

of its SUBSIDIARIES, but only to the extent such supplier has exercised its own licenses granted by WESTERN under patents for such inventions to so employ or include said inventions.

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WESTERN'S PATENTS means all patents issued at any time in the United States for:

(i) Inventions made prior to the termination of the FIVE YEAR PERIOD and owned or controlled at any time during the FIVE YEAR PERIOD by AT&T, WESTERN or any of their SUBSIDIARIES,

(ii) Inventions made during the FIVE YEAR PERIOD, solely or jointly with anyone, and in the course of their employment by employees of any such company who are employed to do research, development or other inventive work, and

(iii) Any other inventions made prior to the termination of the FIVE YEAR PERIOD, with respect to which and to the extent to which any such company shall at any time during the FIVE YEAR PERIOD have the right to grant the licenses and rights which are herein granted by WESTERN;

provided, however, that said patents do not include those issued for inventions made by employees of any SUBSIDIARY of WESTERN or AT&T exclusively engaged in the performance of contracts with the Energy Research and Development Administration of the United States.

[41 FR 28699, July 12, 1976, as amended at 50 FR 47549, Nov. 19, 1985]

§ 68.506 Configurations used to connect multi-line communications systems such as Private Branch Exchange (PBX) and key telephone systems.

Any of the jack configurations specified in § 68.502, used singly, in multiple combinations, or combined in common mechanical arrays, may be used as the interface between multi-line equipment such as PBX and key telephone systems, and the telephone network. The telephone company and installation supervisor may mutually agree to use electrical connections alternative to those specified in § 68.502.

[43 FR 16501, Apr. 19, 1978]

PART 69—ACCESS CHARGES

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AUTHORITY: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

SOURCE: 48 FR 10358, Mar. 11, 1983, unless otherwise noted.

Subpart A—General

§ 69.1 Application of access charges.

(a) This part establishes rules for access charges for interstate or foreign access services provided by telephone companies on or after January 1, 1984.

(b) Except as provided in § 69.1(c), charges for such access service shall be computed, assessed, and collected and revenues from such charges shall be distributed as provided in this part. Access service tariffs shall be filed and supported as provided under part 61 of this chapter, except as modified herein.

(c) The following provisions of this part shall apply to telephone companies subject to price cap regulation only to the extent that application of such provisions is necessary to develop the nationwide average carrier common line charge, for purposes of reporting pursuant to §§ 43.21 and 43.22 of this chapter, and for computing initial charges for new rate elements: §§ 69.3(f), 69.106(b), 69.106(f), 69.106(g), 69.109(b), 69.110(d), 69.111(c), 69.111(g)(1), 69.111(g)(2), 69.111(g)(3), 69.111(l), 69.112(d), 69.114(b), 69.114(d), 69.125(b)(2), 69.301 through 69.310, and 69.401 through 69.412. The computation of rates pursuant to these provisions by telephone companies subject to price cap regulation shall be governed by the price cap rules set forth in part 61 of this chapter

and other applicable Commission rules and orders.

[48 FR 10358, Mar. 11, 1983, as amended at 55 FR 42385, Oct. 19, 1990; 58 FR 41189, Aug. 3, 1993; 62 FR 40463, July 29, 1997]

§ 69.2 Definitions.

For purposes of the part:

(a) *Access Minutes* or *Access Minutes of Use* is that usage of exchange facilities in interstate or foreign service for the purpose of calculating chargeable usage. On the originating end of an interstate or foreign call, usage is to be measured from the time the originating end user's call is delivered by the telephone company and acknowledged as received by the interexchange carrier's facilities connected with the originating exchange. On the terminating end of an interstate or foreign call, usage is to be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an interstate or foreign call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating end exchanges, as applicable;

(b) *Access Service* includes services and facilities provided for the origination or termination of any interstate or foreign telecommunication;

(c) *Annual revenue requirement* means the sum of the return component and the expense component;

(d) *Association* means the telephone company association described in subpart G of this part;

(e) *Big Three Expenses* are the combined expense groups comprising: Plant Specific Operations Expense, Accounts 6110, 6120, 6210, 6220, 6230, 6310 and 6410; Plant Nonspecific Operations Expenses, Accounts 6510, 6530 and 6540, and Customer Operations Expenses, Accounts 6610 and 6620;

(f) *Big Three Expense Factors* are the ratios of the sum of Big Three Expenses apportioned to each element or category to the combined Big Three Expenses.

(g) *Cable and Wire Facilities* includes all equipment or facilities that are described as cable and wire facilities in the *Separations Manual* and included in Account 2410.

(h) *Carrier Cable and Wire Facilities* means all cable and wire facilities that are not subscriber line cable and wire facilities;

(i) *Central Office Equipment* or *COE* includes all equipment or facilities that are described as Central Office Equipment in the *Separations Manual* and included in Accounts 2210, 2220 and 2230.

(j) *Corporate Operations Expenses* include Executive and Planning Expenses (Account 6710) and General and Administrative Expenses (Account 6720);

(k) *Customer Operations Expenses* include Marketing and Services expenses in Accounts 6610 and 6620, respectively;

(l) *Direct Expense* means expenses that are attributable to a particular category or categories of tangible investment described in subpart D of this part and includes:

(1) Plant Specific Operations expenses in Accounts 6110, 6120, 6210, 6220, 6230, 6310 and 6410; and

(2) Plant Nonspecific Operations Expenses in Accounts 6510, 6530, 6540 and 6560;

(m) *End User* means any customer of an interstate or foreign telecommunications service that is not a carrier except that a carrier other than a telephone company shall be deemed to be an "end user" when such carrier uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications services exclusively as a reseller shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller;

(n) *Entry Switch* means the telephone company switch in which a transport line or trunk terminates;

(o) *Expense Component* means the total expenses and income charges for an annual period that are attributable to a particular element or category;

(p) *Expenses* include allowable expenses in the Uniform System of Accounts, part 32, apportioned to interstate or international services pursuant to the *Separations Manual* and allowable income charges apportioned to interstate and international services pursuant to the *Separations Manual*;

(q) *General Support Facilities* include buildings, land, vehicles, aircraft, work equipment, furniture, office equipment

and general purpose computers as described in the *Separations Manual* and included in Account 2110.

(r) *Information Origination/Termination Equipment* includes all equipment or facilities that are described as information origination/termination equipment in the *Separations Manual* and in Account 2310 except information origination/termination equipment that is used by telephone companies in their own operations.

(s) *Interexchange* or the *interexchange category* includes services or facilities provided as an integral part of interstate or foreign telecommunications that is not described as "access service" for purposes of this part;

(t) *Level I Contributors*. Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a lower than average Common Line revenue requirement per minute of use in 1988 and thus were net contributors (*i.e.*, had a negative net balance) to the association Common Line pool in 1988.

(u) *Level I Receivers*. Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a higher than average Common Line revenue requirement per minute of use in 1988 and thus were net receivers (*i.e.*, had a positive net balance) from the association Common Line Pool in 1988.

(v) *Level II Contributors*. A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, that files its own Common Line tariff effective July 1, 1990, and that had a lower than average Common Line revenue requirement per minute of use in 1988 and thus was a net contributor (*i.e.*, had a negative net balance) to the association Common Line pool in 1988.

(w) *Level II Receivers*. A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, that files its

own Common Line tariff effective July 1, 1990, and that had a higher than average Common Line revenue requirement per minute of use in 1988 and thus was a net receiver (*i.e.*, had a positive net balance) from the association Common Line pool in 1988.

(x) *Line* or *Trunk* includes, but is not limited to, transmission media such as radio, satellite, wire, cable and fiber optic cable means of transmission;

(y) *Long Term Support (LTS)* means funds that are provided pursuant to § 54.303 of part 54.

(z) *Net Investment* means allowable original cost investment in Accounts 2001 through 2003, 1220 and 1402 that has been apportioned to interstate and foreign services pursuant to the *Separations Manual* from which depreciation, amortization and other reserves attributable to such investment that has been apportioned to interstate and foreign services pursuant to the *Separations Manual* have been subtracted and to which working capital that is attributable to interstate and foreign services has been added;

(aa) *Operating Taxes* include all taxes in Account 7200;

(bb) *Origination* of a service that is switched in a Class 4 switch or an interexchange switch that performs an equivalent function ends when the transmission enters such switch and *termination* of such a service begins when the transmission leaves such a switch, except that;

(1) Switching in a Class 4 switch or transmission between Class 4 switches that is not deemed to be interexchange for purposes of the Modified Final Judgement entered August 24, 1982, in *United States v Western Electric Co.*, D.C. Civil Action No. 82-0192, will be "origination" or "termination" for purposes of this part; and

(2) *Origination* and *Termination* does not include the use of any part of a line, trunk or switch that is not owned or leased by a telephone company;

(cc) *Origination* of any service other than a service that is switched in a Class 4 switch or a switch that performs an equivalent function ends and "termination" of any such service begins at a point of demarcation that corresponds with the point of demarcation that is used for a service that is

switched in a Class 4 switch or a switch that performs an equivalent function;

(dd) *Private Line* means a line that is used exclusively for an interexchange service other than MTS, WATS or an MTS-WATS equivalent service, including a line that is used at the closed end of an FX WATS or CCSA service or any service that is substantially equivalent to a CCSA service;

(ee) *Public Telephone* is a telephone provided by a telephone company through which an end user may originate interstate or foreign telecommunications for which he pays with coins or by credit card, collect or third number billing procedures;

(ff) *Return Component* means net investment attributable to a particular element or category multiplied by the authorized annual rate of return;

(gg) *Subscriber Line Cable and Wire Facilities* means all lines or trunks on the subscriber side of a Class 5 or end office switch, including lines or trunks that do not terminate in such a switch, except lines or trunks that connect an interexchange carrier;

(hh) *Telephone company* or *local exchange carrier* as used in this part means an incumbent local exchange carrier as defined in section 251(h)(1) of the 1934 Act as amended by the 1996 Act.

(ii) *Transitional Support (TRS)* means funds provided by telephone companies that are not association Common Line tariff participants, but were net contributors to the association Common Line pool in 1988, to telephone companies that are not association Common Line tariff participants and were net receivers from the association Common Line pool in 1988;

(jj) *Unit of Capacity* means the capability to transmit one conversation;

(kk) *WATS Access Line* means a line or trunk that is used exclusively for WATS service.

(ll) *Equal access investment and equal access expenses* mean equal access investment and expenses as defined for purposes of the part 36 separations rules.

(mm) *Basic Service Elements* are optional unbundled features that enhanced service providers may require or find useful in the provision of enhanced services, as defined in Amend-

ments of part 69 of the Commission's rules relating to the Creation of Access Charge Subelements for Open Network Architecture, Report and Order, 6 FCC Rcd _____, CC Docket No. 89-79, FCC 91-186 (1991).

(nn) *Dedicated Signalling Transport* means transport of out-of-band signalling information between an interexchange carrier or other person's common channel signalling network and a telephone company's signalling transport point on facilities dedicated to the use of a single customer.

(oo) *Direct-trunked transport* means transport on circuits dedicated to the use of a single interexchange carrier or other person, without switching at the tandem,

(1) Between the serving wire center and the end office, or

(2) Between two customer-designated telephone company offices.

(pp) *End Office* means the telephone company office from which the end user receives exchange service.

(qq) *Entrance Facilities* means transport from the interexchange carrier or other person's point of demarcation to the serving wire center.

(rr) *Serving Wire Center* means the telephone company central office designated by the telephone company to serve the geographic area in which the interexchange carrier or other person's point of demarcation is located.

(ss) *Tandem-switched transport* means transport of traffic that is switched at a tandem switch—

(1) Between the serving wire center and the end office, or

(2) Between the telephone company office containing the tandem switching equipment, as described in §36.124 of this chapter, and the end office.

Tandem-switched transport between a serving wire center and an end office consists of circuits dedicated to the use of a single interexchange carrier or other person from the serving wire center to the tandem (although this dedicated link will not exist if the serving wire center and the tandem are located in the same place) and circuits used in common by multiple interexchange carriers or other persons from the tandem to the end office.

(tt) *Initial transport rates* means rates for entrance facilities, direct-trunked

transport, tandem-switched transport, dedicated signalling transport, and the interconnection charge in tariffs filed on September 1, 1993 pursuant to the Report and Order in Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442, 7 FCC Rcd 7006 (1992).

(uu) *Price cap regulation* means the method of regulation of dominant carriers provided in §§ 61.41 through 61.49 of this chapter.

(vv) *Signalling for tandem switching* means the carrier identification code (CIC) and the OZZ code, or equivalent information needed to perform tandem switching functions. The CIC identifies the interexchange carrier and the OZZ identifies the interexchange carrier trunk to which traffic should be routed.

[52 FR 37309, Oct. 6, 1987, as amended at 53 FR 28395, July 28, 1988; 53 FR 30059, Aug. 10, 1988; 54 FR 3456, Jan. 24, 1989; 54 FR 11718, Mar. 22, 1989; 55 FR 6990, Feb. 28, 1990; 56 FR 33880, July 24, 1991; 57 FR 54719, Nov. 20, 1992; 58 FR 41189, Aug. 3, 1993; 59 FR 32930, June 27, 1994; 62 FR 31932, June 11, 1997; 62 FR 32962, June 17, 1997]

§ 69.3 Filing of access service tariffs.

(a) Except as provided in paragraphs (g) and (h) of this section, a tariff for access service shall be filed with this Commission for a two-year period. Such tariffs shall be filed on a minimum of 90 days' notice with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.

(b) The requirements imposed by paragraph (a) of this section shall not preclude the filing of revisions to those annual tariffs that will become effective on dates other than July 1.

(c) Any access service tariff filing, the filing of any petitions for rejection, investigation or suspension and the filing of any responses to such petitions shall comply with the applicable rules of this Commission relating to tariff filings.

(d) The association shall file a tariff as agent for all telephone companies that participate in an association tariff.

(e) A telephone company or group of telephone companies may file a tariff that is not an association tariff, except

that a group rate for non-affiliated telephone companies may not be filed under § 61.50 of this chapter; e.g., the Association. Such a tariff may cross-reference the association tariff for some access elements and include separately computed charges of such company or companies for other elements. Any such tariff must comply with the requirements hereinafter provided:

(1) Such a tariff must cross reference association charges for the Carrier Common Line and End User Common Line element or elements if such company or companies participate in the pooling of revenues and revenue requirements for such elements.

(2) Such a tariff that cross-references an association charge for any end user access element must cross-reference association charges for all end user access elements;

(3) Such a tariff that cross-references an association charge for any carrier's carrier access element other than the Carrier Common Line element must cross-reference association charges for all carrier's carrier access charges other than the Carrier Common Line element;

(4) Except for charges subject to price cap regulation as that term is defined in § 61.3(v) of this chapter, any charge in such a tariff that is not an association charge must be computed to reflect the combined investment and expenses of all companies that participate in such a charge;

(5) A telephone company or companies that elect to file such a tariff for 1984 access charges shall notify AT&T on or before the 40th day after the release of the Commission order adopting this part;

(6) A telephone company or companies that elect to file such a tariff shall notify the association not later than December 31 of the preceding year, if such company or companies did not file such a tariff in the preceding annual period or cross-reference association charges in such preceding period that will not be cross-referenced in the new tariff.

(7) Such a tariff shall not contain charges for any access elements that are disaggregated or deaveraged within a study area that is used for purposes of jurisdictional separations.

(8) Such a tariff shall not contain charges included in the billing and collection category.

(9) A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff effective April 1, 1989 shall notify the association not later than August 30 of the preceding year that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff effective July 1, 1990 or thereafter pursuant to § 69.3(a) shall notify the association not later than December 31 of the preceding year that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff for one its study areas shall file its own Carrier Common Line tariff(s) for all of its study areas.

(10) Any data supporting a tariff that is not an association tariff shall be consistent with any data that the filing carrier submitted to the association.

(11) Any changes in Association common line tariff participation and Long Term and Transitional Support resulting from the merger or acquisition of telephone properties are to be made effective on the next annual access tariff filing effective date following consummation of the merger or acquisition transaction, in accordance with the provisions of § 69.3(e)(9).

(f) A tariff for access service provided by a telephone company that may file an access tariff pursuant to § 61.39 may be filed for a biennial period with a minimum of 90 days notice and scheduled effective date of July 1 of any odd numbered year. An eligible telephone company that does not elect to file an access tariff pursuant to the § 61.39 procedures may elect to file a biennial tariff pursuant to this section. For purposes of computing charges for access elements other than Common Line elements to be effective on July 1 of any even-numbered year, the association may compute rate changes based upon statistical methods which represent a reasonable equivalent to the cost sup-

port information otherwise required under part 61 of this chapter.

(g) The following rules apply to telephone company participation in the Association common line pool for telephone companies involved in a merger or acquisition.

(1) Notwithstanding the requirements of § 69.3(e)(9), any Association common line tariff participant that is party to a merger or acquisition may continue to participate in the Association common line tariff.

(2) Notwithstanding the requirements of § 69.3(e)(9), any Association common line tariff participant that is party to a merger or acquisition may include other telephone properties involved in the transaction in the Association common line tariff, provided that the net addition of common lines to the Association common line tariff resulting from the transaction is not greater than 50,000, and provided further that, if any common lines involved in a merger or acquisition are returned to the Association common line tariff, all of the common lines involved in the merger or acquisition must be returned to the Association common line tariff.

(3) Telephone companies involved in mergers or acquisitions that wish to have more than 50,000 common lines re-enter the Association common line pool must request a waiver of § 69.3(e)(9). If the telephone company has met all other legal obligations, the waiver request will be deemed granted on the sixty-first (61st) day from the date of public notice inviting comment on the requested waiver unless:

(i) The merger or acquisition involves one or more partial study areas;

(ii) The waiver includes a request for confidentiality of some or all of the materials supporting the request;

(iii) The waiver includes a request to return only a portion of the telephone properties involved in the transaction to the Association common line tariff;

(iv) The Commission rejects the waiver request prior to the expiration of the sixty-day period;

(v) The Commission requests additional time or information to process the waiver application prior to the expiration of the sixty-day period; or

(vi) A party, in a timely manner, opposes a waiver request or seeks conditional approval of the waiver in response to our public notice of the waiver request.

