

may the total charges that a LEC may assess for such service to the called location exceed the applicable transport and termination rate. For purposes of this section, the facilities used by the LEC and affiliated or unaffiliated provider of interconnected VoIP service or a non-interconnected VoIP service for the transport and termination of such traffic shall be deemed an equivalent facility under § 51.701.

[76 FR 73855, Nov. 29, 2011]

**§ 51.705 LECs' rates for transport and termination.**

(a) Notwithstanding any other provision of the Commission's rules, by default, transport and termination for Non-Access Telecommunications Traffic exchanged between a local exchange carrier and a CMRS provider within the scope of § 51.701(b)(2) shall be pursuant to a bill-and-keep arrangement, as provided in § 51.713.

(b) Establishment of incumbent LECs' rates for transport and termination:

(1) This provision applies when, in the absence of a negotiated agreement between parties, state commissions establish Non-Access Reciprocal Compensation rates for the exchange of Non-Access Telecommunications Traffic between a local exchange carrier and a telecommunications carrier other than a CMRS provider where the incumbent local exchange carriers did not have any such rates as of December 29, 2011. Any rates established pursuant to this provision apply between December 29, 2011 and the date at which they are superseded by the transition specified in paragraphs (c)(2) through (c)(5) of this section.

(2) An incumbent LEC's rates for transport and termination of telecommunications traffic shall be established, at the election of the state commission, on the basis of:

(i) The forward-looking economic costs of such offerings, using a cost study pursuant to §§ 51.505 and 51.511; or

(ii) A bill-and-keep arrangement, as provided in § 51.713.

(3) In cases where both carriers in a Non-Access Reciprocal Compensation arrangement are incumbent LECs, state commissions shall establish the rates of the smaller carrier on the basis

of the larger carrier's forward-looking costs, pursuant to § 51.711.

(c) Except as provided by paragraph (a) of this section, and notwithstanding any other provision of the Commission's rules, default transitional Non-Access Reciprocal Compensation rates shall be determined as follows:

(1) Effective December 29, 2011, no telecommunications carrier may increase a Non-Access Reciprocal Compensation for transport or termination above the level in effect on December 29, 2011. All Bill-and-Keep Arrangements in effect on December 29, 2011 shall remain in place unless both parties mutually agree to an alternative arrangement.

(2) Beginning July 1, 2012, if any telecommunications carrier's Non-Access Reciprocal Compensation rates in effect on December 29, 2011 or established pursuant to paragraph (b) of this section subsequent to December 29, 2011, exceed that carrier's interstate access rates for functionally equivalent services in effect in the same state on December 29, 2011, that carrier shall reduce its reciprocal compensation rate by one half of the difference between the Non-Access Reciprocal Compensation rate and the corresponding functionally equivalent interstate access rate.

(3) Beginning July 1, 2013, no telecommunications carrier's Non-Access Reciprocal Compensation rates shall exceed that carrier's tariffed interstate access rate in effect in the same state on January 1 of that same year, for equivalent functionality.

(4) After July 1, 2018, all Price-Cap Local Exchange Carrier's Non-Access Reciprocal Compensation rates and all non-incumbent LECs that benchmark access rates to Price Cap Carrier shall be set pursuant to Bill-and-Keep arrangements for Non-Access Reciprocal Compensation as defined in this subpart.

(5) After July 1, 2020, all Rate-of-Return Local Exchange Carrier's Non-Access Reciprocal Compensation rates and all non-incumbent LECs that benchmark access rates to Rate-of-Return Carriers shall be set pursuant to Bill-and-Keep arrangements for Non-

## § 51.707

Access Reciprocal Compensation as defined in this subpart.

[76 FR 73855, Nov. 29, 2011]

### § 51.707 [Reserved]

### § 51.709 Rate structure for transport and termination.

(a) In state proceedings, where a rate for Non-Access Reciprocal Compensation does not exist as of December 29, 2011, a state commission shall establish initial rates for the transport and termination of Non-Access Telecommunications Traffic that are structured consistently with the manner that carriers incur those costs, and consistently with the principles in this section.

(b) The rate of a carrier providing transmission facilities dedicated to the transmission of non-access traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send non-access traffic that will terminate on the providing carrier's network. Such proportions may be measured during peak periods.

(c) For Non-Access Telecommunications Traffic exchanged between a rate-of-return regulated rural telephone company as defined in § 51.5 and a CMRS provider, the rural rate-of-return incumbent local exchange carrier will be responsible for transport to the CMRS provider's interconnection point when it is located within the rural rate-of-return incumbent local exchange carrier's service area. When the CMRS provider's interconnection point is located outside the rural rate-of-return incumbent local exchange carrier's service area, the rural rate-of-return incumbent local exchange carrier's transport and provisioning obligation stops at its meet point and the CMRS provider is responsible for the remaining transport to its interconnection point. This paragraph (c) is a default provision and applicable in the absence of an existing agreement or arrangement otherwise.

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### § 51.711 Symmetrical reciprocal compensation.

(a) Rates for transport and termination of Non-Access Telecommuni-

## 47 CFR Ch. I (10–1–20 Edition)

cations Traffic shall be symmetrical, unless carriers mutually agree otherwise, except as provided in paragraphs (b) and (c) of this section.

(1) For purposes of this subpart, symmetrical rates are rates that a carrier other than an incumbent LEC assesses upon an incumbent LEC for transport and termination of Non-Access Telecommunications Traffic equal to those that the incumbent LEC assesses upon the other carrier for the same services.

(2) In cases where both parties are incumbent LECs, or neither party is an incumbent LEC, a state commission shall establish the symmetrical rates for transport and termination based on the larger carrier's forward-looking costs.

(3) Where the switch of a carrier other than an incumbent LEC serves a geographic area comparable to the area served by the incumbent LEC's tandem switch, the appropriate rate for the carrier other than an incumbent LEC is the incumbent LEC's tandem interconnection rate.

(b) Except as provided in § 51.705, a state commission may establish asymmetrical rates for transport and termination of Non-Access Telecommunications Traffic only if the carrier other than the incumbent LEC (or the smaller of two incumbent LECs) proves to the state commission on the basis of a cost study using the forward-looking economic cost based pricing methodology described in §§ 51.505 and 51.511, that the forward-looking costs for a network efficiently configured and operated by the carrier other than the incumbent LEC (or the smaller of two incumbent LECs), exceed the costs incurred by the incumbent LEC (or the larger incumbent LEC), and, consequently, that such that a higher rate is justified.

(c) Pending further proceedings before the Commission, a state commission shall establish the rates that licensees in the Paging and Radiotelephone Service (defined in part 22, subpart E of this chapter), Narrowband Personal Communications Services (defined in part 24, subpart D of this chapter), and Paging Operations in the Private Land Mobile Radio Services (defined in part 90, subpart P of this chapter) may assess upon other carriers for