

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

In the Matter of
Access Charge Tariff Filings Introducing
Broadband-only Loop Service
WC Docket No. 16-317

ORDER

Adopted: October 6, 2016

Released: October 6, 2016

By the Chief, Wireline Competition Bureau:

15-DAY TARIFF FILINGS: December 19, 2016
PETITIONS: December 27, 2016
REPLIES: December 30, 2016 (due no later than 12:00 p.m. (noon) Eastern Time)

7-DAY TARIFF FILINGS: December 27, 2016
PETITIONS: December 29, 2016 (due no later than 12:00 p.m. (noon) Eastern Time)
REPLIES: December 30, 2016 (due no later than 12:00 p.m. (noon) Eastern Time)

I. INTRODUCTION

1. This Order establishes procedures for the filing of access charge tariffs and Tariff Review Plans (TRPs) for incumbent local exchange carriers (LECs) subject to rate-of-return regulation (rate-of-return LECs) electing to offer broadband-only loop service beginning January 3, 2017, whether on a tariffed or detariffed basis. This includes rate-of-return LECs subject to either section 61.38 or section 61.39 of the Commission's rules, whether they elect model-based support or Connect America Fund Broadband Loop Support (CAF BLS). This Order also makes available revised Tariff Review Plan (TRP) worksheets to support any necessary rate revisions reflected in rate-of-return LEC interstate access service tariffs. The TRPs display basic data on rate development in a consistent manner, thereby facilitating review of the rate revisions by the Commission and interested parties. All correspondence and comments in connection with these filings should refer to the caption of this proceeding, Access Charge Tariff Filings Introducing Broadband-only Loop Service, WC Docket No. 16-317.

1 A carrier may elect not to offer a Consumer Broadband-only Loop service, while offering a detariffed retail broadband Internet access service. Carriers are free to offer retail broadband Internet access through the incumbent LEC; they are not required to offer such service through an affiliated Internet service provider.

2 47 CFR §§ 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).

3 See Connect America Fund et al., Report and Order, Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, WC Docket No. 10-90 et al., 31 FCC Rcd 3087, 3090-91, paras. 4-5 (2016) (describing the new and reformed support mechanisms in areas served by rate-of-return LECs) (Rate-of-Return Reform Order).

## I. BACKGROUND

2. In the *USF/ICC Transformation Order*, the Commission adopted comprehensive intercarrier compensation (ICC) reform measures.<sup>4</sup> These reforms included a transition to reduce certain ICC rates on an annual basis and a recovery mechanism designed to offset partially revenues reduced as a result of the rate transition.<sup>5</sup> For rate-of-return LECs, the recovery mechanism begins with calculation of Base Period Revenue (BPR). BPR is the sum of certain ICC intrastate switched access revenues and net reciprocal compensation revenues received by March 31, 2012, for services provided during fiscal year 2011, and the projected revenue requirement for interstate switched access services provided during the 2011-2012 tariff period.<sup>6</sup> BPR is then reduced by five percent initially and by an additional five percent in each year of the transition.<sup>7</sup> The amount a rate-of-return LEC is entitled to recover in each year of the transition is equal to the adjusted BPR for the year in question less, for each relevant year of the ICC transition, the sum of: (1) projected intrastate switched access revenue; (2) projected interstate switched access revenue; and (3) projected net reciprocal compensation revenue.<sup>8</sup> This amount, known as Eligible Recovery, is recoverable through a newly instituted Access Recovery Charge (ARC) assessed on end-users, and, to the extent not recoverable through ARCs, through CAF-ICC support.<sup>9</sup> Rate-of-return LECs receiving CAF-ICC support have to comply with certain broadband obligations.<sup>10</sup>

3. In the *Rate-of-Return Reform Order*, the Commission adopted significant reforms to the rules governing the provision of universal service support to rate-of-return LECs.<sup>11</sup> The Commission adopted a voluntary path under which rate-of-return carriers may elect model-based support for a term of 10 years in exchange for meeting defined build-out obligations.<sup>12</sup> For carriers not electing model-based support, the Commission modernized the existing interstate common line support (ICLS) rules to provide support in situations where the customer no longer subscribes to traditional regulated local exchange voice service, i.e. subscribes to stand-alone broadband.<sup>13</sup> This revised form of support is known as Connect America Fund Broadband Loop Support (CAF BLS). To implement these reforms, the Commission, among other things, revised certain cost allocation and tariffing rules for carriers to introduce supported Consumer Broadband-only Loop services.<sup>14</sup>

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<sup>4</sup> See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, 26 FCC Rcd 17663, 17872-73, para. 648 (2011) (*USF/ICC Transformation Order*); *aff'd sub nom., In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

<sup>5</sup> See, e.g., *id.* at 17934, para. 801 Fig. 9 (outlining the rate transition); see also *id.* at 17957-61, paras. 850-53 (summarizing the recovery mechanism).

