

rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: April 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95-9581 Filed 4-18-95; 8:45 am]

BILLING CODE 4310-40-P

43 CFR Public Land Order 7135

[AK-932-1430-01; J-011940]

Revocation of Public Land Order No. 2546; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order in its entirety as it affects approximately 6.86 acres of National Forest System land withdrawn for use by the Forest Service, Department of Agriculture, for the North Douglas Administrative Site. The land is no longer needed for the purpose for which it was withdrawn. This action also allows the conveyance of the land to the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State is opened and will be subject to the terms and conditions of the national forest reservation and any other withdrawal of record.

EFFECTIVE DATE: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 2546, which withdrew lands for use by the Forest Service as administrative sites, is hereby revoked as it affects the following described land:

Copper River Meridian

Tongass National Forest

A parcel of land located within lot 4 of sec. 17, in partially surveyed T. 41 S., R. 66 E., more particularly described as:

Beginning at a point N. 10°29' E., 102.81 chains from Corner No. 2 of U.S.S. No. 1555 and also N. 63° W., 0.14 chain from Station P-569+00 on the P-Line of B.P.R. North Douglas Forest Highway Extension No. 30; Thence West, 8.0 chains;

North, 8.04 chains to the line of mean high water;

Easterly, 10.19 chains with the line of mean high water;

S. 9° W., 9.96 chains to the point of beginning.

The area described contains approximately 6.86 acres.

2. The State of Alaska application for selection made under Section 6(a) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988), and under Section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), becomes effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State is opened and will be subject to the terms and conditions of the Tongass National Forest reservation and any other withdrawal of record.

Dated: April 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95-9580 Filed 4-18-95; 8:45 am]

BILLING CODE 4310-JA-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 94-1; FCC 95-132]

Price Cap Performance Review for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On March 30, 1995, the Federal Communications Commission adopted a First Report and Order revising its price cap regulations applicable to local exchange carriers (LECs). The Commission adopted these Rule revisions as a result of a performance review of LEC price cap regulation, which the Commission scheduled when it originally adopted LEC price cap regulation in 1990, to evaluate the price cap system as implemented and LEC performance under that system. The Commission's rule revisions increase value of the productivity offset factor in the price cap formula, provide three options for the productivity offset factor, revise the rules governing sharing obligations, and require a one-time reduction in the LECs' price cap indexes. The Commission also limits the number of cost changes resulting from changes in accounting rules that are eligible for exogenous cost treatment, and extends exogenous cost treatment to cost changes resulting from the sales or swaps of exchanges. In addition, the Commission states its intention to issue a further notice of proposed rulemaking in the near future, to consider adopting

other rule changes on a long-term basis. Finally, the Commission delegates authority to the Common Carrier Bureau to determine appropriate adjustments for LECs to make appropriate adjustments to their price cap indexes, to account for these effects caused by rescheduling their 1995 annual access filings.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT:

Joanne F. Wall or Steven Spaeth, Tariff Division, Common Carrier Bureau, (202) 418-1530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order adopted March 30, 1995, and released April 7, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 230), 1919 M. St., N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Suite 140, 2100 M Street, N.W., Washington, D.C. 20037.

Regulatory Flexibility Analysis

We have determined that Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. § 605(b), does not apply to these rules because they do not have a significant economic impact on a substantial number of small entities. The definition of a "small entity" in Section 3 of the Small Business Act excludes any business that is dominant in its field operation. Local exchange carriers do not qualify as small entities because they have a nationwide monopoly on ubiquitous access to the subscribers in their service area. The Commission also has found all exchange carriers to be dominant in its competitive carrier proceeding. See 85 FCC 2d 1, 23-24 (1980).

To the extent that small telephone companies will be affected by these rules, we hereby certify that these rules will have a significant effect on a substantial number of "small entities."

Summary of Report and Order

In this Order, we adopted revisions to the productivity offset factor, or "X-Factor," of the price cap index formula. In the formula, the X-Factor, which represents the amount by which local exchange carriers have been more productive than the economy as a whole, is subtracted from the Gross National Product Price Index (GNP-PI), a measure of inflation. In general, LEC prices are not permitted to increase more than the rate established by the

cap. Three X-Factor options are provided: 4.0, 4.7 and 5.3 percent.

We also adopt revisions to the LECs' sharing obligations, which are treated as downward adjustments of the price cap. Specifically, the 50-50 sharing zone for the 4.0 percent X-Factor option ranges from 12.25 to 13.25 percent rate return; the 100 percent sharing zone for this option begins at 13.25 percent. The sharing obligations for the 4.7 percent X-Factor requires 50-50 sharing for LECs with rates of return between 12.25 and 16.25 percent, and 100 percent sharing for LECs with rates of return above 16.25 percent. We have eliminated sharing obligations for LECs electing the high-options X-Factor, 5.3 percent.

