or by e-mail at *Wolfersberger.chris@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving revisions to the state's SIP and Operating Permits Program as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: *July 21, 2010.*

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 2010–19568 Filed 8–10–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 64

[WC Docket No. 10–141; FCC 10–127]

Electronic Tariff Filing System (ETFS)

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on extending the electronic tariff filing requirement for incumbent local exchange carriers to all carriers that file tariffs and related documents. Additionally, the Commission seeks comment on the appropriate time frame for implementing this proposed requirement. The Commission also seeks comment on the proposal that the Chief of the Wireline Competition Bureau administer the adoption of this extended electronic filing requirement. Also, the Commission seeks comment on proposed rule changes to implement mandatory electronic tariff filing.

DATES: Comments are due on or before September 10, 2010 and reply comments are due on or before September 27, 2010. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before October 12, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit comments, identified by WC Docket No. 10–141 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.
- In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Pamela Arluk at (202) 418–1520 or Lynne Hewitt Engledow at (202) 418–1520, Wireline Competition Bureau, Pricing Policy Division. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 10–141, FCC 10–127, adopted July 15, 2010, and released July 15, 2010. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
  - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or

overnight U.S. Postal Service mail (although we continue to experience delays in receiving 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 Street, SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are Monday through Friday, 8 a.m. to 7 p.m.

○ 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 should 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) or (202) 418–0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *fcc504@fcc.gov*; phone: (202) 418–0530 or (202) 418–0432 (TTY).

In addition, one copy of each pleading must be sent to each of the following:

○ The Commission's duplicating contractor, Best Copy and Printing, Inc, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; Web site: *http://www.bcpiweb.com*; phone: 1–800–378–3160; and

○ Pamela Arluk, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5–A131, Washington, DC 20554; e-mail: *pamela.arluk@fcc.gov* or telephone number (202) 418–1520; and

○ Lynne Hewitt Engledow, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5–A361, Washington, DC 20554; e-mail: *lynne.engledow@fcc.gov* or telephone number (202) 418–1520.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Copies may also be purchased from the Commission's duplicating contractor, BCPI, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI through its Web site: *http://www.bcpiweb.com,* by e-mail at *fcc@bcpiweb.com*, by telephone at (202) 488–5300 or (800) 378–3160 (voice), (202) 488–5562 (TTY), or by facsimile at (202) 488–5563.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the NPRM in order to facilitate our internal review process.

Initial Paperwork Reduction Act of 1995 Analysis

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due October 12, 2010.

Comments on the proposed information collection requirements should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

OMB Control Number: 3060–XXXX.

Title: Electronic Tariff Filing System (ETFS).

Form Number(s): N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents and responses: Estimated 1,500 respondents and 1,500 responses.

Estimated Time per Response: 1 hour (average time per response).

Obligation to Respond: Required to obtain or retain benefits.

Frequency of Response: Annual and on occasion reporting requirements.

Total Annual Burden: 1,500 hours.

Total Annual Cost: $150,000.

Privacy Act Impact Assessment: No impact.

Nature of Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is requesting review and approval of a new information collection requiring all tariff filing entities to use the Federal Communications Commission's Electronic Tariff Filing System (ETFS) to file their tariffs and related documents.

Currently, incumbent local exchange carriers (LECs) file their tariffs and associated documents electronically, using ETFS. ETFS has improved the usefulness of tariff filings for both filers and the public and made the entire tariff filing process more transparent. By contrast, competitive LECs currently do not file tariffs and associated documents electronically. In the Notice of Proposed Rulemaking (NPRM), in WC Docket No. 10–141, we initiate a rulemaking proceeding to consider extending the existing electronic filing requirement to all tariff filing entities. In particular, to create a more open, transparent and efficient flow of information to the public, we consider whether the benefits of using the ETFS for incumbent LEC tariff filings would also be obtained if all tariff filers filed electronically.

Additionally, the Commission seeks comment on the appropriate time frame for implementing this proposed requirement. Relevant rule modifications are also proposed in the NPRM. The Commission also seeks comment on the proposal that the Chief of the Wireline Competition Bureau administer the adoption of this extended electronic filing requirement. We believe such action will benefit the

public and carriers by creating a central system providing online access to all carrier tariffs and related documents filed with the Commission.

I. Introduction

1. Currently, incumbent local exchange carriers (LECs) file their tariffs and associated documents electronically, using the Electronic Tariff Filing System (ETFS). ETFS has improved the usefulness of tariff filings for both filers and the public and made the entire tariff filing process more transparent. By contrast, competitive LECs do not file tariffs and associated documents electronically. In this NPRM, we initiate a rulemaking proceeding to consider extending the existing electronic filing requirement to all tariff filing entities, consistent with the public interest. In particular, to create a more open, transparent and efficient flow of information to the public, we consider whether the benefits of using the ETFS for incumbent LEC tariff filings would also be obtained if all tariff filers filed electronically. As discussed below, we propose rule modifications that expand the electronic tariff filing requirement to all tariff filers. We believe such action will benefit the public and carriers by creating a central system providing online access to all carrier tariffs filed with the Commission.

II. Background

2. In adopting the Telecommunications Act of 1996 (1996 Act), Congress sought to establish "a pro-competitive, de-regulatory national policy framework" for the telecommunications industry. Consistent with that goal, section 402(b)(1)(A)(iii) of the 1996 Act added section 204(a)(3) to the Communications Act of 1934, as amended, providing for streamlined tariff filings by local exchange carriers. On September 6, 1996, in an effort to meet the goals of the 1996 Act, the Commission released the *Tariff Streamlining NPRM,* 61 FR 49,987, September 24, 1996, proposing measures to implement the tariff streamlining requirements of section 204(a)(3). Among other suggestions, the Commission proposed requiring LECs to file tariffs electronically. The Commission also tentatively concluded that electronic tariff filing would reduce burdens on carriers and the Commission, facilitate access to tariffs and associated documents by the public, make all tariff information available to state and other federal regulators, and facilitate the compilation of aggregate carrier data for industry analysis purposes.

3. The Commission began implementing the electronic filing of tariffs on January 31, 1997, when it released the *Streamlined Tariff Order.* The *Streamlined Tariff Order* established rules implementing the 1996 Act's tariff streamlining provisions and also required LECs to file tariffs and associated documents electronically in accordance with requirements established by the Common Carrier Bureau (Bureau). On November 17, 1997, the Bureau made this electronic system, known as the Electronic Tariff Filing System, available for voluntary filing by incumbent LECs. The Bureau also announced that the use of ETFS would become mandatory for all incumbent LECs in 1998.