(h) Local exchange carriers subject to price cap regulation as that term is defined in §61.3(v) of this chapter, shall file with this Commission a price cap tariff for access service for an annual period. Subject to §61.48, such tariffs shall be filed to provide a minimum of 90 days' notice with a scheduled effective date of July 1. Such tariff filings shall be limited to changes in the Price Cap Indexes, rate level changes (with corresponding adjustments to the affected Actual Price Indexes and Service Band Indexes), and the incorporation of new services into the affected indexes as required by §61.49 of this chapter.

(i) The following rules apply to the withdrawal from Association tariffs under the provision of paragraph (e)(6) or (e)(9) of this section or both by telephone companies electing to file price cap tariffs pursuant to paragraph (h) of this section or optional incentive plan tariffs pursuant to §61.50 of this chapter.

(1) In addition to the withdrawal provisions of paragraphs (e) (6) and (9) of this section, a telephone company or group of affiliated telephone companies that participates in one or more Association tariffs during the current tariff year and that elects to file price cap tariffs or optional incentive regulation tariffs effective July 1 of the following tariff year, shall give the Association at least 6 months' notice that it is withdrawing from Association tariffs, subject to the terms of this section, to participate in price cap regulation or optional incentive regulation.

(2) The Association shall maintain records of such withdrawals sufficient to discharge its obligations under these Rules and to detect efforts by such companies or their affiliates to rejoin any Association tariffs in violation of the provisions of paragraph (i)(4) of this section.

(3) Notwithstanding the provisions of paragraphs (e) (3), (6), and (9) of this section, in the event a telephone company withdraws from all Association tariffs for the purpose of filing price

cap tariffs or optional incentive plan tariffs, such company shall exclude from such withdrawal all "average schedule" affiliates and all affiliates so excluded shall be specified in the withdrawal. However, such company may include one or more "average schedule" affiliates in price cap regulation or optional incentive plan regulation provided that each price cap or optional incentive plan affiliate relinquishes "average schedule" status and withdraws from all Association tariffs and any tariff filed pursuant to §61.39(b)(2) of this chapter. See generally §§69.605(c), 61.39(b) of this chapter; MTS and WATS Market Structure: Average Schedule Companies, Report and Order, 103 FCC 2d 1026-1027 (1986).

(4) If a telephone company elects to withdraw from Association tariffs and thereafter becomes subject to price cap regulation as that term is defined in §61.3(v) of this chapter, neither such telephone company nor any of its withdrawing affiliates shall thereafter be permitted to participate in any Association tariffs.

(j) A telephone company or group of affiliated telephone companies that participates in an association tariff and elects to file its own tariff pursuant to §61.50 of this chapter by January 1, 1994 shall notify the association not later than September 1, 1993 that it will no longer participate in the association tariff. This January 1, 1994 filing shall be for an 18-month tariff period. A telephone company or group of affiliated telephone companies that participates in an association tariff and elects to file its own tariff pursuant to §61.50 of this chapter, by July 1, 1994 or thereafter pursuant to paragraph (a) of this section, shall notify the association not later than December 31 of the preceding year that it will no longer participate in that association tariff.

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 10358, Mar. 11, 1983, as amended at 48 FR 43017, Sept. 21, 1983; 50 FR 41356, Oct. 10, 1985; 51 FR 6119, Feb. 20, 1986; 51 FR 42236, Nov. 24, 1986; 52 FR 21540, June 8, 1987; 52 FR 37310, Oct. 6, 1987; 53 FR 36289, Sept. 19, 1988; 54 FR 39534, Sept. 27, 1989; 55 FR 6990, Feb. 28, 1990; 55 FR 42385, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990; 58 FR 36149, July 6, 1993]

§ 69.4 Charges to be filed.

(a) The end user charges for access service filed with this Commission shall include charges for the End User Common Line element, and for line port costs in excess of basic, analog service.

(b) Except as provided in paragraphs (c), (e), and (h) of this section, and in § 69.118, the carrier's carrier charges for access service filed with this Commission shall include charges for each of the following elements:

- (1) [Reserved]
- (2) Carrier common line;
- (3) Local switching;
- (4) Information;
- (5) Tandem-switched transport;
- (6) Direct-trunked transport;
- (7) Special access; and
- (8) Line information database;
- (9) Entrance facilities.

(c) For all tariffs filed with this Commission that become effective after March 31, 1989, the carrier's carrier charges for access service shall include charges for each of the elements listed in § 69.4(b) and for each of the following elements:

- (1) Universal Service Fund;
- (2) Lifeline Assistance.
- (d) [Reserved]

(e) The carrier's carrier charges for access service filed with this Commission by the telephone companies specified in § 64.1401(a) of this chapter shall include an element for connection charges for expanded interconnection. The carrier's carrier charges for access service filed with this Commission by the telephone companies not specified in § 64.1401(a) of this chapter may include an element for connection charges for expanded interconnection.

(f) [Reserved]

(g)(1) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(x) of this chapter may establish one or more switched access rate elements for a new service within the meaning of § 61.42(g) of this chapter, upon approval of a petition demonstrating that:

- (i) The establishment of the new rate element or elements would be in the public interest; or
- (ii) Another local exchange carrier has previously obtained permission to establish one or more rate elements

identical to those proposed in the petition to offer the identical service; and the original petition did not rely upon a competitive showing as part of the public interest justification.

(2) The Chief, Common Carrier Bureau shall issue a Public Notice of the filing of a petition under paragraph (g)(1)(ii) of this section. Parties may file comments in response to such a petition within seven days of the Public Notice. The local exchange carrier shall have authority to introduce new rate elements under paragraph (g)(1)(ii) of this section, after the expiration of ten days from issuance of the Public Notice, unless the Chief, Common Carrier Bureau informs the LEC that the LEC has not demonstrated that its new service meets the standards of paragraph (g)(1)(ii) of this section. The incumbent LEC may then file one subsequent petition for authorization of that service under paragraph (g)(1)(ii) of this section.

(h) In addition to the charges specified in paragraph (b) of this section, the carrier's carrier charges for access service filed with this Commission by price cap local exchange carriers shall include charges for each of the following elements:

- (1) Presubscribed interexchange carrier;
- (2) Per-minute residual interconnection;
- (3) Dedicated local switching trunk port;
- (4) Shared local switching trunk port;
- (5) Dedicated tandem switching trunk port;
- (6) [Reserved]
- (7) Multiplexers associated with tandem switching.

[48 FR 43017, Sept. 21, 1983, as amended at 52 FR 21540, June 8, 1987; 52 FR 37310, Oct. 6, 1987; 54 FR 11718, Mar. 22, 1989; 56 FR 33880, July 24, 1991; 57 FR 24380, June 9, 1992; 57 FR 54332, Nov. 18, 1993; 57 FR 54719, Nov. 20, 1993; 58 FR 30995, May 28, 1993; 62 FR 4660, Jan. 31, 1997; 62 FR 31932, June 11, 1997; 62 FR 56132, Oct. 29, 1997]

§ 69.5 Persons to be assessed.

(a) End user charges shall be computed and assessed upon public end users, and upon providers of public telephones, as defined in this subpart,

and as provided in subpart B of this part.

(b) Carrier's carrier charges shall be computed and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services.

(c) Special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of interstate or foreign telecommunications to the extent that carrier's carrier charges are not assessed upon such interconnected usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and non-discriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services and WATS services pursuant to the provisions of § 69.115 of this part.

(d) Universal Service Fund and Lifeline Assistance charges shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least .05 percent of the total common lines presubscribed to interexchange carriers in all study areas.

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 43017, Sept. 21, 1983, as amended at 51 FR 10840, Mar. 31, 1986; 51 FR 33752, Sept. 23, 1986; 52 FR 21540, June 8, 1987; 54 FR 50624, Dec. 8, 1989; 61 FR 65364, Dec. 12, 1996]

Subpart B—Computation of Charges

§ 69.101 General.

Except as provided in § 69.1 and subpart C of this part, charges for each access element shall be computed and assessed as provided in this subpart.

[55 FR 42386, Oct. 19, 1990]

§ 69.104 End user common line for non-price cap incumbent local exchange carriers.

(a) This section is applicable only to incumbent local exchange carriers that are not subject to price cap regulation

as that term is defined in § 61.3(x) of this chapter. A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charges shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) Charges to multi-line subscribers shall be computed by multiplying a single line rate by the number of lines used by such subscriber.

(c) Except as provided in § 69.104(d) through (h), the single line rate or charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the End User Common Line element by the projected average number of local exchange service subscriber lines in use during such annual period.

(d)(1) If the monthly charge computed in accordance with § 69.104(c) exceeds \$6, the charge for each local exchange service subscriber line, except a residential line, a single-line business line, or a line used for Centrex-CO service that was in place or on order as of July 27, 1983, shall be \$6.

(2) The charge for each subscriber line associated with a public telephone shall be equal to the monthly charge computed in accordance with paragraph (d)(1) of this section.

(e) The monthly charge for each residential and single line business local exchange service subscriber shall be the charge computed in accordance with paragraph (c) of this section, or \$3.50, whichever is lower.

(f) Except as provided in § 69.104 (j) and (k), the charge for each residential local exchange service subscriber line shall be the same as the charge for each single line business local exchange service subscriber line.

(g) A line shall be deemed to be a residential line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.

(h) A line shall be deemed to be a single line business line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.

(i) The End User Common Line charge for each multi-party subscriber shall be assessed as if such subscriber had subscribed to single-party service.

(j) Until December 31, 1997, the End User Common Line charge for a residential subscriber shall be 50% of the charge specified in § 69.104(c) and (d) if the residential local exchange service rate for such subscribers is reduced by an equivalent amount, provided, That such local exchange service rate reduction is based upon a means test that is subject to verification.

(k) Paragraphs (k)(1) through (2) of this section are effective until December 31, 1997.

(1) The End User Common Line charge for residential subscribers shall be reduced to the extent of the state assistance as calculated in paragraph (k)(2) of this section, or waived in full if the state assistance equals or exceeds the residential End User Common Line charge under the circumstances described below. In order to qualify for this waiver, the subscriber must be eligible for and receive assistance or benefits provided pursuant to a narrowly targeted telephone company lifeline assistance program, requiring verification of eligibility, implemented by the State or local telephone company. A state or local telephone company wishing to implement this End User Common Line reduction or waiver for its subscribers shall file information with the Commission Secretary demonstrating that its plan meets the criteria set out in this section and showing the amount of state assistance per subscriber as described in paragraph (k)(2) of this section. The reduction or waiver of the End User Common Line charge shall be available as soon as the Commission certifies that the State or local telephone plan satisfies the criteria set out in this paragraph and the relevant tariff provisions become effective.

(2)(i) The State assistance per subscriber shall be equal to the difference

between the charges to be paid by the participating subscribers and those to be paid by other subscribers for comparable monthly local exchange service, service connections and customer deposits, except that benefits or assistance for connection charges and deposit requirements may only be counted once annually. In order to be included in calculating the state assistance, such benefits must be for a single telephone line to the household's principal residence.

(ii) The monthly state assistance per participating subscriber shall be calculated by adding the amounts calculated in paragraphs (k)(2)(ii) (A) and (B) of this section.

(A) The amount of the monthly State assistance per participating subscriber for local exchange service shall be calculated by dividing the annual difference between charges paid by all participating subscribers for residential local exchange service and the amount which would have been charged to non-qualifying subscribers for comparable service by twelve times the number of subscribers participating in the State assistance program. Estimates may be used when historic data are not available.

(B) The amount of the monthly State assistance for service connections and customer deposits per participating subscriber shall be calculated by determining the annual amount of the reductions in these charges for participating subscribers each year and dividing this amount by twelve times the number of participating subscribers. Estimates may be used when historic data are not available.

(l) Until December 31, 1997, in connection with the filing of access tariffs pursuant to § 69.3(a), telephone companies shall calculate for the association their projected revenue requirements attributable to the operation of paragraphs (j) through (k) of this section. The projected amount will be adjusted by the association to reflect the actual lifeline assistance benefits paid in the previous period. If the actual benefits exceeded the projected amount of that period, the differential will be added to the projection for the ensuing period. If the actual benefits were less than the projected amount for that period, the

differential will be subtracted from the projection for the ensuing period. Until December 31, 1997, the association shall so adjust amounts to the Lifeline Assistance revenue requirement, bill and collect such amounts from inter-exchange carriers pursuant to § 69.117 and distribute the funds to qualifying telephone companies pursuant to § 69.603(d).

(m) No charge shall be assessed for any WATS access line.

[48 FR 10358, Mar. 11, 1983, as amended at 48 FR 43018, Sept. 21, 1983; 52 FR 21540, June 8, 1987; 53 FR 28395, July 28, 1988; 61 FR 65364, Dec. 12, 1996; 62 FR 31933, June 11, 1997; 62 FR 32962, June 17, 1997]

§ 69.105 Carrier common line for non-price cap local exchange carriers.

(a) This section is applicable only to local exchange carriers that are not subject to price cap regulation as that term is defined in § 61.3(x) of this chapter. A charge that is expressed in dollars and cents per line per access minute of use shall be assessed upon all interexchange carriers that use local exchange common line facilities for the provision of interstate or foreign telecommunications services, except that the charge shall not be assessed upon interexchange carriers to the extent they resell MTS or MTS-type services of other common carriers (OCCs).

(b)(1) For purposes of this section and § 69.113:

(i) A carrier or other person shall be deemed to receive premium access if access is provided through a local exchange switch that has the capability to provide access for an MTS-WATS equivalent service that is substantially equivalent to the access provided for MTS or WATS, except that access provided for an MTS-WATS equivalent service that does not use such capability shall not be deemed to be premium access until six months after the carrier that provides such MTS-WATS equivalent service receives actual notice that such equivalent access is or will be available at such switch;

(ii) The term *open end* of a call describes the origination or termination of a call that utilizes exchange carrier common line plant (a call can have no, one, or two open ends); and

(iii) All open end minutes on calls with one open end (*e.g.*, an 800 or FX call) shall be treated as terminating minutes.

(2) For association Carrier Common Line tariff participants:

(i) The premium originating Carrier Common Line charge shall be one cent per minute, except as described in § 69.105(b)(3), and

(ii) The premium terminating Carrier Common Line charge shall be computed as follows:

(A) For each telephone company subject to price cap regulation, multiply the company's proposed premium originating rate by a number equal to the sum of the premium originating base period minutes and a number equal to 0.45 multiplied by the non-premium originating base period minutes of that telephone company;

(B) For each telephone company subject to price cap regulation, multiply the company's proposed premium terminating rate by a number equal to the sum of the premium terminating base period minutes and a number equal to 0.45 multiplied by the non-premium terminating base period minutes of that telephone company;

(C) Sum the numbers computed in paragraphs (b)(2)(i)(A) and (B) of this section for all companies subject to price cap regulation;

(D) From the number computed in paragraph (b)(2)(i)(C) of this section, subtract a number equal to one cent times the sum of the premium originating base period minutes and a number equal to 0.45 multiplied by the non-premium originating base period minutes of all telephone companies subject to price cap regulation, and;

(E) Divide the number computed in paragraph (b)(2)(i)(D) of this section by the sum of the premium terminating base period minutes and a number equal to 0.45 multiplied by the non-premium terminating base period minutes of all telephone companies subject to price cap regulation.

(3) If the calculations described in § 69.105(b)(2) result in a per minute charge on premium terminating minutes that is less than one cent, both the originating and terminating premium charges for the association CCL tariff participants shall be computed

by dividing the number computed in paragraph (b)(2)(ii)(C) of this section by a number equal to the sum of the premium originating and terminating base period minutes and a number equal to 0.45 multiplied by the sum of the non-premium originating and terminating base period minutes of all telephone companies subject to price cap regulation.

(4) The Carrier Common Line charges of telephone companies that are not association Carrier Common Line tariff participants shall be computed at the level of Carrier Common Line access element aggregation selected by such telephone companies pursuant to § 69.3(e)(7). For each such Carrier Common Line access element tariff—

(i) The premium originating Carrier Common Line charge shall be one cent per minute, and

(ii) The premium terminating Carrier Common Line charge shall be computed by subtracting the projected revenues generated by the originating Carrier Common Line charges (both premium and non-premium) from the Carrier Common Line revenue requirement for the companies participating in that tariff, and dividing the remainder by the sum of the projected premium terminating minutes and a number equal to .45 multiplied by the projected non-premium terminating minutes for such companies.

(5) If the calculations described in § 69.105(b)(4) result in a per minute charge on premium terminating minutes that is less than one cent, both the originating and terminating premium charges for the companies participating in said Carrier Common Line tariff shall be computed by dividing the projected Carrier Common Line revenue requirement for such companies by the sum of the projected premium minutes and a number equal to .45 multiplied by the projected non-premium minutes for such companies.

(6) Telephone companies that are not association Carrier Common Line tariff participants shall submit to the Commission and to the association whatever data the Commission shall determine are necessary to calculate the charges described in this section.

(c) Any interexchange carrier shall receive a credit for Carrier Common

Line charges to the extent that it resells services for which these charges have already been assessed (*e.g.*, MTS or MTS-type service of other common carriers).

[51 FR 10841, Mar. 31, 1986, as amended at 52 FR 21541, June 8, 1987; 54 FR 6293, Feb. 9, 1989; 55 FR 42386, Oct. 19, 1990; 56 FR 21618, May 10, 1991; 62 FR 31933, June 11, 1997]

§ 69.106 Local switching.

(a) Except as provided in § 69.118, charges that are expressed in dollars and cents per access minute of use shall be assessed by local exchange carriers that are not subject to price cap regulation upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services.

(b) The per minute charge described in paragraph (a) of this section shall be computed by dividing the projected annual revenue requirement for the Local Switching element, excluding any local switching support received by the carrier pursuant to § 54.301 of this chapter, by the projected annual access minutes of use for all interstate or foreign services that use local exchange switching facilities.

