI was updated to  $PCI_{t-1}$ ,

multiplied by base period demand) +  $\Delta Z$ , all divided by R,

X = 3.0 percent,

$\Delta Y$  = (new access rate - access rate at the time the PCI was updated to  $PCI_{t-1}$ )  $\times$  (base period demand), and all other terms are defined in paragraph (b)(1)(i) of this section.

(2) Adjustments to local exchange carrier PCIs, in tariff filings other than the annual access tariff filing, for the traffic-sensitive basket described in § 61.42(d)(2), the trunking basket described in § 61.42(d)(3), the interexchange basket described in § 61.42(d)(4), and the marketing expense basket described in § 61.42(d)(6), shall be made pursuant to the formulas set forth in paragraph (b)(1) of this section, except that the "w(GDP-PI - X)" component of those PCI formulas shall not be employed.

(c)(1) In the event that a local exchange carrier imposes a per-minute carrier common line charge pursuant to § 69.154 of this chapter, and subject to paragraphs (c)(2) and (c)(3) of this section, adjustments to local exchange carrier PCIs in the annual access tariff filing for the common line basket designated in § 61.42(d)(1) shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w[(GDP-PI - X - (g/2))/(1+(g/2))] + \Delta Z / R]$$

Where

GDP-PI = the percentage change in the GDP-PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year,

X = productivity factor of 6.5%,

g = the ratio of minutes of use per access line during the base period, to minutes of use per access line during the previous base period, minus 1,

$\Delta Z$  = the dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to  $PCI_{t-1}$ , measured at base period level of operations,

R = an amount calculated by multiplying base period quantities for each rate element in the basket by the price for that rate element at the time the PCI was updated to  $PCI_{t-1}$ , inclusive of the products of base period quantities for each PCCC established in § 69.153 of this Chapter and the portion of that PCCC that is associated with the common line basket, and summing the results,

w = R +  $\Delta Z$ , all divided by R,

PCI<sub>i</sub> = the new PCI value, and  
 PCI<sub>i-1</sub> = the immediately preceding PCI value.

(2) Adjustments to local exchange carrier PCIs, in tariff filings other than the annual access tariff filing, for the common line basket described § 61.42(d)(1), shall be made pursuant to the formulas set forth in paragraph (b)(1) of this section, except that the " $w[(GDP-PI-X-(g/2))/(1+(g/2))]$ " component of that PCI formula shall not be employed. In non-annual price cap filings,  $g$  will be equal to 0.

(3) The formula set forth in paragraph (c)(1) of this section shall be used by a local exchange carrier only if that carrier is imposing a carrier common line charge pursuant to § 69.154 of this chapter. Otherwise, adjustments to local exchange carrier PCIs for the common line basket designated in § 61.42(d)(1) shall be made pursuant to the formula set forth in § 61.45(b)(1)(i).

(d) \* \* \*

(1) \* \* \*

(iv) Changes to the level of obligation associated with the Universal Service Fund obligation described in Part 54 of this chapter;

\* \* \* \* \*

(i)(1)(i) Notwithstanding the provisions of paragraphs (b) and (c) of this section, and subject to the limitations of paragraph (j) of this section, including but not limited to the  $\Delta Z$  reductions discussed in paragraph (j)(2), any price cap local exchange carrier that is recovering interconnection charge revenues through per-minute rates pursuant to § 69.124 or § 69.155 of this chapter shall target, to the extent necessary to eliminate the recovery of any residual interconnection charge revenues through per-minute rates, any PCI reductions associated with the common line and traffic sensitive baskets, designated in §§ 61.42(d)(1) and (2), that result from the application of the formulas in paragraphs (b) and (c) of this section.

(ii) As specified in paragraph (j)(2) of this section, any price cap local exchange carrier that is targeting PCI reductions to the residual interconnection charge pursuant to paragraph (i)(1)(i) of this section shall exclude the  $\Delta Z/R$  component of the PCI for the trunking basket designated in § 61.42(d)(3) from those calculations.

