

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

In the Matter of )
)
SureWest Telephone Petition for Conversion from ) WC Docket No. 13-71
Rate-of-Return to Price Cap Regulation and for )
Limited Waiver Relief )

ORDER

Adopted: May 31, 2013

Released: May 31, 2013

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) grants a waiver, to the extent indicated, to allow SureWest Telephone (SureWest) to convert from rate-of-return to price cap regulation on July 2, 2013. To facilitate this conversion, the Bureau grants SureWest limited waivers of sections 51.907 and 51.915 of the Commission's rules. We conclude that these waivers will further the public interest by providing SureWest with incentives to maintain and promote more efficient operations and by accelerating the reduction of rates currently subject to intercarrier compensation reform.

II. BACKGROUND

2. Previous Price Cap Conversion Orders. Beginning with the Windstream Order, the Commission granted several waivers allowing price cap carriers to convert their cost company study

1 See SureWest Telephone Petition for Conversion from Rate of Return to Price Cap Regulation and for Limited Waiver Relief, WC Docket No. 13-71 (filed Mar. 11, 2013) (Petition); Wireline Competition Bureau Seeks Comment on the Petition of SureWest Telephone for Conversion from Rate-of-Return to Price Cap Regulation and for Limited Waiver Relief, WC Docket No. 13-71, Public Notice, DA 13-518 (Wireline Comp. Bur., rel. Mar. 21, 2013).

2 47 C.F.R. §§ 51.907, 51.915.

3 The waivers granted in this order are subject to reforms or rule revisions regarding intercarrier compensation, regulation of special access services, price cap regulation, or universal service requirements that the Commission may adopt in the future. See, e.g., Connect America Fund et al., WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (USF/ICC Transformation Order), pets. for review pending sub nom. In re: FCC 11-161, No. 11-9900 (10th Cir. filed Dec. 8, 2011); Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, WC Docket No. 05-25, RM-10593, 27 FCC Rcd 10557 (2012) (Special Access R&O).

4 Windstream Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief, WC Docket No. 07-171, Order, 23 FCC Rcd 5294 (2008) (Windstream Order); see also Joint Petition of Price Cap Holding Companies for Conversion of Average Schedule Affiliates to Price Cap Regulation and for Limited Waiver Relief, WC Docket No. 12-63; Consolidated Communications Companies Tariff F.C.C. No. 2, Transmittal No. 41; Frontier Telephone Companies Tariff F.C.C. No. 10, Transmittal No. 28; Windstream Telephone System Tariff F.C.C. No. 7, Transmittal No. 57, Order, 27 FCC Rcd 15753 (2012) (Average Schedule Price Cap Order); Petition of Virgin Islands Telephone Corporation for Election of Price Cap Regulation and for Limited Waiver of Pricing and Universal Service Rules, WC Docket No. 10-39; China Telephone Company, FairPoint Vermont, Inc., Maine Telephone (continued....)

areas to price cap regulation under the *CALLS* regulatory model.<sup>6</sup> Under that model, carriers were, among other things, required to establish initial Price Cap Indexes (PCIs) for their price cap baskets using the rates in effect on January 1 of the conversion year and the demand from the preceding year;<sup>7</sup> required to target their average traffic-sensitive (ATS) rates to the appropriate target ATS rates pursuant to section 61.3(qq) of the Commission's rules, using an X-factor of 6.5 percent;<sup>8</sup> and allowed to continue to receive Interstate Common Line Support (ICLS) on a frozen per-line basis for the converted study areas.<sup>9</sup> Carriers were also required to forego any recovery of a presubscribed interexchange carrier charge (PICC) or carrier common line (CCL) charge and forego assessing a \$7.00 non-primary residential line subscriber line charge (SLC).<sup>10</sup>

3. *USF/ICC Transformation Order*. On November 18, 2011, the Commission released the *USF/ICC Transformation Order*,<sup>11</sup> which, among other things, established new rules requiring carriers to adjust, over a period of years, many of their switched access charges effective on July 1st of each of those years, with the ultimate goal of transitioning to a bill-and-keep regime. As an initial matter, the Commission capped the vast majority of interstate and intrastate switched access rates as of December 29, 2011, and price cap carriers were required to remove their switched access services from the traffic-sensitive and trunking baskets.<sup>12</sup> Price cap and rate-of-return carriers were required to make comparable

