

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

In the Matter of)
)
 July 1, 2016) WC Docket No. 16-71
 Annual Access Charge Tariff Filings)
)

ORDER

Adopted: March 16, 2016

Released: March 16, 2016

By the Chief, Pricing Policy Division:

SHORT FORM Tariff Review Plan: May 17, 2016
 COMMENTS: May 31, 2016
 REPLY COMMENTS: June 7, 2016

15-DAY TARIFF FILINGS: June 16, 2016
 PETITIONS: June 23, 2016
 REPLIES: June 27, 2016

7-DAY TARIFF FILINGS: June 24, 2016
 PETITIONS: June 28, 2016 (due no later than 12:00 p.m. (noon) Eastern Time)
 REPLIES: June 29, 2016 (due no later than 12:00 p.m. (noon) Eastern Time)

I. INTRODUCTION

1. This Order establishes procedures for the 2016 filing of annual access charge tariffs and Tariff Review Plans (TRPs) for incumbent local exchange carriers (LECs) subject to price cap regulation, as well as rate-of-return incumbent LECs subject to sections 61.38 and 61.39 of the Commission’s rules.¹

2. This Order (1) sets an effective date of July 1, 2016, for the July 2016 annual access charge tariff filings; (2) establishes the dates for filing petitions to suspend or reject an incumbent LEC tariff filing and replies to such petitions; and (3) addresses service of the petitions and replies. This Order also establishes May 17, 2016 as the date that price cap incumbent LECs must file short form TRPs. In the *USF/ICC Transformation Order*² the Commission adopted new rules requiring incumbent LECs to adjust, over a period of years, many of their switched access charges effective on July 1 of each of those years. The TRPs also implement these adjustments. All correspondence and comments in connection with these filings should refer to the caption of this proceeding, *July 1, 2016 Annual Access Charge Tariff Filings*, WC Docket No. 16-71.

¹ 47 C.F.R. §§ 61.38 (rate-of-return carriers that file tariffs based on projected costs and demand), 61.39 (rate-of-return carriers that file tariffs based on historical costs and demand), 61.43 (tariff filings for price cap LECs).

² 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, 18149, para. 1404 (2011) (*USF/ICC Transformation Order*), *pets. for review denied sub nom.* In re: *FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

II. DISCUSSION

A. Tariff Effective Date and Tariff Filing Dates

3. Incumbent LECs are permitted to make their tariff filings either 15 or 7 days prior to the effective date of their tariffs, depending on the type of changes the tariffs propose.³ The Commission's rules require that annual access charge tariff filings be filed with a scheduled effective date of July 1.⁴ Incumbent LECs filing tariffs on 15 days' notice must make their annual tariff filings on June 16, 2016, and incumbent LECs filing tariffs on 7 days' notice must make their annual tariff filings on June 24, 2016.

4. Incumbent LECs that file tariffs under the price cap ratemaking methodology are required to file revised annual access charge tariffs every year.⁵ Incumbent LECs that file tariffs under a rate-of-return ratemaking methodology are required to file every other year. Incumbent LECs 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.⁶ Rate-of-return incumbent LECs subject to section 61.39 of the Commission's rules⁷ would not, absent requirements adopted in the *USF/ICC Transformation Order*,⁸ be required to file annual access charge tariffs this year, since they file revisions in odd-numbered years.⁹ Pursuant to the *USF/ICC Transformation Order*, however, rate-of-return incumbent LECs subject to section 61.39 of the Commission's rules must file a TRP this year to comply with the requirements of sections 51.909(f), 51.917(d)(iv), and 51.917(e) of the Commission's rules.¹⁰

B. Tariff Review Plan Filing Dates

5. Price cap incumbent LECs 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 incumbent LECs to file a short form TRP without rate detail information 90 days prior to the usual effective date of July 1.¹¹ For several years prior to 2014, we waived section 61.49(k) and allowed price cap incumbent LECs to file the short form TRP on May 1st of the particular year.¹² In 2014, we found that sufficient grounds existed to grant the United States Telecom Association's (USTelecom) request for waiver of section 61.49(k) to permit the short form TRP to be filed approximately 45 days prior to the annual access charge tariff effective date.¹³

³ 47 U.S.C. § 204(a)(3).

⁴ See 47 C.F.R. §§ 51.705, 51.907, 51.909, 69.3(a).