<sup>6</sup> See 47 CFR § 51.917(b)(7); the 2011-2012 tariff period was July 1, 2011, through June 30, 2012.

<sup>7</sup> See *id.* § 51.917(b)(3).

<sup>8</sup> *Id.* § 51.917(d). The demand projections that are part of these projected revenue calculations are “trued-up” after two years. See 47 CFR § 51.917(d)(iii)(D).

<sup>9</sup> See *USF/ICC Transformation Order*, 26 FCC Rcd at 17981, para. 896.

<sup>10</sup> See *id.* at 17723, para. 150, 17740-41, paras. 206-08.

<sup>11</sup> *Rate-of-Return Reform Order*, 31 FCC Rcd at 3089, para. 1.

<sup>12</sup> *Id.* at 3094-117, paras. 17-79.

<sup>13</sup> *Id.* at 3117-57, paras. 80-187.

<sup>14</sup> *Id.* at 3157-62, paras. 188-204.

4. With respect to pricing considerations, the Commission required a carrier offering Consumer Broadband-only Loops to move the costs of consumer broadband-only loops from the special access category to a new Consumer Broadband-Only Loop category.<sup>15</sup> The Commission also adopted rules governing the tariffing of a broadband-only loop rate, including a \$42 per loop per month rate cap for rate-of-return LECs electing model-based support and a rate methodology for rate-of-return LECs receiving CAF BLS.<sup>16</sup> For rate-of-return LECs electing model-based support, the Commission determined that such carriers would not be eligible to participate in the National Exchange Carrier Association (NECA) Common Line pooling mechanism but could continue to participate in the NECA tariffs.<sup>17</sup> Additionally, the Commission required rate-of-return LECs to impute an amount equal to the ARC charge they assess on voice/broadband lines to their supported consumer broadband-only lines.<sup>18</sup>

## II. DISCUSSION

5. In the *Rate-of-Return Reform Order*, the Commission observed that implementation of the new support programs would be coordinated so that the appropriate cost allocation and tariff revisions would occur when the new mechanisms became effective.<sup>19</sup> With this Order, we set forth procedures to guide carriers in making the necessary cost allocations and tariff filings to implement the new support mechanisms and to establish Consumer Broadband-only Loop rates, if they so choose.<sup>20</sup>

### A. Tariff Effective Date and Tariff Filing Dates

6. Rate-of-return LECs may begin offering Consumer Broadband-only Loop service in January 2017.<sup>21</sup> For rates to be deemed lawful under section 204(a)(3) of the Act, incumbent LECs must make their tariff filings either fifteen or seven days prior to the effective date of their tariffs, depending on the type of changes proposed.<sup>22</sup> Because the period of time for determining deemed lawful status under Section 204(a)(3) can only commence on a business day, a January 1, 2017 effective date is not possible if rates are to be deemed lawful for this filing.<sup>23</sup> We therefore direct rate-of-return LECs wishing to tariff Consumer Broadband-only Loop rates to file access tariffs, which require 15-days' notice to be deemed lawful, on December 19, 2016, to become effective on January 3, 2017.<sup>24</sup> Any filing that only requires seven-days' notice (rate reductions) should be filed on December 27, 2016, to be effective on January 3, 2017.

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<sup>15</sup> *Id.* at 3158-59, paras. 190-91.

<sup>16</sup> *Id.* at 3459-60, paras. 194, 197-98.

<sup>17</sup> *Id.* at 3160, paras. 195-96.

<sup>18</sup> *Id.* at 3161-62, para. 203.

<sup>19</sup> *Rate-of-Return Reform Order*, 31 FCC Rcd at 3157-58, para. 189.

<sup>20</sup> We take this action pursuant to authority delegated to the Bureau to take all necessary administrative steps to implement the reforms adopted in the *Rate-of-Return Reform Order*. *Id.* at 3156, n.413.