(c) If end users of an interstate or foreign service that uses local switching facilities pay message unit charges for such calls in a particular exchange, a credit shall be deducted from the Local Switching element charges to such carrier for access service in such exchange. The per minute credit for each such exchange shall be multiplied by the monthly access minutes for such service to compute the monthly credit to such a carrier.

(d) If all local exchange subscribers in such exchange pay message unit charges, the per minute credit described in paragraph (c) of this section shall be computed by dividing total message unit charges to all subscribers in a particular exchange in a representative month by the total minutes of use that were measured for purposes of computing message unit charges in such month.

(e) If some local exchange subscribers pay message unit charges and some do not, a per minute credit described in paragraph (c) of this section shall be

computed by multiplying a credit computed pursuant to paragraph (d) of this section by a factor that is equal to total minutes measured in such month for purposes of computing message unit charges divided by the total local exchange minutes in such month.

(f) Except as provided in §69.118, price cap local exchange carriers shall establish rate elements for local switching as follows:

(1) Price cap local exchange carriers shall separate from the projected annual revenues for the Local Switching element those costs projected to be incurred for ports (including cards and DS1/voice-grade multiplexers required to access end offices equipped with analog switches) on the trunk side of the local switch. Price cap local exchange carriers shall further identify costs incurred for dedicated trunk ports separately from costs incurred for shared trunk ports.

(i) Price cap local exchange carriers shall recover dedicated trunk port costs identified pursuant to paragraph (f)(1) of this section through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

(ii) Price cap local exchange carriers shall recover shared trunk port costs identified pursuant to paragraph (f)(1) of this section through charges assessed upon purchasers of shared transport. This charge shall be expressed in dollars and cents per access minute of use. The charge shall be computed by dividing the projected costs of the shared ports by the historical annual access minutes of use calculated for purposes of recovery of common transport costs in §69.111(c).

(2) Price cap local exchange carriers shall recover the projected annual revenues for the Local Switching element that are not recovered in paragraph (f)(1) of this section through charges that are expressed in dollars and cents per access minute of use and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services. The maximum charge shall be computed by dividing the projected remainder of the annual revenues for the Local Switching element

by the historical annual access minutes of use for all interstate or foreign services that use local exchange switching facilities.

(g) On or after July 1, 1998, a price cap local exchange carrier may recover signalling costs associated with call setup through a call setup charge imposed upon all interstate interexchange carriers that use that local exchange carrier's facilities to originate or terminate interstate interexchange or foreign services. This charge must be expressed as dollars and cents per call attempt and may be assessed on originating calls handed off to the interexchange carrier's point of presence and on terminating calls received from an interexchange carrier's point of presence, whether or not that call is completed at the called location. Price cap local exchange carriers may not recover through this charge any costs recovered through other rate elements.

[52 FR 37310, Oct. 6, 1987, as amended at 56 FR 33881, July 24, 1991; 62 FR 31933, June 11, 1997; 62 FR 40463, July 29, 1997]

§69.108 Transport rate benchmark.

(a) For transport charges computed in accordance with this subpart, the DS3-to-DS1 benchmark ratio shall be calculated as follows: the telephone company shall calculate the ratio of:

(1) The total charge for a 1.609 km (1 mi) channel termination, 16.09 km (10 mi) of interoffice transmission, and one DS3 multiplexer using the telephone company's DS3 special access rates to;

(2) The total charge for a 1.609 km (1 mi) channel termination plus 16.09 km (10 mi) of interoffice transmission using the telephone company's DS1 special access rates.

(b) Initial transport rates will generally be presumed reasonable if they are based on special access rates with a DS3-to-DS1 benchmark ratio of 9.6 to 1 or higher.

(c) If a telephone company's initial transport rates are based on special access rates with a DS3-to-DS1 benchmark ratio of less than 9.6 to 1, those initial transport rates will generally be suspended and investigated absent a substantial cause showing by the telephone company. Alternatively, the telephone company may adjust its initial transport rates so that the DS3-to-

DS1 ratio calculated as described in paragraph (a) of this section of those rates is 9.6 or higher. In that case, initial transport rates that depart from existing special access rates effective on September 1, 1992 so as to be consistent with the benchmark will be presumed reasonable only so long as the ratio of revenue recovered through the interconnection charge to the revenue recovered through facilities-based charges is the same as it would be if the telephone company's existing special access rates effective on September 1, 1992 were used.

[58 FR 41189, Aug. 3, 1993, as amended at 58 FR 44952, Aug. 25, 1993; 58 FR 45267, Aug. 27, 1993]

§ 69.109 Information.

(a) A charge shall be assessed upon all interexchange carriers that are connected to assistance boards through interexchange directory assistance trunks.

(b) Except as provided in § 69.118, if such connections are maintained exclusively by carriers that offer MTS, the projected annual revenue requirement for the Information element shall be divided by 12 to compute the monthly assessment to such carriers.

(c) If such connections are provided to additional carriers, charges shall be established that reflect the relative use of such directory assistance service by such interexchange carriers.

[48 FR 10358, Mar. 11, 1983, as amended at 56 FR 33881, July 24, 1991]

§ 69.110 Entrance facilities.

(a) A flat-rated entrance facilities charge expressed in dollars and cents per unit of capacity shall be assessed upon all interexchange carriers and other persons that use telephone company facilities between the interexchange carrier or other person's point of demarcation and the serving wire center.

(b)(1) For telephone companies subject to price cap regulation, initial entrance facilities charges based on special access channel termination rates for equivalent voice grade, DS1, and DS3 services as of September 1, 1992, adjusted for changes in the price cap index calculated for the July 1, 1993 an-

nual filing for telephone companies subject to price cap regulation, generally shall be presumed reasonable if the benchmark defined in § 69.108 is satisfied. Entrance facilities charges may be distance-sensitive. Distance shall be measured as airline kilometers between the point of demarcation and the serving wire center.

(2) For telephone companies not subject to price cap regulation, entrance facilities charges based on special access channel termination rates for equivalent voice grade, DS1, and DS3 services generally shall be presumed reasonable if the benchmark defined in § 69.108 is satisfied. Entrance facilities charges may be distance-sensitive. Distance shall be measured as airline kilometers between the point of demarcation and the serving wire center.

(c) If the telephone company employs distance-sensitive rates:

(1) A distance-sensitive component shall be assessed for use of the transmission facilities, including any intermediate transmission circuit equipment between the end points of the entrance facilities; and

(2) A nondistance-sensitive component shall be assessed for use of the circuit equipment at the ends of the transmission links.

(d) Telephone companies shall apply only their shortest term special access rates in setting entrance facilities charges.

(e) Except as provided in paragraphs (f), (g), and (h) of this section, telephone companies shall not offer entrance facilities based on term discounts or volume discounts for multiple DS3s or any other service with higher volume than DS3.

(f) Except in the situations set forth in paragraphs (g) and (h) of this section, telephone companies may offer term and volume discounts in entrance facilities charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1)

under an approved density pricing zone plan as described in §§61.38(b)(4) and 61.49(k) of this chapter; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(g) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest price density pricing zone (zone 1), telephone companies may offer term and volume discounts in entrance facilities charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

(h) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in entrance facilities charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

[57 FR 54720, Nov. 20, 1992, as amended at 58 FR 41190 and 41191, Aug. 3, 1993; 58 FR 44950, Aug. 25, 1993; 58 FR 48763, Sept. 17, 1993; 59 FR 10304, Mar. 4, 1994; 60 FR 50121, Sept. 28, 1995]

§ 69.111 Tandem-switched transport and tandem charge.

(a)(1) Through June 30, 1998, except as provided in paragraph (l) of this section, tandem-switched transport shall consist of two rate elements, a transmission charge and a tandem switching charge.

(2) Beginning July 1, 1998, except as provided in paragraph (l) of this section, tandem-switched transport shall consist of three rate elements as follows:

(i) A per-minute charge for transport of traffic over common transport facilities between the incumbent local exchange carrier's end office and the tandem switching office. This charge shall be expressed in dollars and cents per access minute of use and shall be assessed upon all purchasers of common transport facilities between the local

exchange carrier's end office and the tandem switching office.

(ii) A per-minute tandem switching charge. This tandem switching charge shall be set in accordance with paragraph (g) of this section, excluding multiplexer and dedicated port costs recovered in accordance with paragraph (l) of this section, and shall be assessed upon all interexchange carriers and other persons that use incumbent local exchange carrier tandem switching facilities.

(iii) A flat-rated charge for transport of traffic over dedicated transport facilities between the serving wire center and the tandem switching office. This charge shall be assessed as a charge for dedicated transport facilities provisioned between the serving wire center and the tandem switching office in accordance with §69.112.

(b) [Reserved]

(c)(1) Until June 30, 1998:

(i) Except in study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(1) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, geographically averaged on a study-area-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(ii) In study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(1) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the

charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, averaged on a zone-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(2) Beginning July 1, 1998:

(i) Except in study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(2)(i) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, geographically averaged on a study-area-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(ii) In study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(2)(i) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links

(or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, averaged on a zone-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(d)(1) Through June 30, 1998, the tandem-switched transport transmission charges may be distance-sensitive. Distance shall be measured as airline distance between the serving wire center and the end office, unless the customer has ordered tandem-switched transport between the tandem office and the end office, in which case distance shall be measured as airline distance between the tandem office and the end office.

(2) Beginning July 1, 1998, the per-minute charge for transport of traffic over common transport facilities described in paragraph (a)(2)(i) of this section may be distance-sensitive. Distance shall be measured as airline distance between the tandem switching office and the end office.

(e)(1) Through June 30, 1998, if the telephone company employs distance-sensitive rates:

(i) A distance-sensitive component shall be assessed for use of the transmission facilities, including intermediate transmission circuit equipment between the end points of the interoffice circuit; and

(ii) A non-distance-sensitive component shall be assessed for use of the circuit equipment at the ends of the interoffice transmission links.

(2) Beginning July 1, 1998, if the telephone company employs distance-sensitive rates for transport of traffic over common transport facilities, as described in paragraph (a)(2)(i) of this section:

(i) A distance-sensitive component shall be assessed for use of the common transport facilities, including intermediate transmission circuit equipment between the end office and tandem switching office; and

(ii) A non-distance-sensitive component shall be assessed for use of the circuit equipment at the ends of the inter-office transmission links.

(f) [Reserved]

(g)(1) The tandem switching charge imposed pursuant to paragraphs (a)(1) or (a)(2)(ii) of this section, as applicable, shall be set to recover twenty percent of the annual part 69 interstate tandem revenue requirement plus one third of the portion of the tandem switching revenue requirement being recovered through the interconnection charge recovered by §§ 69.124, 69.153, and 69.155, excluding multiplexer and dedicated port costs recovered in accordance with paragraph (l) of this section.

(2) Beginning January 1, 1999, the tandem switching charge imposed pursuant to paragraph (a)(2)(ii) of this section shall be set to recover the amount prescribed in paragraph (g)(1) of this section plus one half of the remaining portion of the tandem switching revenue requirement then being recovered through the interconnection charge recovered by §§ 69.124, 69.153, and 69.155, excluding multiplexer and dedicated port costs recovered in accordance with paragraph (l) of this section.

(3) Beginning January 1, 2000, the tandem switching charge imposed pursuant to paragraph (a)(2)(ii) of this section shall be set to recover the entire interstate tandem switching revenue requirement, including that portion formerly recovered through the interconnection charge recovered in §§ 69.124, 69.153, and 69.155, and excluding multiplexer and dedicated port costs recovered in accordance with paragraph (l) of this section.

(4) A local exchange carrier that is subject to price cap regulation as that term is defined in § 61.3(x) of this chapter shall calculate its tandem switching revenue requirement as used in this paragraph by dividing the tandem switching revenue requirement that was included in the original interconnection charge by the original interconnection charge, and then multiplying this result by the annual revenues recovered through the interconnection charge, described in § 69.124, as of June 30, 1997. A local exchange carrier that is subject to price cap regulation as that term is defined in

§ 61.3(x) of this chapter shall then make downward exogenous adjustments to the service band index for the interconnection charge service category (defined in § 61.43(e)(2)(vi) of this chapter) and corresponding upward adjustments to the service band index for the tandem-switched transport service category (defined in § 61.43(e)(2)(v) of this chapter) at the times and in the amounts prescribed in paragraphs (g)(1) through (g)(3) of this section.

(h) All telephone companies shall provide tandem-switched transport service.

(i) Except in the situations set forth in paragraphs (j) and (k) of this section, telephone companies may offer term and volume discounts in tandem-switched transport charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§ 61.38(b)(4) and 61.49(k) of this chapter; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(j) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest priced density pricing zone (zone 1), telephone companies may offer term and volume discounts in tandem-switched transport charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

(k) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in tandem-switched transport charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of

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switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

(l) In addition to the charges described in this section, price cap local exchange carriers shall establish separate charges for multiplexers and dedicated trunk ports used in conjunction with the tandem switch as follows:

(1) Local exchange carriers must establish a traffic-sensitive charge for DS3/DS1 multiplexers used on the end office side of the tandem switch, assessed on purchasers of common transport to the tandem switch. This charge must be expressed in dollars and cents per access minute of use. The maximum charge shall be calculated by dividing the total costs of the multiplexers on the end office-side of the tandem switch by the annual access minutes of use calculated for purposes of recovery of common transport costs in paragraph (c) of this section. A similar charge shall be assessed for DS1/voice-grade multiplexing provided on the end-office side of analog tandem switches.

(2)(i) Local exchange carriers must establish a flat-rated charge for dedicated DS3/DS1 multiplexing on the serving wire center side of the tandem switch provided in conjunction with dedicated DS3 transport service from the serving wire center to the tandem switch. This charge shall be assessed on interexchange carriers purchasing tandem-switched transport in proportion to the number of DS3 trunks provisioned for that interexchange carrier between the serving wire center and the tandem-switch.

(ii) Local exchange carriers must establish a flat-rated charge for dedicated DS1/voice-grade multiplexing provided on the serving wire center side of analog tandem switches. This charge may be assessed on interexchange carriers purchasing tandem-switched transport in proportion to the interexchange carrier's transport capacity on the serving wire center side of the tandem.

(3) Price cap local exchange carriers may recover the costs of dedicated trunk ports on the serving wire center side of the tandem switch only through flat-rated charges expressed in dollars and cents per trunk port and assessed

upon the purchaser of the dedicated trunk terminating at the port.

[57 FR 54720, Nov. 20, 1992, as amended at 58 FR 41190, Aug. 3, 1993; 58 FR 48764, Sept. 17, 1993; 60 FR 50121, Sept. 28, 1995; 62 FR 31933, June 11, 1997; 62 FR 40463, July 29, 1997; 62 FR 56132, Oct. 29, 1997]

§ 69.112 Direct-trunked transport.

(a) A flat-rated direct-trunked transport charge expressed in dollars and cents per unit of capacity shall be assessed upon all interexchange carriers and other persons that use telephone company direct-trunked transport facilities.

(b)(1) For telephone companies subject to price cap regulation, initial direct-trunked transport charges based on the interoffice charges for equivalent voice grade, DS1, and DS3 special access services as of September 1, 1992, adjusted for changes in the price cap index calculated for the July 1, 1993 annual filing for telephone companies subject to price cap regulation, generally shall be presumed reasonable if the benchmark defined in § 69.108 is satisfied. Direct-trunked transport charges may be distance-sensitive. Distance shall be measured as airline kilometers between customer-designated points.

(2) For telephone companies not subject to price cap regulation, initial direct-trunked transport charges based on the interoffice charges for equivalent voice grade, DS1, and DS3 special access services generally shall be presumed reasonable if the benchmark defined in § 69.108 is satisfied. Direct-trunked transport charges may be distance-sensitive. Distance shall be measured as airline kilometers between customer-designated points.

(c) If the telephone company employs distance-sensitive rates:

(1) A distance-sensitive component shall be assessed for use of the transmission facilities, including intermediate transmission circuit equipment, between the end points of the circuit; and

(2) A nondistance-sensitive component shall be assessed for use of the circuit equipment at the ends of the transmission links.

(d) Telephone companies shall apply only their shortest term special access

rates in setting direct-trunked transport rates.

(e) Except as provided in paragraphs (f), (g), and (h) of this section, telephone companies shall not offer direct-trunked transport rates based on term discounts or volume discounts for multiple DS3s or any other service with higher volume than DS3.

(f) Except in the situations set forth in paragraphs (g) and (h) of this section, telephone companies may offer term and volume discounts in direct-trunked transport charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1)) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§61.38(b)(4) and 61.49(k) of this section; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(g) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest priced density pricing zone (zone 1), telephone companies may offer term and volume discounts in direct-trunked transport charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

(h) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in direct-trunked transport charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

(i) Centralized equal access providers as described in Transport Rate Structure and Pricing, CC Docket No. 91-213,

FCC 92-442, 7 FCC Rcd 7002 (1992), are not required to provide direct-trunked transport service. Telephone companies that do not have measurement and billing capabilities at their end offices are not required to provide direct-trunked transport services at those end offices without measurement and billing capabilities. Telephone companies that are not classified as Class A companies under §32.11 of this chapter are required to provide direct-trunked transport service upon request. All other telephone companies shall provide a direct-trunked transport service.

[57 FR 54720, Nov. 20, 1992, as amended at 58 FR 41190, Aug. 3, 1993; 58 FR 44950, Aug. 25, 1993; 58 FR 48764, Sept. 17, 1993; 60 FR 50121, Sept. 28, 1995]

§69.113 Non-premium charges for MTS-WATS equivalent services.

(a) Charges that are computed in accordance with this section shall be assessed upon interexchange carriers or other persons that receive access that is not deemed to be premium access as this term is defined in §69.105(b)(1) in lieu of carrier charges that are computed in accordance with §§69.105, 69.106, 69.118, 69.124, and 69.127.

(b) The non-premium charge for the Carrier Common Line element shall be computed by multiplying the premium charge for such element by .45.

