

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

In the Matter of)	
)	
July 3, 2012)	WCB/Pricing File No. 12-07
Annual Access Charge Tariff Filings)	
)	

ORDER

Adopted: March 28, 2012

Released: March 28, 2012

By the Acting Chief, Pricing Policy Division:

SHORT FORM Tariff Review Plan:	May 17, 2012
COMMENTS:	May 29, 2012
REPLIES:	June 5, 2012
 15-DAY TARIFF FILINGS	 June 18, 2012
PETITIONS:	June 25, 2012
REPLIES:	June 28, 2012
 7-DAY TARIFF FILINGS:	 June 26, 2012
PETITIONS:	June 28, 2012
REPLIES:	June 29, 2012

I. INTRODUCTION

1. This order establishes procedures for the 2012 filing of annual access charge tariffs and Tariff Review Plans (TRPs) for incumbent local exchange carriers (ILECs) subject to price caps, as well as rate-of-return ILECs subject to Section 61.38 of the Commission's rules¹ and those ILECs subject Section 61.39 of the Commission's Rules that elect to file an Access Recovery Charge (ARC) as part of the ICC order recovery mechanism and/or revise their rates.²

2. This order (1) sets an effective date of July 3, 2012³ for the July 2012 annual access charge tariff filings; (2) establishes the dates for filing petitions to suspend or reject an ILEC tariff filing and replies to such petitions; and (3) addresses service of the petitions and replies. In the *USF/ICC*

¹ 47 C.F.R. § 61.38 (rate-of-return carriers that file tariffs based on projected costs and demand).

² 47 C.F.R. §§ 51.915(e) and 61.39 (rate-of-return carriers that file tariffs based on historical costs and demand).

³ To establish a filing date of July 3, 2012, we therefore grant a limited waiver of 47 C.F.R. §§ 69.3(a), 51.705, 51.907, and 51.909 of our rules to the extent that those rules would otherwise require rates to be effective as of July 1, 2012. Absent a waiver, carriers would be required to have their annual access charges be effective on July 1, 2012, and doing so would require tariffs including those charges to be filed on June 16, which falls on a Saturday. Accordingly, under this limited waiver, carriers are required to file their annual access charge tariff filings on Monday, June 18, 2012, to become effective on July 3, 2012.

*Transformation Order*⁴ the Commission adopted new rules requiring ILECs to adjust, over a period of years, their switched access charges effective on July 1 of each of those years. We clarify that the limited waiver granted herein relating to the timing of the 2012 annual access tariff filings applies to the Access Recovery Charge (ARC) rate, which is to be included in carriers annual access tariff.⁵ This order also establishes May 17, 2012 as the date that price cap ILECs must file the short form Tariff Review Plan (TRP).⁶ All correspondence and comments in connection with these filings should refer to the caption of this proceeding, *July 3, 2012 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 12-07.

II. DISCUSSION

A. Tariff Effective Date and Tariff Filing Dates

3. ILECS are permitted to make their tariff filings on either 15 or 7 days prior to the effective date of their tariffs, depending on the type of changes the tariffs propose.⁷ The Commission's rules require that annual access charge tariff filings must be filed with a scheduled effective date of July 1.⁸ Absent a waiver, for ILECs to file their tariff revisions pursuant to Section 204(a)(3) of the Act they would have to file their tariffs on the weekend, which are not available days for tariffs to be filed.⁹ As a result, ILECs filing tariffs on 15 days' notice must make their annual access charge tariff filings on June 18, 2012 and ILECs filing tariffs on 7 days' notice must make their annual access charge tariff filings on June 26, 2012 with an effective date of July 3, 2012.

4. ILECs that file tariffs under the price cap ratemaking methodology are required to file revised annual access charge tariffs every year.¹⁰ ILECs that file tariffs under rate-of-return ratemaking methodology are required to file every other year. ILECs filing pursuant to the requirements of section 61.38 of the Commission's rules are required to file annual access charge tariffs this year, an even-numbered year.¹¹ Rate-of-return ILECs subject to section 61.39 of the Commission's rules¹² would not, absent requirements adopted in the *USF/ICC Transformation Order*,¹³ be required to file annual access

⁴ See *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 (*USF/ICC Transformation Order*), *pets. for review pending*, *Direct Commc'ns Cedar Valley, LLC v FCC*, No. 11-9581 (10th Cir. Filed Dec. 18, 2011)(and consolidated cases).

⁵ See *supra* note 3.

⁶ The price cap ILECs that must file a short form TRP on May 17, 2011, are the ACS Companies; the Ameritech Operating Companies; BellSouth Telecommunications, Inc.; CenturyTel Operating Companies; Cincinnati Bell Telephone; Consolidated Communications; Embarq Local Telephone Companies; Frontier Telephone Companies; Hawaiian Telecom, Inc.; Illinois Consolidated Telephone Company; Micronesian Telecommunications, Corp.; Nevada Bell Telephone Company; Pacific Bell Telephone Company; Puerto Rico Telephone Company; Qwest Corporation; Southern New England Telephone; Southwestern Bell Telephone; The Fairpoint Telephone Companies; The Verizon Telephone Companies; Virgin Islands Telephone Company and Windstream Telephone System.

