Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

DA 95 - 1244

In the Matter of	)	
	)	Transmittal No. CT 3076
AT&T Communications	)	
Contract Tariff No. 360	)	CC Docket No. 95-80
	)	

ORDER

Adopted: June 5, 1995 ; Released: June 5, 1995

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On February 6, 1995, AT&T Corp. (AT&T) filed Contract Tariff Transmittal No. CT 3076, which proposes unilateral changes to Contract Tariff 360. These modifications included changes in the rate schedules for Contract Tariff 360 contract prices, elimination of term and volume discounts, and the imposition of a cap of $205,000 on the month of free calling provided for in the tariff. This transmittal is scheduled to take effect on June 6, 1995. For the reasons stated below, we conclude that AT&T's proposed tariff revisions raise significant questions of lawfulness under our "substantial cause" analytical standard for determining whether unilateral changes in long-term, contract-like tariffs are just and reasonable.

II. BACKGROUND AND SUMMARY OF PLEADINGS

2. AT&T Contract Tariff 360 (Transmittal No. CT 500), which became effective on August 18, 1993, implemented a contract between AT&T and Interworld Communications Corp. (ICC), the initial customer. The contract tariff offered a thirty-six month term plan primarily for international communications services for "winback" and new growth traffic and included separate contract tariff rates for over 80 countries. The contract tariff was modified on three subsequent occasions between August, 1993 and

September 13, 1994, with the consent of ICC.[1] After the last set of changes became effective, MCI Communications Corporation (MCI) ordered service under Contract Tariff 360 during its 90 day period of availability and began to receive service under the tariff on March 23, 1995.

3. AT&T filed Transmittal No. CT 3076 on February 6, 1995, in which it proposed a variety of revisions to the contract tariff. Specifically, AT&T proposes to eliminate the term and volume discounts and to raise rates to 27 countries. AT&T contends that the current Contract Tariff 360 rates to these countries are well below its long range incremental costs (LRIC) of serving the countries involved and that the proposed increases would raise the rates so that they are "no more than 5 percent above cost."[2] The transmittal would also cap a customer's total usage under Contract Tariff 360 at $14 million for 3 years,[3] limit usage to certain below cost countries for the original customer and would cap the credit for the twelfth month at $205,000. None of these limitations is presently contained in Contract Tariff 360.[4]

4. AT&T contends that the unilateral changes proposed in Transmittal No. CT 3076 are justified under the "substantial cause" standard that the Commission previously has applied in similar cases. In support of that claim, AT&T submitted a study that projected that its revenues on Contract Tariff 360 would be $63.1 million below its LRIC[5] if it were required to provide service to a hypothetical customer having one-tenth of MCI's historical international traffic to 16 countries where the current Contract Tariff

---

[1] Transmittal No. CT 1134, effective January 1, 1994, made various changes to the Contract Tariff 360 rates to Mexico, including elimination of the Schedule II rate table and increases in the Schedule I rates for the Standard period. On September 13, 1994, a revised tariff went into effect (Transmittal Nos. CT 2252 and CT 2340) that reduced rates for many countries and deferred shortfall charges until later in the contract term.

[2] *Id.* at 9.

[3] Contract Tariff 360, Transmittal No. CT 3076, at 2nd Revised Page 3.

[4] AT&T has submitted the following documents in this proceeding in support of the revisions introduced in Transmittal No. CT 3076. Reply (February 16, 1995); Letter from Shari Loe, Senior Attorney for AT&T, to David Nall, Deputy Division Chief, Tariff Division, Federal Communications Commission (March 24, 1995) (AT&T's March 24 Letter); Letter from Shari Loe to David Nall (April 11, 1995) (AT&T's April 11 Letter); Letter from Shari Loe to David Nall (May 16, 1995) (AT&T's May 16 Letter); Letter from Shari Loe to David Nall (May 23, 1995) (AT&T's May 23 Letter); Letter from Shari Loe to David Nall (June 2, 1995) (AT&T's June 2 Letter).