(c) For telephone companies that are not subject to price cap regulation as that term is defined in §61.3(v) of this chapter, the non-premium charge for the Local Switching element shall be computed by multiplying a hypothetical premium charge for such element by .45. The hypothetical premium charge for such element shall be computed by dividing the annual revenue requirement for each element by the sum of the projected access minutes for such period and a number that is computed by multiplying the projected non-premium minutes for such element for such period by .45. For telephone companies that are price cap carriers, the non-premium charge for the Local Switching element shall be computed by multiplying the premium charge for such element by .45. Though June 30, 1993, the non-premium charge shall be computed by multiplying the LS2 charge for such element by .45.

(d) The non-premium charge or charges for the interconnection charge element shall be computed by multiplying the corresponding premium charge or charges by .45.

(e) The non-premium charge for any BSEs in local switching shall be computed by multiplying the premium charge for the corresponding BSEs by .45.

[54 FR 6293, Feb. 9, 1989, as amended at 55 FR 42386, Oct. 19, 1990; 55 FR 50559, Dec. 7, 1990; 56 FR 33881, July 24, 1991; 57 FR 54721, Nov. 20, 1992; 59 FR 10304, Mar. 4, 1994]

§ 69.114 Special access.

(a) Appropriate subelements shall be established for the use of equipment or facilities that are assigned to the Special Access element for purposes of apportioning net investment, or that are equivalent to such equipment or facilities for companies subject to price cap regulation as that term is defined in § 61.3(v) of this chapter.

(b) Charges for all subelements shall be designed to produce total annual revenue that is equal to the projected annual revenue requirement for the Special Access element.

(c) Charges for an individual element shall be assessed upon all interexchange carriers that use the equipment or facilities that are included within such subelement.

(d) Charges for individual subelements shall be designed to reflect cost differences among subelements in a manner that complies with applicable Commission rules or decisions.

[48 FR 10358, Mar. 11, 1983, as amended at 48 FR 43019, Sept. 21, 1983. Redesignated at 54 FR 6293, Feb. 9, 1989, and amended at 55 FR 42386, Oct. 19, 1990]

§ 69.115 Special access surcharges.

(a) Pending the development of techniques accurately to measure usage of exchange facilities that are interconnected by users with means of interstate or foreign telecommunications, a surcharge that is expressed in dollars and cents per line termination per month shall be assessed upon users that subscribe to private line services or WATS services that are not exempt from assessment pursuant to paragraph (e) of this section.

(b) Such surcharge shall be computed to reflect a reasonable approximation of the carrier usage charges which, assuming non-premium interconnection, would have been paid for average interstate or foreign usage of common lines, end office facilities, and transport facilities, attributable to each Special Access line termination which is not exempt from assessment pursuant to paragraph (e) of this section.

(c) If the association, carrier or carriers that file the tariff are unable to estimate such average usage for a period ending May 31, 1985, the surcharge for such period shall be twenty-five dollars (\$25) per line termination per month.

(d) A telephone company may propose reasonable and nondiscriminatory end user surcharges, to be filed in its federal access tariffs and to be applied to the use of exchange facilities which are interconnected by users with means of interstate or foreign telecommunication which are not provided by the telephone company, and which are not exempt from assessment pursuant to paragraph (e) of this section. Telephone companies which wish to avail themselves of this option must undertake to use reasonable efforts to identify such means of interstate or foreign telecommunication, and to assess end user surcharges in a reasonable and nondiscriminatory manner.

(e) No special access surcharges shall be assessed for any of the following terminations:

(1) The open end termination in a telephone company switch of an FX line, including CCSA and CCSA-equivalent ONALs;

(2) Any termination of an analog channel that is used for radio or television program transmission;

(3) Any termination of a line that is used for telex service;

(4) Any termination of a line that by nature of its operating characteristics could not make use of common lines; and

(5) Any termination of a line that is subject to carrier usage charges pursuant to § 69.5.

(6) Any termination of a line that the customer certifies to the exchange carrier is not connected to a PBX or other device capable of interconnecting a

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local exchange subscriber line with the private line or WATS access line.

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 43019, Sept. 21, 1983, as amended at 49 FR 7829, Mar. 2, 1984; 51 FR 10841, Mar. 31, 1986; 52 FR 8259, Mar. 17, 1987]

§ 69.116 Universal service fund.

Effective August 1, 1988 through December 31, 1997:

(a) A charge that is expressed in dollars and cents per line per month shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least .05 percent of the total common lines presubscribed to interexchange carriers in all study areas.

(b) The charge shall be computed by the association on a semi-annual basis by dividing one-twelfth of the projected annual Universal Service Fund revenue requirement by the total number of common lines presubscribed to interexchange carriers defined in § 69.116(a). Beginning on April 1, 1989, the association shall bill and collect the charge, and disburse associated revenue, on a monthly basis pursuant to § 69.603(c).

(c) Telephone companies shall provide the association the data necessary to compute the charge. These data shall include the number of presubscribed common lines in each study area and the number of those lines associated with each interexchange carrier serving that study area. In a study area served by a single interexchange carrier, all common lines shall be considered as presubscribed to that interexchange carrier. Information concerning presubscribed common lines shall be filed with the association on June 30 and December 30 of each year, except for the first such submission, containing presubscribed common line data calculated as of December 31, 1987, which shall be filed on August 1, 1988. Presubscribed common line data filed on June 30 shall be calculated as of December 31 of the preceding year, and presubscribed common line data filed

on December 30 shall be calculated as of June 30 of the same year.

[53 FR 28396, July 28, 1988, as amended at 54 FR 50624, Dec. 8, 1989; 62 FR 32962, June 17, 1997]

§ 69.117 Lifeline assistance.

Effective August 1, 1988 through December 31, 1997

(a) A charge that is expressed in dollars and cents per line per month shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least .05 percent of the total common lines presubscribed to interexchange carriers in all study areas.

(b) The charge shall be computed by the association on a semi-annual basis by dividing the sum of one-twelfth of the projected annual Lifeline Assistance revenue requirement and one-twelfth of the projected annual revenue requirement calculated by all telephone companies pursuant to § 69.104(l) by the number of common lines presubscribed to interexchange carriers defined in § 69.117(a). Beginning on April 1, 1989, the association shall bill and collect the charge, and disburse associated revenue, on a monthly basis pursuant to § 69.603(d).

(c) Telephone companies shall provide to the association the data necessary to compute the charge. These data shall include the number of presubscribed common lines in each study area and the number of those lines associated with each interexchange carrier serving that study area. In a study area served by a single interexchange carrier, all common lines shall be considered as presubscribed to that interexchange carrier. Information concerning presubscribed common lines shall be filed with the association on June 30 and December 30 of each year, except for the first such submission, containing presubscribed common line data calculated as of December 31, 1987, which shall be filed on August 1, 1988. Presubscribed common line data filed on June 30 shall be calculated as of December 31 of the preceding year, and presubscribed common line data filed

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on December 30 shall be calculated as of June 30 of the same year.

[53 FR 28396, July 28, 1988, as amended at 54 FR 50624, Dec. 8, 1989; 62 FR 32962, June 17, 1997]

§ 69.118 Traffic sensitive switched services.

Notwithstanding §§ 69.4(b), 69.106, 69.109, 69.110, 69.111, 69.112, and 69.124, telephone companies subject to the BOC ONA Order, 4 FCC Rcd 1 (1988) shall, and other telephone companies may, establish approved Basic Service Elements as provided in Amendments of part 69 of the Commission's rules relating to the Creation of Access Charge Subelements for Open Network Architecture, Report and Order, 6 FCC Rcd 4524 (1991) and 800 data base subelements, as provided in Provision of Access for 800 Service, 8 FCC Rcd _____, CC Docket 86-10, FCC 93-53 (1993). Moreover, all customers that use basic 800 database service shall be assessed a charge that is expressed in dollars and cents per query. Telephone companies shall take into account revenues from the relevant Basic Service Element or Elements and 800 Database Service Elements in computing rates for the Local Switching, Entrance Facilities, Tandem-Switched Transport, Direct-Trunked Transport, Interconnection Charge, and/or Information elements.

[58 FR 7868, Feb. 10, 1993]

§ 69.119 Basic service element expedited approval process.

The rules for filing comments and reply comments on requests for expedited approval of new basic service elements are those indicated in § 1.45 of the rules, except as specified otherwise.

[56 FR 33881, July 24, 1991]

§ 69.120 Line information database.

(a) A charge that is expressed in dollars and cents per query shall be assessed upon all carriers that access validation information from a local exchange carrier database to recover the costs of:

(1) The transmission facilities between the local exchange carrier's signalling transfer point and the database; and

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(2) The signalling transfer point facilities dedicated to the termination of the transmission facilities connecting the database to the exchange carrier's signalling network.

(b) A charge that is expressed in dollars and cents per query shall be assessed upon all carriers that access validation information from a local exchange carrier line information database to recover the costs of the database.

[57 FR 24380, June 9, 1992]

§ 69.121 Connection charges for expanded interconnection.

(a) Appropriate connection charge subelements shall be established for the use of equipment and facilities that are associated with offerings of expanded interconnection for special access and switched transport services, as defined in part 64, subpart N of this chapter. To the extent that the same equipment and facilities are used to provide expanded interconnection for both special access and switched transport, the same connection charge subelements shall be used.

(1) A cross-connect subelement shall be established for charges associated with the cross-connect cable and associated facilities connecting the equipment owned by or dedicated to the use of the interconnector with the telephone company's equipment and facilities used to provide interstate special or switched access services. Charges for the cross-connect subelement shall not be deaveraged within a study area that is used for purposes of jurisdictional separations.

(2) Charges for subelements associated with physical collocation or virtual collocation, other than the subelement described in paragraph (a)(1) of this section and subelements recovering the cost of the virtual collocation equipment described in § 64.1401(e)(1) of this chapter, may reasonably differ in different central offices, notwithstanding § 69.3(e)(7).

(b) Connection charge subelements shall be computed based upon the costs associated with the equipment and facilities that are included in such subelements, including no more than a just and reasonable portion of the telephone company's overhead costs.

(c) Connection charge subelements shall be assessed upon all interconnectors that use the equipment or facilities that are included in such subelements.

[57 FR 54332, Nov. 18, 1992, as amended by 58 FR 48764, Sept. 17, 1993; 59 FR 38930, Aug. 1, 1994]

§ 69.123 Density pricing zones for special access and switched transport.

(a) Telephone companies may establish a reasonable number of density pricing zones within each study area that is used for the purposes of jurisdictional separations, in which at least one interconnector has taken the subelement of connection charges for expanded interconnection described in § 69.121(a)(1) of this chapter. Only one set of density pricing zones shall be established within each study area, to be used for the pricing of both special and switched access pursuant to paragraphs (c) and (d) of this section.

(b) Such a system of pricing zones shall be designed to reasonably reflect cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones.

(c) Notwithstanding § 69.3(e)(7) of this chapter, in study areas in which at least one interconnector has taken a cross-connect, as described in § 69.121(a)(1) of this chapter, for the transmission of interstate special access traffic, telephone companies may charge rates for special access subelements of DS1, DS3, and such other special access services as the Commission may designate, that differ depending on the zone in which the service is offered, provided that the charges for any such service shall not be deaveraged within any such zone.

(1) A special access service subelement shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(2) A special access service subelement provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains one of the locations between which the service is offered.

(d) Notwithstanding § 69.3(e)(7) of this chapter, in study areas in which at least one interconnector has taken a cross-connect, as described in § 69.121(a)(1) of this chapter, for the transmission of interstate switched traffic, or is using collocated facilities to interconnect with telephone company interstate switched transport services, telephone companies may charge rates for subelements of direct-trunked transport, tandem-switched transport, entrance facilities, and dedicated signalling transport that differ depending on the zone in which the service is offered, provided that the charge for any such service shall not be deaveraged within any such zone. Telephone companies may not, however, charge rates for the interconnection charge that differ depending on the zone in which the service is offered.

(1) A switched transport service subelement shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(2) A switched transport service subelement provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains either of the locations between which the service is offered.

(e)(1) Telephone companies not subject to price cap regulation may charge a rate for each service in the highest priced zone that exceeds the rate for the same service in the lowest priced zone by no more than fifteen percent of the rate for the service in the lowest priced zone during the period from the date that the zones are initially established through the following June 30. The difference between the rates for any such service in the highest priced zone and the lowest priced zone in a study area, measured as a percentage of the rate for the service in the lowest priced zone, may increase by no more than an additional fifteen percentage points in each succeeding year, measured from the rate differential in effect on the last day of the preceding tariff year.

(2) Telephone companies subject to price cap regulation may charge different rates for services in different

zones pursuant to § 61.47(h) of this chapter.

(f)(1) An incumbent local exchange carrier that establishes density pricing zones under this section must reallocate additional amounts recovered under the interconnection charge prescribed in § 69.124 to facilities-based transport rates, reflecting the higher costs of serving lower-density areas. Each incumbent local exchange carrier must reallocate costs from the interconnection charge each time it increases the differential between prices in density zones two and one or between three and one.

(2) Any incumbent local exchange carrier that has already deaveraged its rates on January 1, 1998 must reallocate an amount equivalent to that described in paragraph (f)(1) of this section from the interconnection charge prescribed in § 69.124 to its transport services.

(3) Price cap local exchange carriers shall reassign to direct-trunked transport and tandem-switched transport categories or subcategories interconnection charge amounts reallocated under paragraph (f)(1) or (f)(2) of this section in a manner that reflects the way density pricing zones are being implemented by the incumbent local exchange carrier.

[57 FR 54333, Nov. 18, 1992, as amended by 58 FR 48764, Sept. 17, 1993; 62 FR 31935, June 11, 1997]

§ 69.124 Interconnection charge.

(a) Local exchange carriers not subject to price cap regulation shall assess an interconnection charge expressed in dollars and cents per access minute upon all interexchange carriers and upon all other persons using the telephone company switched access network.

(b) If the use made of the local exchange carrier's switched access network includes the local switch, but not local transport, the interconnection charge assessed pursuant to paragraph (a) of this section shall be computed by subtracting entrance facilities, tandem-switched transport, direct-trunked transport, and dedicated signalling transport revenues, as well as any interconnection charge revenues that the local exchange carrier anticipates

will be reassigned to other, facilities-based rate elements in the future, from the part 69 transport revenue requirement, and dividing by the total interstate local switching minutes.

(c) If the use made of the local exchange carrier's switched access network includes local transport, the interconnection charge to be assessed pursuant to paragraph (a) of this section shall be computed by dividing any interconnection charge revenues that the local exchange carrier anticipates will be reassigned to other, facilities-based rate elements in the future by the total interstate local transport minutes, and adding thereto the per minute amount calculated pursuant to paragraph (b) of this section.

[62 FR 66030, Dec. 17, 1997]

§ 69.125 Dedicated signalling transport.

(a) Dedicated signalling transport shall consist of two elements, a signalling link charge and a signalling transfer point (STP) port termination charge.

(b)(1) A flat-rated signalling link charge expressed in dollars and cents per unit of capacity shall be assessed upon all interexchange carriers and other persons that use facilities between an interexchange carrier or other person's common channel signalling network and a telephone company signalling transfer point or equivalent facilities offered by a telephone company. Signalling link charges may be distance-sensitive. Distance shall be measured as airline kilometers between the signalling point of interconnection of the interexchange carrier's or other person's common channel signalling network and the telephone company's signalling transfer point.

(2) Signalling link rates will generally be presumed reasonable if they are based on the interoffice charges for equivalent special access services. Telephone companies that have, before February 18, 1993, tariffed a signalling link service for signalling transport between the interexchange carrier's or other person's common channel signalling network and the telephone company's STP are permitted to use the rates that are in place.

(c) A flat-rated STP port termination charge expressed in dollars and cents per port shall be assessed upon all interexchange carriers and other persons that use dedicated signalling transport.

[57 FR 54721, Nov. 20, 1992, as amended at 58 FR 41191, Aug. 3, 1993; 58 FR 44950, Aug. 25, 1993; 62 FR 31935, June 11, 1997]

§ 69.126 Nonrecurring charges.

Incumbent local exchange carriers shall not assess any nonrecurring charges for service connection when an interexchange carrier converts trunks from tandem-switched transport to direct-trunked transport or when an interexchange carrier orders the disconnection of overprovisioned trunks, until six months after the effective date of the tariffs eliminating the unitary pricing option for tandem-switched transport.

[62 FR 31935, June 11, 1997]

§ 69.127 Transitional Equal Charge Rule.

The transport rate structure in effect August 1, 1991, shall be retained until the tariffs filed pursuant to the Report and Order in Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442, 7 FCC Rcd 7006 (1992) become effective.

[57 FR 54722, Nov. 20, 1992]

§ 69.128 Billing name and address.

Appropriate subelements shall be established for the use of equipment or facilities that are associated with offerings of billing name and address.

[58 FR 36145, July 6, 1993]

§ 69.129 Signalling for tandem switching.

A charge that is expressed in dollars and cents shall be assessed upon the purchasing entity by a local telephone company for provision of signalling for tandem switching.

[59 FR 32930, June 27, 1994]

Subpart C—Computation of Charges for Price Cap Local Exchange Carriers

SOURCE: 62 FR 31935, June 11, 1997, unless otherwise noted.

§ 69.151 Applicability.

This subpart shall apply only to telephone companies subject to the price cap regulations set forth in part 61 of this chapter.

§ 69.152 End user common line for price cap local exchange carriers.

(a) A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charge shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) Except as provided in paragraphs (d) through (i) of this section, the maximum single line rate or charge shall be computed:

(1) By dividing one-twelfth of the projected annual revenue requirement for the End User Common Line element by the projected average number of local exchange service subscriber lines in use during such annual period, only so long as a per-minute carrier common line charge is assessed or the maximum PICC assessed on primary residential lines, plus the maximum end-user common line charge for primary residential lines, does not recover the full amount of its per-line common line price cap revenues; (and/or)

(2) By dividing one-twelfth of the projected annual revenues permitted for the common line basket under the Commission's price-cap rules, as set forth in part 61 of this chapter, by the projected average number of local exchange service subscriber lines in use during such annual period, if no per-minute carrier common line charge is assessed and the maximum PICC assessed on primary residential lines,

plus the maximum end user common line charge for primary residential lines, recovers the full amount of its per-line common line price cap revenues.