4. On May 28, 1998, in the *ETFS Order,* 63 FR 35,539, June 30, 1998, the Bureau established July 1, 1998, as the date after which incumbent LECs would be required to use ETFS to file tariffs and associated documents. The *ETFS Order* also revised the Commission's rules to establish other requirements necessary to implement the Commission's electronic tariff filing program. Specifically, the revised rules required incumbent LECs to electronically file complete tariff Base Documents, tariff revisions, applications for special permission, supporting information, and Tariff Review Plans (TRPs) via ETFS. Although the *Tariff Streamlining NPRM* proposed mandatory electronic filing by all local exchange carriers, the Bureau limited the scope of the *ETFS Order* to incumbent LECs. The Commission deferred consideration of establishing mandatory electronic filing for non-incumbent LECs until the conclusion of a proceeding considering the mandatory detariffing of interstate long distance services.

5. On October 31, 1996, the Commission released the *Detariffing Order,* which ordered mandatory detariffing of most interstate, domestic, interexchange services of nondominant interexchange carriers (IXCs). In deciding to detariff these services, the Commission found that tariffs "are not necessary to ensure that the rates, practices, and classifications of nondominant interexchange carriers for interstate, domestic, interexchange services are just and reasonable and not unjustly or unreasonably discriminatory" and are not necessary for the protection of consumers. The Commission, however, permitted some exceptions to mandatory detariffing, in which nondominant carriers could still file tariffs.

6. In addition, nondominant carriers continue to file tariffs for other services that were unaffected by the *Detariffing Order.* For example, domestic operator service providers (OSPs) must file informational tariffs pursuant to the Communications Act and the Commission's rules. Moreover, subject to certain exceptions and limitations, competitive LECs are permitted to tariff interstate access charges if the charges are no higher than the rate charged for such services by the competing incumbent LEC. In contrast to tariff filings by incumbent LECs, tariff filings by nondominant carriers are currently submitted via diskette, CD–ROM and/or paper, which are cumbersome and costly for the carrier, the Commission, and make it difficult for interested parties to review the documents.

III. Discussion

7. With this document we initiate a rulemaking proceeding to examine whether mandatory electronic filing of tariffs and associated documents should be extended to all tariff filing entities. As discussed below, we propose rules that extend the electronic filing requirement to all tariff filers. We believe this proposed action is in the public interest.

8. We solicit comment on our proposal that mandatory electronic tariff filing should be required for all tariff filers. Specifically, we propose that all tariff filers must follow the Commission's rules for electronic tariff filing and file via ETFS their tariffs, tariff revisions, base documents, and associated documents, including applications for special permission. In addition, we expect that all carriers would have the capabilities to file tariffs electronically and that such a requirement would not impose an undue burden on small or rural carriers. We invite interested parties to comment and propose alternative means to accomplish these goals.

9. We believe that electronic filing of all tariffs and associated documents would facilitate the administration of those tariffs. We also believe that the expected benefits of electronic tariff filing by incumbent LECs outlined in the *Tariff Streamlining NPRM* will also be realized by requiring electronic filing of all tariffs and associated documents. These anticipated benefits include: Reducing burdens on carriers and the Commission; facilitating access to tariffs and associated documents by the public; increasing the ease in which interested parties can review all tariffs; making all tariff information available to state and other federal regulators; and facilitating the compilation of aggregate carrier data for industry analysis purposes. We believe that including all tariffs on ETFS

will improve public access to these filings and will greatly enhance the transparency and efficiency of the tariff filing process. We invite interested parties to comment on these anticipated benefits. Additionally, we propose that international dominant carriers filing pursuant to section 61.28 of the Commission's rules should be subject to electronic filing. We seek comment on this proposal.

10. Requirements applicable to carriers filing tariffs electronically are different from those that apply to carriers filing tariffs via diskette, CD ROM and/or paper. By requiring electronic filing of all tariffs, the same rules will apply to all tariff filers, which will help ensure that interested parties have notice of the type of filing being made and will be able to more easily review those filings. In that regard, we invite interested parties to comment on expanding the applicability of sections 61.14, 61.15, and 61.16 of the Commission's rules in that manner.

11. Section 61.15 also requires the inclusion of a filer's FCC Registration Number (FRN) with each electronic tariff filing. We propose that consistent with this rule, each letter of transmittal must contain the filing carrier's FRN. If more than one carrier participates in the tariff, the FRN for the filing carrier and the FRNs for each individual carrier that participates in the tariff should be included in the letter of transmittal. This will ensure that it is clear to Commission staff and the public which carriers are participating in the tariff. We also propose that the use of consecutive transmittal numbers for letters of transmittal pursuant to the proposed revision of section 61.15 facilitates the Commission's ability to electronically match the mandatory tariff filing fee with the appropriate carrier's filing. We seek comment on these proposals and appropriate alternatives.

12. We also invite specific comment on the use of transmittal numbers if mandatory electronic filing is required; for carriers converting from non-electronic filing, should the transmittal numbers continue sequentially from the last non-electronic tariff or associated document transmission or should transmittal numbers start anew at the number one, with the implementation of mandatory electronic filing? We also invite comment on the numbering of special permission applications pursuant to section 61.17. If mandatory electronic filing is required, should the first special permission application filed electronically for a carrier start with number one or should the special permission application continue to be numbered sequentially from the last non-electronically filed special permission request?

13. Currently, sections 61.52 and 61.54 of our rules, which require specific formatting and composition of tariffs, apply only to dominant carriers. Because we will be requiring all carriers to file tariffs electronically, we believe that it may be beneficial for the public and Commission staff to have consistent formatting of all tariffs. Accordingly, we propose that all carriers should be required to comply with the formatting and composition requirements of our rules. This would ensure that all tariffs have a basic uniformity that will facilitate an ease of review for customers and other entities examining such tariffs. However, we recognize that this modification may create a burden for nondominant carriers that have not been subject to such requirements in the past. Accordingly, we seek comment on this proposal and invite specific comment on whether requiring all carriers to comply with sections 61.52 and 61.54 would place an undue burden on carriers that have not been required to comply with such requirements in the past. Moreover, we propose amending the notice requirements of section 61.58 to add a provision that nondominant carriers who are eligible to file pursuant to the streamlining requirements of section 204(a)(3), but choose not to, must file tariffs on at least one days' notice. This addition to section 61.58 would permit us to remove section 61.23 as duplicative, and instead require all carriers to comply with the general notice requirements of section 61.58. We seek comment on this proposed modification to our rules and any appropriate alternatives.

