

(1) To dominant interexchange carriers, as specified by Commission order;

(2) To such local exchange carriers as specified by Commission order, and to all local exchange carriers, other than average schedule companies, that are affiliated with such carriers; and

(3) On an elective basis, to local exchange carriers, other than those specified in paragraph (a)(2) of this section, that are neither participants in any Association tariff, nor affiliated with any such participants, except that affiliation with average schedule companies shall not bar a carrier from electing price cap regulation provided the carrier is otherwise eligible.

(b) If a telephone company, or any one of a group of affiliated telephone companies, files a price cap tariff in one study area, that telephone company and its affiliates, except its average schedule affiliates, must file price cap tariffs in all their study areas.

(c) The following rules apply to telephone companies subject to price cap regulation, as that term is defined in § 61.3(w), which are involved in mergers, acquisitions, or similar transactions.

(1) Any telephone company subject to price cap regulation that is a party to a merger, acquisition, or similar transaction shall continue to be subject to price cap regulation notwithstanding such transaction.

(2) Where a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that is not subject to price cap regulation, the latter telephone company shall become subject to price cap regulation no later than one year following the effective date of such merger, acquisition, or similar transaction and shall accordingly file price cap tariffs to be effective no later than that date in accordance with the applicable provisions of this part 61.

(3) Notwithstanding the provisions of § 61.41(c)(2) above, when a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that qualifies as an 'average schedule' company, the latter company may retain its 'average schedule' status or become sub-

ject to price cap regulation in accordance with § 69.3(i)(3) and the requirements referenced in that section.

(d) Local exchange carriers that become subject to price cap regulation as that term is defined in § 61.3(w) of this chapter shall not be eligible to withdraw from such regulation.

[55 FR 42382, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990, as amended at 56 FR 55239, Oct. 25, 1991]

**§ 61.42 Price cap baskets and service categories.**

(a) Each dominant interexchange carrier subject to price cap regulation shall establish three baskets as follows:

- (1) A residential services basket;
- (2) An 800 service basket; and
- (3) A business services basket.

(b)(1) The residential basket shall contain such services as the Commission shall permit or require, including the following service categories:

- (i) Domestic day MTS;
- (ii) Domestic evening MTS;
- (iii) Domestic night/weekend MTS;
- (iv) International MTS;
- (v) Operator and credit card services; and
- (vi) Reach Out America.

(2) The 800 service basket shall contain 800 Directory Assistance.

(3) The business services basket shall contain analog private lines, including analog voice grade private line, unless provided under contract to a government entity, and terrestrial television transmission service.

(c) Dominant interexchange carriers subject to price cap regulations shall exclude the following offerings from their price cap baskets:

- (1) Special construction services relating to services in § 61.42 (b)(1), (b)(2), and (b)(3);
- (2) All other special construction services;
- (3) American Telephone and Telegraph Company Tariff F.C.C. No. 11 services;
- (4) American Telephone and Telegraph Company Tariff F.C.C. No. 12 services;
- (5) American Telephone and Telegraph Company Tariff F.C.C. No. 16 services;
- (6) Services subject to below-the-line accounting;

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(7) International private line and record carrier services;

(8) Contract-based tariffs;

(9) Services removed from price cap regulation pursuant to the Report and Order in Docket No. 90-132;

(10) [Reserved]

(11) All other promotional offerings;

(12) Custom tariff services;

(13) Readyline 800 service;

(14) AT&T 800 service;

(15) Megacom 800 service;

(16) Other 800 services; and

(17) Commercial services.

(18) Such other services as the Commission may specify.

(d) Each local exchange carrier subject to price cap regulation shall establish baskets of services as follows:

(1) A basket for the common line interstate access elements as described in §§ 69.115, 69.152, 69.154, and 69.157 of this chapter, and that portion of the interstate access element described in § 69.153 of this chapter that recovers common line interstate access revenues;

(2) A basket for traffic sensitive switched interstate access elements;

(3) A basket for trunking services as described in §§ 69.110, 69.111, 69.112, 69.114, 69.125(b), and 69.155 of this chapter, and that portion of the interstate access element described in § 69.153 of this chapter that recovers residual interconnection charge revenues;

(4) To the extent that a local exchange carrier specified in § 61.41(a) (2) or (3) offers interstate interexchange services that are not classified as access services for the purpose of part 69 of this chapter, such exchange carrier shall establish a fourth basket for such services.

(5) To the extent that a local exchange carrier specified in § 61.41(a) (2) or (3) offers interstate video dialtone services, a basket for basic video dialtone services as described in § 63.54 of this chapter.

(6) A basket for the marketing expenses described in § 69.156 of this chapter, including those recovered through End User Common Line charges and Presubscribed Interexchange Carrier charges.

(e)(1) The traffic sensitive switched interstate access basket shall contain such services as the Commission shall

permit or require, including the following service categories:

(i) Local switching as described in § 69.106(f) of this chapter;

(ii) Information, as described in § 69.109 of this chapter;

(iii) Data base access services;

(iv) Billing name and address, as described in § 69.128 of this chapter;

(v) Local switching trunk ports, as described in § 69.106(f)(1) of this chapter; and

(vi) Signalling transfer point port termination, as described in § 69.125(c) of this chapter.