[5] Transmittal No. CT 3076, at Attachment 2, page 1.

360 rates are furthest below AT&T's LRIC.[6] If LRIC is excluded and profitability is calculated based only on net settlement costs, AT&T projects that it would lose $36.4 million over three years to such a customer.[7] AT&T asserts that these estimated losses would be caused by several provisions in Contract Tariff 360:[8] (a) unlimited credit for calling in the twelfth month of the thirty-six month term plan; (b) unlimited below cost calling;[9] (c) omission of Schedule II Rates for Mexico;[10] and (d) term and volume discounts.[11] The revisions proposed in Transmittal No. CT 3076 would modify these current provisions to eliminate AT&T's expected revenue shortfall.

5. ICC, MCI Telecommunications Corp. (MCI) and Tel-Save, Inc. (Tel-Save) filed petitions against Transmittal No. CT 3076 on February 13, 1995. ICC, the original Contract Tariff 360 customer, terminated its service with AT&T and withdrew its petition on April 25, 1995 as part of a settlement between AT&T and ICC. The petitions of MCI[12] and Tel-Save are still pending.

---

[6] *Id.* at 2.

[7] *Id.* at Attachment 2, pages 1 and 2.

[8] *Id.* at 7.

[9] *Id.* at 7. The contract tariff does not limit the volume of traffic to the countries that are below cost or insure that any calling is directed to countries that are above cost.

[10] Schedule I normally sets the rates for calling from the point of origin within the United States to the Mexican border. Schedule II sets the rates for the call from the Mexican border to the destination point within Mexico. The total cost of a call from the United States to Mexico is normally computed by calculating the two rates separately and adding them together. The January 1994 changes to this tariff eliminated the Schedule II (within Mexico) rates, while more than tripling the Schedule I (within United States) rates for the Standard period. AT&T states that the revised rates to Mexico are below cost.

[11] *Id.* at 7. AT&T states that this tariff erroneously applied term and volume discounts to rates that were developed on the assumption that such discounts would not apply.

[12] MCI has submitted the following documents in this proceeding: Petition (February 13, 1995); Letter from Donald J. Elardo, Director, Regulatory Law, to David Nall, Deputy Division Chief, Tariff Division, Common Carrier Bureau, Federal Communications Commission (May 16, 1995) (MCI's May 16 Letter); Letter from Donald J. Elardo to David Nall (May 26, 1995) (MCI May 26 Letter); Letter from Donald J. Elardo to David Nall (May 30, 1995) (MCI May 30 Letter).

6. Tel-Save argues that AT&T has failed to make a substantial cause showing because it has not shown any change in circumstances since it entered into the contract in August of 1993.[13] Tel-Save further argues that, if AT&T is allowed to make low bids and then alter material provisions in the middle of a contract tariff term, there will be no true price competition.

7. MCI alleges that AT&T's substantial cause showing contains numerous factual flaws,[14] and disputes AT&T's assertions that it will lose money at the current Contract Tariff 360 rates. MCI states that the revisions proposed by AT&T in Transmittal CT 3076 would, at a minimum, more than double the overall average rate currently in effect for these forty-seven countries.[15] MCI's petition does not address directly AT&T's showing concerning the impact of the current unlimited credit for calls carried during the twelfth month.

8. The International Bureau staff analyzed AT&T's substantial cause showing and found that AT&T would have positive revenues of $13.1 million from the Contract Tariff 360 rates.[16] The staff assumptions differed from AT&T's assumptions in several key respects. The staff analysis did not include AT&T's claim for $23 million in long range incremental costs in calculating whether AT&T made a profit under the rates currently offered under Contract Tariff 360.[17] Also, the staff assumes that accounting rates

---

[13] Tel-Save Petition at 10.