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*Company, Northland Telephone Company of Maine, Inc., Sidney Telephone Company, and Standish Telephone Company Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief*, WC Docket No. 10-47; *Petition of Windstream for Limited Waiver Relief*, WC Docket No. 10-55, Order, 25 FCC Rcd 4824 (Wireline Comp. Bur. 2010); *CenturyTel, Inc., Petition for Conversion to Price Cap Regulation and Limited Waiver Relief*, WC Docket No. 08-191, Order, 24 FCC Rcd 4677 (Wireline Comp. Bur. 2009); *ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc. and ACS of the Northland, Inc., Petition for Conversion to Price Cap Regulation and Limited Waiver Relief*, WC Docket No. 08-220, Order, 24 FCC Rcd 4664 (Wireline Comp. Bur. 2009); *Petition of Puerto Rico Telephone Company, Inc. for Election of Price Cap Regulation and Limited Waiver of Pricing and Universal Service Rules*, WC Docket No. 07-292; *Consolidated Communications Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief*, WC Docket No. 07-291; *Frontier Petition for Limited Waiver Relief upon Conversion of Global Valley Networks, Inc., to Price Cap Regulation*, WC Docket No. 08-18, Order, 23 FCC Rcd 7353 (Wireline Comp. Bur. 2008) (*Consolidated Price Cap Order*).

<sup>5</sup> A cost company is a rate-of-return carrier that determines its rates based on its own costs, as opposed to determining its costs based on average schedule formulas. See, e.g., *Windstream Order*, 23 FCC Rcd at 5298, para. 5 n.16. By contrast, an average schedule company is a rate-of-return company that determines its costs based on formulas approved by the Commission that are designed to produce disbursements that would be received based on the costs of a company that is representative of average schedule companies. See 47 C.F.R. § 69.606.

<sup>6</sup> See *Access Charge Reform*, CC Docket No. 96-262; *Price Cap Performance Review for Local Exchange Carriers*, 94-1; *Low-Volume Long-Distance Users*, CC Docket No. 99-249; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000) (*CALLS Order*) (subsequent history omitted).

<sup>7</sup> See, e.g., *Windstream Order*, 23 FCC Rcd at 5299-5301, paras. 11-14.

<sup>8</sup> See, e.g., *id.* at 5301, paras. 15-16.

<sup>9</sup> See, e.g., *id.* at 5302-04, paras. 19-22.

<sup>10</sup> See, e.g., *id.*

<sup>11</sup> See *USF/ICC Transformation Order*, 26 FCC Rcd 17663.

<sup>12</sup> See 47 C.F.R. §§ 51.907(a), 51.909(a).

reductions to certain intrastate switched access rates in 2012 and 2013 if specified criteria were met.<sup>13</sup> Beginning in 2014, price cap and rate-of-return carriers begin a series of rate reductions to transition certain terminating interstate and intrastate switched access rates to bill-and-keep.<sup>14</sup> The price cap transition occurs over six years and the rate-of-return transition occurs over nine years, although they do not reach precisely the same pricing points for terminating tandem-switched transport.<sup>15</sup>

4. The Commission also adopted a transitional recovery mechanism to mitigate the impact of reduced intercarrier revenues on carriers and to facilitate continued investment in broadband infrastructure, while providing greater certainty and predictability going forward than the *status quo*.<sup>16</sup> The recovery mechanism allows incumbent local exchange carriers (LECs) to recover intercarrier revenues reduced due to the intercarrier compensation (ICC) reforms, up to a defined baseline, which is defined as “Eligible Recovery.”<sup>17</sup> A carrier may recover a limited portion of its Eligible Recovery from its end users through a fixed monthly charge called the Access Recovery Charge (ARC), and the remainder of its Eligible Recovery, if it so elects, from Connect America ICC support.<sup>18</sup> A carrier’s Eligible Recovery is based on a percentage of the reduction in revenue each year resulting from the ICC reform transition. The precise percentages and the calculation methods vary between price cap and rate-of-return carriers, with the price cap methodology transition lasting six years and the rate-of-return transition taking nine years.

5. In the *USF/ICC Transformation Order*, the Commission also froze all forms of universal service support for price cap carriers.<sup>19</sup> Under these revised rules, rate-of-return carriers affiliated with holding companies for which the majority of access lines are regulated under federal price caps are treated as price cap carriers for the purpose of calculating their frozen high-cost support.<sup>20</sup>

6. *SureWest-Consolidated Merger*. SureWest is an incumbent LEC subject to rate-of-return regulation that provides service in California.<sup>21</sup> On July 2, 2012, Consolidated Communications Holdings, Inc. (Consolidated) – a price cap holding company – acquired control of SureWest Communications, including its wholly-owned subsidiary SureWest along with three other subsidiaries, SureWest TeleVideo, SureWest Long Distance and SureWest Kansas Operations, LLC.<sup>22</sup> Consolidated

<sup>13</sup> See 47 C.F.R. §§ 51.907(b)-(c), 51.909(b)-(c).

