

§ 61.50

annual access tariffs, absent rate information, 90 days prior to July 1 of each year.

[54 FR 19843, May 8, 1989, as amended at 55 FR 42384, Oct. 19, 1990; 56 FR 5956, Feb. 14, 1991; 56 FR 21617, May 10, 1991; 56 FR 33880, July 24, 1991; 57 FR 37730, Aug. 20, 1992; 57 FR 54331, Nov. 18, 1992; 58 FR 17167, Apr. 1, 1993; 58 FR 38536, July 19, 1993; 58 FR 48762, Sept. 17, 1993; 59 FR 10304, Mar. 4, 1994; 62 FR 4659, Jan. 31, 1997; 62 FR 5778, Feb. 7, 1997; 62 FR 42218, Aug. 6, 1997]

§ 61.50 Scope: Optional incentive regulation for rate of return local exchange carriers.

(a) This section shall apply on an elective basis, to local exchange carriers for either traffic sensitive rates only or for both traffic sensitive and common line rates. Carriers electing the plan for traffic sensitive rates only must participate in the Association common line pool. Affiliation with average schedule companies shall not bar a carrier from electing optional incentive regulation provided the carrier is otherwise eligible.

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

(c) The following rules apply to telephone companies subject to this section, that become involved in mergers, acquisitions, or similar transactions, except that mergers with, acquisitions by, or other similar transactions with companies subject to price cap regulation, as that term is defined in § 61.3(w), shall be governed by § 61.41(c).

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

(2) Where a telephone company subject to this section acquires, is acquired by, merged with, or otherwise becomes affiliated with a telephone company that is not subject to this section, the latter telephone company shall become subject to optional incentive plan regulation no later than one year following the effective date of

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such merger, acquisition, or similar transaction and shall accordingly file optional incentive plan tariffs to be effective no later than that date in accordance with the applicable provisions of this part 61.

(3) Notwithstanding the provisions of paragraph (c)(2) of this section, when a telephone company subject to optional incentive plan regulation acquires, is acquired by, mergers 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 subject to optional incentive plan regulations in accordance with § 69.3(i)(3) of this chapter and the requirements referenced in that section.

(d) Local exchange carriers that are subject to this section shall not withdraw from optional incentive regulation until the end of two, two-year tariff periods. If a local exchange carrier withdraws from optional incentive plan regulation, it must file company-specific tariffs under the provisions of § 61.38 for four years before it may again elect to enter incentive plan regulation; such carrier may not participate in the applicable Association tariff during that four years. After the four year period, the carrier may either return to the incentive plan, or remain under § 61.38.

(e) Each local exchange carrier subject to this section shall establish the baskets of services, including service categories, as identified in § 61.42 (d) and (e).

(f) Each local exchange carrier subject to optional incentive regulation shall exclude from its 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 paragraph (f) of this section, must be included in the affected basket at the first two-year tariff filing following completion of the two-year tariff 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 two-year tariff filing following

completion of the two-year tariff period in which they are introduced.

(h)(1) In connection with any optional incentive plan tariff filing proposin rate changes, the carrier must calculate an index for each affected basket as determined by the Common Carrier Bureau.

(2) In connection with any tariff filed under this section proposing changes to rates for services in the basket designated in paragraph (e) of this section, the maximum allowable increase or decrease in a basket shall be limited to ten percent over the two-year tariff period.

(3) Local exchange carriers subject to this section shall file tariff revisions that reflect rae changes due to exogenous costs, as defined in §61.45(d)(1), either in the biennial tariff filing or at the time the event causing the exogenous costs occurs during the two-year period.

(i) Rates for a new service that is the same as that offered by a price cap regulated local exchange carrier providing service in an adjacent serving area are deemed presumptively lawful, if the proposed rates, in the aggregate, are no greater than the rate established by the price cap local exchange carrier. Tariff filings made pursuant to this paragraph must include the following:

(1) A brief explanation of why the service is like an existing service offered by a geographically adjacent price cap regulated local exchange carrier; and

(2) Data to establish compliance with this subsection that, in aggregate, the proposed rates for the new service are no greater than those in effect for the same or comparable service offered by that same geographically adjacent price cap regulated local exchange carrier.

(3) All filings for new services other than those described in paragraph (i) shall be supported using prospective data, as required by §61.38 of these rules.