[14] MCI states that AT&T uses a "blended rate" for Mexico that combines the settlement rates for the "standard" and "economy" periods and assumes that 80 percent of its traffic will be during the standard period. MCI argues, however, that AT&T estimates its losses by comparing this blended rate with Contract Tariff 360 revenue generated solely during the economy period. Additionally, MCI argues that AT&T's net settlement rate for at least four countries does not reflect recent or pending reductions in accounting rates. Further, MCI asserts that, in at least five countries where growth-based accounting is currently in effect, the net settlement rate appears to be based upon an overall average cost, as opposed to the growth-based accounting rate that would be applied to new traffic. Finally, MCI argues that AT&T's substantial cause showing quotes net settlement rates for thirty-six countries that are greater than the rates reflected in information that AT&T has filed with the Commission on the same question. MCI Petition at 16-18.

[15] MCI Petition, Explanation of Attachment 2 and Attachment 3.

[16] This analysis is based on service to a hypothetical carrier that routed 10 percent of MCI's historic traffic over a three year period to each of the 47 countries that AT&T lists as below cost.

[17] *Id.* at Attachment 2, Chart B, page 1 (filed February 6, 1995).

will decline by five percent per year while AT&T assumed no decrease during the life of this term plan.[18] Finally, the staff analysis assumed that the hypothetical customer would route 10 percent of MCI's historic international traffic to each of the 47 countries identified by AT&T as having prices below its LRIC to those countries.

9. In its response to the staff analysis, AT&T[19] contended that, under the basic assumptions used in the International Bureau staff analysis, it would lose $9 million[20] if the hypothetical customer routed traffic only to the countries furthest below net settlement cost and routed traffic through Contract Tariff 360 only during the times of day that would produce the greatest losses.[21] AT&T also states that, based on the first five weeks of actual billing under Contract Tariff 360, MCI has only routed traffic to Mexico and that AT&T has incurred actual net losses of $122,400.[22] Although AT&T agrees that accounting rates have historically been declining at the rate of 10 percent per year, it argues that its net settlement rates are increasing because outbound international traffic has been growing at a greater rate than inbound traffic.[23] AT&T argues that this alleged growth in the traffic imbalance generates cost increases that more than offset the cost decreases caused by reductions in the average accounting rate. AT&T also estimates that

[18] The International Bureau staff states that accounting rates have actually been declining at a rate of ten percent per year. For example, the rate to Israel will fall by about 20 percent this year, the rate to Zaire will fall by 40 percent and negotiations are underway with TelMex which could result in significant reductions in settlements with Mexico. Memo from Ken Stanley to David Nall (April 4, 1995).

[19] Letter from Shari Loe, Senior Attorney for AT&T, to David Nall, Deputy Division Chief, Tariff Division, Common Carrier Bureau, Federal Communications Commission (May 23, 1995) (AT&T's May 23 Letter).

[20] Response to Second Stanley Memo, Attachment V. AT&T continues to assert that the assumptions in the Stanley memos are not correct and that the loss projections in its original substantial cause showing are correct.

[21] For some countries, the profitability of the rate structures in Contract Tariff 360 varies according to the time of day that the calls are made. For example, AT&T generates a net profit on calls made to Mexico during the Standard period, even when both net settlement and LRIC costs are considered. AT&T, however, incurs a net loss on calls made to Mexico during the Economy period. AT&T's May 23 Letter at First Attachment, page 1.

[22] This figure excludes long-range-incremental-costs (LRIC) other than net settlement expense. If these LRIC costs are included, the loss increases to $168,286. *See* AT&T's May 23 Letter at First Attachment, page 1.