14. A number of nondominant carriers operate under a "doing business as" or d/b/a name. Such a practice can be confusing to Commission staff and parties searching for tariff documents. Section 61.54 of the Commission's rules requires the "exact name of the carrier" be used to "identify the carrier issuing the tariff publication." We propose to clarify that this rule requires carriers to use their legal names in tariffs and associated documents when filing via ETFS. If carriers use a d/b/a name in addition to their legal name, we propose that the d/b/a name be noted on the Title page of the tariff other than with the "exact name of the carrier." We seek comment on this proposal and any alternative means by which to address such confusion.

15. We note that ETFS has been available for use since November 17, 1997 and its use has been mandatory for incumbent LECs since July 1, 1998. Given that ETFS has been used by the public for more than a decade, we seek comment on the amount of time parties believe all tariff filers will need before they can comply with the mandatory tariff filing requirement. Specifically, we seek comment on how long after an order requiring electronic filing for all tariff filers should filers be required to use ETFS for all tariff and associated document filing. We propose that all tariff filers must use ETFS for all tariff and associated document filing 120 days after a final order in this docket implementing such a requirement (or summary thereof) is published in the **Federal Register**. We also propose that affected carriers must file their currently effective tariffs on ETFS no later than 120 days after a final order in this docket (or summary thereof) is published in the **Federal Register**, which will be the carrier's Base Document. Once the initial Base Documents are filed on ETFS, all future tariff revisions would also be required to be filed electronically on ETFS. After that 120-day period, we propose that the electronic version of the currently effective tariffs on ETFS will replace all prior tariffs, and those previously filed will be considered null and void. Similarly, we propose that tariffs previously filed with the Commission that are not replaced by an electronic version on ETFS will also be considered null and void. After that 120-day period, we also propose that all tariff filers will no longer be permitted to file diskette, CD–ROM and/or paper copies of tariffs and associated documents that otherwise would be filed with the Secretary, the Chief of the Pricing Policy Division of the Wireline Competition Bureau, and the Commission's commercial contractor. We seek comment on these proposals and any suggested alternatives.

16. We propose that the Chief of the Wireline Competition Bureau should be responsible for administering the adoption of electronic tariff filing requirements for all tariff filers. This is consistent with the *Streamlined Tariff Order*. We seek comment on this proposal. We also seek comment on the proposed rule modifications in Appendix A and we believe that these proposed requirements are in the public interest for the reasons stated herein.

17. For consistency and administrative clarity we propose changes to additional sections in part 61 of the Commission's rules as shown in Appendix A of the NPRM. For example, we propose consolidating the requirements for letters of transmittal and cover letters in section 61.15 of the Commission's rules, and therefore,

propose to delete sections 61.21 and 61.33 of our rules because those rules would be duplicative of section 61.15. We believe that these proposed changes are necessary to accomplish the numerous goals anticipated with the implementation of mandatory electronic tariff filing for all tariff filing entities. We seek comment on these proposed changes. Finally, we invite comment on other considerations and alternatives interested parties believe relevant to extending the electronic tariff filing requirement to all tariff filing entities.

IV. Procedural Matters

A. Initial Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act of 1980, as amended (RFA) *see* 5 U.S.C. 603, the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities that might result from this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register.**

1. Need for, and Objectives of, the Proposed Rules

19. Today, the Commission adopts a Notice of Proposed Rulemaking (NPRM) to consider extending the requirement to file tariff and associated documents electronically via the Electronic Tariff Filing System to all tariff filing entities. In the NPRM the Commission seeks comment on the proposal to extend this requirement to all tariff filing entities and on the expected benefits of doing such. Additionally, the Commission seeks comment on the appropriate time frame for implementing this proposed requirement. The Commission also seeks comment on the proposal that the Chief of the Wireline Competition Bureau administer the adoption of this extended electronic filing requirement.

2. Legal Basis

20. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 4(i), 201–205, and 226(h)(1)(A) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–205, and 226(h)(1)(A).

3. Description and Estimate of the Number of Small Entities To Which the Proposed Rules May Apply

21. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act. A "small-business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

22. Competitive Local Exchange Carriers (competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,005 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,005 carriers, an estimated 918 have 1,500 or fewer employees and 87 have more than 1,500 employees. In addition, 16 carriers have reported that they are Shared-Tenant Service Providers, and all 16 are estimated to have 1,500 or fewer employees. In addition, 89 carriers have reported that they are Other Local Service Providers. Of the 89, all 89 have 1,500 or fewer employees and none has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

23. Interexchange Carriers (IXCs). Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 300 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 300 companies, an estimated 268 have 1,500 or fewer employees and 32 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities.

24. Operator Service Providers (OSPs). Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 28 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 27 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities.

4. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

25. Should the Commission decide to expand mandatory electronic filing to competitive LECs, the associated rules potentially would modify the reporting and recordkeeping requirements of these entities. The NPRM proposed that tariff filers must follow the Commission's rules for electronic tariff filing and file via ETFS their tariffs, tariff revisions, base documents and associated documents, including applications for special permission. Moreover, in order to provide uniformity for tariff filings, the NPRM would propose to extend certain procedural requirements to all tariff filing entities, including: Specific formatting and composition requirements, the use of FCC registration numbers and the use of transmittal numbers. We seek comment on the possible burden these requirements would place on small entities. Also, we seek comment on whether a special approach toward any possible compliance burdens on small entities might be appropriate. Entities, especially small businesses, are encouraged to quantify the costs and benefits of any reporting requirement that may be established in this proceeding.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

26. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

27. The NPRM seeks comment from all interested parties. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the proposals outlined in the NPRM. The Commission believes that most carriers are familiar with the Electronic Tariff Filing System, if not currently using it. As such, the Commission believes the burden on small entities will be minimal. In addition, to assist tariff filers that have not used ETFS previously, including small entity filers, the Commission is seeking comment on the amount of time filers will need to transition from paper filing to using ETFS.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

28. None.

B. Paperwork Reduction Act Analysis

29. The NPRM contains proposed information collection requirements. As part of the continuing effort to reduce paperwork burdens, we invite the general public and the OMB to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due 60 days from the date of publication of this NPRM in the **Federal Register**. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Ex Parte Presentations

30. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

List of Subjects

47 CFR Part 61

Communications common carriers, Tariffs, Telecommunications, Telephone.