⁵ 47 C.F.R. § 61.43.

⁶ 47 C.F.R. § 61.38; 47 C.F.R. § 69.3(f)(1).

⁷ 47 C.F.R. § 61.39.

⁸ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17981-83, paras. 897-99.

⁹ 47 C.F.R. § 69.3(f)(1).

¹⁰ 47 C.F.R. §§ 51.909(f), 51.917(d)(iv), (e).

¹¹ 47 C.F.R. § 61.49(k).

¹² 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).

¹³ See *July 1, 2014 Annual Access Charge Tariff Filings*, WC Docket No. 14-48, Order, 29 FCC Rcd 3133, 3134-35, paras. 5-6 (Wireline Comp. Bur. 2014) (*2014 Procedures Order*). For several years prior to granting the 2014 *sua sponte* waiver, we granted section 61.49(k) waiver requests sought by USTelecom to permit price cap LECs to file the short form TRP in mid-May to allow more time for the preparation of exogenous cost data. 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. 10-46, at 1 (filed Feb. 4, 2010). See also *July 1, 2010 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 10-03, Order, 25 FCC Rcd 2867, 2868-69,

(continued....)

We further concluded, *sua sponte*, that until the Commission determines otherwise, we would waive the section 61.49(k) 90-days prior filing requirement and permit the short term TRP to be filed approximately 45 days prior to the annual access charge tariff effective date.¹⁴ We also noted that we would specify the exact due date of the short term TRP in our order each year that establishes the dates for the annual access charge tariff filing.¹⁵ The *sua sponte* waiver granted in 2014 was based on several factors,¹⁶ and included both a waiver of the requirement that all price cap incumbent LECs submit their PCI-1 and IND-1 forms as part of the short form TRPs, and clarification that all price cap incumbent LECs would continue to file the EXG-1¹⁷ spreadsheet and their exogenous work papers as part of their short form TRPs.¹⁸

6. In accordance with the *sua sponte* waiver granted in the *2014 Procedures Order*, the short form TRPs are to be filed this year on May 17, 2016, which is 45 days prior to the annual access charge tariff effective date. Further, consistent with the *2014 Procedures Order sua sponte* waiver, price cap incumbent LECs are not required to file the section 61.49(k) PCI-1 and IND-1 spreadsheets as part of the short form TRPs. We continue to require all price cap incumbent LECs, this year and in the future, to file the EXG-1 spreadsheet and their exogenous work papers as part of their short form TRPs. Comments on the short form TRPs this year will be due on May 31, 2016. Reply comments will be due June 7, 2016.

C. Tariff and Tariff Review Plan Filing Instructions

7. Incumbent LECs must use the Commission's Electronic Tariff Filing System (ETFS) to file all of their tariff material.¹⁹ Incumbent LECs should make every effort to file as early in the day as possible to avoid any complications in meeting the May 17, 2016, June 16, 2016 and June 24, 2016, pre-7:00 p.m. Eastern Time deadlines for filing in the ETFS. Price cap incumbent LEC short form TRP filings must be received by ETFS after 7:00 p.m. Eastern Time on May 16, 2016 and before 7:00 p.m. Eastern Time on May 17, 2016 for the filing to be considered officially received on May 17, 2016. Incumbent LEC tariff filings must be received by ETFS after 7:00 p.m. Eastern Time on June 15, 2016 and before 7:00 p.m. Eastern Time on June 16, 2016 for the filing to be considered officially received on

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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); *July 3, 2012 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 12-07, Order, 27 FCC Rcd 2981, 2983, para 5 (Wireline Comp. Bur. 2012); *July 2, 2013 Annual Access Charge Tariff Filings*, WC Docket No. 13-76, Order, 28 FCC Rcd 3265, 3267-68, para. 5 (Wireline Comp. Bur. 2013).

¹⁴ *2014 Procedures Order*, 29 FCC Rcd at 3135-36, para. 6.

¹⁵ *Id.* at n.26 ("If there are regulatory changes in the future that require the Bureau to require more time to evaluate the short form TRP, we reserve the right to revisit this waiver at a later date.").