(iii) Any local exchange carrier that is targeting PCI reductions to the residual interconnection charge pursuant to paragraph (i)(1)(i) of this section shall not make any adjustment to its PCIs for the common line and traffic sensitive baskets, designated in §§ 61.42(d)(1) and

(2) respectively, as a result of the application of the formulas in paragraphs (b) and (c) of this section, other than the adjustments resulting from calculation of the " $\Delta Z/R$ " component of those formulas.

(iv) The reductions described in paragraph (i)(1)(i) are to be made after the adjustment is made to the PCI for the trunking basket designated in § 61.42(d)(3) resulting from the application of the formulas in paragraphs (b) and (c) of this section.

(2) Notwithstanding the provisions of paragraph (b) of this section, and subject to the limitations of paragraph (j) of this section, any price cap local exchange carrier that is recovering interconnection charge revenues through per-minute rates pursuant to § 69.155 of this chapter shall target, to the extent necessary to eliminate the recovery of any residual interconnection charge revenues through per-minute rates, any PCI reductions associated with the basket designated in § 61.42(d)(6) that result from the application of the formula in § 61.45(b), but excluding from the calculations the  $\Delta Z/R$  component, with no adjustment being made to the PCIs for the basket designated in § 61.42(d)(6). This adjustment, including any adjustment due to the  $\Delta Z/R$  component, will be made after any adjustment made pursuant to paragraph (i)(1) of this section.

(3) [Reserved]

(4) Effective January 1, 1998, the reduction in the PCI for the trunking basket designated in § 61.42(d)(3) that results from paragraphs (i)(1) and (i)(2) of this section shall be determined by multiplying the PCI for the trunking basket by one minus the ratio of the sum of the dollar effects of the PCI reductions otherwise applicable to the common line, traffic-sensitive, and marketing expense baskets, to the revenues applicable to the trunking basket.

(j) \* \* \*

(2) Exclude the amount of any exogenous adjustments permitted or required for the common line, traffic sensitive baskets, and marketing baskets, defined in §§ 61.42(d)(1), (d)(2), and (d)(6), from the retargeting adjustment to the PCI for the trunking basket defined in § 61.42(d)(3). Any such exogenous adjustments shall be reflected in the PCIs and SBIs in the same manner as they would have been reflected if there were no targeting.

35. Amend § 61.47 to revise paragraph (e), remove and reserve paragraphs (f), (g), and (h) to read as follows:

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

\* \* \* \* \*

(e) Pricing bands shall be established each tariff year for each service category and subcategory within a basket. Each band shall limit the pricing flexibility of the service category, subcategory, or density zone, as reflected in the SBI, to an annual increase of a specified percent listed in this paragraph below, 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. For local exchange carriers subject to price cap regulation as that term is defined in § 61.3(x), there shall be no lower pricing band for any service category or subcategory.

(1) *Five percent:*

(i) Local switching (traffic sensitive basket)

(ii) Information (traffic sensitive basket)

(iii) Database Access services (traffic sensitive basket)

(iv) 800 Database Vertical Services subservice (traffic sensitive basket)

(v) Billing Name and Address (traffic sensitive basket)

(vi) Local switching trunk ports (traffic sensitive basket)

(vii) Signalling Transfer Point Port Termination (traffic sensitive basket)

(viii) Voice grade (Trunking basket)

(ix) Voice grade density zones

(x) Tandem-Switched Transport density zones (Trunking basket)

(xi) Audio/Video (Trunking basket)

(xii) Total High Capacity (Trunking basket)

(xiii) DS1 subservice (Trunking basket)

(xiv) DS1 density zones (Trunking basket)

(xv) DS3 subservice (Trunking basket)

(xvi) DS3 density zones (Trunking basket)

(xvii) Wideband (Trunking basket)

(2) *Two percent:*

(i) Tandem-Switched Transport (Trunking basket)

(ii) Signalling for Tandem Switching (Trunking basket)

(3) *Zero percent:* Interconnection charge (Trunking basket)

(f)-(h) [Reserved]

\* \* \* \* \*

#### § 61.48 [Amended]

36. Amend § 61.48 by removing and reserving paragraphs (a) through (h), and by removing and reserving paragraph (i)(3)(ii).