(c) The charge for each subscriber line associated with a public telephone shall be equal to the monthly charge computed in accordance with paragraph (b) of this section.

(d)(1) Through December 31, 1997, the monthly charge for each primary residential or single line business local exchange service subscriber line shall be the charge computed in accordance with paragraph (b) of this section, or \$3.50, whichever is lower.

(2) Beginning January 1, 1998, the maximum monthly charge for each primary residential or single line business local exchange service subscriber line shall be the charge computed in accordance with paragraph (b) of this section, or \$3.50, whichever is lower.

(e)(1) Through December 31, 1997, the monthly charge for each non-primary residential local exchange service subscriber line shall be the charge computed in accordance with paragraph (b) of this section, or \$3.50, whichever is lower.

(2) Beginning January 1, 1998, the maximum monthly charge for each non-primary residential local exchange service subscriber line shall be the lower of:

(i) The maximum charge computed in accordance with paragraph (b) of this section; or

(ii) \$5.00. On January 1, 1999, this amount shall be adjusted by the inflation factor computed under paragraph (k) of this section, and increased by \$1.00. On July 1, 2000, and in each subsequent year, this amount shall be adjusted by the inflation factor computed under paragraph (k) of this section, and increased by \$1.00.

(3) Where the local exchange carrier provides a residential line to another carrier so that the other carrier may resell that residential line to a residence that already receives a primary residential line, the local exchange carrier may collect the non-primary residential charge described in paragraph (e) of this section from the other carrier.

(f) Except as provided in paragraphs (n) and (o) of this section, the charge for each primary residential local exchange service subscriber line shall be the same as the charge for each single line business local exchange service subscriber line.

(g) A line shall be deemed to be a residential subscriber line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.

(h) [Reserved]

(i) A line shall be deemed to be a single line business subscriber line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.

(j) No charge shall be assessed for any WATS access line.

(k)(1) On January 1, 1999:

(i) The ceiling for multi-line business subscriber lines under paragraph (b)(3) of this section will be adjusted to reflect inflation as measured by the change in GDP-PI for the 18 months ending September 30, 1998.

(ii) The ceiling for non-primary residential subscriber lines under paragraph (e)(2)(ii) of this section will be adjusted to reflect inflation as measured by the change in GDP-PI for the 12 months ending September 30, 1998.

(2) On July 1, 2000, the ceiling for multi-line business subscriber lines and non-primary residential subscriber lines will be adjusted to reflect inflation as measured by the change in GDP-PI for the 18 months ending on March 31, 2000.

(3) On July 1 of each subsequent year, the ceiling for multi-line business subscriber lines and non-primary residential subscriber lines will be adjusted to reflect inflation as measured by the change in GDP-PI for the 12 months ending on March 31 of the year the adjustment is made.

(l)(1) Beginning January 1, 1998, local exchange carriers shall assess no more than one end user common line charge as calculated under the applicable method under paragraph (e) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) Local exchange carriers shall assess no more than five end user common line charges as calculated under paragraph (b) of this section for Primary Rate Interface ISDN service.

(m) In the event the local exchange carrier charges less than the maximum end user common line charge for any subscriber lines, the local exchange carrier may not recover the difference between the amount collected and the maximum from carrier common line charges or PICCs.

(n) Through December 31, 1997, the End User Common Line charge for a residential subscriber shall be 50% of the charge specified in paragraphs (b) and (d) of this section if the residential local exchange service rate for such subscribers is reduced by an equivalent amount, provided that such local exchange service rate reduction is based upon a means test that is subject to verification.

(o) Paragraphs (o)(1) and (o)(2) of this section are effective through December 31, 1997.

(1) The End User Common Line charge for residential subscribers shall be reduced to the extent of the state assistance as calculated in paragraph (o)(2) of this section, or waived in full if the state assistance equals or exceeds the residential End User Common Line charge under the circumstances described in this paragraph. In order to qualify for this waiver, the subscriber must be eligible for and receive assistance or benefits provided pursuant to a narrowly targeted telephone company lifeline assistance program, requiring verification of eligibility, implemented by the state or local telephone company. A state or local telephone company wishing to implement this End User Common Line reduction or waiver for its subscribers shall file information with the Commission Secretary demonstrating that its plan meets the criteria set out in this section and showing the amount of state assistance per subscriber as described in paragraph (o)(2) of this section. The reduction or waiver of the End User Common Line charge shall be available as soon as the Commission certifies that the state or local telephone plan satisfies the criteria set out in this paragraph

and the relevant tariff provisions become effective.

(2)(i) The state assistance per subscriber shall be equal to the difference between the charges to be paid by the participating subscribers and those to be paid by other subscribers for comparable monthly local exchange service, service connections and customer deposits, except that benefits or assistance for connection charges and deposit requirements may only be counted once annually. In order to be included in calculating the state assistance, such benefits must be a single telephone line to the household's principal residence.

(ii) The monthly state assistance per participating subscriber shall be calculated by adding the amounts calculated in paragraphs (o)(2)(ii)(A) and (o)(2)(ii)(B) of this section.

(A) The amount of the monthly state assistance per participating subscriber for local exchange service shall be calculated by dividing the annual difference between charges paid by all participating subscribers for residential local exchange service and the amount which would have been charged to non-qualifying subscribers for comparable service by twelve times the number of subscribers participating in the state assistance program. Estimates may be used when historic data are not available.

(B) The amount of the monthly state assistance for service connections and customer deposits per participating subscriber shall be calculated by determining the annual amount of the reductions in these charges for participating subscribers each year and dividing this amount by twelve times the number of participating subscribers. Estimates may be used when historic data are not available.

(p) Through December 31, 1997, in connection with the filing of access tariffs pursuant to § 69.3(a), telephone companies shall calculate for the association their projected revenue requirement attributable to the operation of § 69.104 (n) through (o). The projected amount will be adjusted by the association to reflect the actual lifeline assistance benefits paid in the previous period. If the actual benefits exceeded the projected amount for that period,

the differential will be added to the projection for the ensuing period. If the actual benefits were less than the projected amount for that period, the differential will be subtracted from the projection for the ensuing period. Through December 31, 1997, the association shall so adjust amounts to the Lifeline Assistance revenue requirement, bill and collect such amounts from interexchange carriers pursuant to § 69.117 and distribute the funds to qualifying telephone companies pursuant to § 69.603(d).

[62 FR 31935, June 11, 1997, as amended at 62 FR 40464, July 29, 1997]

§ 69.153 Presubscribed interexchange carrier charge (PICC).

(a) A charge expressed in dollars and cents per line may be assessed upon the subscriber's presubscribed interexchange carrier to recover the common line revenues permitted under the price cap rules in part 61 of this chapter that cannot be recovered through the end user common line charge established under § 69.152, residual interconnection charge revenues, and certain marketing expenses described in § 69.156(a). In the event the ceilings on the PICC prevent the PICC from recovering all the residual common line, residual interconnection charge revenues, and marketing expenses, the PICC shall recover all residual common line revenues before it recovers residual interconnection charge revenues, and all residual interconnection charge revenues before it recovers marketing expenses.

(b) If an end-user customer does not have a presubscribed interexchange carrier, the local exchange carrier may collect the PICC directly from the end user.

(c) The maximum monthly PICC for primary residential subscriber lines and single-line business subscriber lines shall be the lower of:

(c) The maximum monthly PICC for primary residential subscriber lines and single-line business subscriber lines shall be the lower of:

(1) One twelfth of the sum of projected annual common line revenues and residual interconnection charge revenues permitted under our price cap rules divided by the projected average

number of local exchange service subscriber lines in use during such annual period, minus the maximum subscriber line charge calculated pursuant to § 69.152(d)(2); or

(1) One twelfth of the sum of annual common line revenues and residual interconnection charge revenues permitted under our price cap rules divided by the projected average number of local exchange service subscriber lines in use during such annual period, minus \$3.50; or

(2) \$0.53. On January 1, 1999, this amount shall be adjusted by the inflation factor computed under paragraph (e) of this section, and increased by \$0.50. On July 1, 2000, and in each subsequent year, this amount shall be adjusted by the inflation factor computed under paragraph (e) of this section, and increased by \$0.50.

(d) To the extent that a local exchange carrier cannot recover its full common line revenues, residual interconnection charge revenues, and those marketing expense revenues described in § 69.156(a) permitted under price cap regulation through the recovery mechanisms established in §§ 69.152, 69.153(c), and 69.156 (b) and (c), the local exchange carrier may assess a PICC on multi-line business subscriber lines and non-primary residential subscriber lines.

(1) The maximum monthly PICC for non-primary residential subscriber lines shall be the lower of:

(i) One twelfth of the projected annual common line, residual interconnection charge, and § 69.156(a) marketing expense revenues permitted under our price cap rules, less the maximum amounts permitted to be recovered through the recovery mechanisms under §§ 69.152, 69.153(c), and 69.156 (b) and (c), divided by the total number of projected non-primary residential and multi-line business subscriber lines in use during such annual period; or

(ii) \$1.50. On January 1, 1999, this amount shall be adjusted by the inflation factor computed under paragraph (e) of this section, and increased by \$1.00. On July 1, 2000, and in each subsequent year, this amount shall be adjusted by the inflation factor computed under paragraph (e) of this section, and increased by \$1.00.

(2) If the maximum monthly PICC for non-primary residential subscriber lines is determined using paragraph (d)(1)(i) of this section, the maximum monthly PICC for multi-line business subscriber lines shall equal the maximum monthly PICC of non-primary residential subscriber lines. Otherwise, the maximum monthly PICC for multi-line business lines shall be the lower of:

(i) One twelfth of the projected annual common line, residual interconnection charge, and § 69.156(a) marketing expense revenues permitted under parts 61 and 69 of our rules, less the maximum amounts permitted to be recovered through the recovery mechanisms under §§ 69.152, 69.153(c) and (d)(1), and 69.156 (b) and (c), divided by the total number of projected multi-line business subscriber lines in use during such annual period; or

(ii) \$2.75. On January 1, 1999, this amount shall be adjusted by the inflation factor computed under paragraph (e) of this section, and increased by \$1.50. On July 1, 2000, and in each subsequent year, this amount shall be adjusted by the inflation factor computed under paragraph (e) of this section, and increased by \$1.50.

(e) For the PICC ceiling for primary residential subscriber lines and single-line business subscriber lines under paragraph (c)(2) of this section, non-primary residential subscriber lines under paragraph (d)(1)(ii) of this section, and multi-line business subscriber lines under paragraph (d)(2)(ii) of this section:

(1) On January 1, 1999, the ceiling will be adjusted to reflect inflation as measured by the change in GDP-PI for the 12 months ending September 30, 1998.

(2) On July 1, 2000, the ceiling will be adjusted to reflect inflation as measured by the change in GDP-PI for the 18 months ending on March 31, 2000.

(3) On July 1 of each subsequent year, the ceiling will be adjusted to reflect inflation as measured by the change in GDP-PI for the 12 months ending on March 31 of the year the adjustment is made.

(f)(1) Local exchange carriers shall assess no more than one PICC as calculated under the applicable method under paragraph (d)(1) of this section

for Basic Rate Interface integrated services digital network (ISDN) service.

(2) Local exchange carriers shall assess no more than five PICCs as calculated under paragraph (d)(2) of this section for Primary Rate Interface ISDN service.

(g)(1) The maximum monthly PICC for Centrex lines shall be one-ninth of the maximum charge determined under paragraph (d)(2) of this section, except that if a Centrex customer has fewer than nine lines, the maximum monthly PICC for those lines shall be the maximum charge determined under paragraph (d)(2) of this section divided by the customer's number of Centrex lines.

(2) In the event the monthly loop costs for a multi-line business line, as defined in § 69.152(b)(1), exceed the maximum permitted End User Common Line charge, as set in § 69.152(b)(3), the maximum monthly PICC for a Centrex line determined under paragraph (g)(1) of this section shall be increased by the difference between the monthly loop costs defined in § 69.152(b)(1) and the maximum permitted End User Common Line charge set in § 69.152(b)(3). In no event, however, shall the PICC for a Centrex line exceed the maximum established under paragraph (d)(2) of this section.

(h) If a local exchange carrier receives low income universal service support on behalf of a customer under § 54.403(d) of this chapter, then the local exchange carrier shall not recover a residential presubscribed interexchange carrier charge from that end-user customer or its presubscribed interexchange carrier. Any amounts recovered under § 54.403(d) of this chapter by the local exchange carrier shall be treated as if they were recovered through the presubscribed interexchange carrier charge.

[62 FR 31937, June 11, 1997; 62 FR 40460, July 29, 1997, as amended at 62 FR 56132, Oct. 29, 1997; 63 FR 2133, Jan. 13, 1998]

§ 69.154 Per-minute carrier common line charge.

(a) Local exchange carriers may recover a per-minute carrier common line charge from interexchange carriers, collected on originating access

minutes and calculated using the weighting method set forth in paragraph (c) of this section. The maximum such charge shall be the lower of:

(1) The per-minute rate that would recover annual common line revenues permitted less the maximum amounts allowed to be recovered under §§ 69.152 and 69.153; or

(2) The sum of the local switching, carrier common line and interconnection charge charges assessed on originating minutes on December 31, 1997, minus the local switching charges assessed on originating minutes.

(b) To the extent that paragraph (a) of this section does not recover from interexchange carriers all permitted carrier common line revenue, the excess may be collected through a per-minute charge on terminating access calculated using the weighting method set forth in paragraph (c) of this section.

(c) For each Carrier Common Line access element tariff, the premium originating Carrier Common Line charge shall be set at a level that recovers revenues allowed under paragraphs (a) and (b) of this section. The non-premium charges shall be equal to .45 multiplied by the premium charges.

§ 69.155 Per-minute residual interconnection charge.

(a) Local exchange carriers may recover a per-minute residual interconnection charge on originating access. The maximum such charge shall be the lower of:

(1) The per-minute rate that would recover the total annual residual interconnection charge revenues permitted less the portion of the residual interconnection charge allowed to be recovered under § 69.153; or

(2) The sum of the local switching, carrier common line and residual interconnection charges assessed on originating minutes on December 31, 1997, minus the local switching charges assessed on originating minutes, less the maximum amount allowed to be recovered under § 69.154(a).

(b) To the extent that paragraph (a) of this section prohibits a local exchange carrier from recovering all of the residual interconnection charge revenues permitted, the residual may

be collected through a per-minute charge on terminating access.

(c)(1) No portion of the charge assessed pursuant to paragraphs (a) or (b) of this section that recovers revenues that the local exchange carrier anticipates will be reassigned to other, facilities-based rate elements, including the tandem-switching rate element described in § 69.111(g), the three-part tandem switched transport rate structure described in § 69.111(a)(2), and port and multiplexer charges described in § 69.111(l), shall be assessed upon minutes utilizing the local exchange carrier's local switching facilities, but not the local exchange carrier's transport service.

(2) If a local exchange carrier cannot recover its full residual interconnection charge revenues through the PICC mechanism established in § 69.153, and will consequently cover a portion of its residual interconnection charge revenues through per-minute charges assessed pursuant to paragraphs (a) and (b) of this section, then the local exchange carrier must allocate its residual interconnection charge revenues subject to the exemption established in paragraph (c)(1) of this section between the PICC and the per-minute residual interconnection charge in the same proportion as other residual interconnection charge revenues are allocated between these two recovery mechanisms.

[62 FR 31938, June 11, 1997; 62 FR 40460, July 29, 1997, as amended at 62 FR 56133, Oct. 29, 1997]

§ 69.156 Marketing expenses.

(a) Local exchange carriers shall recover marketing expenses that are allocated to the common line and traffic sensitive baskets, and the switched services within the trunking basket pursuant to §§ 32.6610 of this chapter and 69.403.

(b) The expenses described in paragraph (a) of this section may be recovered from non-primary residential subscriber lines, by increasing the end user common line charge described in § 69.152(e). The amount of marketing expenses permitted to be recovered in this manner shall be the total marketing expenses described in paragraph (a) of this section divided by the sum of

non-primary residential lines and multi-line business lines. In no event shall the end user common line charge for these lines exceed the lower of the ceilings established in § 69.152 (b)(3) and (e)(2)(ii).

(c) The expenses described in paragraph (a) of this section may be recovered from multi-line business subscriber lines, by increasing the end user common line charge described in § 69.152(b). The amount permitted to be recovered in this manner shall be the total marketing expenses described in paragraph (a) of this section divided by the sum of non-primary residential lines and multi-line business lines. In no event shall the end user common line charge for these lines exceed the ceiling established in § 69.152(b)(3).

(d) In the event that the ceilings set forth in paragraphs (b) and (c) of this section, and § 69.153(d) prevent a local exchange carrier from recovering fully the marketing expenses described in paragraph (a) of this section, the local exchange carrier may recover the remainder through a per-minute assessment on originating access minutes, so long as the charge for originating access does not exceed the amount defined in § 69.155(a)(2) less the maximum permitted to be recovered under § 69.155(a).

(e) In the event that the ceilings set forth in paragraphs (b), (c) and (d) of this section, and § 69.153(d) prevent a local exchange carrier from recovering fully the marketing expenses described in paragraph (a) of this section, the local exchange carrier may recover the remainder through a per-minute assessment on terminating access minutes.

(f) The amount of marketing expenses that may be recovered each year shall be adjusted in accordance with the price cap rules set forth in part 61 of this chapter.

§ 69.157 Line port costs in excess of basic, analog service.

To the extent that the costs of ISDN line ports, and line ports associated with other services, exceed the costs of a line port used for basic, analog service, local exchange carriers may recover the difference through a separate monthly end user charge.

Subpart D—Apportionment of Net Investment

SOURCE: 52 FR 37312, Oct. 6, 1987, unless otherwise noted.

§ 69.301 General.