¹⁶ Among these factors was the Commission's adoption of specific reforms for switched access services in the *USF/ICC Transformation Order*, which rendered the short form TRP no longer applicable to such services and limited the applicability of the short form TRP to common line and special access services. *See 2014 Procedures Order*, 29 FCC Rcd at 3135-36, para. 6; *see generally USF/ICC Transformation Order*. In addition, we noted that, at that juncture, there were four years of history with Commission staff and the public having received access to incumbent LEC short form TRPs approximately 45 days prior to the effective date of the annual access charge tariff filing and without the benefit of carriers' PCI-1 and IND-1 forms, and no concerns were raised with this arrangement. *2014 Procedures Order*, 29 FCC Rcd at 3135-36, para. 6. We further found that the resulting review period, combined with the quality and quantity of the information received, was sufficient for both Commission and public review. *Id.* Finally, we noted that the absence of any comments opposing USTelecom's requests for waiver of the section 61.49(k) deadline in 2014 or several preceding years supported our conclusion regarding the adequacy of the supporting information. *Id.*

¹⁷ The EXG1 spreadsheet displays various exogenous cost changes to the Price Cap Index.

¹⁸ *See 2014 Procedures Order*, 29 FCC Rcd at 3135-36, para. 6.

¹⁹ 47 C.F.R. § 61.13(b).

June 16, 2016. Incumbent LEC tariff filings must be received after 7:00 p.m. Eastern Time on June 23, 2016 and before 7:00 p.m. Eastern Time on June 24, 2016 for the filing to be considered officially received on June 24, 2016.

8. Copies of the information filed electronically may be obtained via the Internet using ETFS at <https://apps.fcc.gov/etfs/etfsHome.action>. For more information, contact either Robin Cohn or Richard Kwiatkowski, Pricing Policy Division, Wireline Competition Bureau, at (202) 418-1520.

D. Pleading Filing Dates and Procedures

9. In accordance with the tariff filing schedule, petitions to suspend or reject tariff filings made on 15 days' notice will be due June 23, 2016, and replies will be due no later than June 27, 2016. Petitions to suspend or reject tariff filings made on seven days' notice will be due no later than 12:00 p.m. (noon) Eastern Time on June 28, 2016, and replies will be due no later than 12 p.m. (noon) Eastern Time on June 29, 2016.²⁰

10. Pursuant to sections 1.419 and 1.773 of the Commission's rules,²¹ interested parties may file comments and reply comments in response to the short form TRPs, and petitions to suspend or reject tariff filings, and replies thereto, on or before the dates indicated on the first page of this document. Pleadings should reference **WC Docket No. 16-71**, and may be filed by paper copies or by using the Electronic Comment Filing System (ECFS).²²

- Electronic Filers: Pleadings may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All 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. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
 - 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 must 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).

11. A courtesy copy of any comments, reply comments, petitions and replies must also be e-mailed 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. In addition, a courtesy copy must be addressed to the Chief, Pricing

²⁰ We waive any inconsistent portions of sections 1.4(f), 1.773(a), and 1.773(b) of the Commission's rules, 47 C.F.R. §§ 1.4(f), 1.773(a), and 1.773(b).

²¹ 47 C.F.R. §§ 1.419, 1.773.

²² See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A221, Washington, DC 20554 and e-mailed to Robin.Cohn@fcc.gov.

12. The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.²³ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

E. Service

13. Because there is limited time available for review of the petitions to suspend or reject tariff filings, and replies thereto, 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 LEC 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.²⁴ Parties are instructed to provide contact persons, email addresses, 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), 5, and 201-209 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 155, 201-209, and sections 0.91 and 0.291 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, this Order IS ADOPTED.

15. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, section 61.49(k) of the Commission’s rules, 47 C.F.R. § 61.49(k), IS WAIVED to the extent specified in *supra* paragraphs 5-6.

16. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, sections 1.4(f), 1.773(a) and 1.773(b) of the Commission’s rules, 47 C.F.R. §§ 1.4(f), 1.733(a), 1.773(b), ARE WAIVED for the limited purpose specified in *supra* paragraph 9, note 20.

17. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, section 1.47(d) of the Commission’s rules, 47 C.F.R. § 1.47(d), IS WAIVED for the limited purpose specified in *supra* paragraph 13, note 24.

²³ 47 C.F.R. § 1.1200 *et seq.*

²⁴ 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).

18. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Pamela S. Arluk
Chief
Pricing Policy Division
Wireline Competition Bureau