37. Amend § 61.49 to revise paragraphs (a), (c), and (g)(1)(ii), remove and reserve paragraphs (f)(1) and (i)(1), and add new paragraph (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.**

(a) Each price cap tariff filing must be accompanied by supporting materials sufficient to calculate required adjustments to each PCI, API, and SBI pursuant to the methodologies provided in §§ 61.45, 61.46, and 61.47, as applicable.

(c) Each price cap tariff filing that proposes rates above the applicable band limits established in §§ 61.47 (e) must be accompanied by supporting materials establishing substantial cause for the proposed rates.

(f)(1) [Reserved]

(g) \* \* \*  
(1) \* \* \*

(ii) Estimates of the effect of the new tariff on the traffic and revenues from the service to which the new tariff applies, the 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 paragraph (g)(1)(i) of this section.

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

**§ 61.50 [Removed and Reserved]**

38. Remove and reserve § 61.50.

39. Remove the undesignated center heading entitled "Specific Rules for Tariff Publications" immediately before § 61.51.

**§ 61.51 [Removed and Reserved]**

40. Remove and reserve § 61.51.

**§ 61.53 [Redesignated as § 61.83]**

41. Redesignate § 61.53 as § 61.83.

42. Amend § 61.54 by revising paragraph (b)(3), redesignating paragraph (c)(1) as paragraph (c)(1)(i), adding paragraph (c)(1)(ii), redesignating paragraph (c)(3) as paragraph (c)(3)(i), adding paragraph (c)(3)(ii), and revising paragraph (i)(3), to read as follows:

**§ 61.54 Composition of tariffs.**

(b) \* \* \*

(3) *Expiration date.* Subject to § 61.59, when the entire tariff or supplement is to expire with a fixed date, the expiration date must be shown in connection with the effective date in the

following manner. Changes in expiration date must be made pursuant to the notice requirements of § 61.58, unless otherwise authorized by the Commission.

Expires at the end of \_\_\_\_ (date) unless sooner canceled, changed, or extended.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) Alternatively, the carrier is permitted to number its tariff pages, other than the check sheet, to reflect the section number of the tariff as well as the page. For example, under this system, pages in section 1 of the tariff would be numbered 1-1, 1-2, etc., and pages in section 2 of the tariff would be numbered 2-1, 2-2, etc. Issuing carriers shall utilize only one page numbering system throughout its tariff.

\* \* \* \* \*

(3) \* \* \*

(ii) On each page, the carrier shall indicate the transmittal number under which that page was submitted.

\* \* \* \* \*

(i) \* \* \*

(3) Items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued, in the manner prescribed in § 61.54(i)(1). The number and original effective date of the tariff publication in which the matter was originally published must be associated with the reissued matter. Items which have been in effect 30 days or more and are brought forward without change on revised pages must not be shown as reissued items.

**§ 61.55 [Removed]**

43. Remove § 61.55.

**§ 61.56 [Redesignated as § 61.86]**

44. Redesignate § 61.56 as § 61.86, and revise it to read as follows:

**§ 61.86 Supplements.**

A 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.

**§ 61.57 [Redesignated as § 61.87]**

45. Redesignate § 61.57 as § 61.87, and revise it to read as follows:

**§ 61.87 Cancellation of tariffs.**

(a) A 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.

(1) If the existing service(s) will be provided under another carrier's tariff, then

(i) The 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 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.

(2) If a carrier canceling its tariff intends to cease to provide existing service, then it must revise the Title Page or first page of its tariff indicating that the tariff is no longer effective.

(3) A carrier canceling its tariff, as described in this section, must comply with § 61.22 or §§ 61.54(b)(1) and 61.54(b)(5), as applicable.

(b) When a carrier cancels a tariff as described in this section, the canceling Title Page or the first page of the canceled tariff must show where all rates and regulations will be found except for paragraph (c) of this section. The Title Page or first page of the new tariff must indicate the name of the carrier and tariff number where the canceled material had been found.

(c) When a carrier ceases to provide service(s) without a successor, it must cancel its tariff pursuant to the notice requirements of § 61.23 or § 61.58, as applicable, unless otherwise authorized by the Commission.