<sup>21</sup> If the ACAM model-based support elections are not finalized in time for carriers to meet the December 19, 2016, filing date, the Bureau will issue a public notice concerning the timing of tariff filings to implement those elections. Those tariff filings, if needed, should conform to the guidance provided in this order.

<sup>22</sup> 47 U.S.C. § 204(a)(3).

<sup>23</sup> *Id.*; 47 CFR § 61.14(a) To be effective on January 1, 2017, tariffs filed on either fifteen or seven days prior would need to be filed on a non-business day.

<sup>24</sup> Even though the tariffs will not be effective until January 3, 2017, CAF BLS support will be provided for the full month of January 2017.

## B. Broadband-only Loop Considerations

7. In the *Rate-of-Return Reform Order*, the Commission established cost allocation and tariffing rules for the provision of Consumer Broadband-only Loops. These loops can be provided on a tariffed or a detariffed basis. The timing of the detariffing of the Consumer Broadband-only Loop and the process for filing revised tariffs will vary depending on a number of factors, such as whether the carrier elects model-based support and the extent of a carrier's participation in the NECA pools and tariffs. Below, we address a number of timing issues specific to carrier elections and tariff decisions.

8. *Rate-of-return LECs electing model-based support.* Carriers electing to receive model-based support<sup>25</sup> must remove the Common Line and Consumer Broadband-only Loop services from rate-of-return regulation.<sup>26</sup> Those services are now subject to specific rate caps and no cost justification is required.<sup>27</sup> The Commission concluded that these carriers must leave the NECA common line pooling process, but may elect to have NECA tariff their Consumer Broadband-only Loop rate and common line rates, including the Subscriber Line Charge (SLC).<sup>28</sup> Rate-of-return LECs electing model-based support that participate in the NECA traffic-sensitive tariff will not have the option of changing their participation in the traffic-sensitive tariff outside the regular election process.<sup>29</sup>

9. *Rate-of-return LECs receiving CAF BLS and participating in the NECA common line tariff.* Carriers that elect to receive support through CAF BLS and participate in the NECA common line tariff that propose to offer Broadband-only Loop service may include the Consumer Broadband-only Loop rate in the NECA common line tariff, or may elect to detariff the service, or tariff it themselves. These carriers may elect whether or not to participate in the NECA common line and traffic-sensitive tariff and pooling processes by March 1, 2017.<sup>30</sup> At that time, these carriers will be able to decide whether to detariff their Broadband transmission services and remove the associated costs from the NECA pooling process.

10. *Offering of detariffed retail broadband service.* A rate-of-return LEC is free to offer a retail broadband Internet access service as a detariffed common carrier offering.<sup>31</sup> Moreover, a rate-of-return carrier in this situation is not required to offer a separate transmission service, on either a tariffed or

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<sup>25</sup> For purposes of this Order, the term "LECs electing model-based support" refers to those carriers that are ready to be authorized to receive A-CAM support. It would not include a carrier that elected to receive A-CAM support by the November 1, 2016, deadline, if the Bureau has not yet finalized authorizations for A-CAM electors by the tariff filing date due to oversubscription to the A-CAM path. The Bureau expects to issue a Public Notice indicating those carriers that are ready to be authorized to receive A-CAM support (which authorization will be subject to completion of the steps outlined in this Order).

<sup>26</sup> *Rate-of-Return Reform Order*, 31 FCC Rcd at 3097, para. 21.

<sup>27</sup> See 47 CFR §§ 69.104(s), 69.115(f), 69.130(b), 69.132(d).

<sup>28</sup> *Rate-of-Return Reform Order*, 31 FCC Rcd at 3160, paras. 195-96. A carrier could elect to have NECA tariff its Common Line rates, while detariffing its Consumer Broadband-only Loop service. Carriers electing model-based support that decide to tariff their own Common Line and Consumer Broadband-only Loop rates should do so on December 19, 2016, as noted above. Carriers wanting NECA to tariff these rates must provide to NECA the information necessary to establish the tariffed rate.

<sup>29</sup> 47 CFR § 69.3(e)(6).

<sup>30</sup> 47 CFR § 69.3(e)(6).