[23] AT&T's April 11 Letter at 4.

it could lose as much as $117 million if MCI routed all of its monthly international traffic over Contract Tariff 360 during the "free month" promotional period contained in that contract tariff.[24]

10. MCI counters AT&T's traffic imbalance arguments by stating that, although AT&T's traffic imbalance increased in 1994, its net settlement rate continued to decline.[25] MCI questions the accuracy of AT&T's publicly reported international traffic statistics upon which AT&T bases its arguments about increasing net settlement costs.[26] MCI also argues that AT&T's inclusion of LRIC represents imbedded overhead related expenses that would be incurred by AT&T regardless of incremental volumes.[27] With regard to the free month, MCI argues that it will not be able to divert large amounts of its traffic to Contract Tariff 360 because it has made large investments to establish its correspondent networks and diversion of traffic to Contract Tariff 360 could have an adverse effect on both correspondent and customer networks.[28]

III. DISCUSSION

A. Applicable Legal Standard

11. The Common Carrier Bureau has reviewed AT&T's Transmittal No. CT 3076, the petitions and related pleadings, the analysis supplied by International Bureau staff, and all of the correspondence submitted in the record of this proceeding. We first must specify the legal standard applicable to the circumstances posed by Transmittal No. CT 3076. The *Sierra-Mobile*[29] doctrine, advocated by MCI, is inapplicable in this

---

[24] AT&T's May 23 Letter at 2.

[25] MCI's May 26 Letter at 5 and MCI's May 30 Letter at 1.

[26] MCI's May 26 Letter at 5-6.

[27] MCI's May 26 Letter at 7.

[28] MCI's May 26 Letter at 2-3.

[29] United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332, 337-345 (1956); FPC v. Sierra Pacific Power Co., 350 U.S. 348, 353-355 (1956). The Commission subsequently stated that this "doctrine holds that, where a regulatory statute 'expressly recognizes that rates to particular customers may be set by individual contracts,' a regulatory agency may modify the terms of the contract only where, after investigation, it determines that the terms of the contract would 'adversely affect the public interest.'" ACC Long Distance Corp. v. Yankee Microwave, Inc., 10 FCC Rcd 654 at ¶15. (footnotes omitted); *appeal pending sub nom.* ACC Long Distance Corp v. FCC, Docket No. 93-1696 (D.C. Cir.)

instance. That doctrine establishes the legal standard under which a carrier unilaterally may modify a contract that the carrier entered into with a single customer by subsequently filing an inconsistent tariff. Although the Commission has applied the *Sierra-Mobile* doctrine in cases involving telecommunications common carriers,[30] the present case is distinguishable from those cases because this offering was made generally available to all similarly situated customers during several 90-day windows of availability. Unlike *Sierra-Mobile*, the contract tariff in the present case is not a private agreement, made available to a single customer. Rather, Contract Tariff 360 was a generally available tariff filed with the Commission. The fact that the initial and subsequent customers, ICC and MCI, were both carriers is not relevant in these circumstances. The key facts are that the terms and conditions contained in Contract Tariff 360 were made generally available to all similarly situated customers and that MCI ordered service during a subsequent window of availability.

12. The appropriate standard for review of Transmittal No. CT 3076 is "substantial cause." The Commission previously explained this standard in the *RCA Americom* decisions,[31] noting that the Communications Act permits carriers to initiate changes to their tariffs which become effective unless the Commission determines, either on its initial review or after hearing, that the new provisions are unjust, unreasonable, or otherwise unlawful. The "substantial cause" test ascertains reasonableness where a carrier provides service under a comprehensive, contract-like tariff scheme, and later seeks to modify material provisions during the term specified in the tariff. The Commission's statutory responsibilities dictate that it take into account the position of the relying customer in evaluating the reasonableness of the change. Finally, the Commission has stated that, in balancing the carrier's right to adjust its tariff in accordance with it business needs and objectives against the legitimate expectations of customers for stability in term arrangements, the reasonableness of the proposal to revise material provisions in the middle of a term must hinge to a great extent on the carrier's explanation of factors necessitating the desired changes at that particular time.[32] We believe that a review of the precedents establishing this standard is important to understanding our decisionmaking in the instant case.

---

[30] Bell Telephone Company of Pennsylvania v. FCC, 503 F. 2d 1250 (3d Cir. 1974), *cert. denied*, 422 U.S. 1026 (1975), *rehearing denied*, 423 U.S. 886 (1975).