<sup>14</sup> See 47 C.F.R. §§ 51.907(d), 51.909(d).

<sup>15</sup> See 47 C.F.R. §§ 51.907, 51.909.

<sup>16</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17677, para. 36. In adopting the recovery mechanism, the Commission explained that it did so in large part “to provide predictability to incumbent carriers that had been receiving implicit [intercarrier compensation] subsidies [and] to mitigate marketplace disruption during the reform transition.” *Id.* at 17962-63, para. 858.

<sup>17</sup> *Id.* at 17956, para. 847.

<sup>18</sup> *Id.* at 17994, para. 918; 47 C.F.R. § 51.917(d)-(f).

<sup>19</sup> 47 C.F.R. § 54.312(a).

<sup>20</sup> *Id.*; see *USF/ICC Transformation Order*, 26 FCC Rcd at 17713, para. 129.

<sup>21</sup> Petition at 2. SureWest also has competitive local exchange carrier (CLEC) operations in California outside of its incumbent LEC territories. *Id.*

<sup>22</sup> See Petition at 2-3. On April 5, 2012, the Bureau approved the application for the transfer of control of SureWest Communications, including its wholly-owned subsidiary SureWest, to Consolidated. See Notice of Domestic Section 214 Authorization Granted, WC Docket No. 12-48, Public Notice, 27 FCC Rcd 3290 (Wireline Comp. Bur. (continued....))

controls four other price cap LEC subsidiaries: Illinois Consolidated Telephone Company, Consolidated Communications of Texas Company, Consolidated Communications of Fort Bend Company, and Consolidated Communications of Pennsylvania Company.<sup>23</sup> Under section 61.41(c)(2) of the Commission's rules, SureWest must convert to price cap regulation by July 2, 2013.<sup>24</sup>

7. *SureWest Petition.* On March 11, 2013, SureWest filed a petition requesting "authority to convert from rate-of-return to price cap regulation effective July 1, 2013, and, to the extent necessary, limited waivers of the applicable Part 51, 54, and 61 regulations to enable such conversion."<sup>25</sup> Specifically, SureWest proposes that, effective no later than July 1, 2013, its study areas should be subject to the price cap regulatory structure established in the *CALLS Order* and *USF/ICC Transformation Order*.<sup>26</sup> SureWest proposes to remove its switched access services from price cap regulation effective upon conversion and that, as of July 1, 2013, it will be subject to the price cap ICC transition schedule.<sup>27</sup> Finally, SureWest proposes to use its current special access rates as its initial price cap special access rates.<sup>28</sup>

8. SureWest requests a waiver of sections 51.907, 51.909, 51.915, 51.917 and any other applicable Part 51, 54 or 61 provisions of the Commission's rules to the extent necessary to allow it to convert from rate-of-return to price cap regulation as of July 1, 2013.<sup>29</sup> SureWest argues that the proposed conversion is in the public interest and will "promote efficiency, encourage network investment and competition, and reduce its switched access rates."<sup>30</sup> SureWest states that conversion will not impact Connect America ICC support funding or universal service support funding in general.<sup>31</sup> The United States Telecom Association filed comments supporting grant of the waiver to allow SureWest to convert to price cap regulation.<sup>32</sup>

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2012).

<sup>23</sup> See Petition at 2.

<sup>24</sup> See 47 C.F.R. § 61.41(c)(2). In the event the Commission does not issue an order within one year after Consolidated's July 2, 2012 acquisition of SureWest, SureWest requests a waiver of section 61.41(c)(2) of the Commission's rules to the extent necessary. Petition at 12. Since the Bureau is granting SureWest's petition to convert to price cap regulation, we do not need to address its request to waive section 61.41(c)(2).

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

<sup>26</sup> *Id.* at 5.

<sup>27</sup> *Id.* at 5-6; see also *infra* para. 15 n.48.

<sup>28</sup> *Id.* at 5-6.

<sup>29</sup> *Id.* at 10.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 7.