We also conclude that the current 3.3 percent X-Factor was 0.7 percent too low during the first four years of price cap regulations. Accordingly, we require LECs to adjust their price cap indexes downward by 0.7 percent for each year from 1990 to 1994 that they elected the 3.3 percent productivity offset factor.

We also revise our rules governing exogenous costs in two ways. Exogenous costs are treated as either downward or upward adjustments to the price cap. First, we will allow exogenous cost adjustments for accounting changes only to the extent those accounting revisions result in economic cost changes, e.g., they affect the discounted cash flow of the carrier. We consider accounting rule changes as economic cost changes only to the extent those changes affect the discounted cash flow of the carrier. Second, we establish procedures for LECs to follow when seeking exogenous treatment for cost changes. Parties will be required to raise the issue of whether to treat any cost change exogenously in a petition for rulemaking, petition for declaratory ruling, or petition for waiver.

Finally, we adopt a number of minor revisions to the LEC price cap plan. We find that there is sufficient evidence to allow carriers greater flexibility to lower prices within service bands without risking predation or cross-subsidization. Therefore, we expand the lower pricing bands that apply to the service categories within the traffic sensitive and trunking baskets and to density pricing zones by 5 percent. We also will require LECs to treat cost reductions resulting from sales or swaps of exchanges to be treated exogenously as a condition placed on the grant of any waiver of the study area boundary rules. Finally, we change the inflation measure in the price cap index formula from Gross National Product Price Index

(GNP-PI) to Gross Domestic Product Price Index (GDP-PI).

Ordering Clauses

Accordingly, it is ordered, pursuant to authority contained in Sections 4(i), 4(j), 201-205, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201-205, 303(r), 403, and Section 553 of Title 5, United States Code, that Part 61 of the Commission's Rules, 47 C.F.R. Part 61 is amended as set forth below.

It is further ordered that authority is delegated to the Chief, Common Carrier Bureau, to determine that adjustments are necessary to the price cap indexes, actual price indexes, and service band indexes of local exchange carriers, to account for the effects of the revised effective date of the 1995 annual access filings of local exchange carriers under price cap regulation, and to establish a pleading cycle for review of those tariffs.

It is further ordered that the provisions in this Report and Order will be effective 30 days after **Federal Register** publication.

List of Subjects in 47 CFR Part 61

Communications common carriers, Tariffs.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Part 61 of Title 47 of the CFR is amended as follows:

PART 61—TARIFFS

1. The authority citation continues to read as follows:

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

2. Section 61.3 is amended by redesignating paragraphs (p) through (ll) as (q) through (mm), and by adding a new paragraph (p) to read as follows:

§ 61.3 Definitions.

(p) *GDP Price Index (GDP-PI).* The estimate of the "Fixed Weight Price Index for Gross Domestic Product, 1987 Weights" published by the United States Department of Commerce, which the Commission designates by Order.

3. Section 61.45 is amended by revising paragraphs (b) and (c), the introductory text of paragraphs (d) and (d)(1) and paragraphs (d)(1)(ii), (d)(1)(vi) and (e) to read as follows:

§ 61.45 Adjustments to the PCI for Local Exchange Carriers.

(b) Adjustments to local exchange carrier PCIs for the baskets designated in § 61.42(d) (2), (3) and (4) shall be made pursuant to the formula set forth in § 61.44(b), and as further explained in §§ 61.44 (e), (f), (g), and (h).

(1) Notwithstanding the value of X defined in § 61.44(b), the X value applicable to the baskets specified in § 61.42(d) (2) and (3) shall be 4.0%, or 4.7%, or 5.3%, as the carrier elects.

(2) For the basket specified in § 61.42(d)(4), the value of X shall be 3.0%, or 3.7%, or 4.3%, as the carrier elects.

(c) Subject to paragraph (e) of this section, adjustments to local exchange carrier PCIs for the basket designated in § 61.42(d)(1) shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w[(GDP-PI - X - (g/2)) / (1 + (g/2))] + \Delta Z / R]$$

where

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

X = productivity factor of 4.0%, or 4.7%, or 5.3% if the carrier so elects,

g = the ratio of minutes of use per access line during the base period, to minutes of use per access line during the previous base period, minus 1,

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

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

w = $R + \Delta Z$, all divided by R,

PCI_t = the new PCI value, and

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

(d) The exogenous cost changes represented by the term " ΔZ " in the formula detailed in paragraphs (b) and (c) of this section shall be limited to those cost changes that the Commission shall permit or require by rule, rule waiver, or declaratory ruling.

(1) Subject to further order of the Commission, those exogenous changes shall include cost changes caused by:

(ii) Such changes in the Uniform System of Accounts, including changes in the Uniform System of Accounts requirements made pursuant to § 32.16

of this chapter, as the Commission shall permit or require be treated as exogenous by rule, rule waiver, or declaratory ruling.