[31] RCA American Communications, Inc., 86 FCC 2d 1197 (1981) (*1981 Order*); Memorandum Opinion and Order, 94 FCC 2d 1338 (1983) (Response to Remand Order); Memorandum Opinion and Order, Mimeo No. 6153 (Com.Car.Bur. Released August 6, 1985) (*Investigation Order*); Memorandum Opinion and Order, 2 FCC Rcd 2363 (1987) (*Final Order*).

[32] *1981 Order*, 86 FCC 2d at 1203.

13. In the *RCA Americom* decisions, the carrier had filed a ten-year schedule of tariffed rates designed to permit the entry of customers into the satellite services market at a reasonable price. Less than two years into the term, Americom filed a new tariff with the Commission, increasing rates by about 15 percent and altering some of the structural conditions of the service. The Commission initially rejected the proposed changes on the ground that it had measured the proposed changes against a "substantial cause" standard and found that Americom had not satisfied that standard. On appeal, the court of appeals remanded so that the Commission could clarify whether it had employed "substantial cause" only as an aid in ascertaining whether newly filed modifications to Americom's long-term service tariffs were within the zone of reasonableness.[33] The court further cautioned that the "substantial cause" test should be contained within the framework of the statutory "just and reasonable" charges standard in Section 201(b) of the Communications Act, 47 U.S.C. § 201(b), and should not amount to an additional hurdle the carrier had to clear.

14. When Americom refiled increased rates, the Commission designated them for investigation. The Commission stated that the reasonableness of a carrier's proposal to revise material tariff terms in the middle of a tariff term depends greatly on the carrier's explanation of factors demonstrating substantial cause for the desired changes at the time the proposed revisions were filed. In discussing the substantial cause test, the Commission stated that the reasonableness determination under Section 201(b) of the Communications Act need not be confined to consideration of the carrier's cost of providing service and that the Commission could take into account "the position of the relying customer in evaluating the reasonableness of the change."[34] In that case, the Commission approved the increased rates because events "clearly unforeseeable" in 1978 provided the requisite cause for the higher rates: the rate of inflation had been much higher than expected, Americom had lost a satellite and Americom's cost of launching additional satellites had soared because the space shuttle had been delayed. Additionally, all of these factors had increased the perception of risk in the satellite business and raised Americom's cost of capital.[35]

15. The court affirmed the Commission's findings on substantial cause in *Showtime Networks, Inc. et. al. v. FCC.*[36] The Court stated that its decision was heavily

---

[33] RCA American Communications, Inc. v. F.C.C., Case Nos. 811558 and 81-1597. (unpublished Judgement and Memorandum issued on July 21, 1982) (*Memorandum*).

[34] *1981 Order*, 86 FCC 2d at 1201; *see also Final Order*, 2 FCC Rcd at 2373 (customer need not prove detrimental reliance).

[35] *Id.* at para. 31.

[36] 932 F.2d 1 (D.C. Cir. 1991).

influenced by the facts that Americom had not reached its targeted rate of return during the period in question and that the value of the service far exceeded Americom's tariffed rates, even with the increases. The court also noted the fact that Americom had eliminated the subscriber's liability for early termination of service.[37]

16. The Commission also applied the "substantial cause" standard in *AT&T Communications, Revisions to Tariff F.C.C. No. 2, Transmittal Nos. 2404 and 2535*, 5 FCC Rcd 6777 (Com.Car.Bur. 1990). In that case, AT&T had proposed to modify its tariffs for 800 service term plans so that customers would only be excused from liability for early termination of a term plan if the same customer initiated both the existing term plan and the term plan to which it was moving its 800 service traffic. This would prevent a reseller from transferring its traffic to another reseller that also had a term plan unless the original reseller paid a termination penalty. The Bureau rejected AT&T's proposed changes to these transmittals on the grounds that AT&T had not justified the changes under the "substantial cause" standard. AT&T's argument was based on two claims. First, AT&T argued that it would be injured if it lost the "minimum revenue commitments" from customers that were able to terminate their term plans without liability and "roll over" their traffic into another customer's term plan. The Bureau criticized AT&T for not explaining why this was a problem when aggregators moved traffic, but did not cause a similar problem when single customers moved traffic. Second, AT&T claimed that it would lose revenue if the transmittal did not take effect. The Bureau rejected this argument, noting that AT&T had claimed that its revenues would be reduced, not that it would fail to recover its costs or that net revenues would be negative. The Bureau further stated that AT&T had failed to explain how it would lose revenues when customers continued to take AT&T service. The Bureau stated that the mere fact that AT&T would make less money when customers took advantage of the lower tariffed rate in the plan to which they convert did not constitute an injury to AT&T that outweighed the existing customer's expectation of stability and that AT&T had failed to justify the disparate treatment of single customer consolidations.