47 CFR Part 64

Communications common carriers, Tariffs, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 61 and 64 as follows:

PART 61—TARIFFS

1. The authority citation for part 61 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205 and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205 and 403, unless otherwise noted.

2. Section 61.3 is amended by redesignating paragraphs (t) through (y) as paragraphs (u) through (z) and by adding paragraph (t) to read as follows:

§ 61.3 Definitions.

* * * * *

(t) *Incumbent Local Exchange Carrier.* "Incumbent Local Exchange Carrier" or ILEC" has the same meaning as that term is defined in 47 U.S.C. 251(h).

* * * * *

3. Section 61.13 is amended by revising paragraphs (a) and (b) to read as follows:

§ 61.13 Scope.

(a) This applies to all tariff publications of issuing carriers required to file tariff publications electronically, and any tariff publication that a carrier chooses to file electronically.

(b) All issuing carriers that file tariffs are required to file tariff publications electronically.

* * * * *

4. Section 61.14 is amended by revising paragraphs (b) and (e) to read as follows:

§ 61.14 Method of filing publications.

* * * * *

(b) In addition, except for issuing carriers filing tariffing fees electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the cover letter (without attachments), FCC Form 159, and the appropriate fee to the address set forth in § 1.1105 of this chapter.

* * * * *

(e) Carriers that are required to file publications electronically must comply with the format requirements set forth in §§ 61.52 and 61.54.

5. Section 61.15 is revised to read as follows:

§ 61.15 Letters of transmittal and cover letters.

(a) All tariff publications filed with the Commission electronically must be accompanied by a letter of transmittal. All letters of transmittal filed with the Commission must be numbered consecutively by the issuing carrier beginning with Number 1. All letters of transmittal must also:

(1) Concisely explain the nature and purpose of the filing;

(2) Specify whether supporting information is required for the new tariff or tariff revision, and specify the Commission rule or rules governing the supporting information requirements for that filing;

(3) Contain a statement indicating the date and method of filing of the original of the transmittal as required by § 61.14(b);

(4) Include the FCC Registration Number (FRN) of the carrier(s) on whose behalf the cover letter is submitted. See subpart W of part 1 of this title.

(b) Local exchange carriers filing tariffs electronically pursuant to the notice requirements of section 204(a)(3) of the Communications Act shall display prominently, in the upper right hand corner of the letter of transmittal, a statement that the filing is made pursuant to that section and whether the tariff is filed on 7 or 15 days notice.

(c) Any carrier filing a new or revised tariff made on 15 days' notice or less shall include in the letter of transmittal the name, room number, street address, telephone number, and facsimile number of the individual designated by the filing carrier to receive personal or facsimile service of petitions against the filing as required under § 1.773(a)(4) of this chapter.

(d) International carriers must certify that they are authorized under Section 214 of the Communications Act of 1934, as amended, to provide service, and reference the FCC file number of that authorization.

(e) In addition to the requirements set forth in paragraph (a) of this section, any incumbent local exchange carrier choosing to file an Access Tariff under § 61.39 must include in the transmittal:

(1) A summary of the filing's basic rates, terms and conditions;

(2) A statement concerning whether any prior Commission facility authorization necessary to the implementation of the tariff has been obtained; and

(3) A statement that the filing is made pursuant to § 61.39.

(f) In addition to the requirements set forth in paragraph (a) of this section, any price cap local exchange carrier filing a price cap tariff must include in the letter of transmittal a statement that the filing is made pursuant to § 61.49.

(g) The letter of transmittal must specifically reference by number any special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication and may not be requested in the transmittal letter.

(h)(1) The letter of transmittal must be substantially in the following format:

_____
(Exact name of carrier in full)

_____
(Post Office Address)

_____
(Date)

_____
Transmittal No.

Secretary, Federal Communications Commission; Washington, DC 20554

Attention: Wireline Competition Bureau

The accompanying tariff (or other publication) issued by ____, and bearing FCC No. ____, effective ____, 20 __, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. (Here give the additional information required.)

_____
(Name of issuing officer or agent)

_____
(Title)

(2) A separate letter of transmittal may accompany each publication, or the above format may be modified to provide for filing as many publications as desired with one transmittal letter.

(i) All submissions of documents other than a new tariff or revisions to an existing tariff, such as Base Documents or Tariff Review Plans, must be accompanied by a cover letter that concisely explains the nature and purpose of the filing. Publications submitted under this paragraph are not required to submit a tariffing fee.

6. Section 61.16 is amended by revising paragraphs (a) and (b) to read as follows:

§ 61.16 Base documents.

(a) The Base Document is a complete tariff which incorporates all effective revisions, as of the last day of the preceding month. The Base Document should be submitted with a cover letter as specified in § 61.15(i) and identified as the *Monthly Updated Base Document.*

(b) Initially, issuing carriers that currently have tariffs on file with the commission must file a Base Document within five days of the initiation of mandatory electronic filing.

* * * * *

7. Section 61.17 is revised to read as follows:

§ 61.17 Applications for special permission.

(a) All issuing carriers that file applications for special permission, associated documents, such as transmittal letters, requests for special permission, and supporting information, shall file those documents electronically.

(b) Applications for special permission must contain:

(1) A detailed description of the tariff publication proposed to be put into effect;

(2) A statement citing the specific rules and the grounds on which waiver is sought;

(3) A showing of good cause; and

(4) The appropriate Illustrative tariff pages the issuing carrier wishes to either revise or add as new pages to its tariff.

(c) An application for special permission must be addressed to "Secretary, Federal Communications Commission, Washington, DC 20554." The Electronic Tariff Filing System will accept filings 24 hours a day, seven days a week. The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in § 1.4(e)(2) of this chapter, the filing will be date and time stamped as of the opening of the next business day.

(d) In addition, except for issuing carriers filing tariffing fees electronically, for special permission applications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the application letter (without attachments), FCC Form 159, and the appropriate fee to the address set forth in § 1.1105 of this chapter.

(e) In addition, if an issuing carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from FCC tariff numbers and Letters of Transmittal, bear the signature of the officer or agent of the carrier, and be in the following format:

Application No. _____
(Date) _____

Secretary
Federal Communications Commission
Washington, DC 20554.