⁷ 47 U.S.C. § 204(a)(3).

⁸ See 47 C.F.R. §§ 69.3(a) 51.705, 51.907, 51.909. See also *supra* note 3.

⁹ To be effective on July 1, carriers would have to file their annual access charge tariff filings on either Saturday, June 16, 2012 or Sunday, June 24, 2012. Although the Commission's Electronic Tariff Filing System accepts filings over the weekend, because the Commission is officially closed, tariffs submitted after 7:00 p.m. Eastern Time on Friday are officially filed on Monday.

¹⁰ 47 C.F.R. § 61.43.

¹¹ 47 C.F.R. §§ 61.38, 69.3(f)(1).

¹² 47 C.F.R. § 61.39.

¹³ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17981-83, paras. 897-899.

charge tariffs this year, since they file revisions in odd-numbered years.¹⁴ Pursuant to the *USF/ICC Transformation Order*, however, if a rate-of-return ILEC subject to section 61.39 of the Commission's rules chooses to include an ARC in its tariff, that ILEC must file a TRP with the requisite supporting material to justify the ARC rate.¹⁵

B. Tariff Review Plan Filing Dates

5. Price cap ILECs are required to submit both a short form TRP and a long-form TRP. Section 61.49(k) of the Commission's rules requires price cap ILECs to file a short form TRP without rate detail information 90 days prior to the usual effective date of July 1.¹⁶ In previous years, we have waived section 61.49(k) and allowed price cap ILECs to file the short form TRP on May 1st of the particular year.¹⁷ In both 2010 and 2011, the United States Telecom Association (USTelecom) filed a petition requesting that the Bureau issue a further extension of the deadline and permit price cap ILECs to file the short form TRP on May 17, to allow for additional time to review the exogenous cost data.¹⁸ The Bureau granted the petition both years, and waived Section 61.49(k) of the rules.¹⁹ On January 24, 2012, USTelecom filed a request for a similar extension for 2012, arguing they need additional time to prepare their exogenous cost data.²⁰ In addition USTelecom seeks a waiver of the requirements that all price cap local exchange carriers (1) submit their PCI-1, IND-1²¹ and (2) for those price cap carriers that have not reached their Average Traffic Sensitive (ATS) rate target, to submit their TGT-1 and TGT-2²² spreadsheets as part of the Short Form TRP.²³ By Public Notice issued January 27, 2012, we sought comment on the USTelecom Petition.²⁴ No comments were filed. Accordingly, for the 2012 filing, we waive the 90-day requirement and permit the short form TRP to be filed on May 17, 2012.²⁵ As in the

¹⁴ 47 C.F.R. § 69.3(f)(2).

¹⁵ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17987-94, paras. 906-916; 47 C.F.R. § 51.917(e).

¹⁶ 47 C.F.R. § 61.49(k).

¹⁷ See, e.g., *July 1, 2009 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 09-02, Order, 24 FCC Rcd 3664 (Wireline Comp. Bur., 2009).

¹⁸ See, e.g., *Petition of the United States Telecom Association for Waiver of Rule 61.49(k)'s Non-exogenous Cost Data Requirements for the Short Form Tariff Review Plan and for Waiver of Rule 61.49(k)'s Deadline for Filing the Exogenous Cost Data Requirements of the Short Form Tariff Review Plan*, WC Docket No. 10-46 at 1 (filed Feb. 4, 2010).

¹⁹ See *July 1, 2010 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 10-03, Order, 25 FCC Rcd 2867, 2868-69, para 4 (Wireline Comp. Bur., 2010); *July 1, 2011 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 11-04, Order, 26 FCC Rcd 4933, 4934-35, para 4 (Wireline Comp. Bur., 2011).

²⁰ See *Petition of the United States Telecom Association for Waiver of Rule 61.49(k)'s Non-exogenous Cost Data Requirements for the Short Form Tariff Review Plan and for Waiver of Rule 61.49(k)'s Deadline for Filing the Exogenous Cost Data Requirements of the Short Form Tariff Review Plan*, WC Docket No. 12-22 (filed January 24, 2012) (USTelecom Petition).

²¹ The PCI-1 spreadsheet displays the calculation of the price cap indices for the price cap baskets. The IND1 spreadsheet displays the price cap indices, actual price indices, service band indices and the upper limits of those service band indices.

²² The TGT spreadsheets show the calculations necessary to arrive at an Average Traffic Sensitive (ATS) rate for filing carriers.

²³ *Id.*

²⁴ *United States Telecom Association Petition for Waiver of Requirements in Section 61.49(k) of the Commission's Rules for the Short Form Tariff Review Plan*, WC Docket No. 12-22, Public Notice, DA 12-100 (Pricing Pol. Div., rel. Jan. 27, 2012).

²⁵ See 47 C.F.R. § 61.49(k).

past, we will issue a separate order that will provide the details of the price cap short form and regular TRP requirements.²⁶ Comments on the short form TRP will be due on May 29, 2012. Reply comments will be due June 5, 2012.