46. Amend § 61.58 as follows:

- a. Revise paragraph (a)(2);
- b. Revise paragraph (a)(3);
- c. Remove and reserve paragraphs (b), (c), and (d);
- d. Amend paragraph (e) by revising the paragraph heading, redesignating paragraph (e)(3) as paragraph (e)(4), and adding new paragraph (e)(3); and
- e. Remove and reserve paragraph (f).

**§ 61.58 Notice requirements.**

(a) \* \* \*

(2)(i) Local exchange carriers may file tariffs pursuant to the streamlined tariff filing provisions of section 204(a)(3) of the Communications Act. Such a tariff may be filed on 7 days' notice if it proposes only rate decreases. Any other tariff filed pursuant to section 204(a)(3) of the Communications Act, including those that propose a rate increase or any change in terms and conditions, shall be filed on 15 days' notice. Any tariff filing made pursuant to section 204(a)(3) of the Communications Act must comply with the applicable cost support requirements specified in this part.



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

(iii) Except for tariffs filed pursuant to section 204(a)(3) of the Communications Act, the Chief, Common Carrier Bureau, may require the deferral of the effective date of any filing made on less than 120 days' notice, so as to provide for a maximum of 120 days' notice, or of such other maximum period of notice permitted by section 203(b) of the Communications Act, regardless of whether petitions under § 1.773 of this chapter have been filed.

(3) Tariff filings proposing corrections or voluntarily deferring the effective date of a pending tariff revision must be made on at least 3 days' notice, and may be filed notwithstanding the provisions of § 61.59. Corrections to tariff materials not yet effective cannot take effect before the effective date of the original material. Deferrals must take effect on or before the current effective date of the pending tariff revisions being deferred.

\* \* \* \* \*

(b)–(d) [Reserved]

(e) *Non-price* cap carriers and/or services. \* \* \*

\* \* \* \* \*

(3) Alascom, Inc. shall file its annual tariff revisions for its Common Carrier Services (Alascom Tariff F.C.C No. 11) on at least 35 days' notice.

\* \* \* \* \*

(f) [Reserved]

Revise § 61.59 to read as follows:

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

(a) Except as provided in § 61.58(a)(3) or except as otherwise authorized by the Commission, new rates or regulations must be effective for at least 30 days before a dominant carrier will be permitted to make any change.

(b) Changes to rates and regulations 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 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.

**§ 61.67 through 61.74 [Amended]**

48. Designate §§ 61.67 through 61.74, and redesignate §§ 61.83, 61.86, and 61.87, as subpart F, and add a subpart heading entitled "Subpart F—Specific

Rules for Tariff Publications of Dominant and Nondominant Carriers" immediately preceding § 61.67.

49. Add § 61.66 to subpart F to read as follows:

**§ 61.66 Scope.**

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

**§ 61.67 [Removed]**

50. Remove § 61.67.

51. Revise § 61.69 to read as follows:

**§ 61.69 Rejection.**

When a tariff publication is rejected by the Commission, its number may not be used again. This includes, but is not limited to, such publications as tariff numbers or specific page revision numbers. The rejected tariff publication may not be referred to as either cancelled or revised. Within five business days of the release date of the Commission's Order rejecting such tariff publication, the issuing carrier shall file tariff revisions removing the rejected material, unless the Commission's Order establishes a different date for this filing. The publication that is subsequently issued in lieu of the rejected tariff publication must bear the notation:

In lieu of —, rejected by the Federal Communications Commission.

**§ 61.71 [Removed]**

52. Remove § 61.71.

53. Revise § 61.72 to read as follows:

**§ 61.72 Public information requirements.**

(a) Issuing carriers must make available accurate and timely information pertaining to rates and regulations subject to tariff filing requirements.

(b) Issuing carriers must, at a minimum, provide a telephone number for public inquiries about information contained in its tariffs. This telephone number should be made readily available to all interested parties.

(c) Any issuing carrier that is an incumbent local exchange carrier, and chooses to establish an Internet web site, must make its tariffs available on that web site, in addition to the Commission's web site.