Attention: Wireline Competition Bureau
(here provide the statements required by section 61.17(b)).

(Exact name of carrier) _____
(Name of officer or agent) _____
(Title of officer or agent) _____

(f) If approved, the issuing carrier must comply with all terms and use all authority specified in the grant. If a carrier elects to use less than the authority granted, it must apply to the Commission for modification of the original grant. If a carrier elects not to use the authority granted within sixty days of its effective date, the original grant will be automatically cancelled by the Commission.

8. Section 61.20 is revised to read as follows:

§ 61.20 Method of filing publications.

(a) All issuing carriers that file tariffs shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and supporting information, electronically in accordance with the requirements set forth in § 61.13 through § 61.17.

(b) In addition, except for issuing carriers filing tariffing fees

electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the cover letter (without attachments), FCC Form 159, and the appropriate fee to the address set forth in § 1.1105 of this chapter.

§§ 61.21 through 61.23 [Removed and Reserved]

9. Remove and reserve §§ 61.21 through 61.23.

§§ 61.32 and 61.33 [Removed and Reserved]

10. Remove and reserve §§ 61.32 and 61.33.

11. Section 61.38 is revised to read as follows:

§ 61.38 Supporting information to be submitted with letters of transmittal.

(a) *Scope.* This section applies to dominant carriers whose gross annual revenues exceed $500,000 for the most recent 12 month period of operations or are estimated to exceed $500,000 for a representative 12 month period. Incumbent Local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in § 69.602 of this chapter may submit Access Tariff filings for that study area pursuant to either this section or § 61.39. However, the Commission may require any issuing carrier to submit such information as may be necessary for a review of a tariff filing. This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings proposing rates for services identified in § 61.42 (d), (e), and (g).

(b) *Explanation and data supporting either changes or new tariff offerings.* The material to be submitted for a tariff change which affects rates or charges or for a tariff offering a new service, must include an explanation of the changed or new matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.

(1) For a tariff change the issuing carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A cost of service study for all elements for the most recent 12 month period;

(ii) A study containing a projection of costs for a representative 12 month period;

(iii) Estimates of the effect of the changed matter on the traffic and revenues from the service to which the changed matter applies, the issuing carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (b)(1)(ii) of this section.

(2) For a tariff filing offering a new service, the issuing carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the issuing carrier's other service classifications, and the issuing carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in paragraph (b)(2)(i) of this section.

(3) [Reserved]

(4) For a tariff that introduces a system of density pricing zones, as described in § 69.123 of this chapter, the issuing carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia,* documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

(c) *Working papers and statistical data.* (1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the issuing carrier must file the working papers containing the information underlying the data supplied in response to paragraph (b) of this section, and a clear explanation of how the working papers relate to that information.

(2) All statistical studies must be submitted and supported in the form prescribed in § 1.363 of this chapter.

(d) *Form and content of additional material to be submitted with certain rate increases.* In the circumstances set out in paragraphs (d)(1) and (2) of this section, the issuing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate increase. The issuing carrier must submit this information in suitable form to serve as the carrier's direct case in the event the rate increase is set by the Commission for investigation.

(1) Rate increases affecting single services or tariffed items.

(i) A rate increase in any service or tariffed item which results in more than $1 million in additional annual revenues, calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A single rate increase in any service or tariffed item, or successive rate increases in the same service or tariffed item within a 12 month period, either of which results in:

(A) At least a 10 percent increase in annual revenues from that service or tariffed item, and

(B) At least $100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(2) Rate increases affecting more than one service or tariffed item.

(i) A general rate increase in more than one service or tariffed item occurring at one time, which results in more than $1 million in additional revenues calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A general rate increase in more than one service or tariffed item occurring at one time, or successive general rate increases in the same services or tariffed items occurring within a 12 month period, either of which results in:

(A) At least a 10 percent increase in annual revenues from those services or tariffed items, and

(B) At least $100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(e) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.

(f) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the issuing carrier must transmit to the customer a copy of the explanation and data required by paragraphs (b) and (c) of this section.

(g) On each page of cost support material submitted pursuant to this section, the issuing carrier shall indicate the transmittal number under which that page was submitted.

12. Section 61.39 is revised to read as follows:

§ 61.39 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings by incumbent local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in § 69.602.

(a) *Scope.* This section provides for an optional method of filing for any incumbent local exchange carrier that is described as subset 3 carrier in § 69.602 of this chapter, which elects to issue its own Access Tariff for a period commencing on or after April 1, 1989, and which serves 50,000 or fewer access lines in a study area as determined under § 36.611(a)(8) of this chapter. However, the Commission may require any issuing carrier to submit such information as may be necessary for review of a tariff filing. This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings of price cap local exchange carriers.

(b) *Explanation and data supporting tariff changes.* The material to be submitted to either a tariff change or a new tariff which affects rates or charges must include an explanation of the filing in the transmittal as required by § 61.15. The basis for ratemaking must comply with the following requirements. Except as provided in paragraph (b)(5) of this section, it is not necessary to submit this supporting data at the time of filing. However, the incumbent local exchange carrier should be prepared to submit the data promptly upon reasonable request by the Commission or interested parties.

(1) For a tariff change, the incumbent local exchange carrier that is a cost schedule carrier must propose Tariff Sensitive rates based on the following:

(i) For the first period, a cost of service study for Traffic Sensitive elements for the most recent 12 month period with related demand for the same period.

(ii) For subsequent filings, a cost of service study for Traffic Sensitive elements for the total period since the incumbent local exchange carrier's last annual filing, with related demand for the same period.

(2) For a tariff change, the incumbent local exchange carrier that is an average schedule carrier must propose Traffic Sensitive rates based on the following:

(i) For the first period, the incumbent local exchange carrier's most recent annual Traffic Sensitive settlement from the National Exchange Carrier Association pool.

(ii) For subsequent filings, an amount calculated to reflect the Traffic Sensitive average schedule pool settlement the carrier would have received if the carrier had continued to participate, based upon the most recent average schedule formulas approved by the Commission.