<sup>31</sup> See generally *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, GN Docket No. 14-28, 30 FCC Rcd 5601, 5837 (2015), aff'd *sub nom* *USTA v. FCC*, 825 F.3d 674 (D.C. Cir. 2016).

detariffed basis. Under existing rules, the costs associated with the retail broadband Internet access service offered by the incumbent LEC would be included in the regulated costs allocated by Parts 36 and 69. The costs of this retail broadband service should be recovered through end user rates for that service, which the Commission has made clear are not rate regulated.<sup>32</sup> In allocating regulated costs between tariffed services and the retail broadband service, carriers should employ allocation procedures that reasonably achieve that objective without disadvantaging the rates for tariffed services.

### C. CAF-ICC Considerations

11. In the *Rate-of-Return Reform Order*, the Commission required rate-of-return LECs to impute an amount equal to the ARC charge they assess on voice-broadband lines to their Consumer Broadband-only lines.<sup>33</sup> In response to informal inquiries, we clarify that this imputation does not exclude Consumer Broadband-only Loops eligible for Lifeline support. The imputation will not adversely affect beneficiaries of the Lifeline program as there is no assessment of an ARC on such lines.<sup>34</sup> We further clarify that an imputation is not applied to a retail broadband Internet access offering.

### D. Special Access Considerations

12. In the *Rate-of-Return Reform Order*, the Commission required a carrier to move the costs of consumer broadband-only loops from the special access category to the new Consumer Broadband-only Loop category to avoid double recovery.<sup>35</sup> While that Order spoke in terms of all carriers making this cost reassignment when Consumer Broadband-only Loop service is offered, the adopted rule language links the transfer of these costs to when a tariffed rate becomes effective.<sup>36</sup> The rule language does not address the cost reassignment when a carrier detariffs rather than tariffs its Consumer Broadband-only Loop service. We clarify here that all rate-of-return LECs must remove the costs of Consumer Broadband-only Loops from the special access category. These reassigned costs are the basis for determining the revenue requirement of the Consumer Broadband-only Loop category for carriers receiving CAF BLS. Without this cost reassignment, there would be double recovery for carriers detariffing Consumer Broadband-only Loops, which is contrary to the intent of the Order. Accordingly, this cost reassignment is required regardless of whether they receive model-based support or CAF BLS, whether they tariff or detariff the charges for Consumer Broadband-only Loops, or whether they self-provision those facilities for a retail detariffed broadband Internet access offering. The cost of Consumer Broadband-only Loops to be removed from the special access category are determined by the process set forth in sections 69.311 and 69.416 of the Commission's rules.<sup>37</sup>

### E. Rate-Of-Return Tariff Review Plan

13. On April 13, 2016, the Bureau released the 2016 rate-of-return TRP (i.e., the 2016 Annual Filing ROR TRP) for use in filing the 2016 annual access charge tariff filings.<sup>38</sup> We adopt a new TRP for the January 2017 tariff filings that, if necessary, is to be used in conjunction with the 2016 rate-

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<sup>32</sup> *Rate-of-Return Reform Order*, 31 FCC Rcd at 3159, para. 193 n.429 (retail broadband service “is not rate regulated”).

<sup>33</sup> *Rate-of-Return Reform Order*, 31 FCC Rcd at 3161-62, para. 203.

<sup>34</sup> See *USF/ICC Transformation Order*, 26 FCC Rcd at 17989, para. 909 n.1782.

<sup>35</sup> *Rate-of-Return Reform Order*, 31 FCC Rcd at 3158-59, paras. 190-91.

<sup>36</sup> For example, section 69.311 provides that the removal occurs “when the tariff charge described in §69.132 of this part becomes effective.” 47 CFR § 69.311(a).

<sup>37</sup> 47 CFR §§ 69.311 and 69.416. Further, the amount reassigned shall be determined before any cost control or budget constraints are applied.

<sup>38</sup> See *July 1, 2016 Annual Access Charge Tariff Filings*, Order, WC Docket No. 16-71, DA 16-274 (WCB Apr. 13, 2016).

of-return TRP in order to implement the reforms adopted in the *Rate-of-Return Reform Order*. The January 2017 TRP for rate-of-return LECs is contained in the Appendix.