(a) For purposes of computing annual revenue requirements for access elements net investment as defined in § 69.2 (z) shall be apportioned among the interexchange category, the billing and collection category and access elements as provided in this subpart. For purposes of this subpart, local transport includes five elements: entrance facilities, direct-trunked transport, tandem-switched transport, dedicated signaling transport, and the interconnection charge. Expenses shall be apportioned as provided in subpart E of this part.

(b) The End User Common Line and Carrier Common Line elements shall be combined for purposes of this subpart and subpart E of this part. Those elements shall be described collectively as the Common Line element. The Common Line element revenue requirement shall be segregated in accordance with subpart F of this part.

[52 FR 37312, Oct. 6, 1987, as amended at 57 FR 54722, Nov. 20, 1992]

§ 69.302 Net investment.

(a) Investment in Accounts 2001, 1220 and Class B Rural Telephone Bank Stock booked in Account 1402 shall be apportioned among the interexchange category, billing and collection category and appropriate access elements as provided in §§ 69.303 through 69.309.

(b) Investment in Accounts 2002, 2003 and to the extent such inclusions are allowed by this Commission, Account 2005 shall be apportioned on the basis of the total investment in Account 2001, Telecommunications Plant in Service.

[52 FR 37312, Oct. 6, 1987, as amended at 54 FR 3456, Jan. 24, 1989]

§ 69.303 Information origination/termination equipment (IOT).

Investment in all other IOT shall be apportioned between the Special Access and Common Line elements on the

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basis of the relative number of equivalent lines in use, as provided herein. Each interstate or foreign Special Access Line, excluding lines designated in § 69.115(e), shall be counted as one or more equivalent lines where channels are of higher than voice bandwidth, and the number of equivalent lines shall equal the number of voice capacity analog or digital channels to which the higher capacity is equivalent. Local exchange subscriber lines shall be multiplied by the interstate Subscriber Plant Factor to determine the number of equivalent local exchange subscriber lines.

[52 FR 37312, Oct. 6, 1987, as amended at 62 FR 31938, June 11, 1997]

§ 69.304 Subscriber line cable and wire facilities.

(a) Investment in local exchange subscriber lines shall be assigned to the Common Line element.

(b) Investment in interstate and foreign private lines and interstate WATS access lines shall be assigned to the Special access element.

[52 FR 37312, Oct. 6, 1987, as amended at 62 FR 31938, June 11, 1997]

§ 69.305 Carrier cable and wire facilities (C&WF).

(a) Carrier C&WF that is not used for "origination" or "termination" as defined in § 69.2(bb) and § 69.2(cc) shall be assigned to the interexchange category.

(b) Carrier C&WF, other than WATS access lines, not assigned pursuant to paragraph (a), (c), or (e) of this section that is used for interexchange services that use switching facilities for origination and termination that are also used for local exchange telephone service shall be apportioned to the local Transport elements.

(c) Carrier C&WF that is used to provide transmission between the local exchange carrier's signalling transfer point and the database shall be assigned to the Line Information Database sub-element at § 69.120(a).

(d) All Carrier C&WF that is not apportioned pursuant to paragraphs (a), (b), (c), and (e) of this section shall be assigned to the Special Access element.

(e) Carrier C&WF that is used to provide transmission between the local ex-

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change carrier's signalling transfer point and the local switch shall be assigned to the local switching category.

[52 FR 37312, Oct. 6, 1987, as amended at 57 FR 24380, June 9, 1992; 58 FR 30995, May 28, 1993; 62 FR 31938, June 11, 1997]

§ 69.306 Central office equipment (COE).

(a) The Separations Manual categories shall be used for purposes of apportioning investment in such equipment except that any Central office equipment attributable to local transport shall be assigned to the Transport elements.

(b) COE Category 1 (Operator Systems Equipment) shall be apportioned among the interexchange category and the access elements as follows: Category 1 that is used for intercept services shall be assigned to the Local Switching element. Category 1 that is used for directory assistance shall be assigned to the Information element. Category 1 other than service observation boards that is not assigned to the Information element and is not used for intercept services shall be assigned to the interexchange category. Service observation boards shall be apportioned among the interexchange category, and the Information and Transport access elements based on the remaining combined investment in COE Category 1, Category 2 and Category 3.

(c) COE Category 2 (Tandem Switching Equipment) that is deemed to be exchange equipment for purposes of the Modification of Final Judgment in *United States v. Western Electric Co.* shall be assigned to the tandem switching charge subelement and the interconnection charge element. COE Category 2 which is associated with the signal transfer point function shall be assigned to the local switching category. COE Category 2 which is used to provide transmission facilities between the local exchange carrier's signalling transfer point and the database shall be assigned to the Line Information Database subelement at § 69.120(a). All other COE Category 2 shall be assigned to the interexchange category.

(d) COE Category 3 (Local Switching Equipment) shall be assigned to the Local Switching element except as provided in paragraph (a) of this section;

and that, for telephone companies subject to price cap regulation set forth in part 61 of this chapter, line-side port costs shall be assigned to the Common Line rate element.

(e) COE Category 4 (Circuit Equipment) shall be apportioned among the interexchange category and the Common Line, Transport, and Special Access elements. COE Category 4 shall be apportioned in the same proportions as the associated Cable and Wireless Facilities; except that any DS1/voice-grade multiplexer investment associated with analog local switches and assigned to the local transport category by this section shall be reallocated to the local switching category.

[52 FR 37312, Oct. 6, 1987, as amended at 57 FR 54722, Nov. 20, 1992; 58 FR 30995, May 28, 1993; 62 FR 31938, June 11, 1997]

§ 69.307 General support facilities.

(a) General purpose computer investment used in the provision of the Line Information Database sub-element at § 69.120(b) shall be assigned to that sub-element.

(b) General purpose computer investment used in the provision of the billing name and address element at § 69.128 shall be assigned to that element.

(c) For all local exchange carriers not subject to price cap regulation and for other carriers that acquire all of the billing and collection services that they provide to interexchange carriers from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

(d) For local exchange carriers subject to price cap regulation and not covered by Section 69.307(c), a portion of General purpose computer investment (Account 2124), investment in Land (Account 2111), Buildings (Account 2121), and Office equipment (Ac-

count 2123) shall be apportioned to the billing and collection category on the basis of the Big Three Expense Factors allocator, defined in Section 69.2 of this Part, modified to exclude expenses that are apportioned on the basis of allocators that include General Support Facilities investment. The remaining portion of investment in these four accounts together with all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access Elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

[58 FR 30995, May 28, 1993, as amended at 58 FR 36145, July 6, 1993; 62 FR 31939, June 11, 1997; 62 FR 40464, July 29, 1997; 62 FR 65622, Dec. 15, 1997]

§ 69.308 [Reserved]

§ 69.309 Other investment.

Investment that is not apportioned pursuant to §§ 69.302 through 69.307 shall be apportioned among the interexchange category, the billing and collection category and access elements in the same proportions as the combined investment that is apportioned pursuant to §§ 69.303 through 69.307.

[62 FR 31939, June 11, 1997]

§ 69.310 Capital leases.

Capital Leases in Account 2680 shall be directly assigned to the appropriate interexchange category or access elements consistent with the treatment prescribed for similar plant costs or shall be apportioned in the same manner as Account 2001.

Subpart E—Apportionment of Expenses

SOURCE: 52 FR 37313, Oct. 6, 1987, unless otherwise noted.

§ 69.401 Direct expenses.

(a) Plant Specific Operations Expenses in Accounts 6110 and 6120 shall

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be apportioned among the interexchange category, the billing and collection category and appropriate access elements on the following basis:

(1) Account 6110—Apportion on the basis of other investment apportioned pursuant to § 69.309.

(2) Account 6120—Apportion on the basis of General and Support Facilities investment pursuant to § 69.307.

(b) Plant Specific Operations Expenses in Accounts 6210, 6220, and 6230, shall be apportioned among the interexchange category and access elements on the basis of the apportionment of the investment in Accounts 2210, 2220, and 2230, respectively; provided that any expenses associated with DS1/voice-grade multiplexers, to the extent that they are not associated with an analog tandem switch, assigned to the local transport category by this paragraph shall be reallocated to the local switching category; provided further that any expenses associated with common channel signalling included in Account 6210 shall be assigned to the local transport category.

(c) Plant Specific Operations Expenses in Accounts 6310 and 6410 shall be assigned to the appropriate investment category and shall be apportioned among the interexchange category and access elements in the same proportions as the total associated investment.

(d) Plant Non Specific Operations Expenses in Accounts 6510 and 6530 shall be apportioned among the interchange category, the billing and collection category, and access elements in the same proportions as the combined investment in COE, IOT, and C&WF apportioned to each element and category.

(e) Plant Non Specific Operations Expenses in Account 6540 shall be assigned to the interexchange category.

(f) Plant Non Specific Operations Expenses in Account 6560 shall be apportioned among the interexchange category, the billing and collection category, and access elements in the same proportion as the associated investment.

(g) Amortization of embedded customer premises wiring investment shall be deemed to be associated with § 69.303(b) IOT investment for purposes

of the apportionment described in paragraph (c) of this section.

[52 FR 37313, Oct. 6, 1987, as amended at 62 FR 31939, June 11, 1997]

§ 69.402 Operating taxes (Account 7200).

(a) Federal income taxes, state and local income taxes, and state and local gross receipts or gross earnings taxes that are collected in lieu of a corporate income tax shall be apportioned among the interexchange category, the billing and collection category and all access elements based on the approximate net taxable income on which the tax is levied (positive or negative) applicable to each element and category.

(b) All other operating taxes shall be apportioned among the interexchange category, the billing and collection category and all access elements in the same manner as the investment apportioned to each element and category pursuant to § 69.309 Other Investment.

§ 69.403 Marketing expense (Account 6610).

Marketing expense shall be apportioned among the interexchange category and all access elements in the same proportions as the combined investment that is apportioned pursuant to § 69.309.

§ 69.404 Telephone operator services expenses in Account 6620.

Telephone Operator Services expenses shall be apportioned among the interexchange category, and the Local Switching and Information elements based on the relative number of weighted standard work seconds. For those companies who contract with another company for the provision of these services, the expenses incurred shall be directly assigned among the interexchange category and the Local Switching and Information elements on the basis of the bill rendered for the services provided.

§ 69.405 Published directory expenses in Account 6620.

Published Directory expenses shall be assigned to the Information element.

§ 69.406 Local business office expenses in Account 6620.

(a) Local business office expenses shall be assigned as follows:

(1) End user service order processing expenses attributable to presubscription shall be apportioned among the Common Line, Switching, and Transport elements in the same proportion as the investment apportioned to those elements pursuant to § 69.309.

(2) End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own interstate private line and special access service shall be assigned to the Special Access element.

(3) End user service order processing, payment and collection, and billing inquiry expenses attributable to interstate private line service offered by an interexchange carrier shall be assigned to the billing and collection category.

(4) End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own interstate message toll service shall be assigned to the interexchange category. End user service order processing, payment and collection, and billing inquiry expenses attributable to interstate message toll service offered by an interexchange carrier shall be assigned to the billing and collection category. End user payment and collection and billing inquiry expenses attributable to End User Common Line access billing shall be assigned to the Common Line element.

(5) End user service order processing, payment and collection, and billing inquiry expenses attributable to TWX service shall be assigned to the Special Access element.

(6) Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to private lines and special access shall be assigned to the Special Access element.

(7) Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to interstate switched access and message toll, shall be apportioned among the Common Line, Local Switching and Transport elements in the same proportion as the investment

apportioned to those elements pursuant to § 69.309.

(8) Interexchange carrier service order processing, payment and collection, and billing inquiry expenses attributable to billing and collection service shall be assigned to the billing and collection category.

[52 FR 37313, Oct. 6, 1987, as amended at 62 FR 31939, June 11, 1997]

§ 69.407 Revenue accounting expenses in Account 6620.

(a) Revenue accounting expenses that are attributable to End User Common Line access billings shall be assigned to the Common Line element.

(b) Revenue Accounting Expenses that are attributable to carrier's carrier access billing and collecting expense shall be apportioned among all carrier's carrier access elements except the Common Line element. Such expenses shall be apportioned in the same proportion as the combined investment in COE, C&WF and IOT apportioned to those elements.

(c) Revenue Accounting Expenses allocated to the interstate jurisdiction that are attributable to the provision of billing name and address information shall be assigned to the Billing Name and Address element.

(d) All other Revenue Accounting Expenses shall be assigned to the billing and collection category.

[52 FR 37313, Oct. 6, 1987, as amended at 58 FR 65671, Dec. 16, 1993]

§ 69.408 All other customer services expenses in Account 6620.

All other customer services expenses shall be apportioned among the Interexchange category, the billing and collection category and all access elements based on the combined expenses in §§ 69.404 through 69.407.

[52 FR 37313, Oct. 6, 1987, as amended at 54 FR 3456, Jan. 24, 1989]

§ 69.409 Corporate operations expenses (Accounts 6710 and 6720).

All corporate operations expenses shall be apportioned among the interexchange category, the billing and collection category and all access elements in accordance with the Big 3 Expense Factor as defined in § 69.2(f).

§ 69.411 Other expenses.

Except as provided in §§ 69.412, 69.413, and 69.414, expenses that are not apportioned pursuant to §§ 69.401 through 69.409 shall be apportioned among the interexchange category and all access elements in the same manner as § 69.309 Other investment.

[62 FR 31639, June 11, 1997]

§ 69.412 Non participating company payments/receipts.

For telephone companies that are not association Common Line tariff participants, the payment or receipt of funds described in § 69.612(a) and (b) shall be apportioned, respectively, as an addition to or a deduction from their common line revenue requirement.

§ 69.413 Universal service fund expenses.

Expenses allocated to the interstate jurisdiction pursuant to §§ 36.631 and 36.641 shall be assigned to the Carrier Common Line Element until March 31, 1989. Beginning April 1, 1989, such expenses shall be assigned to the Universal Service Fund Element.

§ 69.414 Lifeline assistance expenses.

Expenses allocated to the interstate jurisdiction pursuant to § 36.741 shall be assigned to the Carrier Common Line element until March 31, 1989. Beginning April 1, 1989, such expenses shall be assigned to the Lifeline Assistance element.

Subpart F—Segregation of Common Line Element Revenue Requirement

§ 69.501 General.

(a) [Reserved]

(b) Any portion of the Common Line element annual revenue requirement that is attributable to CPE investment or expense or surrogate CPE investment or expense shall be assigned to the Carrier Common Line element or elements.

(c) Any portion of the Common Line element annual revenue requirement that is attributable to customer premises wiring included in IOT investment or expense shall be assigned to the Car-

rier Common Line element or elements.

(d) [Reserved]

(e) Any portion of the Common Line element revenue requirement that is not assigned to Carrier Common Line elements pursuant to paragraphs (a), (b), and (c) of this section shall be apportioned between End User Common Line and Carrier Common Line pursuant to § 69.502. Such portion of the Common Line element annual revenue requirement shall be described as the base factor portion for purposes of this subpart.

[48 FR 10358, Mar. 11, 1983, as amended at 50 FR 18262, Apr. 30, 1985; 52 FR 21542, June 8, 1987; 52 FR 37314, Oct. 6, 1987; 61 FR 65364, Dec. 12, 1996; 62 FR 31939, June 11, 1997]

§ 69.502 Base factor allocation.

Projected revenues from the following shall be deducted from the base factor portion to determine the amount that is assigned to the Carrier Common Line element:

(a) End User Common Line charges, less any marketing expense revenues recovered through end user common line charges pursuant to § 69.156;

(b) Special Access surcharges; and

(c) The portion of per-line support that carriers receive pursuant to § 54.303.

[62 FR 31939, June 11, 1997, as amended at 62 FR 40464, July 29, 1997]

Subpart G—Exchange Carrier Association

§ 69.600 Definitions.

High Cost and Low Income Committee. The term “High Cost and Low Income Committee” shall refer to a committee of the Board of Directors of the Administrator’s independent subsidiary that will have the power and authority to bind the independent subsidiary’s Board of Directors on issues relating to the administration of the high cost and low-income support mechanisms, as described in “69.615.

Rural Health Care Corporation. The term “Rural Health Care Corporation” shall refer to the corporation created pursuant to § 69.617 that shall administer specified portions of the universal

service support mechanism as described in §69.618.

Schools and Libraries Corporation. The term "Schools and Libraries Corporation" shall refer to the corporation created pursuant to §69.617 that shall administer specified portions of the universal service support mechanism, as described in §69.619.

[62 FR 41306, Aug. 1, 1997]

§ 69.601 Exchange carrier association.

(a) An association shall be established in order to prepare and file access charge tariffs on behalf of all telephone companies that do not file separate tariffs or concur in a joint access tariff of another telephone company for all access elements.

(b) All telephone companies that participate in the distribution of Carrier Common Line revenue requirement, pay long term support to association Common Line tariff participants, or receive payments from the transitional support fund administered by the association shall be deemed to be members of the association.

(c) All data submissions to the association required by this title shall be accompanied by the following certification statement signed by the officer or employee responsible for the overall preparation for the data submission:

CERTIFICATION

I am (title of certifying officer or employee). I hereby certify that I have overall responsibility for the preparation of all data in the attached data submission for (name of carrier) and that I am authorized to execute this certification. Based on information known to me or provided to me by employees responsible for the preparation of the data in this submission, I hereby certify that the data have been examined and reviewed and are complete, accurate, and consistent with the rules of the Federal Communications Commission.

Date: _____

Name: _____

Title: _____

(Persons making willful false statements in this data submission can be punished by fine or imprisonment under the provisions of the U.S. Code, Title 18, Section 1001).

[48 FR 10358, Mar. 11, 1983, as amended at 52 FR 21542, June 8, 1987; 60 FR 19530, Apr. 19, 1995]

§ 69.602 Board of directors.

(a) For purposes of this section, the association membership shall be divided into three subsets:

(1) The first subset shall consist of the telephone companies owned and operated by the seven Regional Bell Holding Companies;

(2) The second subset shall consist of all other telephone companies with annual operating revenues in excess of forty million dollars;

(3) The third subset shall consist of all other telephone companies. All commonly controlled companies shall be deemed to be one company for purposes of this section.