(2) The trunking basket shall contain such transport and special access services as the Commission shall permit or require, including the following service categories and subcategories:

(i) Voice grade entrance facilities, voice grade direct-trunked transport, voice grade dedicated signalling transport, voice grade special access, WATS special access, metallic special access, and telegraph special access services;

(ii) Audio and video services;

(iii) High capacity flat-rated transport, high capacity special access, and DDS services, including the following service subcategories:

(A) DS1 entrance facilities, DS1 direct-trunked transport, DS1 dedicated signalling transport, and DS1 special access services; and

(B) DS3 entrance facilities, DS3 direct-trunked transport, DS3 dedicated signalling transport, and DS3 special access services;

(iv) Wideband data and wideband analog services;

(v) Tandem-switched transport, as described in § 69.111 of this chapter; and

(vi) Interconnection charge, as recovered in §§ 69.153 and 69.155 of this chapter.

(vii) Signalling for tandem switching, as described in § 69.129 of this chapter.

(f) Each local exchange carrier subject to price cap regulation shall exclude from its price cap baskets such services or portions of such services as the Commission has designated or may hereafter designate by order.

(g) New services, other than those within the scope of paragraphs (c) and (f) of this section, must be included in the affected basket at the first annual

price cap tariff filing following completion of the base period in which they are introduced. To the extent that such new services are permitted or required to be included in new or existing service categories within the assigned basket, they shall be so included at the first annual price cap tariff filing following completion of the base period in which they are introduced.

[54 FR 19842, May 8, 1989, as amended at 55 FR 42382, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990; 56 FR 5956, Feb. 14, 1991; 56 FR 55239, Oct. 25, 1991; 57 FR 54718, Nov. 20, 1992; 58 FR 7868, Feb. 10, 1993; 58 FR 29552, May 21, 1993; 58 FR 31914, June 7, 1993; 58 FR 36145, July 6, 1993; 59 FR 10301, Mar. 4, 1994; 59 FR 32930, June 27, 1994; 60 FR 4569, Jan. 24, 1995; 60 FR 13639, Mar. 14, 1995; 60 FR 52346, Oct. 6, 1995; 62 FR 31930, June 11, 1997]

EFFECTIVE DATE NOTE: At 62 FR 31930, June 11, 1997, § 61.42 was amended by revising paragraphs (d)(1), (d)(2), and (d)(3), adding paragraph (d)(6), and revising paragraphs (e)(1) and (e)(2)(vi), effective Jan. 1, 1998. For the convenience of the user, the superseded text is set forth as follows:

**§ 61.42 Price cap baskets and service categories.**

\* \* \* \* \*

(d) \* \* \*

(1) A basket for the common line interstate access elements as described in §§ 69.103, 69.104, 69.105, and 69.115 of this chapter;

(2) A basket for traffic sensitive switched interstate access elements;

(3) A basket for trunkin services as described in §§ 69.110, 69.111, 69.112, 69.114, 69.124, and 69.125 of this chapter;

\* \* \* \* \*

(e)(1) The traffic sensitive switched interstate access basket shall contain such services as the Commission shall require, including the following service categories:

\* \* \* \* \*

(vi) Interconnection charge, as described in § 69.124 of this chapter.

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**§ 61.43 Annual price cap filings required.**

Carriers subject to price cap regulation shall submit annual price cap tariff filings that propose rates for the upcoming year, that make appropriate

adjustments to their PCI, API, and SBI values pursuant to §§ 61.44 through 61.47, and that incorporate the costs and rates of new services into the PCI, API, or SBI calculations pursuant to §§ 61.44(g), 61.45(g), 61.46(b), and 61.47 (b) and (c). Carriers may propose rate or other tariff changes more often than annually, consistent with the requirements of § 61.59.

[54 FR 19842, May 8, 1989, as amended at 55 FR 42383, Oct. 19, 1990]

**§ 61.44 Adjustments to the PCI for Dominant Interexchange Carriers.**

(a) Dominant interexchange carriers subject to price cap regulation shall file adjustments to the PCI for each basket as part of the annual price cap tariff filing, and shall maintain updated PCIs to reflect the effect of mid-year access and exogenous cost changes.

(b) Subject to paragraph (d) of this section, adjustments to each PCI of dominant interexchange carriers subject to price cap regulation shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w(GNP-PI - X) + \Delta Y/R + \Delta Z/R]$$

where

GNP-PI = the percentage change in the GNP-PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year,

X = productivity factor of 3.0%,

$\Delta Y$  = (new access rate - access rate at the time the PCI was updated to  $PCI_{t-1}$ ) × (base period demand),

$\Delta Z$  = the dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to  $PCI_{t-1}$ , measured at base period level of operations,

R = base period quantities for each rate element "i", multiplied by the price for each rate element "i" at the time the PCI was updated to  $PCI_{t-1}$ ,

w = R - (access rate in effect at the time the PCI was updated to  $PCI_{t-1}$  × base period demand) +  $\Delta Z$ , all divided by R,

$PCI_t$  = the new PCI value, and

$PCI_{t-1}$  = the immediately preceding PCI value.

(c) The exogenous cost changes represented by the term " $\Delta Z$ " in the formula detailed in paragraph (b) of this section, shall be limited to those cost