54. Add new paragraphs (e) and (f) to § 61.74 to read as follows:

**§ 61.74 References to other instruments.**

\* \* \* \* \*

(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:

(1) The tariff must contain a general description of the service offering, including basic parameters and structural elements of the offering;

(2) The technical publication includes no rates, regulatory terms, or conditions which are required to be contained in the tariff, and any revisions to the technical publication do not affect rates, regulatory terms, or conditions included in the tariff, and do not change the basic nature of the offering;

(3) The tariff indicates where the technical publication can be obtained;

(4) The referenced technical publication is publicly available before the tariff is scheduled to take effect; and

(5) The issuing carrier regularly revises its tariff to refer to the current edition of the referenced technical publication.

**§§ 61.131 through 61.136 [Amended]**

55. Remove the undesignated center heading "Concurrences" immediately before § 61.131.

56. Designate §§ 61.131 through 61.136 as subpart G, and add a subpart heading entitled "Subpart G—Concurrences" immediately preceding § 61.131.

57. Amend § 61.132 by adding two sentences at the end of the section, to read as follows:

**§ 61.132 Method of filing concurrences.**

\* \* \* Nondominant issuing carriers shall file revisions reflecting concurrences in their tariffs on the notice period specified in § 61.23 of this part. Dominant issuing carriers shall file concurrences in their tariffs on the notice periods specified in § 61.58(a)(2) or § 61.58(e)(1)(iii) of this part.

**§§ 61.151 through 61.153 [Amended]**

58. Remove the undesignated center heading "Applications for Special Permission" immediately preceding § 61.151.

59. Designate §§ 61.151 through 61.153 as subpart H, and add a subpart heading entitled "Subpart H—Applications for Special Permission" immediately preceding § 61.151.

60. Amend § 61.153 by revising paragraph (b) to read as follows:

**§ 61.153 Method of filing applications.**

\* \* \* \* \*

(b) In addition, except for issuing carriers filing tariffing fees electronically, for all special permission

applications requiring fees as set forth in part 1, subpart G of this chapter, the issuing carrier must submit the original of the application letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved." Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

\* \* \* \* \*

#### §§ 61.171 through 61.172 [Amended]

61. Remove the undesignated center heading "Adoption of Tariffs and Other Documents of Predecessor Carriers" immediately preceding § 61.171.

62. Designate §§ 61.171 through 61.172 as subpart I, and add a subpart heading entitled "Subpart I—Adoption of Tariffs and Other Documents of Predecessor Carriers" immediately preceding § 61.171.

#### §§ 61.191 through 61.193 [Amended]

63. Remove the undesignated center heading "Suspensions" immediately preceding § 61.191.

64. Designate §§ 61.191 through 61.193 as subpart J, and add a subpart heading entitled "Subpart J—Suspensions" immediately preceding § 61.191.

65. Revise § 61.191 to read as follows:

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

If a 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 61—[AMENDED]

66. In addition to the amendments set forth above, in 47 CFR part 61, remove the words "Chief, Tariff Review Branch" and add, in their place, the words "Chief, Tariff and Pricing Analysis Branch" in the following places:

- a. Section 61.32(c);
- b. Section 61.33(a)(3);
- c. Section 61.38(c)(1);
- d. Section 61.49(g)(2)(i);
- e. Section 61.153(c).

#### PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

67. The authority citation continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 201–205, 403, and 533, unless otherwise noted.

68. Amend § 63.10 by revising paragraph (c)(1) to read as follows:

#### § 63.10 Regulatory classification of U.S. international carriers.

\* \* \* \* \*

(c) \* \* \*

(1) File international service tariffs pursuant to § 61.28 of this chapter.

#### PART 69—ACCESS CHARGES

69. The authority citation continues to read as follows:

**Authority:** 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

#### § 69.2 [Amended]

70. In § 69.2, remove and reserve paragraph (tt).

71. Amend § 69.3 to revise paragraph (a), revise the introductory text of paragraph (e), revise paragraph (e)(6), revise paragraph (f), revise paragraph (h), revise the introductory text of paragraph (i), and to remove and reserve paragraph (j), to read as follows:

#### § 69.3 Filing of access service tariffs.

(a) Except as provided in paragraphs (g) and (h) of this section, a tariff for access service shall be filed with this Commission for a two-year period. Such tariffs shall be filed with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.