(j) The maximum allowable rate of return on earnings based on rates filed by a local exchange carrier subject to this section, shall be determined by adding a fixed increment of one and one-half percent to the carrier's prescribed rate of return. Rates of local

exchange carriers subject to this section that result in earnings less than three-quarters percent below the carrier's prescribed rate of return may be retargeted to three-quarters percent below the carrier's prescribed rate of return, in a mid-course tariff filing.

(k) For a tariff change, a local exchange carrier that is a cost schedule carrier must propose Common Line rates based on the following:

(1) For the first biennial filing, the common line revenue requirement shall be determined by a cost of service study for the most recent 12-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1 + h/2)^2}$$

Where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

And where:

CCL Rev Req = carrier common line settlement for the most recent 12-month period;

CCL MOU_b = carrier common line minutes of use for the most recent 12-month period;

CCL MOU₁ = *CCL MOU_b*; and

CCL MOU₀ = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(2) For the subsequent biennial filings, the common line revenue requirement shall be determined by a cost of service study for the most recent 24-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1 + h/2)^{5.2}}$$

where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

and where:

CCL Rev Req = carrier common line revenue requirement for the most recent 24-month period;

CCL MOU_b = carrier common line minutes of use for the most recent 24-month period;

CCL MOU_l = carrier common line minutes of use for the most recent 12-month period; and

CCL MOU_o = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(3) For End User Common Line charges included in a tariff pursuant to this section, the local exchange carrier must provide supporting information for the two-year historical period with its letter of transmittal in accordance with § 61.38.

[58 FR 36148, July 6, 1993, as amended at 62 FR 31005, June 6, 1997]

SPECIFIC RULES FOR TARIFF PUBLICATIONS

§ 61.51 LEC tariff filings requirements pursuant to section 204(a)(3) of the Communications Act.

(a) Local exchange carriers may file tariffs pursuant to section 204(a)(3) of the Communications Act. Such tariffs shall be filed in accordance with the notice periods set forth in § 61.58(d).

(b) Local exchange carriers may elect not to file any tariffs pursuant to section 204(a)(3) of the Communications Act that may be eligible for filing under that section. Any such tariffs not filed pursuant to section 204(a)(3) of the Communications Act shall be filed in accordance with the notice requirements of §§ 61.23 and 61.58.

(c) Local exchange carrier tariff filings pursuant to section 204(a)(3) must comply with the requirements of §§ 61.38, 61.39, and 61.41 through 61.50.

(d) Local exchange carriers subject to price cap regulation that elect to file their annual access tariff pursuant to section 204(a)(3) of the Communications Act shall submit support material for their interstate annual access tariffs, in accordance with § 61.49(l).

[62 FR 5778, Feb. 7, 1997]

§ 61.52 Form, size, type, legibility, etc.

(a) All tariff publications must be in loose-leaf form of size A4 (21 cm x 29.7 cm) or 8.5 x 11 inches (21.6 cm x 27.9 cm), and must be plainly printed in

black print on white paper of durable quality. Less than 6-point type may not be used. Erasures or alterations in writing must not be made in any tariff publication filed with the Commission or in those copies posted for public convenience. A margin of no less than 2.5 cm (1 inch) in width must be allowed at the left edge of every tariff publication.

(b) Pages of tariffs must be printed on one side only, and must be numbered consecutively and designated as "Original title page," "Original page 1," "Original page 2," etc.

(1) All such pages must show, in the upper left-hand corner the name of the issuing carrier; in the upper right-hand corner the FCC number of the tariff, with the page designation directly below; in the lower left-hand corner the issued date; in the lower right-hand corner the effective date; and at the bottom, center, the street address of the issuing officer. The carrier must also specify the issuing officer's title either at the bottom center of all tariff pages, or on the title page and check sheet only.

(2) As an alternative, the issuing carrier may show in the upper left-hand corner the name of the issuing carrier, the title and street address of the issuing officer, and the issued date; and in the upper right-hand corner the FCC number of the tariff, with the page designation directly below, and the effective date. The carrier must specify the issuing officer's title in the upper left-hand corner of either all tariff pages, or on the title page and check sheet only. A carrier electing to place the information at the top of the page should annotate the bottom of each page to indicate the end of the material, e.g., a line, or the term "Printed in USA," or "End".

(3) Only one format may be employed in a tariff publication.

(c) Local exchange carriers shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and cost support documents, electronically in accordance with the requirements