C. Tariff and Tariff Review Plan Filing Instructions

6. ILECs must use the Commission's Electronic Tariff Filing System (ETFS) to file all of their tariff material.²⁷ ILECs should make every effort to file as early in the day as possible to avoid any complications in meeting the May 17, 2012, June 18, 2012 and June 26, 2012, pre-7:00 p.m. Eastern Time deadlines for filing in the ETFS. Price cap ILEC short form TRP filings must be received by ETFS after 7:00 p.m. Eastern Time on May 16, 2012 and before 7:00 p.m. Eastern Time on May 17, 2012 for the filing to be considered officially received on May 17, 2012. ILEC tariff filings must be received by ETFS after 7:00 p.m. Eastern Time on June 15, 2012 and before 7:00 p.m. Eastern Time on June 18, 2012 for the filing to be considered officially received on June 18, 2012. ILEC tariff filings must be received after 7:00 p.m. Eastern Time on June 25, 2011 and before 7:00 p.m. Eastern Time on June 26, 2012 for the filing to be considered officially received on June 26, 2012.

7. Copies of the information filed electronically may be obtained via the Internet using the ETFS at <http://svartifoss2.fcc.gov/prod/ccb/etfs>, or from Best Copy and Printing, Inc., (202) 488-5300, Portals II, at 445 12th Street, SW, Room CY-B402, Washington, DC 20554. For more information contact either Pamela Arluk or Richard Kwiatkowski at (202) 418-1540, Pricing Policy Division, Wireline Competition Bureau.

D. Pleading Filing Dates and Procedures

8. In accordance with the tariff filing schedule, petitions to suspend or reject tariff filings made on 15 days' notice will be due June 25, 2012 and replies will be due on June 28, 2012. Petitions to suspend or reject tariff filings made on seven days' notice will be due on June 28, 2012 and reply comments will be due on June 29, 2012.

9. Parties filing pleadings are encouraged to use ETFS in order to facilitate access to these documents. Comments and reply comments should reference **WCB/Pricing File No. 12-07**. Parties filing paper copies must file an original and four (4) copies of each filing.

10. Paper filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays receiving U.S. Postal Service mail.) Therefore, the Commission advises that electronic media NOT be sent through the U.S. Postal Service.

11. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC.

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m.

²⁶ An order that will detail the material that needs to be filed with the annual access charge tariff filing is forthcoming.

²⁷ 47 C.F.R. § 61.13(b).

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

12. Three (3) paper copies and one e-mail copy of the comments and reply comments must also be sent to Richard Kwiatkowski, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Room 5-A460, Washington, DC 20554, Richard.Kwiatkowski@fcc.gov. A courtesy copy must be addressed to the Acting Chief, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A225, Washington, DC 20554 and e-mailed to Pamela.Arluk@fcc.gov. Parties shall also serve one copy with Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to FCC@BCPIWEB.COM.

E. SERVICE

13. Because there is limited time available for review of the petitions and replies, we establish the following service requirements for these filings. On the date a filing is submitted to the Commission, it shall also be served upon the filing local exchange carrier or the petitioner to which it responds, respectively, or its attorney or other duly constituted agent, by personal delivery, by facsimile transmission, or e-mail.²⁸ Parties are instructed to provide contact persons and facsimile numbers in their filings. Parties filing petitions and replies electronically are reminded they are still required to serve copies in accordance with the requirements stated in this paragraph.

III. ORDERING CLAUSES

14. Accordingly, IT IS ORDERED that, pursuant to sections 1, 4 (i) and (j), 201-209, of the Communications Act, as amended, 47 U.S.C. §§ 151, 154(i), (j), 201-209, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, this order IS HEREBY ADOPTED as described above.

15. IT IS FURTHER ORDERED that, pursuant to section 1.3 of the Commissions rules, 47 C.F.R. § 1.3, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, sections 69.3(a), 51.907(b), and 51.909(b) of the Commission's rules, 47 C.F.R. §§ 69.3(a), , 51.907(b), 51.909(b), ARE WAIVED for the limited purpose specified in paragraph 2 *supra*.

16. IT IS FURTHER ORDERED that, pursuant to section 1.3 of the Commissions rules, 47 C.F.R. § 1.3, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, section 61.49(k) of the Commission's rules, 47 C.F.R. § 61.49(k), IS WAIVED for the limited purpose specified in paragraph 5 *supra*.

17. IT IS FURTHER ORDERED that, pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47

²⁸ 47 C.F.R. §§ 1.773(a)(4), (b)(3). We waive any inconsistent portions of section 1.47(d) of the Commission's rules. 47 C.F.R. § 1.47(d).

C.F.R. §§ 0.91, 0.291, sections 1.4(f) and 1.773(b) of the Commission's rules, 47 C.F.R. §§ 1.4(f), 1.773(b), ARE WAIVED for the limited purpose specified in paragraph 8 *supra*.

18. IT IS FURTHER ORDERED that, pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, section 1.47(d) of the Commission's rules, 47 C.F.R. § 1.47(d), IS WAIVED for the limited purpose specified in paragraph 13, note 28 *supra*.

FEDERAL COMMUNICATIONS COMMISSION

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