<sup>32</sup> See Comments of the United States Telecom Association (USTA), WC Docket No. 13-71, at 1 (filed Apr. 10, 2013). We note that, in its comments, USTA argues that the Commission's Connect America Fund budget for price cap carriers should be adjusted to reflect the transition of SureWest from rate-of-return to price cap regulation. *Id.* at 3. Because the amount of high cost universal service support funding associated with SureWest is *de minimis* in the context of the Connect America Fund budget, which USTA acknowledges, we decline to make such an adjustment at this time. See *id.* However, we note, that this determination does not prejudice any future decision on this issue.

### III. DISCUSSION

#### A. Waiver is in the Public Interest

9. We find that good cause exists to grant, to the extent described below, a limited waiver of the Commission's rules to permit SureWest to convert from rate-of-return to price cap regulation.<sup>33</sup> To comply with the requirement that it convert to price cap regulation by July 2, 2013, SureWest seeks to convert to price cap regulation consistent with the policies of the *USF/ICC Transformation Order* and the relief granted in the *Windstream Order*, as appropriate.<sup>34</sup> Specifically, for interstate switched access charges, it proposes to remove its switched access services from price cap regulation when it converts, cap switched access rates in accordance with section 51.907(a), and to adopt the price cap transition timetable and the price cap intercarrier compensation recovery mechanism rather than the procedures applicable to rate-of-return carriers.<sup>35</sup> SureWest will continue to receive frozen high cost support as a price cap carrier. We make this waiver effective on July 2, 2013, which is within the one year allowed for acquired rate-of-return carriers to be converted to price cap regulation and coincides with the date on which annual access tariffs must be filed this year.<sup>36</sup>

10. As an initial matter, we find that the request presented by SureWest offers the public interest benefits generally attributed to incentive regulation – specifically, the proposal provides incentives for SureWest to become more efficient, innovative, and productive.<sup>37</sup> In 1990, the Commission concluded that incentive-based regulation is preferable to rate-of-return regulation, finding that several benefits would flow from the adoption of price cap regulation, including incentives for carriers to become more productive, innovative, and efficient.<sup>38</sup> The Commission also found that price cap regulation is likely to benefit consumers directly or indirectly through lower access prices. More recently, in the *USF/ICC Transformation Order*, the Commission restated the benefits of price cap regulation and again encouraged carriers to convert from rate-of-return to price cap regulation.<sup>39</sup> Rather

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<sup>33</sup> Generally, the Commission's rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

<sup>34</sup> See 47 C.F.R. § 61.41(a)(3); see generally *Windstream Order*, 23 FCC Rcd 5294.

<sup>35</sup> Petition at 5-6. For the period July 3, 2012 through July 1, 2013, SureWest was a rate-of-return carrier subject to the rules in sections 51.909 and 51.917. Under the waiver granted herein, beginning July 2, 2013, it will become a price cap carrier subject to the requirements of section 51.907 and 51.915. These rules apply to specific types of carriers during the period they meet that classification. A waiver of sections 51.909 and 51.917 is not necessary in conjunction with a waiver request to convert from rate-of-return to price cap regulation. See *infra* paras. 16-18; see also *infra* para. 15 n.48.

<sup>36</sup> 47 C.F.R. § 61.41(c)(2); see *July 2, 2013 Annual Access Charge Tariff Filings*, WC Docket No. 13-76, Order, DA 13-553, para. 1 (Pric. Pol. Div., Wireline Comp. Bur. rel., Mar. 26, 2013) (*2013 Annual Access Procedures Order*).

<sup>37</sup> See *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786, 6791, para. 31 (1990) (*LEC Price Cap Order*).

<sup>38</sup> *Id.*

<sup>39</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17940, para. 814.

than detailing a rule to govern such conversions, however, the Commission noted that future conversions from rate-of-return regulation to price cap regulation would be addressed through the waiver process.<sup>40</sup>

11. Grant of the waiver requested here will also facilitate the achievement of Commission policies. Among other things, price cap carriers' terminating End Office Access Service rates will transition to bill-and-keep by July 1, 2017, three years before rate-of-return carriers' terminating End Office Access Service rates will complete such transition.<sup>41</sup> Price cap carriers also must, under certain conditions, reduce their terminating tandem-switched transport access rates to a bill-and-keep methodology on July 1, 2018.<sup>42</sup> The rate reductions for price cap carriers under section 51.907 reduce terminating switched access rates of price cap carriers more quickly than section 51.909 reduces the comparable rates for rate-of-return carriers, with Connect America Fund ICC support phasing out over three years for price cap carriers beginning in 2017. These procedures for capping interstate switched access services and including special access rates under the price cap structure will ensure that these rates remain reasonable while affording SureWest the opportunity to benefit from incentive regulation.

