

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

CC Docket No. 86-182

In the Matter of

Automated Reporting Requirements
for Certain Class A and Tier 1
Telephone Companies (Parts 31, 43,
67 and 69 of the FCC's Rules)

ORDER ON FURTHER RECONSIDERATION

Adopted: October 24, 1989; Released: November 21, 1989

By the Commission:

I. INTRODUCTION

1. On December 29, 1988, the United States Telephone Association (USTA) filed a petition for clarification and/or further reconsideration of the filing date for Table I of FCC Form 495A, Forecast of Investment Usage Report (Forecast Report), established in the *ARMIS Order*.¹ The Forecast Report consists of three tables, all of which are currently required to be filed annually at the same time that the cost support materials required by the Tariff Review Plan (TRP) are filed.² The next filing date for the TRP and the Forecast Report is April 1, 1990. USTA requests that Table I of the Forecast Report be filed annually on December 31 rather than on April 1. In the alternative, USTA suggests that all three tables continue to be filed at the same time as the TRP, as long as the "forecast period" applicable thereto consists of the current calendar year, plus the following two years. For the reasons set forth below, we deny USTA's petition for reconsideration but adopt rule changes that clarify when the three-year forecast period begins.

II. BACKGROUND

2. In the *Joint Cost* proceeding,³ we required that carriers allocate investment in network plant (*i.e.*, central office equipment and cable and wire facilities) between regulated and nonregulated activities based on the forecasted relative use of the plant over a three-year period. We also stated that we would monitor the cost allocation process and establish a data base for comparing actual and forecasted usage, and we directed that permanent reporting requirements be developed in this proceeding. In the *ARMIS Order*, we directed the staff to develop automated reports to collect the data needed to implement the *Joint Cost Order*. We specified that two of these reports, the Forecast Report and the Actual Usage Report, should be filed on an annual basis and no later than December 1 of the year prior to that in which the forecasts are to be used.⁴ On reconsideration, we changed the filing date for the Forecast Report from December 1 to the date on

which the TRP is filed (currently, April 1).⁵ We also required that Form 495B, the Actual Usage Report be filed annually on April 1 for the previous calendar year.

3. On May 31, 1988, the Common Carrier Bureau established forms and instructions for the Forecast Report and the Actual Usage Report.⁶ The Forecast Report, Form 495A, contains three tables. Table I reports the forecasted usage of regulated and nonregulated investment for the next three calendar years for each investment cost pool requiring a forward looking allocator. Table II reports the forecast of investment dollars in each investment pool and the allocation of that investment between regulated and nonregulated activities using the allocation ratio reported in Table I. Table III reports the regulated and nonregulated investment allocations for all network plant cost pools. The Actual Usage Report also consists of three tables: the first for actual regulated and nonregulated usage; the second for the actual amounts of investment allocated; and the third linking the total of all cost pool levels to the account level of the Joint Cost Report.⁷

III. USTA'S PETITION

4. USTA requests that the Commission "clarify or reconsider the filing date for Table I of the Forecast Report in light of events since the Commission's *ARMIS Order* was first released."⁸ USTA argues that the current filing date for Table I creates an inconsistency between our requirement that shared investment be forecast over a three-year period and our requirements for access charge filings. USTA bases this assertion on the fact that the TRP (and hence the forecast of investment) is to be filed on April 1, and in that forecast the carriers must forecast usage for the "three consecutive years following the effective date of the current annual access charge filing."⁹ Because the next access tariff filing will be on April 1, 1990, for the period July 1, 1990, through June 30, 1991, USTA argues that carriers must forecast for four years (through 1993) in order to comply with that requirement.

5. To remedy this problem, USTA requests that the filing date for Table I (which contains the forecast for the following three years) be changed to December 31. Tables II and III would continue to be filed concurrently with the TRP. USTA claims that its recommendation would fulfill our joint cost monitoring needs by preserving the calendar year reporting basis, while providing sufficient cost support material for access tariff filings by filing Tables II and III for the next access year. USTA indicates that an acceptable alternative to resolve this problem would be to continue to file all three tables concurrently with the TRP but with the forecast covering the current calendar year plus the following two years. No parties filed oppositions to or comments on USTA's petition.

IV. DISCUSSION

6. We disagree with USTA that the current filing date for any part of the 495A Forecast Report should be changed. However, we agree that the current rules do not establish with sufficient clarity the date on which the three-year forecast commences, and accordingly we will clarify that matter.