\* \* \* \* \*

(e) A telephone company or group of telephone companies may file a tariff that is not an association tariff. Such a tariff may cross-reference the association tariff for some access elements and include separately computed charges of such company or companies for other elements. Any such tariff must comply with the requirements hereinafter provided:

\* \* \* \* \*

(6) A telephone company or companies that elect to file such a tariff shall notify the association not later than December 31 of the preceding year, if such company or companies did not file such a tariff in the preceding biennial period or cross-reference

association charges in such preceding period that will be cross-referenced in the new tariff. A telephone company or companies that elect to file such a tariff not in the biennial period shall file its tariff to become effective July 1 for a period of one year. Thereafter, such telephone company or companies must file its tariff pursuant to paragraphs (f)(1) or (f)(2) of this section.

\* \* \* \* \*

(f) (1) A tariff for access service provided by a telephone company that is required to file an access tariff pursuant to § 61.38 of this Chapter shall be filed for a biennial period and with a scheduled effective date of July 1 of any even numbered year.

(2) A tariff for access service provided by a telephone company that may file an access tariff pursuant to § 61.39 of this Chapter shall be filed for a biennial period and with a scheduled effective date of July 1 of any odd numbered year. Any such telephone company that does not elect to file an access tariff pursuant to the § 61.39 procedures, and does not participate in the Association tariff, and does not elect to become subject to price cap regulation, must file an access tariff pursuant to § 61.38 for a biennial period and with a scheduled effective date of July 1 of any even numbered year.

(3) For purposes of computing charges for access elements other than Common Line elements to be effective on July 1 of any even-numbered year, the association may compute rate changes based upon statistical methods which represent a reasonable equivalent to the cost support information otherwise required under part 61 of this chapter.

\* \* \* \* \*

(h) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(x) of this chapter, shall file with this Commission a price cap tariff for access service for an annual period. Such tariffs shall be filed to meet the notice requirements of § 61.58 of this Chapter, with a scheduled effective date of July 1. Such tariff filings shall be limited to changes in the Price Cap Indexes, rate level changes (with corresponding adjustments to the affected Actual Price Indexes and Service Band Indexes), and the incorporation of new services into the affected indexes as required by § 61.49 of this chapter.

(i) The following rules apply to the withdrawal from Association tariffs under the provision of paragraph (e)(6) or (e)(9) of this section or both by telephone companies electing to file price cap tariffs pursuant to paragraph (h) of this section.

\* \* \* \* \*

**§ 69.111 [Amended]**

72. Amend § 69.111(g)(4), by removing the reference “§ 61.43(e)(2)(v)” and adding, in its place, the reference “§ 61.42(e)(2)(v)”, and by removing the reference “§ 61.43(e)(2)(vi)” and adding, in its place, the reference “§ 61.42(e)(2)(vi)”.

**§ 69.113 [Amended]**

73. In § 69.113(c), remove the reference “§ 61.3(v)” and add, in its place, the reference “§ 61.3(x)”.

**§ 69.114 [Amended]**

In § 69.114(a), remove the reference “§ 61.3(v)” and add, in its place, the reference “§ 61.3(x)”.

75. Amend § 69.153, by revising paragraphs (c)(1), (d)(1)(i), and (d)(2)(i), to read as follows:

**§ 69.153 Presubscribed interexchange carrier charge (PICC).**

\* \* \* \* \*

(c) \* \* \*

(1) One twelfth of the sum of annual common line revenues and residual interconnection charge revenues permitted under our price cap rules divided by the historical base period local exchange service subscriber lines in use during such annual period, minus the maximum subscriber line charge calculated pursuant to § 69.152(d)(2); or \* \* \*

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) One twelfth of the annual common line, residual interconnection charge, and § 69.156(a) marketing expense revenues permitted under our price cap rules, less the maximum amounts permitted to be recovered through the recovery mechanisms under §§ 69.152, 69.153(c), and 69.156(b) and (c), divided by the total number of historical base period non-primary residential and multi-line business subscriber lines in use during such annual period; or \* \* \*