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

(i) 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:

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

Where:

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

And where:

CCL Rev Req = carrier common line revenue requirement for the most recent 12-month period;
CCL MOU_b = carrier common line minutes of use for the most recent 12-month period;
CCL MOU_1 = CCL MOU_b; and
CCL MOU_0 = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For 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:

$$\frac{CCL\ \text{Rev Req}}{\text{CCL MOU}_b * (1+h/2)^{5/2}}$$

Where:

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

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_1 = carrier common line minutes of use for the 12-month period; and
CCL MOU_0 = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(4) For a tariff change, the incumbent local exchange carrier which is an average schedule carrier must propose common line rates based on the following:

(i) For the first biennial filings, the common line revenue requirement shall be determined by the incumbent local exchange carrier's most recent annual Common Line settlement from the National Exchange Carrier Association. 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:

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

Where:

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

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 MOU_1 = CCL MOU_b; and
CCL MOU_0 = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be an amount calculated to reflect the average schedule pool settlements the carrier would have received if the carrier had continued to participate in the carrier common line pool, based upon the average schedule Common Line formulas developed by the National Exchange Carrier Association 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:

$$\frac{CCL\ \text{Rev Req}}{\text{CCL MOU}_b * (1+h/2)^{5/2}}$$

Where:

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

And where:

CCL Rev Req = carrier common line settlement 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_1 = carrier common line minutes of use for the most recent 12-month period; and
CCL MOU_0 = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(5) For End User Common Line charges included in a tariff pursuant to this Section, the incumbent local

exchange carrier must provide supporting information for the two-year historical period with its letter of transmittal in accordance with § 61.38.

(c) *Maximum allowable rate of return.* Incumbent Local exchange carriers filing tariffs under this section are not required to comply with §§ 65.700 through 65.701 of this chapter, except with respect to periods during which tariffs were not subject to this section. The Commission may require any carrier to submit such information if it deems it necessary to monitor the carrier's earnings. However, rates must be calculated based on the incumbent local exchange carrier's prescribed rate of return applicable to the period during which the rates are effective.

(d) Rates for a new service that is the same as that offered by a price cap 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 rates 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 local exchange carrier; and

(2) Data to establish compliance with this paragraph 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. Compliance may be shown through submission of applicable tariff pages of the adjacent carrier; a showing that the serving areas are adjacent; any necessary explanations and work sheets.

(e) Average schedule companies filing pursuant to this section shall retain their status as average schedule companies.

(f) On each page of cost support material submitted pursuant to this section, the issuing carrier shall indicate the transmittal number under which that page was submitted.

13. Section 61.40 is amended by revising paragraph (a) introductory text to read as follows:

§ 61.40 Private line rate structure guidelines.

(a) The Commission uses a variety of tools to determine whether a dominant carrier's private line tariffs are just, reasonable, and nondiscriminatory. The dominant carrier's burden of cost justification can be reduced when its private line rate structures comply with the following five guidelines.

* * * * *

14. Section 61.41 is amended by revising paragraph (a)(2) to read as follows:

§ 61.41 Price cap requirements generally.

(a) * * *

(2) To such price cap 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

* * * * *

15. Section 61.42 is amended by revising paragraphs (d) introductory text, (d)(4)(i) and (d)(4)(ii), (e)(1) introductory text, and (f) to read as follows:

§ 61.42 Price cap baskets and service categories.

* * * * *

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

* * * * *

(4)(i) To the extent that a price cap local exchange carrier specified in § 61.41(a)(2) or (a)(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. For purposes of §§ 61.41 through 61.49, this basket shall be referred to as the "interexchange basket."

(ii) If a price cap local exchange carrier has implemented interLATA and intraLATA toll dialing parity everywhere it provides local exchange services at the holding company level, that price cap carrier may file a tariff revision to remove corridor and interstate intraLATA toll services from its interexchange basket.

* * * * *

(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:

* * * * *

(f) Each price cap local exchange carrier 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.

* * * * *

16. Section 61.43 is revised to read as follows:

§ 61.43 Annual price cap filings required.

Price cap local exchange carriers shall submit annual price cap tariff filings that propose rates for the upcoming tariff year, that make appropriate adjustments to their PCI, API, and SBI values pursuant to §§ 61.45 through 61.47, and that incorporate new services into the PCI, API, or SBI calculations pursuant to §§ 61.45(g), 61.46(b), and 61.47(b) and (c). Price cap local exchange carriers may propose rate, PCI, or other tariff changes more often than annually, consistent with the requirements of § 61.59.

17. Section 61.45 is amended by revising paragraphs (a), (b)(1)(i) introductory text, and (d)(2) to read as follows:

§ 61.45 Adjustments to the PCI for Local Exchange Carriers.

(a) Price cap local exchange carriers 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 exogenous cost changes.

(b)(1)(i) Adjustments to price cap local exchange carrier PCIs, in those carriers' annual access tariff filings, the traffic sensitive basket described in § 61.42(d)(2), the trunking basket described in § 61.42(d)(3), the special access basket described in § 61.42(d)(5) and the Interexchange Basket described in § 61.42(d)(4)(i), shall be made pursuant to the following formula:

* * * * *

(d) * * *

(2) Price cap local exchange carriers specified in §§ 61.41(a)(2) or (a)(3) shall, in their annual access tariff filing, recognize all exogenous cost changes attributable to modifications during the coming tariff year in their Subscriber Plant Factor and the Dial Equipment Minutes factor, and completions of inside wire amortizations and reserve deficiency amortizations.

* * * * *

18. Section 61.46 is amended by revising paragraph (a) introductory text to read as follows:

§ 61.46 Adjustments to the API.

(a) Except as provided in paragraphs (d) and (e) of this section, in connection with any price cap tariff filing proposing rate changes, the price cap local exchange carrier must calculate an API for each affected basket pursuant to the following methodology:

* * * * *

19. Section 61.47 is amended by revising paragraphs (f), (i)(2), and (i)(5) to read as follows:

§ 61.47 Adjustments to the SBI; pricing bands.

* * * * *

(f) A price cap local exchange carrier may establish density zones pursuant to the requirements set forth in § 69.123 of this chapter, for any service in the

trunking and special access baskets, other than the interconnection charge set forth in § 69.124 of this chapter. The pricing flexibility of each zone shall be limited to an annual increase of 15 percent, relative to the percentage change in the PCI for that basket, measured from the levels in effect on the last day of the preceding tariff year. There shall be no lower pricing band for any density zone.

* * * * *

(i)(1) * * *

(2) Effective January 1, 1998, notwithstanding the requirements of paragraph (a) of this section, if a price cap local exchange carrier is recovering interconnection charge revenues through per-minute rates pursuant to § 69.155 of this chapter, any reductions to the PCI for the basket designated in § 61.42(d)(3) resulting from the application of the provisions of § 61.45(b)(1)(i) and from the application of the provisions of §§ 61.45(i)(1) and 61.45(i)(2) shall be directed to the SBI of the service category designated in § 61.42(d)(i).