12. Further, granting SureWest's petition will not adversely affect universal service support, in general, and will reduce Connect America Fund ICC support. In the *USF/ICC Transformation Order*, the Commission froze all forms of universal service support for price cap carriers and certain rate-of-return carriers affiliated with price cap carriers, pending implementation of Connect America Phase II. Under the revised rules, rate-of-return carrier affiliates of price cap carriers are treated as price cap carriers for the purpose of calculating their frozen high-cost support and for the purpose of Connect America Phase II.<sup>43</sup> SureWest is affiliated with a price cap holding company, Consolidated, and is already treated as a price cap carrier for Connect America Fund purposes.<sup>44</sup> Therefore, price cap conversion will have no effect on Connect America Fund support. Moreover, Connect America Fund ICC support as a price cap carrier will be less than as a rate-of-return carrier because the transition associated with Eligible Recovery occurs more quickly for price cap carriers than rate-of-return carriers and is ultimately phased out.

13. Finally, we emphasize that the relief granted in this Order is subject to reforms or rule revisions regarding ICC, the regulation of special access services, price cap regulation, or universal service requirements that the Commission may adopt in the future.<sup>45</sup> SureWest's request to convert its rate-of-return study areas to price cap regulation is occurring during a time of major reform to the ICC regimes.<sup>46</sup>

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<sup>40</sup> *Id.*

<sup>41</sup> See 47 C.F.R. §§ 51.907(g), 51.909(j).

<sup>42</sup> 47 C.F.R. § 51.907(h).

<sup>43</sup> See 47 C.F.R. § 54.312(a); *USF/ICC Transformation Order*, 26 FCC Rcd at 17725, para. 158 n.253; see also *Average Schedule Price Cap Order*, 27 FCC Rcd at 15756, para. 6.

<sup>44</sup> See Petition at 11-12. SureWest therefore does not require a waiver of section 54.312 to convert to price cap regulation.

<sup>45</sup> See, e.g., *USF/ICC Transformation Order*, 26 FCC Rcd 17663; *Special Access R&O*, 27 FCC Rcd 10557.

<sup>46</sup> See *id.*

## B. Conversion to Price Cap Regulation

14. Above, we determined that the public interest will be served if SureWest is allowed to convert from rate-of-return to price cap regulation effective July 2, 2013. This will require SureWest to take certain steps to comply with the price cap regulations and the ICC transition rules applicable to price cap carriers adopted in the *USF/ICC Transformation Order*, which we outline in the following paragraphs.

### 1. Switched Access Conversion

15. SureWest proposes to remove its switched access services when it converts to price cap regulation, at which point it will then become subject to the price cap ICC transition schedule.<sup>47</sup> We find that SureWest's proposal is reasonable.<sup>48</sup> Beginning July 2, 2013, SureWest will become subject to the price cap ICC transition rules in section 51.907 and to the price cap recovery rules for *non-CALLS* study areas set forth in section 51.915.<sup>49</sup> Under these rules, SureWest must continue the caps on its switched access rates established pursuant to section 51.909(a) and must cap its originating intrastate switched access rates consistent with the requirements of section 51.907(a) at the rates in effect on the day before its 2013 annual access charge tariff filing is scheduled to become effective, which is July 1, 2013.<sup>50</sup> We grant SureWest a waiver of section 51.907(a) to use the July 1, 2013 date for the cap on its originating intrastate switched access rates.

16. Section 51.915(d) would require SureWest to use a Price Cap Base Period Adjustment Factor of 81 percent, assuming that it had been a price cap carrier for the 2012-13 tariff period.<sup>51</sup> SureWest, however, was a rate-of-return carrier for that period and was subject to a different recovery procedure.<sup>52</sup> To account for this difference in Eligible Recovery, we grant a limited waiver of section 51.915(d) to permit SureWest to determine its 2013 Price Cap Base Period Adjustment Factor by reducing its base period demand by five percent for the first year and then ten percent for the second year, or an adjustment factor of 85.5 percent. This will be adjusted by an additional ten percent reduction of the previous year's amount in each subsequent year. This provides a smooth transition for SureWest's Eligible Recovery in moving to price cap regulation. It also avoids creating a significant disincentive for rate-of-return carriers to convert to price cap regulation in the future.<sup>53</sup>

17. As part of its 2013 annual interstate access tariff filing, SureWest will need to file a Tariff Review Plan (TRP) worksheet for price cap carriers supporting its Eligible Recovery for the 2013-14

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<sup>47</sup> Petition at 5-6.