7. As we noted in para. 3, *supra*, the three tables of the Forecast Report are designed to draw from each other. For example, the carriers report their projected usage of jointly used plant on Table I and use these projections to

complete Table II. Carriers must also draw on data from Table II to complete Table III. Moreover, the Forecast Report is designed to be compared with the three tables of the Actual Usage Report, which is filed annually on April 1. Therefore, to avoid confusion and the problems inherent with partial and fragmented report filings, both the Forecast Report and the Actual Usage Report must be consistent and must be filed simultaneously.

8. Moreover, as USTA notes in its alternate proposal, it is not necessary to change the filing date for any part of the Forecast Report to accomplish what USTA desires, which is a clarification that the report is to cover only a three-year period. Although we stated in the *ARMIS Reconsideration Order* that the forecast was for the "following calendar year", we agree that the first year of the forecast period should instead be the calendar year during which the forecast is filed, and the balance of the forecast period should be the following two calendar years. Because this definition of the three-year forecast period is not set forth in either Section 43.21(e) or 64.901(b)(4) of our rules, we will amend those sections accordingly. Also, we will change the identification of the filing date from the date upon which the TRP is filed to April 1. This change does not affect the actual filing date for 1990 and beyond, but it will establish the filing date with more certainty and eliminate an unnecessary cross-reference to the tariff filing procedures.

9. These amendments to Sections 43.21(e) and 64.901(b)(4) will also eliminate uncertainty which may exist as to whether the years covered by Forms 495A and 495B are calendar years or years during which access charges are in effect. Although our orders in this proceeding have clearly referred to calendar years, that is not the period now specified in Section 64.901(b)(4) and in certain instructions that the Common Carrier Bureau has issued under delegated authority.¹⁰

V. PAPERWORK REDUCTION ACT

10. The change contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours on the public.

VI. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i) and 405, That the United States Telephone Association's petition for clarification and/or further reconsideration herein IS DENIED, except to the extent set forth above.

12. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 4(j), 201-205, 219 and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) 201-205, 219 and 220 that Parts 43 and 64 of the Commission's Rules ARE REVISED, as set forth in the Appendix below, effective 30 days from publication of the text thereof in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

APPENDIX

Part 43, Chapter 1 of the Code of Federal Regulations, Reports of Communications Common Carriers and Certain Affiliates, is amended as follows:

1. The authority citation for Part 43 continues to read as follows:

AUTHORITY: Sect. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Section 43.21(e) is revised to read as follows:

43.21 Annual Reports of Carriers and Affiliates

* * * *

(e) Each communications common carrier required by order to file a manual allocating its costs between regulated and nonregulated operations shall file, on or before April 1: (i) a three-year forecast of regulated and nonregulated use of network plant for the current calendar year and the two calendar years following, and investment pool projections and allocations for the current calendar year; and, (ii) a report of the actual use of network plant investment for the prior calendar year.

* * * *

Part 64, Chapter 1 of the Code of Federal Regulations, Miscellaneous Rules Relating to Common Carriers, is amended as follows:

1. The authority citation for Part 64 continues to read as follows:

AUTHORITY: Sect. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 48 Stat. 1077; 47 U.S.C. 201, 218, unless otherwise noted.

2. Section 64.901(b)(4) is revised to read as follows:

64.901 Allocation of Costs

* * * *

(b)* * *

(4) The allocation of central office equipment and out-plant investment costs between regulated and nonregulated activities shall be based upon the relative regulated and nonregulated usage of the investment during the calendar year when nonregulated usage is greatest in comparison to regulated usage during the three calendar years beginning with the calendar year during which the investment usage forecast is filed.

* * * *

FOOTNOTES

¹ Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), 2 FCC Rcd 5770 (1987) (*ARMIS Order*), *modified on recon.*, 3 FCC Rcd 6375 (1988) (*ARMIS Reconsideration Order*).

² See Access Tariff Filing Schedules, CC Docket No. 88-326, 3 FCC Rcd 5495 (1988).

³ Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, 2 FCC Rcd 1298 (1987) (*Joint Cost Order*), *recon.*, 2 FCC Rcd 6283 (1987), *further recon.*, 3 FCC Rcd 6701 (1988); *petition for review pending*, Southwestern Bell Corp. v. FCC, D.C. Circuit No. 87-176 (filed December 14, 1987).

⁴ *ARMIS Order*, 2 FCC Rcd at 5776.

⁵ *ARMIS Reconsideration Order*, 3 FCC Rcd at 6379.

⁶ Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), 3 FCC Rcd 3762 (1988).

⁷ Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), 4 FCC Rcd 1040 (1988).

⁸ Petition at 1.

⁹ See 47 CFR Section 64.901(b)(4).

¹⁰ We direct the Bureau to review the instructions that it has issued in this proceeding to conform them to this *Order on Further Reconsideration*.