* * * * *

(5) Effective July 1, 2000, notwithstanding the requirements of paragraph (a) of this section and subject to the limitations of § 61.45(i), if a price cap local exchange carrier is recovering an ATS charge greater than its Target Rate as set forth in § 61.3(qq), any reductions to the PCI for the traffic sensitive or trunking baskets designated in §§ 61.42(d)(2) and 61.42(d)(3) resulting from the application of the provisions of § 61.45(b), and the formula in § 61.45(b) and from the application of the provisions of §§ 61.45(i)(1), and 61.45(i)(2) shall be directed to the SBIs of the service categories designated in §§ 61.42(e)(1) and 61.42(e)(2).

* * * * *

20. Section 61.48 is amended by revising paragraphs (i)(2), (i)(3) introductory text, (i)(4), and (l)(2) to read as follows:

§ 61.48 Transition rules for price cap formula calculations.

* * * * *

(i) * * *

(2) *Simultaneous Introduction of Special Access and Transport Zones.* Price cap local exchange carriers that have established density pricing zones pursuant to § 69.123 of this chapter, and whose special access zone date and transport zone date occur on the same date, shall initially establish density pricing zone SBIs and bands pursuant to the methodology in § 61.47(e) and (f).

(3) *Sequential Introduction of Zones in the Same Tariff Year.* Notwithstanding § 61.47(e) and (f), price cap local exchange carriers that have established density pricing zones pursuant to § 69.123 of this chapter, and whose special access zone date and transport zone date occur on different dates during the same tariff year, shall, on the earlier date, establish density pricing zone SBIs and pricing bands using the methodology described in § 61.47(e) and (f), but applicable to the earlier service only. On the later date, such carriers shall recalculate the SBIs and pricing bands to limit the pricing flexibility of the services included in each density pricing zone category, as reflected in its SBI, as follows:

* * * * *

(4) *Introduction of Zones in Different Tariff Years.* Notwithstanding § 61.47(e) and (f), those price cap local exchange carriers that have established density pricing zones pursuant to § 69.123 of this chapter, and whose special access zone date and transport zone date do not occur within the same tariff year, shall, on the earlier date, establish density pricing zone SBIs and pricing bands using the methodology described in § 61.47(e) and (f), but applicable to the earlier service only.

* * * * *

(l) * * *

(2) Once the reductions in paragraph (l)(1)(i) and paragraphs (l)(1)(ii)(A) and (B) of this section are identified, the difference between those reductions and $2.1 billion is the total amount of additional reductions that would be made to ATS rates of price cap local exchange carriers. This amount will then be restated as the percentage of total price cap local exchange carrier Local Switching revenues as of June 30, 2000 using 2000 annual filing base period demand ("June 30 Local Switching revenues") necessary to yield the total amount of additional reductions and taking into account the fact that, if participating, a price cap local exchange carrier would not reduce ATS rates below its Target Rate as set forth in § 61.3(qq). Each price cap local exchange carrier then reduces ATS rate elements, and associated SBI upper limits and PCIs, by a dollar amount equivalent to the percentage times the June 30 Local Switching revenues for that filing entity, provided that no price cap local exchange carrier shall be required to reduce its ATS rates below its Target Rate as set forth in § 61.3(qq). Each price cap local exchange carrier can take its additional reductions against any of the ATS rate elements, provided that at least a proportional share must be taken against Local Switching rates.

* * * * *

21. Section 61.49 is amended by revising paragraphs (f)(2), (f)(3), (f)(4), (g) introductory text, (g)(2), (h), (k) and (l) to read as follows:

§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.

* * * * *

(f) * * *

(2) Each tariff filing submitted by a price cap local exchange carrier that introduces a new loop-based service, as defined in § 61.3(pp)—including a restructured unbundled basic service element (BSE), as defined in § 69.2(mm) of this chapter, that constitutes a new loop-based service—that is or will later be included in a basket, must be accompanied by cost data sufficient to establish that the new loop-based service or unbundled BSE will not recover more than a just and reasonable portion of the carrier's overhead costs.

(3) A price cap local exchange carrier may submit without cost data any tariff filings that introduce new services, other than loop-based services.

(4) A price cap local exchange carrier that has removed its corridor or interstate intraLATA toll services from its interexchange basket pursuant to § 61.42(d)(4)(ii), may submit its tariff filings for corridor or interstate intraLATA toll services without cost data.

(g) Each tariff filing submitted by a price cap local exchange carrier that introduces a new loop-based service or a restructured unbundled basic service element (BSE), as defined in § 69.2(mm) of this chapter, that is or will later be included in a basket, or that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in § 69.121 of this chapter, must also be accompanied by:

* * * * *

(2) *Working papers and statistical data.* (i) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the issuing carriers must file the working papers containing the information underlying the data supplied in response to paragraph (h)(1) of this section, and a clear explanation of how the working papers relate to that information.

(ii) All statistical studies must be submitted and supported in the form prescribed in § 1.363 of this chapter.

(h) Each tariff filing submitted by a price cap local exchange carrier that

introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in § 69.121 of this chapter, must be accompanied by cost data sufficient to establish that such charges will not recover more than a just and reasonable portion of the carrier's overhead costs.

* * * * *

(k) In accordance with §§ 61.41 through 61.49, price cap local exchange carriers that elect to file their annual access tariff pursuant to section 204(a)(3) of the Communications Act shall submit supporting material for their interstate annual access tariffs, absent rate information, 90 days prior to July 1 of each year.

(l) On each page of cost support material submitted pursuant to this section, the issuing carrier shall indicate the transmittal number under which that page was submitted.

Subpart H—[Removed]

22. Remove Subpart H consisting of §§ 61.151 through 61.153.

Subpart G—[Redesignated as Subpart H]

23. Redesignate Subpart G (§§ 61.131 to 61.136) as Subpart H.

Subpart F—[Redesignated as Subpart G]

24. Redesignate Subpart F (§§ 61.66 to 61.87) as Subpart G.

25. Designate §§ 61.52 through 61.59 as subpart F, and add a new subpart F heading to read as follows:

Subpart F—Formatting and Notice Requirements for Tariff Publications

26. Section 61.51 is added to newly designated subpart F to read as follows:

§ 61.51 Scope.