<sup>48</sup> See *Average Schedule Price Cap Order*, 27 FCC Rcd at 15762, para. 28. Section 61.41(c)(2) of the Commission's rules requires that SureWest convert its switched access services to price cap regulation before such services can be removed from price cap regulation to impose the price cap ICC transition schedule on such services. Under this order, and as proposed by SureWest, we allow the removal and transition to be effective upon the conversion.

<sup>49</sup> See 47 C.F.R. §§ 51.907, 51.915(d)(ii).

<sup>50</sup> 47 C.F.R. § 51.907(a).

<sup>51</sup> 47 C.F.R. § 51.915(d).

<sup>52</sup> 47 C.F.R. § 51.917(d).

<sup>53</sup> See Letter from Russell Blau, Esq., Counsel for SureWest, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 08-71, 13-71, at 1 (filed Mar. 25, 2013).

tariff period. SureWest must use the demand associated with the development of its Base Period Revenue in calculating its Eligible Recovery in the TRP worksheets.

18. Finally, SureWest's 2012-13 tariff year revenues would have been subject to a true-up process under the rate-of-return recovery mechanism in July 2014.<sup>54</sup> The true-up process was an integral part of the recovery mechanism and SureWest must compute the true-up of 2012-13 revenues in conjunction with its 2014 TRP worksheets. For this purpose, we grant a limited waiver of section 51.915(d) so that SureWest can include a trued-up element in its Eligible Recovery calculations.<sup>55</sup>

## 2. Price Cap Conversion

19. SureWest appropriately proposes to use the residential and single-line business and multiline business Subscriber Line Charges (SLC) currently being assessed in its tariff.<sup>56</sup> These rates will be the basis for calculating its Average Price Cap CMT Revenue per Line month.<sup>57</sup> SureWest may not assess a non-primary residential SLC or a Primary Interexchange Carrier Charge because they were not charging those rates on December 29, 2011. Finally, no additional provisions are necessary to address ICLS recovery because, as noted above, that amount is included in the frozen high cost support SureWest is currently receiving.

20. SureWest proposes to use its current special access rates to set its initial special access rates after conversion.<sup>58</sup> SureWest's current special access rates are the appropriate rates to use in setting its initial special access Price Cap Index (PCI) and this approach is consistent with the approach taken in the *Windstream Order*.<sup>59</sup> Accordingly, SureWest shall set its initial PCIs for special access using its January 1, 2013 special access rates multiplied by the appropriate 2012 base period demand.<sup>60</sup>

21. Price cap carriers were required to file short form TRP on May 17, 2013.<sup>61</sup> Because of the timing of this Order, SureWest cannot meet that deadline. We hereby waive the May 17, 2013 deadline for SureWest so that SureWest may file its short form TRP within seven (7) days of the release of this Order. Additionally, SureWest must establish actual price indexes, service categories and service band indexes for the special access basket in conjunction with its annual access tariff filing.

## IV. ORDERING CLAUSES

22. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 201-203, and 254(g) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 201-203, and 254(g), and pursuant to the authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the petition for waiver filed by SureWest Telephone IS GRANTED to the extent described herein.

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<sup>54</sup> See 47 C.F.R. § 51.917(d)(1)(iii)(D).

<sup>55</sup> See 47 C.F.R. §§ 51.915(d).

<sup>56</sup> Letter from Russell M. Blau, Counsel for SureWest Telephone, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-71 (filed May 14, 2013).

<sup>57</sup> 47 C.F.R. § 61.3(d).

<sup>58</sup> Petition at 6.

<sup>59</sup> See *Windstream Order*, 23 FCC Rcd at 5302, para. 18.

<sup>60</sup> See *id.*

<sup>61</sup> *TRP Procedures Order*, at para. 2.

23. IT IS FURTHER ORDERED, that, pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and pursuant to the authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, sections 51.907, and 51.915 of the Commission's rules, 47 C.F.R. §§ 51.907, 51.915 ARE WAIVED to the extent described herein.

24. IT IS FURTHER ORDERED, that SureWest Telephone SHALL FILE its short form Tariff Review Plan within seven (7) days of the release of this Order.

25. IT IS FURTHER ORDERED that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach  
Chief, Wireline Competition Bureau