14. For special access services, the January 2017 TRP contains columns reflecting the amount of new Special Access costs that will be generated by the introduction of Consumer Broadband-only Loops and the amount of Consumer Broadband-only Loop costs to be moved from the Special Access category to the Consumer Broadband-only Loop category. The January 2017 TRP must be completed by rate-of-return LECs subject to sections 61.38 or 61.39, including those carriers electing to receive model-based support. Any carrier wishing to revise its Special Access rates as a result of the introduction of Consumer Broadband-only Loops must file the 2016 TRP. For that purpose, it need not conduct a full cost study, but may adjust the special access revenue requirement for the 2016 TRP to reflect the cost change resulting from the introduction of Consumer Broadband-only Loops.

15. For the Consumer Broadband-only Loops, the January 2017 TRP contains columns reflecting the Consumer Broadband-only Loop costs shifted from the Special Access category, the projected CAF BLS to be received from January 1, 2017 to July 1, 2017, applicable to Consumer Broadband-only Loops, and the projected number of Consumer Broadband-only Loops. Carriers receiving model-based support do not need to provide an amount for projected CAF BLS. Rate-of-return LECs should not revise cost or demand information relating to Common Line or switched access. Any demand divergences will be addressed in the true-up process.

16. The January 2017 TRP also includes columns for data rate-of-return LECs must provide to reflect the ARC imputation for consumer broadband-only lines. That data includes the CAF ICC projected for its study area in its 2016 annual access tariff filing, the number of projected Consumer Broadband-only Loops for the study area for the six months from January through June 2017,<sup>39</sup> a composite amount reflecting the weighted average ARC the carrier would have assessed on voice/data lines,<sup>40</sup> and the revised CAF-ICC support for the 2016 tariff period. This composite rate is for purposes of estimating the projected CAF-ICC amount for the study area. When these line demands are trued-up, the carrier must reflect the correct amount to be imputed for each type of line.

#### **F. Tariff and Tariff Review Plan Filing Instructions**

17. Rate-of-return LECs must use the Commission's Electronic Tariff Filing System (ETFS) to file all of their tariff material.<sup>41</sup> Rate-of-return LECs should make every effort to file as early in the day as possible to avoid any complications in meeting the December 19, 2016 and December 27, 2016, pre-7:00 p.m. Eastern Time deadlines for filing in the ETFS. Rate-of-return LEC tariff filings must be received by ETFS after 7:00 p.m. Eastern Time on December 18, 2016 and before 7:00 p.m. Eastern Time on December 19, 2016 for the filing to be considered officially received on December 19, 2016. Rate-of-return LEC tariff filings must be received after 7:00 p.m. Eastern Time on December 26, 2016, and before 7:00 p.m. Eastern Time on December 27, 2016, for the filing to be considered officially received on June 27, 2016.

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<sup>39</sup> Because of the short time for preparing this filing, NECA will be unable to collect projected data by exchange. Accordingly, for this initial filing period only, we will allow carriers to use study area projections of Consumer Broadband-only Loops.

<sup>40</sup> The composite rate to be used in calculating the ARC imputation shall be determined by dividing the projected ARC revenue from the 2016 Tariff Rate Comp CAF or No CAF workbooks by the number of projected lines from that workbook.

<sup>41</sup> 47 CFR § 61.13(b).

18. Copies of the information filed electronically may be obtained via the Internet using ETFS at <https://apps.fcc.gov/etfs/etfsHome.action>.<sup>42</sup> For more information, contact either Robin Cohn or Richard Kwiatkowski, Pricing Policy Division, Wireline Competition Bureau, at (202) 418-1540.

#### G. Pleading Filing Dates and Procedures

19. Pursuant to sections 1.419 and 1.773 of the Commission's rules,<sup>43</sup> interested parties may file 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. 16-317**, and may be filed by paper copies or by using the Electronic Comment Filing System (ECFS).<sup>44</sup>

- 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 12<sup>th</sup> 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 12<sup>th</sup> Street, SW, Washington DC 20554.

20. 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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

21. A courtesy copy of any petitions and replies must also be e-mailed to Richard Kwiatkowski, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Room 5-A460, Washington, DC 20554, [Richard.Kwiatkowski@fcc.gov](mailto:Richard.Kwiatkowski@fcc.gov). In addition, a courtesy copy must be addressed to the Chief, Pricing Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, SW, Room 5-A221, Washington, DC 20554 and e-mailed to [Robin.Cohn@fcc.gov](mailto:Robin.Cohn@fcc.gov).

22. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>45</sup> 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*

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<sup>42</sup> Consistent with past practice, *see, e.g., Procedures for Obtaining Confidential Information from 2016 Annual Access Charge Tariff Filings*, Public Notice, WC Docket No. 16-71, DA 16-577 (May 24, 2016), we plan to adopt a protective order in the coming weeks for use in conjunction with the tariffs to be filed pursuant to this Order.

<sup>43</sup> 47 CFR §§ 1.419, 1.773.

<sup>44</sup> *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

<sup>45</sup> 47 CFR § 1.1200 *et seq.*

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.

#### **H. Service**

23. 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.<sup>46</sup> Parties are instructed to provide contact persons, e-mail 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.

#### **I. Certification**

24. The filing of inaccurate or incomplete data may seriously detract from the ability of the Commission and interested parties to evaluate the revised rates. All incumbent LECs must certify that their historical and forecast data are accurate by including a signed statement that the support data are true, correct, and complete to the best of the carrier's knowledge. This certification will apply to all data submitted in support of revised rates, including the data that are filed in the TRP. Moreover, carriers are required to make several additional certifications pursuant to the *USF/ICC Transformation Order*.<sup>47</sup> These certifications should be displayed as the last pages in each company's filing containing its TRP. Incumbent LECs are also under a continuing legal obligation to correct any inaccurate or incomplete data subsequently discovered in the TRP or other support data.

#### **J. Compliance with the Paperwork Reduction Act**

25. The TRP appended to this Order contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).<sup>48</sup> The TRP collections were approved by the Office of Management and Budget (OMB) under the PRA.<sup>49</sup> In addition, we note that pursuant to the

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<sup>46</sup> 47 CFR §§ 1.773(a)(4), (b)(3). We waive any inconsistent portions of section 1.47(d) of the Commission's rules. 47 CFR § 1.47(d).

<sup>47</sup> See *USF/ICC Transformation Order*, 26 FCC Rcd at 17987, para. 905 ("Carriers recovering eligible recovery will be required to certify annually that they are entitled to receive the recovery they are claiming and that they are complying with all rules pertaining to such recovery."); see also *id.* at 17964-65, para. 862 n.1664 (incumbent LECs receiving Eligible Recovery must certify as part of their tariff filings, to both the FCC and any state commission exercising jurisdiction over the incumbent LEC's intrastate costs, that they are not seeking duplicative recovery in the state jurisdiction for any Eligible Recovery subject to the recovery mechanism).

<sup>48</sup> Pub. L. No. 104-13, 109 Stat. 17.

<sup>49</sup> See OMB Control No. 3060-0400. In the submission to OMB, we noted that the "Commission updates the price cap and rate-of-return TRP every year to eliminate respondents' requirements to file cost and demand data that may

(continued....)

Small Business Paperwork Relief Act of 2002,<sup>50</sup> we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

26. In this Order, we have assessed the effects on rate-of-return LECs of filing the TRP and believe we have minimized the burden to the extent possible. We minimize the regulatory burden on the rate-of-return LECs by deleting obsolete sections of the TRP that have not proven to be useful, and carriers need not file historical data that was filed in previous years.<sup>51</sup>

### III. ORDERING CLAUSES

27. 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 CFR §§ 0.91, 0.291, this Order IS ADOPTED.

28. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, sections 1.4(f), 1.773(a) and 1.773(b) of the Commission's rules, 47 CFR §§ 1.4(f), 1.733(a), 1.773(b), ARE WAIVED for the limited purpose specified in *supra* paragraph 19.

29. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, section 1.47(d) of the Commission's rules, 47 CFR § 1.47(d), IS WAIVED for the limited purpose specified in *supra* paragraph 23, note 45.

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

FEDERAL COMMUNICATIONS COMMISSION

Matthew S. DelNero  
Chief  
Wireline Competition Bureau

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be more than two years old and to bring the TRP data into conformance with current Commission policies;" *Also see* OMB Control No. 3060-0298.

<sup>50</sup> Pub. L. No. 107-198, 116 Stat. 729; *see* 44 U.S.C. § 3506(c)(4).

<sup>51</sup> *See, e.g., supra* para. 24.

**APPENDIX**

**2016 Mid-Year Broadband-only Loop Service Tariff Review Plan**

[https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-341640A1.xlsx](https://apps.fcc.gov/edocs_public/attachmatch/DOC-341640A1.xlsx)