The rules in this subpart apply to tariffs filed by issuing carriers, with the exception of the informational tariffs filed pursuant to 47 U.S.C. 226(h)(1)(A), unless otherwise noted.

27. Section 61.52 is amended by removing paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (a) and (b) and revising newly redesignated paragraph (a) introductory text, and newly redesignated paragraph (b) to read as follows:

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

(a) Pages of tariffs must be numbered consecutively and designated as "Original title page," "Original page 1," "Original page 2," etc.

* * * * *

(b) All issuing carriers shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and supporting information, electronically in accordance with the requirements set forth in § 61.13 through § 61.17.

28. Section 61.55 is amended by revising paragraph (a) to read as follows:

§ 61.55 Contract-based tariffs.

(a) This section shall apply to price cap local exchange carriers permitted to offer contract-based tariffs under § 69.727(a) of this chapter.

* * * * *

29. Section 61.58 is amended by revising paragraphs (a)(2)(ii), (d), (e)(1) introductory text and adding new paragraph (f) to read as follows:

§ 61.58 Notice requirements.

(a) * * *

(2) * * *

(ii) Local exchange carriers may elect not to file tariffs pursuant to section 204(a)(3) of the Communications Act. For dominant carriers, any such tariffs shall be filed on at least 16 days' notice. For nondominant carriers, any such tariffs shall be filed on at least one days' notice.

* * * * *

(d)(1) A price cap local exchange carrier that is filing a tariff revision to remove its corridor or interstate intraLATA toll services from its interexchange basket pursuant to § 61.42(d)(4)(ii) shall submit such filing on at least fifteen days' notice.

(2) A price cap local exchange carrier that has removed its corridor and interstate intraLATA toll services from its interexchange basket pursuant to § 61.42(d)(4)(ii) shall file subsequent tariff filings for corridor or interstate intraLATA toll services on at least one day's notice.

(e) *Non-price cap local exchange carriers and/or services.* (1) Tariff filings in the instances specified in paragraphs (e)(1)(i), (ii), and (iii) of this section by dominant carriers must be made on at least 15 days' notice.

* * * * *

(f) All tariff filings of domestic and international non-dominant carriers must be made on at least one days' notice.

30. Section 61.59 is amended by revising paragraphs (b) and (c) to read as follows:

§ 61.59 Effective period required before changes.

* * * * *

(b) Changes to rates and regulations for dominant carriers that have not yet become effective, *i.e.,* are pending, may not be made unless the effective date of the proposed changes is at least 30 days after the scheduled effective date of the pending revisions.

(c) Changes to rates and regulations for dominant carriers that have taken effect but have not been in effect for at least 30 days may not be made unless the scheduled effective date of the proposed changes is at least 30 days after the effective date of the existing regulations.

31. Section 61.66 is revised to read as follows:

§ 61.66 Scope.

The rules in this subpart apply to all issuing carriers, unless otherwise noted.

32. Section 61.68 is amended by revising paragraph (a) to read as follows:

§ 61.68 Special notations.

(a) Any tariff filing made pursuant to an Application for Special Permission, Commission decision or order must contain the following statement:

Issued under authority of (specific reference to the special permission, Commission decision, or order) of the Commission.

* * * * *

33. Section 61.83 is revised to read as follows:

§ 61.83 Consecutive numbering.

Issuing carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted. Supplements to a tariff must be numbered consecutively in a separate series.

34. Section 61.86 is revised to read as follows:

§ 61.86 Supplements.

An issuing carrier may not file a supplement except to suspend or cancel a tariff publication, or to defer the effective date of pending tariff revisions. A carrier may file a supplement for the voluntary deferral of a tariff publication.

35. Section 61.87 is amended by revising paragraph (a) introductory text, paragraphs (a)(1)(i), (a)(1)(ii), (a)(3), and (c) to read as follows:

§ 61.87 Cancellation of tariffs.

(a) An issuing carrier may cancel an entire tariff. Cancellation of a tariff automatically cancels every page and supplement to that tariff except for the canceling Title Page or first page.

(1) * * *

(i) The issuing carrier whose tariff is being canceled must revise the Title Page or the first page of its tariff indicating that the tariff is no longer effective, or

(ii) The issuing carrier under whose tariff the service(s) will be provided must revise the Title Page or first page of the tariff to be canceled, using the name and numbering shown in the heading of the tariff to be canceled, indicating that the tariff is no longer effective. This carrier must also file with the Commission the new tariff provisions reflecting the service(s) being canceled. Both filings must be effective on the same date and may be filed under the same transmittal.

* * * * *

(3) A carrier canceling its tariff, as described in this section, must comply with § 61.54(b)(1) and (b)(5), as applicable.

* * * * *

(c) When a carrier ceases to provide service(s) without a successor, it must cancel its tariff pursuant to the notice requirements of § 61.58, as applicable, unless otherwise authorized by the Commission.

36. Section 61.132 is revised to read as follows:

§ 61.132 Method of filing concurrences.

A carrier proposing to concur in another carrier's effective tariff must deliver one copy of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must file one copy of the concurrence electronically with the Commission in accordance with the requirements set forth in §§ 61.13 through 61.17. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence. Carriers shall file revisions reflecting concurrences in their tariffs on the notice period specified in § 61.58.

37. Section 61.134 is revised to read as follows:

§ 61.134 Concurrences for through services.

An issuing carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting or other participating carriers as provided in § 61.54 (f), (g), and (h). A concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

38. Section 61.191 is revised to read as follows:

§ 61.191 Carrier to file supplement when notified of suspension.

If an issuing carrier is notified by the Commission that its tariff publication has been suspended, the carrier must file, within five business days from the release date of the suspension order, a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

39. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(K); secs. 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254(k) unless otherwise noted.

40. Section 64.709 is amended by revising paragraphs (d)(1) and (d)(2) to read as follows:

§ 64.709 Informational tariffs.

* * * * *

(d) * * *

(1) The original of the cover letter shall be submitted to the Secretary without attachments, along with FCC Form 159, and the appropriate fee to the address set forth in § 1.1105 of this chapter.

(2) Carriers should file informational tariffs and associated documents, such as cover letters and attachments, electronically in accordance with §§ 61.13 and 61.14 of this chapter.

* * * * *

[FR Doc. 2010–19580 Filed 8–10–10; 8:45 am]

BILLING CODE 6712–01–P