17. Finally, in the *Interexchange Reconsideration Order*[38] the Commission stated that it would "consider on a case-by-case basis in light of all relevant circumstances whether a substantial cause showing has been made" that would permit a carrier to alter unilaterally the material terms of a contract-based tariff.[39] While the Commission found

[37] *Id.* at 5.

[38] Competition in the Interstate Interexchange Marketplace, Memorandum Opinion and Order on Reconsideration, 10 FCC Rcd 4562 at ¶¶ 24 and 25 (February 17, 1995) (*Interexchange Reconsideration Order*).

[39] *Id.*

that "commercial contract law principles are highly relevant to an assessment of whether a contract-based tariff revision is just and reasonable under the substantial cause test," the Commission decided that it was not prepared to hold "that these principles provide definitive parameters for a substantial cause showing."[40] The Commission noted that "(a)pplication of the substantial cause test depends upon the equities of the particular situation."[41]

18. Much of the discussion in the *Interexchange Reconsideration Order* regarding the application of the "substantial cause" standard to modifications in AT&T's contract tariffs was directed to situations "where the original tariff terms were the product of negotiation and mutual agreement."[42] In the case before us, the original terms of Contract Tariff 360 were negotiated with ICC, which has since settled with AT&T on the issue of the proposed revisions in Transmittal CT 3076. The reference to commercial contract law principles in the *Interexchange Reconsideration Order* thus appear to have little relevance to the situation posed here, where AT&T has proposed revisions to a contract tariff service over the objections of a customer which acquired service under that tariff on a generally available basis and with which AT&T did not negotiate. Instead, as a matter of tariff review, we must consider the balance of equities posed by this particular situation.

B. Suspension of Tariff Provisions

19. As discussed below, we conclude that AT&T has not shown that the proposed changes to the term and volume discounts, increases in rates to 27 countries and new limits on total usage and usage to particular countries are just and reasonable. We further conclude that these provisions and the proposed revisions to the credit for traffic carried during the twelfth month should be suspended for five months while we complete our investigation. Because AT&T has proposed substantial modifications to the rates and terms of Contract Tariff 360 over the persistent objections of MCI, its customer for this long-term, contract-like tariffed service, we must decide this case based on whether AT&T has shown "substantial cause" for modifying Contract Tariff 360 without the consent of its customer.

20. AT&T's substantial cause showing with respect to the proposed rate increases, usage limits, and elimination of volume and term discounts rests on two primary factual arguments. First, AT&T estimates that it will lose millions of dollars over the term

---

[40] *Id.* at ¶ 25.

[41] *Id.* at n.49, *citing 1981 Order*, 86 FCC 2d at 1201-02.

[42] *Id.* at ¶ 25.

of Contract Tariff 360 if it is forced to provide service to MCI at the existing rates. Those losses are projected, however, not actual, and the existence or extent of the losses is heavily dependant on the assumptions underlying the projections. The correctness and accuracy of AT&T's assumptions have been repeatedly challenged. We find that AT&T has not established that its projected losses are sufficiently large or certain to constitute "substantial cause." In addition, AT&T recently submitted the results from the initial few weeks of providing service to MCI under Contract Tariff 360. The latter data indicate that all of MCI's traffic in its first billing cycle involved service between the United States and Mexico and that AT&T's losses exceeded $100,000.