* * * * *

(vi) Such tax law changes and other extraordinary cost changes as the Commission shall permit or require be treated as exogenous by rule, rule waiver, or declaratory ruling.

* * * * *

(e) The “w[(GDP-PI-X-[g/2))/(1+(g/2)))]” component of the PCI formula contained in paragraph (c) of this section shall be employed only in the adjustment made in connection with the annual price cap filing.

* * * * *

7. Section 61.47 is amended by revising paragraphs (e), (g)(1), (g)(2), (g)(4), and (h)(2) to read as follows:

§ 61.47 Adjustments to the SBI; pricing bands.

* * * * *

(e) Pricing bands shall be established each tariff year for each service category and subcategory within a basket. Except as provided in paragraphs (f), (g), and (h) of this section, each band shall limit the pricing flexibility of the service category or subcategory, as reflected in the SBI, to an annual increase of five percent or an annual decrease of ten percent, relative to the percentage change in the PCI for that basket, measured from the levels in effect on the last day of the preceding tariff year.

* * * * *

(g) (1) *Local Exchange Carriers—Service categories and subcategories.* Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(w) shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate two separate subindexes: One for the DS1 services offered by such carriers and the other for the DS3 services offered by such carriers. The annual pricing flexibility for each of these two subindexes shall be limited to an annual increase of five percent or an annual decrease of ten percent, relative to the percentage change in the PCI for the special access services basket, measured from the last day of the preceding tariff year.

(2) The upper pricing band for the tandem-switched transport service category shall limit the annual upward pricing flexibility for this service category, as reflected in its SBI, to two percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff year. The lower pricing band for the tandem-switched transport service

category shall limit the annual downward pricing flexibility for this service category, as reflected in its SBI, to ten percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff year.

* * * * *

(4) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(v) shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate a separate subindex for the 800 data base vertical features offered by such carriers. The annual pricing flexibility for this subindex shall be limited to an annual increase of five percent or an annual decrease of ten percent, relative to the percentage change in the PCI for the traffic sensitive basket, measured from the last day of the preceding tariff year.

* * * * *

(h) * * *

(2) The annual pricing flexibility for each of the subindexes specified in paragraph (h)(1) of this section shall be limited to an annual increase of five percent or an annual decrease of fifteen percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff year.

12. Section 61.48 is amended by revising paragraphs (h)(3)(ii)(B), (h)(5)(i), (i)(3)(ii)(B), and (i)(4)(ii) to read as follows:

§ 61.48 Transition rules for price cap formula calculations.

* * * * *

(h) * * *

(3) * * *

(ii) * * *

(B) 0.90 times the SBI value for the special access services included in the category or subcategory on the day preceding the transport restructure date, weighted by the revenue weight of the transport services included in the category or subcategory.

* * * * *

(5) * * *

(i) The upper pricing band for the tandem-switched transport service category shall limit the upward pricing flexibility for this service category, as reflected in its SBI, to two percent, measured from the initial restructured rates for tandem-switched transport. The lower pricing band for the tandem-switched transport service category shall limit the downward pricing flexibility for this service category, as reflected in its SBI, to ten percent,

measured from the initial restructured rates for tandem-switched transport.

* * * * *

(i) * * *

(3) * * *

(ii) * * *

(B) 0.85 times the SBI value for the services included in the zone category on the day preceding the later date, weighted by the revenue weight of the later services included in the zone category.

* * * * *

(4) * * *

(ii) From the later date through the end of the following tariff year, the annual pricing flexibility for each of the subindexes specified in paragraph (i)(4)(i) of this section shall be limited to an annual increase of five percent or an annual decrease of fifteen percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the tariff year preceding the tariff year in which the later date occurs.

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[FR Doc. 95-9571 Filed 4-18-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 69

[CC Docket No. 93-6; FCC 95-94]

Safeguards To Improve Administration of the Interstate Access Tariff and Revenue Distribution Processes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (“FCC” or “Commission”) has adopted a Report and Order and Order to Show Cause (“Order”) adopting new rules to reform the interstate access tariff and revenue distribution processes administered by the National Exchange Carrier Association, Inc. (“NECA”). The Order amends the rules to include five directors from outside the local exchange carrier (“LEC”) industry on NECA’s Board of Directors. The Order adopts additional measures to increase NECA and LEC accountability to the FCC, and strengthen NECA’s internal operations. In addition, the Order directs NECA to show cause why it should not be required to amend its incentive compensation plan to eliminate any incentive based upon common line or traffic sensitive pool earnings, or that might otherwise induce NECA officers or employees to violate Commission requirements. The FCC adopted this Order to assure that NECA