(b) There shall be fifteen directors of the association.

(c) Until 1996, three directors shall represent the first subset, three directors shall represent the second subset, and nine directors shall represent the third subset. In 1996 and thereafter, two directors shall represent the first subset, two directors shall represent the second subset, six directors shall represent the third subset, and five directors shall represent all three subsets.

(d) No director who represents all three subsets shall be a current or former officer or employee of the association or of any association member, or have a business relationship or other interest that could interfere with his or her exercise of independent judgment.

(e) Each subset shall select the directors who will represent it individually through an annual election in which each member of the subset shall be entitled to vote for the number of directors that will represent such members' subset.

(f) The association membership shall select the directors for the following calendar year who will represent all three subsets through an annual election in which each member of the association shall be entitled to one vote for each director position. There shall be at least two candidates meeting the qualifications in paragraph (d) of this section for each such director position:

(1) In any election in which the most recently elected director for such position is not a qualified candidate;

(2) If there has been no election for such position having more than one

qualified candidate during the present and the two preceding calendar years; and

(3) In any election for which the ballot lists two or more qualified candidates.

(g) At least one director representing all three subsets shall be a member of each committee of association directors.

(h) For each access element or group of access elements for which voluntary pooling is permitted, there shall be a committee that is responsible for the preparation of charges for the associated access elements that comply with all applicable sections in this part.

(i) Directors shall serve for a term of one year commencing January 1 and concluding on December 31 of each year.

[60 FR 19530, Apr. 19, 1995]

§ 69.603 Association functions.

(a) The Association shall not engage in any activity that is not related to the preparation of access charge tariffs or the collection and distribution of access charge revenues or the operation of a billing and collection pool on an untariffed basis unless such activity is expressly authorized by order of the Commission.

(b) Participation in Commission or court proceedings relating to access charge tariffs, the billing and collection of access charges, the distribution of access charge revenues, or the operation of a billing and collection pool on an untariffed basis shall be deemed to be authorized association activities.

(c) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to § 69.613(a), will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer administer the Universal Service charge, including the direct billing to and collection of associated revenues on a monthly basis from interexchange carriers pursuant to § 60.116 of this chapter and the distribution of these revenues to qualified telephone companies based on their share of expenses assigned to the Universal Service Factor portion of the interstate allocation pursuant to § 36.631 of this chapter. Such functions

shall be assumed by the independent subsidiary of the association as provided in § 69.613. Commencing on January 1, 1998, the billing and collection of universal service support for high cost areas shall be performed in a manner consistent with § 54.709 of this chapter.

(d) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to § 69.613, will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer administer the Lifeline Assistance charge, including the direct billing to and collection of associated revenues on a monthly basis from interexchange carriers pursuant to § 69.117, and the distribution of these revenues to qualified telephone companies based on their share of expenses assigned to the Lifeline Assistance Fund pursuant to § 36.741 of this chapter and of End User Common Line charges associated with the operation of § 69.104(j) through (l). Such functions shall be assumed by the independent subsidiary of the association as provided in § 69.613. Commencing on January 1, 1998, the billing and collection of Lifeline support shall be performed in a manner consistent with § 54.709 of this chapter.

(e) Upon the incorporation and commencement of operations by the association's independent subsidiary that, pursuant to § 69.613, will administer temporarily specified portions of the universal service support mechanisms, the association shall no longer compute, in accordance with §§ 69.105 and 69.612, the mandatory Long Term Support payment of telephone companies that are not association Common Line tariff participants, bill or collect the appropriate amounts on a monthly basis from such telephone companies, or distribute Long Terms Support revenue among association Carrier Common Line tariff participants. Such functions shall be assumed by the independent subsidiary of the association as provided in § 69.613. Commencing on January 1, 1998, the computation, billing, and collection of Long Term Support shall be performed in a manner consistent with § 54.303 of this chapter.

(f) The association shall also prepare and file an access charge tariff containing terms and conditions for access service and form for the filing of rate schedules by telephone companies that choose to reference these terms and conditions while filing their own access rates.

(g) The association shall divide the expenses of its operations into two categories. The first category ("Category I Expenses") shall consist of those expenses that are associated with the preparation, defense, and modification of association tariffs, those expenses that are associated with the administration of pooled receipts and distributions of exchange carrier revenues resulting from association tariffs, those expenses that are associated with association functions pursuant to § 69.603 (c)-(g), and those expenses that pertain to Commission proceedings involving subpart G of part 69 of the Commission's rules. The second category ("Category II Expenses") shall consist of all other association expenses. Category I Expenses shall be sub-divided into three components in proportion to the revenues associated with each component. The first component ("Category I.A Expenses") shall be in proportion to the Universal Service Fund and Lifeline Assistance revenues. The second component ("Category I.B Expenses") shall be in proportion to the sum of the association End User Common Line revenues, the association Carrier Common Line revenues, the association Special Access Surcharge revenues, the Long Term Support payments and the Transitional Support payments. The third component ("Category I.C Expenses") shall be in proportion to the revenues from all other association interstate access charges.

(h)(1) The revenue requirement for association tariffs filed pursuant to § 69.4(c) shall not include any association expenses other than Category I.A Expenses.

(2) The revenue requirement for association tariffs filed pursuant to § 69.4 (a) and (b)(2) shall not include any Association expenses other than Category I.B Expenses.

(3) The revenue requirement for association tariffs filed pursuant to § 69.4(b) (1) and (3)-(7) shall not include any as-

sociation expenses other than Category I.C Expenses.

(4) No distribution to an exchange carrier of Universal Service Fund and Lifeline Assistance revenues shall include adjustments for association expenses other than Category I.A Expenses.

(5) No distribution to an exchange carrier of revenues from association End User Common Line or Carrier Common Line charges, Special Access Surcharges or Long Term Support or Transitional Support payments shall include adjustments for association expenses other than Category I.B Expenses.

(6) No distribution to an exchange carrier of revenues from association interstate access charges other than End User Common Line and Carrier Common Line charges and Special Access Surcharges shall include adjustments for association expenses other than Category I.C Expenses.

(7) The association shall separately identify all Category I.A, I.B and I.C expenses in cost support materials filed with each annual association access tariff filing.

[54 FR 8197, Feb. 27, 1989, as amended at 54 FR 8199, Feb. 27, 1989; 62 FR 41306, Aug. 1, 1997]

§ 69.604 Billing and collection of access charges.

(a) Telephone companies shall bill and collect all access charges except those charges specified in §§ 69.116 and 69.117.

(b) All access charges shall be billed monthly.

[51 FR 9012, Mar. 17, 1986, as amended at 52 FR 21543, June 8, 1987]

§ 69.605 Reporting and distribution of pool access revenues.

(a) Access revenues and cost data shall be reported by participants in association tariffs to the association for computation of monthly pool revenues distributions in accordance with this subpart.

(b) Association expenses incurred during the month that are allowable access charge expenses shall be reimbursed before any other funds are disbursed.

(c) Except as provided in paragraph (b) of this section, payments to average schedule companies that are computed in accordance with § 69.606 shall be disbursed before any other funds are disbursed. For purposes of this part, a telephone company that was participating in average schedule settlements on December 1, 1982, shall be deemed to be an average schedule company except that any company that does not join in association tariffs for all access elements shall not be deemed to be an average schedule company.

(d) The residue shall be disbursed to telephone companies that are not average schedule companies in accordance with §§ 69.607 through 69.610.

(e) The association shall submit a report on or before February 1 of each calendar year describing the association's cost study review process for the preceding calendar year as well as the results of that process. For any revisions to cost study results made or recommended by the association that would change the respective carrier's calculated annual common line or traffic sensitive revenue requirement by ten percent or more, the report shall include the following information:

- (1) The name of the carrier;
- (2) A detailed description of the revisions;
- (3) The amount of the revisions;
- (4) The impact of the revisions on the carrier's calculated common line and traffic sensitive revenue requirements; and
- (5) The carrier's total annual common line and traffic sensitive revenue requirement.

[48 FR 10358, Mar. 11, 1983, as amended at 51 FR 17027, May 8, 1986; 52 FR 21543, June 8, 1987; 54 FR 11537, Mar. 21, 1989; 60 FR 19530, Apr. 19, 1995]

§ 69.606 Computation of average schedule company payments.

(a) Payments shall be made in accordance with a formula approved or modified by the Commission. Such formula shall be designed to produce disbursements to an average schedule company that simulate the disbursements that would be received pursuant to § 69.607 by a company that is representative of average schedule companies.

(b) The association shall submit a proposed revision of the formula for each annual period subsequent to December 31, 1986, or certify that a majority of the directors of the association believe that no revisions are warranted for such period on or before December 31 of the preceding year.

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 10358, Mar. 11, 1983, as amended at 50 FR 41356, Oct. 10, 1985; 55 FR 6990, Feb. 28, 1990]

§ 69.607 Disbursement of Carrier Common Line residue.

(a) The association shall compute a monthly net balance for each member telephone company that is not an average schedule company. If such a company has a negative net balance, the association shall bill that amount to such company. If such a company has a positive net balance, the association shall disburse that amount to such company.

(b) The net balance for such a company shall be computed by multiplying a hypothetical net balance for such a company by a factor that is computed by dividing the Carrier Common Line residue by the sum of the hypothetical net balances for such companies.

(c) The hypothetical net balance for each company shall be the sum of the hypothetical net balances for each access element. Such hypothetical net balances shall be computed in accordance with §§ 69.608 to 69.610.

[48 FR 10358, Mar. 11, 1983, as amended at 51 FR 42237, Nov. 24, 1986]

§ 69.608 Carrier Common Line hypothetical net balance.

The hypothetical net balance shall be equal to a Carrier Common Line revenue requirement for each such company that is computed in accordance with subpart F of this part.

§ 69.609 End User Common Line hypothetical net balances.

(a) If the company does not participate in the association tariff for such element, the hypothetical net balance shall be zero.

(b) If the company does participate in the association tariff for such element,

the hypothetical net balance shall be computed by multiplying an amount that is computed by deducting access revenues collected by such company for such element from an End User Common Line revenue requirement for such company that is computed in accordance with subpart F of this part by a factor that is computed by dividing access revenues collected by all such companies for such element by an End User Common Line revenue requirement for all such companies that is computed in accordance with subpart F of this part.

§ 69.610 Other hypothetical net balances.

(a) The hypothetical net balance for an access element other than a Common Line element shall be computed as provided in this section.

(b) If the company does not participate in the association tariff for such element, the hypothetical net balance shall be zero.

(c) If the company does participate in the association tariff for such element, the hypothetical net balance shall be computed by deducting access revenues collected for such element from the sum of expense attributable to such element and the element residue apportioned to such company. The element residue shall be apportioned among such companies in the same proportions as the net investment attributable to such element.

(d) The element residue shall be computed by deducting expenses of all participating companies attributable to such element from revenues collected by all participating companies for such element.

[48 FR 10358, Mar. 11, 1983, as amended at 51 FR 42237, Nov. 24, 1986]

§ 69.612 Long term and transitional support.

A telephone company that does not participate in the association Common Line tariff shall have computed by the association:

(a) *Long term support obligation.* (1) Beginning July 1, 1994 and until December 31, 1997, the Long Term Support payment obligation of telephone companies that do not participate in the NECA Common Line tariff shall equal

the difference between the projected Carrier Common Line revenue requirement of association Common Line tariff participants and the projected revenue recovered by the association Carrier Common Line charge as calculated pursuant to § 69.105(b)(1).

(2) For the period from April 1, 1989 through June 30, 1994, the Long Term Support payment obligation shall be funded by all telephone companies that are not association Common Line tariff participants and do not receive transitional support pursuant to § 69.612(b). The percentage of the total annual Long Term Support requirement paid by each telephone company in this group that is not a Level I or Level II Contributor shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The remaining amount of Long Term Support requirement shall be allocated among Level I and Level II Contributors based upon the amount of each Level I and Level II Contributor's 1988 contributions to the association Common Line pool in relation to the total amount of 1988 Common Line pool contributions of all other Level I and Level II Contributors. The association shall inform each telephone company about its mandatory Long Term Support obligations within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to § 69.603(e).

(3) Beginning July 1, 1994, and thereafter, the Long Term Support payment obligation shall be funded by each telephone company that files its own Carrier Common Line tariff and does not receive transitional support. The percentage of the total annual Long Term Support requirement paid by each of these companies shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The association shall inform each telephone company about its Long Term Support obligation within a reasonable time prior to the

filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to § 69.603(f).

(b) *Transitional support.* (1) Telephone Companies categorized as Level I and Level II Receivers that file their own Common Line tariffs effective April 1, 1989 shall receive Transitional Support for a four year period commencing April 1, 1989. Level II Receivers that file their own Common Line tariffs effective July 1, 1990 shall receive Transitional Support for a four year period commencing July 1, 1990. Transitional Support for each of these telephone companies shall be computed on the basis of the net revenues less revenue requirement amounts for 1988 (adjusted for the additional revenues resulting from an increase in End User Common Line charges to \$3.50). Transitional Support for these telephone companies during the transition shall be as follows:

- Year 1—80% of the adjusted 1988 frozen amount
- Year 2—60% of the adjusted 1988 frozen amount
- Year 3—40% of the adjusted 1988 frozen amount
- Year 4—20% of the adjusted 1988 frozen amount

(2) For the period from April 1, 1989 through June 30, 1994, the Transitional Support Fund shall be funded by all telephone companies or groups of affiliated telephone companies that are not association Common Line tariff participants and do not qualify under § 69.612(b)(1) for Transitional Support payments.

[55 FR 6990, Feb. 28, 1990, as amended at 62 FR 32962, June 17, 1997; 63 FR 2133, Jan. 13, 1998]

§ 69.613 Temporary administrator of universal service support mechanisms.

(a) The association shall establish an independent subsidiary through which the association shall administer temporarily the portions of the universal service support mechanisms described in § 69.616 until the permanent Admin-

istrator is established and ready to commence operations. The independent subsidiary shall be incorporated under the laws of Delaware and shall be designated the Universal Service Administrative Company. The association shall submit the independent subsidiary's proposed articles of incorporation, by-laws, and any other documents necessary to incorporate the independent subsidiary to the Commission by August 1, 1997 for review prior to the independent subsidiary's incorporation.

(b) As a condition of its appointment as the temporary Administrator of the universal service support mechanisms, the association shall agree to make available, if the association or its independent subsidiary is not appointed permanent Administrator, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from the independent subsidiary's temporary administration of the universal service support mechanisms, and to make such property available to whomever the Commission directs, free of charge. Such property includes, but is not limited to, databases, processing systems, computer software programs, lists, records, information, or equipment created or purchased and used in the temporary administration of the universal service support mechanisms. The association must specify any property it proposes to exclude from the foregoing types of property based on the existence of such property prior to the effective date of the association's appointment as the temporary Administrator.

(c) As a further condition of its appointment as the temporary Administrator of the universal service support mechanisms, the association and the independent subsidiary must provide services to the Corporations, such as contracting for the services of association or independent subsidiary employees, loans or transfers of assets, upon the request of the Corporations and on reasonable terms.

[62 FR 41306, Aug. 1, 1997]

§ 69.614 Independent subsidiary Board of Directors.

(a) The independent subsidiary described in § 69.613(a) shall have a Board

of Directors separate from the association's Board of Directors. Except as expressly permitted, the association's Board of Directors shall be prohibited from participating in the functions of the independent subsidiary.

(b) The independent subsidiary's Board of Directors shall consist of 17 directors:

(1) Three directors shall represent incumbent local exchange carriers, with one director representing the Bell Operating Companies and GTE, one director representing ILECs (other than the Bell Operating Companies) with annual operating revenues in excess of \$40 million, and one director representing ILECs (other than the Bell Operating Companies) with annual operating revenues of \$40 million or less;

(2) Two directors shall represent interexchange carriers, with one director representing interexchange carriers with more than \$3 billion in annual operating revenues and one director representing interexchange carriers with annual operating revenues of \$3 billion or less;

(3) One director shall represent commercial mobile radio service (CMRS) providers;

(4) One director shall represent competitive local exchange carriers;

(5) One director shall represent cable operators;

(6) One director shall represent information service providers;

(7) Three directors shall represent schools that are eligible to receive discounts pursuant to § 54.501 of this chapter;

(8) One director shall represent libraries that are eligible to receive discounts pursuant to § 54.501 of this chapter;

(9) One director shall represent rural health care providers that are eligible to receive supported services pursuant to § 54.601 of this chapter;

(10) One director shall represent low-income consumers;

(11) One director shall represent state telecommunications regulators; and

(12) One director shall represent state consumer advocates.

(c) The industry and non-industry groups that will be represented on the independent subsidiary's Board of Directors as specified in § 69.614(b)(1)

through (12) shall nominate by consensus the independent subsidiary's directors. Each of these industry and non-industry groups shall submit the name of its nominee for a seat on the independent subsidiary's Board of Directors, along with relevant professional and biographical information about the nominee, to the Chairman of the Federal Communications Commission within 14 calendar days of the publication of these rules in the FEDERAL REGISTER. Only members of the industry or non-industry group that a Board member will represent may submit a nomination for that position.

(d) The Chairman of the Federal Communications Commission shall review the nominations submitted by industry and non-industry groups and shall select the independent subsidiary's Board of Directors. If an industry or non-industry group does not reach consensus on a nominee or fails to submit a nomination for a position on the independent subsidiary's Board of Directors, the Chairman of the Federal Communications Commission shall select an individual to represent such group on the independent subsidiary's Board of Directors.

(e) The directors on the independent subsidiary's Board shall be appointed for two-year terms and may be reappointed for subsequent terms pursuant to the initial nomination and appointment process described in paragraph (d) of this section. If a Board member vacates his or her seat prior to the completion of his or her term, the independent subsidiary will notify the Common Carrier Bureau of such vacancy, and a successor will be chosen pursuant to the initial nomination and appointment process described in paragraph (d) of this section.