(2) \* \* \*

(i) One twelfth of the annual common line, residual interconnection charge, and § 69.156(a) marketing expense revenues permitted under parts 61 and 69 of our rules, less the maximum amounts permitted to be recovered through the recovery mechanisms under §§ 69.152, 69.153(c) and (d)(1), and 69.156(b) and (c), divided by the total number of historical base period multi-line business subscriber lines in use during such annual period; or

\* \* \* \* \*

[FR Doc. 99-21721 Filed 8-25-99; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****49 CFR Part 1**

[OST-99-6158, Amdt. 1-301]

**Organization and Delegation of Powers and Duties; Delegation to the Commandant, United States Coast Guard**

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Secretary of Transportation is delegating to the Commandant of the United States Coast Guard, authority to implement and enforce measures to prevent the introduction and spread of aquatic nuisance species (ANS) into the waters of the United States.

**DATES:** Effective: August 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Lt. Mary Pat McKeown, Office of Operating and Environmental Standards (G-MSO), (202) 267-0500, United States Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001.

**SUPPLEMENTARY INFORMATION:** In 1990, Congress passed the Nonindigenous Aquatic Nuisance Prevention and Control Act (NANPCA) (Pub. L. 101-646) (codified at 16 U.S.C. 4701-4751). NANPCA authorized the Secretary of Transportation, as Secretary of the Department in which the Coast Guard was operating, to implement regulations to prevent the introduction and spread of aquatic nuisance species (ANS) into the waters of only the Great Lakes. In 1992, the Secretary of Transportation delegated to the Coast Guard his authority under NANPCA to implement ANS regulations for the Great Lakes. In 1996, Congress amended NANPCA by passing the National Invasive Species Act (NISA), (Pub. L. 104-332). NISA authorized the Secretary of Transportation, as Secretary of the Department in which the Coast Guard was operating, to implement regulations to prevent the introduction and spread of aquatic nuisance species into ALL waters of the United States by issuing voluntary guidelines which are to become mandatory if voluntary compliance proves ineffective. Thus, NISA simply expanded to include all waters of the United States, the authority previously granted under NANPCA for the Great Lakes only. The Secretary of Transportation is amending the existing delegation of authority to the Commandant of the Coast Guard to include NISA's additional authority to implement ANS requirements for all waters of the United States.

We publish this rule as a final rule effective on the date of publication. Since this amendment relates to the Departmental management, organization, procedure, and practice, notice and comment are unnecessary under 5 U.S.C. 553(b). Furthermore, since this amendment expedites the Coast Guard's ability to meet the needs of its conservation and enforcement obligations, the Secretary finds good cause, under 5 U.S.C. 553(b) and 5 U.S.C. 553(d)(3), that notice and public comment on the rule are unnecessary and that this rule should be made effective on the date of publication.

**List of Subjects in 49 CFR Part 1**

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended to read as follows:

**PART 1—[AMENDED]**

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

**Authority:** 49 U.S.C. 322; Pub. L. 101-552, 28 U.S.C. 2672, 31 U.S.C. 3711 (a)(2).

In § 1.46, paragraph (ww) is revised to read as follows:

**§ 1.46 Delegations to Commandant of the Coast Guard.**

\* \* \* \* \*

(ww) Carry out the functions and exercise the authority vested in the Secretary by 16 U.S.C. 4711, which pertain to establishing and enforcing regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes and other waters of the United States through the ballast water of vessels. This authority may be redelegated.

\* \* \* \* \*

Issued in Washington, DC this 18th day of June, 1999.

**Rodney E. Slater,**

*Secretary of Transportation.*

[FR Doc. 99-22212 Filed 8-25-99; 8:45 am]

BILLING CODE 4910-62-P

**DEPARTMENT OF TRANSPORTATION****49 CFR Part 1121**

[STB Ex Parte No. 527 (Sub-No. 2)]

**Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings**

**AGENCY:** Surface Transportation Board.

**ACTION:** Final rule.