21. We have serious questions as to whether AT&T's showing with respect to the proposed revisions to the rates, volume and term discount provisions, and usage limits in Contract Tariff 360, by itself, is sufficient for us even to designate for investigation whether the changes are just and reasonable. Since the evidence of economic loss to date is relatively scanty and the estimates of significant economic harm in the future are based on assumptions that may or may not prove to be correct, we reasonably could conclude that these revisions should be rejected without prejudice to AT&T's right to refile these or other changes to Contract Tariff 360 when it can substantiate its claim of economic harm with additional data establishing actual or clearly foreseeable net revenue losses. In the circumstances of the current transmittal, however, we think the wiser course is to suspend these provisions and set them for investigation together with our investigation of AT&T's proposal to modify the "free month" provision. Because, as we discuss below, we believe that the appropriate course is to investigate issues arising from the "free month" provision to determine whether AT&T should be permitted to modify Contract Tariff 360 in light of the potential losses that it may incur as a result of MCI's usage, we believe it will be more efficient to examine additional information that AT&T may be able to develop regarding the effect of the other provisions that are the subject of this transmittal, rather than commencing a separate investigation if and when AT&T refiles these provisions in the future.

22. In our view, AT&T's unrefuted showing with respect to the potential impact of the "free month" provision indicates that it will incur losses on all of the traffic carried during that month pursuant to Contract Tariff 360. MCI's claim that its investment in and commitments to correspondent relationships will limit its use of this tariff during the "free month" fall short of showing that AT&T's losses will not be substantial. Similarly, AT&T has not shown that the foreseeable revenue losses arising from the "free month" promotion are so great that they constitute substantial cause for the specific modification, a revenue cap of $205,000, that it has proposed over MCI's objections. Accordingly, we conclude that this provision should be suspended for five months while we investigate whether the specific limits AT&T has proposed to apply to the "free month" promotion are just and reasonable. We will designate all issues for this investigation in a subsequent order.

IV. PROCEDURAL MATTERS

A. Ex Parte Requirements

23. *Ex parte* contacts (*i.e.*, written or oral communications which address the procedural or substantive merits of the proceeding which are directed to any member, officer, or employee of the Commission who may reasonably be expected to be involved in the decisional process in this proceeding) are permitted in this proceeding during the time periods established by the Commission's rules. Written *ex parte* contacts must be filed on the day submitted with the Secretary and Commission employees receiving each presentation. For other requirements, *see generally* Section 1.1200 *et seq*. of the Commission's Rules, 47 C.F.R. § 1.1200 *et seq.*

B. Paperwork Reduction Act

24. The investigation established in this Order has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection, or recordkeeping, labeling, disclosure or other record retention requirements as contemplated under the statute. *See* 44 U.S.C. § 3502(4)(A).

V. ORDERING CLAUSES

25. ACCORDINGLY, IT IS ORDERED that AT&T Communications Contract Tariff No. 360, Transmittal No. CT 3076, IS SUSPENDED for five months from the currently scheduled effective date.

26. IT IS FURTHER ORDERED that, pursuant to Sections 4(i), 204(a), 205(a), and 403 of the Communications Act, 47 U.S.C. §§ 4(i), 204(a), 205(a), and 403, an investigation IS INSTITUTED into the lawfulness of AT&T Contract Tariff Transmittal No. CT 3076 suspended in paragraph 25 of this Order.

27. IT IS FURTHER ORDERED that AT&T SHALL FILE revisions reflecting this suspension no later than five business days from the date of this order. AT&T shall cite the "DA" number of this order as authority for this filing.

28. IT IS FURTHER ORDERED that the petitions to reject or suspend and investigate Transmittal No. CT 3076, filed by MCI Telecommunications Corp. and Tel-Save, Inc., ARE GRANTED to the extent discussed above and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen M.H. Wallman
Chief, Common Carrier Bureau