(f) The independent subsidiary's Board of Directors shall convene its first meeting within 14 calendar days of the appointment of the directors to the independent subsidiary's Board.

(g) All meetings of the independent subsidiary's Board of Directors shall be open to the public and held in Washington, D.C.

(h) Each member of the independent subsidiary's Board of Directors shall be entitled to receive reimbursement for expenses directly incurred as a result

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of his or her participation on the independent subsidiary's Board of Directors.

[62 FR 41307, Aug. 1, 1997]

§ 69.615 High Cost and Low Income Committee.

The independent subsidiary's Board of Directors shall require in its bylaws the creation of a High Cost and Low Income Committee with the power and authority to bind the independent subsidiary's Board of Directors on issues relating to the administration of the high cost and low-income support mechanisms, as specifically delineated in the independent subsidiary's bylaws. The High Cost and Low-Income Committee will consist of ten members: the seven service provider representatives (i.e., the representatives listed in § 69.614(b)(1) through (4)) and the low-income, state consumer advocate, and state telecommunications regulator representatives. In the event that a majority of the members of the Committee is unable to reach a decision, the Chairman of the Committee is authorized to cast an additional vote to resolve the deadlock.

[62 FR 41307, Aug. 1, 1997]

§ 69.616 Independent subsidiary functions.

(a) The independent subsidiary shall be solely responsible for administering the universal service support mechanisms for high-cost areas and low-income consumers, including billing contributors, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds. The independent subsidiary also shall be required to perform any other duties of the Administrator that relate to the billing, collection, and disbursement of funds that are specified elsewhere in the Commission's universal service rules.

(b) With respect to the universal service support mechanisms for schools, libraries, and rural health care providers, the independent subsidiary shall be responsible for billing contributors to the universal service support mechanisms, collecting contributions to the universal service support mechanisms, and disbursing universal service

support funds within 20 days following receipt of authorization to disburse such funds from the Schools and Libraries Corporation and Rural Health Care Corporation.

(c) The independent subsidiary may advocate positions before the Commission and its staff only on administrative matters relating to the universal service support mechanisms.

(d) The independent subsidiary shall maintain books of account separate from those of the association. The independent subsidiary's books of account shall be maintained in accordance with generally accepted accounting principles. The independent subsidiary may borrow start-up funds from the association. Such funds may not be drawn from the Telecommunications Relay Services (TRS) fund or TRS administrative expense accounts.

[62 FR 41308, Aug. 1, 1997, as amended at 63 FR 2133, Jan. 13, 1998]

§ 69.617 Schools and Libraries Corporation and Rural Health Care Corporation.

(a) *Schools and Libraries and Rural Health Care Corporations.* The association shall incorporate two unaffiliated corporations. The two corporations shall be not-for-profit, non-stock corporations incorporated in the state of Delaware. The corporations shall be designated the Schools and Libraries Corporation and the Rural Health Care Corporation. After incorporating the Schools and Libraries Corporation and the Rural Health Care Corporation, the association shall take such steps as are necessary to make the Corporations independent of, and unaffiliated with, the association and independent subsidiary. The association shall submit to the Commission for approval the proposed articles of incorporation, bylaws, and any documents necessary to incorporate the Schools and Libraries Corporation and Rural Health Care Corporation by August 1, 1997. The Schools and Libraries Corporation and Rural Health Care Corporation should continue to perform their designated functions, as described in §§ 69.618 and 69.619, after the date on which the permanent Administrator is selected and commences operations.

(b) *Schools and Libraries Corporation's Board of Directors.* The Board of Directors of the Schools and Libraries Corporation shall consist of seven directors and will be composed as follows:

(1) The three directors representing eligible schools on the independent subsidiary's Board of Directors also shall serve on the Board of Directors of the Schools and Libraries Corporation;

(2) The director representing eligible libraries on the independent subsidiary's Board of Directors also shall serve on the Board of Directors of the Schools and Libraries Corporation.

(3) One director representing one of the categories of telecommunications service providers on the independent subsidiary's Board of Directors also shall serve on the Schools and Libraries Corporation's Board of Directors. The independent subsidiary's Board of Directors shall select the telecommunications service provider representative who will serve on the Schools and Libraries Corporation's Board of Directors within seven calendar days of the first meeting of the independent subsidiary's Board of Directors;

(4) One independent director who does not represent schools, libraries, or service providers shall be selected by the Chairman of the Federal Communications Commission to serve on the Schools and Libraries Corporation's Board of Directors. The Chairman of the Federal Communications Commission will select such an independent director simultaneously with selection of the independent subsidiary's Board members.

(5) The directors representing schools, libraries, and service providers and the independent director on the Schools and Libraries Corporation's Board of Directors shall submit to the Chairman of the Federal Communications Commission a candidate to serve as the Chief Executive Officer (CEO) of the Schools and Libraries Corporation. The chosen CEO shall serve on the Schools and Libraries Corporation's Board of Directors.

(c) *Rural Health Care Corporation's Board of Directors.* The Board of Directors of the Rural Health Care Corporation shall consist of five directors and will be composed as follows:

(1) The director representing rural health care providers on the independent subsidiary's Board of Directors also shall serve on the Rural Health Care Corporation's Board of Directors;

(2) An additional director representing rural health care providers also shall serve on the Rural Health Care Corporation's Board of Directors. Interested parties shall submit nominations for the additional director representing rural health care providers simultaneously with submitting nominations for the independent subsidiary's Board of Directors, as described in §69.614(c). The Chairman of the Federal Communications Commission will select the additional rural health care provider representative simultaneously with the selection of the members of the independent subsidiary's Board of Directors.

(3) One director representing one of the categories of telecommunications service providers on the independent subsidiary's Board of Directors also shall serve on the Rural Health Care Corporation's Board of Directors. The independent subsidiary's Board of Directors shall select the telecommunications service provider representative who will serve on the Rural Health Care Corporation's Board within seven calendar days of the first meeting of the independent subsidiary's Board of Directors;

(4) One independent director who does not represent rural health care providers or service providers shall be selected by the Chairman of the Federal Communications Commission to serve on the Rural Health Care Corporation's Board of Directors. The Chairman will select, simultaneously with selection of the independent subsidiary's Board of Directors, the independent director to serve on the Rural Health Care Corporation's Board of Directors;

(5) The directors representing rural health care providers and service providers and the independent director on the Rural Health Care Corporation's Board of Directors shall submit to the Chairman of the Federal Communications Commission a candidate to serve as the chief executive officer (CEO) of the Rural Health Care Corporation. The chosen CEO shall serve on the

Rural Health Care Corporation's Board of Directors.

(d) All of the Board members of the Schools and Libraries Corporation and Rural Health Care Corporation shall be appointed for two-year terms. Directors may be reappointed for subsequent terms pursuant to the appointment process used initially to select the Corporations' Boards of Directors described in § 69.617 (b) and (c). In the event that a director vacates his or her seat prior to the completion of his or her term, the Corporation will notify the Common Carrier Bureau of such vacancy and a successor will be chosen pursuant to the initial nomination and appointment process described in § 69.617(b) and (c). Removal of members from the Board of the Schools and Libraries Corporation or Rural Health Care Corporation may only occur with the approval of the Chairman of the Federal Communications Commission.

(e) All Board of Directors meetings of the Rural Health Care Corporation and the Schools and Libraries Corporation shall be open to the public and held in Washington, D.C.

(f) Each member of the Board of Directors of the Rural Health Care Corporation and Schools and Libraries Corporation shall be entitled to receive reimbursement for expenses directly incurred as a result of his or her participation on such Board of Directors.

[62 FR 41308, Aug. 1, 1997]

§ 69.618 Rural Health Care Corporation functions.

(a) The Rural Health Care Corporation shall perform the following functions as they relate to the support mechanisms for eligible rural health care providers:

(1) Administering the application process for rural health care providers, including the dissemination, processing, and review of applications for service from rural health care providers;

(2) Creating and maintaining a website on which applications for services will be posted on behalf of rural health care providers;

(3) Performing outreach and public education functions;

(4) Reviewing bills for services that are submitted by rural health care providers on which service providers des-

ignate the amount of universal service support they should receive for services rendered and on which rural health care providers and confirm that they have received such services;

(5) Monitoring demand for the purpose of determining when the \$400 million cap has been reached in the case of the rural health care providers program;

(6) Submitting to the Commission all quarterly projections of demand and administrative expenses, as described in § 54.709(a)(3) of this chapter;

(7) Informing the independent subsidiary, as quickly as possible, but no later than 20 days following the Rural Health Care Corporation's receipt of the bills for services, of the amount of universal service support to be disbursed to service providers;

(8) Authorizing the performance of audits of rural health care provider beneficiaries of universal service support; and

(9) Any other function relating to the administration of the rural health care program that is not specifically assigned to the independent subsidiary.

(b) The Rural Health Care Corporation shall maintain books of account separate from those of the association, the independent subsidiary, and the Schools and Libraries Corporation. The Rural Health Care Corporation's books of account shall be maintained in accordance with generally accepted accounting principles.

(c) The Rural Health Care Corporation may borrow start-up funds from the association or the independent subsidiary, but such funds may not come from the Telecommunications Relay Services (TRS) fund or TRS administrative expense accounts.

(d) The Rural Health Care Corporation shall make available to whomever the Commission directs, free of charge, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from its role in administering the rural health care program, if its participation in administering the rural health care program ends. The Rural Health Care Corporation must specify any property it proposes to exclude from the foregoing types of property based on the existence of such

property prior to the incorporation of the Rural Health Care Corporation.

[62 FR 41309, Aug. 1, 1997]

§69.619 Schools and Libraries Corporation functions.

(a) The Schools and Libraries Corporation shall perform the following functions as they relate to the support mechanisms for eligible schools and libraries:

(1) Administering the application process for schools and libraries including the dissemination, processing, and review of applications for service from schools and libraries;

(2) Creating and maintaining a website on which applications for services will be posted on behalf of schools and libraries;

(3) Performing outreach and public education functions;

(4) Reviewing bills for services that are submitted by schools and libraries and on which service providers designate the amount of universal service support they should receive for services rendered and on which schools and libraries confirm that they have received such services;

(5) Monitoring demand for the purpose of determining when the \$2 billion trigger has been reached in the case of the schools and libraries program;

(6) Submitting to the Commission all quarterly projections of demand and administrative expenses, as described in §54.709(a)(3) of this chapter;

(7) Informing the independent subsidiary, as quickly as possible, but no later than 20 days following the Schools and Libraries Corporation's receipt of the bills for services, of the amount of universal service support to be disbursed to service providers;

(8) Authorizing the performance of audits of schools and libraries beneficiaries of universal service support; and

(9) Any other function relating to the administration of the schools and libraries programs that is not specifically assigned to the independent subsidiary.

(b) The Schools and Libraries Corporation shall implement the rules of priority in accordance with §54.507(g) of this chapter.

(c) The Schools and Libraries Corporation may review and certify schools' and libraries' technology plans when a state agency has indicated that it will be unable to review such plans within a reasonable time.

(d) The Schools and Libraries Corporation shall classify schools and libraries as urban or rural and use the discount matrix established in §54.505(c) of this chapter to set the discount rate to be applied to services purchased by eligible schools and libraries.

(e) The Schools and Libraries Corporation shall maintain books of account separate from those of the association, the independent subsidiary, and the Rural Health Care Corporation. The Schools and Libraries Corporation's books of account shall be maintained in accordance with generally accepted accounting principles.

(f) The Schools and Libraries Corporation may borrow start-up funds from the association or the independent subsidiary, but such funds may not come from the Telecommunications Relay Services (TRS) fund or TRS administrative expense accounts.

(g) The Schools and Libraries Corporation shall make available to whomever the Commission directs, free of charge, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from its role in administering the schools and libraries program, if its participation in administering the schools and libraries program ends. The Schools and Libraries Corporation must specify any property it proposes to exclude from the foregoing types of property based on the existence of such property prior to the incorporation of the Schools and Libraries Corporation.

[62 FR 41309, Aug. 1, 1997, as amended at 63 FR 2133, Jan. 13, 1998]

§69.620 Administrative expenses of independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation.

(a) The annual administrative expenses of the independent subsidiary, Schools and Libraries Corporation and Rural Health Care Corporation, should

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be commensurate with the administrative expenses of programs of similar size, with the exception of the salary levels for officers and employees of the corporations. The annual administrative expenses may include, but are not limited to, salaries of officers and operations personnel, the costs of borrowing funds, equipment costs, operating expenses, directors' expenses, and costs associated with auditing contributors of support recipients.

(1) All officers and employees of the independent subsidiary, Schools and Libraries Corporation and Rural Health Care Corporation, may be compensated at an annual rate of pay, including any non-regular payments, bonuses, or other compensation, in an amount not to exceed the rate of basic pay in effect for Level I of the Executive Schedule under section 5312 of title 5 of the United States Code.

(2) The level of compensation described in §69.620(a)(1) shall be effective July 1, 1998.

(b) The independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall submit to the Commission projected quarterly budgets at least 60 days prior to the start of every quarter. The Commission must approve the projected quarterly budgets before the independent subsidiary disburses funds for administrative expenses to the Schools and Libraries Corporation and Rural Health Care Corporation. The Schools and Libraries Corporation's and Rural Health Care Corporation's administrative expenses shall be paid from the universal support mechanisms. The administrative expenses of the Schools and Libraries Corporation and Rural Health Care Corporation shall be deducted from their respective programs' annual funding, which is capped at \$2.25 billion in the case of the schools and libraries program, as established in §54.507 of this chapter, and capped at \$400 million in the case of the rural health care providers program, as established in §54.623 of this chapter. The Schools and Libraries Corporation and Rural Health Care Corporation shall receive payments for administrative expenses from the permanent Administrator under the same terms as they

shall receive payments pursuant to this paragraph.

[62 FR 41310, Aug. 1, 1997, as amended at 63 FR 43098, Aug. 12, 1998]

§ 69.621 Audits of independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation.

The independent subsidiary, the Schools and Libraries Corporation, and the Rural Health Care Corporation shall obtain and pay for annual audits conducted by independent auditors to examine their operations and books of account to determine, among other things, whether they are properly administering the universal service support mechanisms to prevent fraud, waste, and abuse:

(a) Before selecting an independent auditor, the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall submit preliminary audit requirements, including the proposed scope of the audits and the extent of compliance and substantive testing, to the Common Carrier Bureau Audit Staff;

(b) The Common Carrier Bureau Audit Staff shall review the preliminary audit requirements to determine whether they are adequate to meet the audit objectives. The Common Carrier Bureau Audit Staff shall prescribe modifications that shall be incorporated into the final audit requirements;

(c) After the audit requirements have been approved by the Common Carrier Bureau Audit Staff, the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation each shall engage within 30 calendar days an independent auditor to conduct the annual audit required by this subsection. In making their selections, the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall not engage any independent auditor who has been involved in designing any of the accounting or reporting systems under review in the audit;

(d) The independent auditors selected by the independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation to conduct

the annual audits shall develop detailed audit programs based on the final audit requirements and submit them to the Common Carrier Bureau Audit Staff. The Common Carrier Bureau Audit Staff shall review the audit programs and make modifications, as needed, that shall be incorporated into the final audit programs. During the course of the audits, the Common Carrier Bureau Audit Staff may direct the independent auditors to take any actions necessary to ensure compliance with the audit requirements;

(e) During the course of the audits, the independent auditors shall:

(1) Inform the Common Carrier Bureau Audit Staff of any revisions to the final audit programs or to the scope of the audits;

(2) Notify the Common Carrier Bureau Audit Staff of any meetings with the independent subsidiary, the association, Schools and Libraries Corporation, or Rural Health Care Corporation in which audit findings are discussed;

(3) Submit to the Chief of the Common Carrier Bureau, any accounting or rule interpretations necessary to complete the audit.

(f) Within 60 calendar days after the end of the audit period, but prior to discussing the audit findings with the independent subsidiary, the association, Schools and Libraries Corporation, or Rural Health Care Corporation, the independent auditors shall be instructed to submit drafts of the audit reports to the Common Carrier Bureau Audit Staff;

(g) The Common Carrier Bureau Audit Staff shall review the audit findings and audit workpapers and offer its recommendations concerning the conduct of the audits or the audit findings to the independent auditors. Exceptions of the Common Carrier Bureau Audit Staff to the findings and conclusions of the independent auditors that remain unresolved shall be included in the final audit reports;

(h) Within 15 calendar days after receiving the Common Carrier Bureau Audit Staff's recommendations and making any revisions to the audit reports, the independent auditors shall submit the audit reports to the respective audit subjects for their responses to the audit findings. At this time they

must also send copies of their audit findings to the Common Carrier Bureau Audit Staff. The independent auditors shall be provided additional time to perform additional audit work recommended by the Common Carrier Bureau Audit Staff;

(i) Within 30 calendar days after receiving the audit reports, the audit subjects shall respond to the audit findings and send copies of their responses to the Common Carrier Bureau Audit Staff. Any reply that the independent auditors wish to make to the audit subjects' responses shall be sent to the Common Carrier Bureau Audit Staff as well as the audit subjects. The audit subjects' responses and the independent auditors' replies shall be included in the final audit reports;

(j) Within 10 calendar days after receiving the responses of the audit subjects, the independent auditors shall file with the Commission the final audit reports;

(k) Based on the final audit reports, the Chief of the Common Carrier Bureau may take any action necessary to ensure that the universal service support mechanisms operate in a manner consistent with the requirements of part 54 of this chapter, as well as such other action as is deemed necessary and in the public interest.

[62 FR 41310, Aug. 1, 1997]

§ 69.622 Transition to the permanent Administrator.

(a) If the association or the independent subsidiary is not appointed the permanent Administrator, the association, independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation shall cooperate fully in making the permanent Administrator operational.

(b) The association and independent subsidiary shall take all steps necessary to maintain the division of responsibilities between the association, independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation as set forth in parts 54 and 69 of this chapter or such other steps that the Commission may order.

[62 FR 41311, Aug. 1, 1997]