

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

In the Matter of
July 1, 2004
Annual Access Charge Tariff Filings
WCB/Pricing File No. 04-18

ORDER

Adopted: June 30, 2004

Released: July 1, 2004

By the Chief, Pricing Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. Price cap local exchange carriers (LECs) and certain LECs subject to rate-of-return regulation are required by sections 69.3(h) and 69.3(f)(1) of the Commission's rules to file revisions to their interstate tariffs to become effective July 1, 2004. In addition, several rate-of-return LECs that are subject to section 61.39 of the Commission's rules filed their own access tariffs because they chose to exit one or more of the National Exchange Carrier Association, Inc. (NECA) administered pools. LECs filed tariffs on June 16, 2004 and June 24, 2004, and subsequent revisions as reflected in Appendix A. AT&T Corp. (AT&T) and General Communication, Inc. (GCI) filed petitions to suspend and investigate a number of these tariffs. Parties filed replies as reflected in Appendix B.

2. In this Order, we suspend for one day and set for investigation the 2004 annual access tariffs for the National Exchange Carrier Association (NECA), Virgin Islands Telephone Company (VITELCO), Concord, Chillicothe, TXU Communications, Fort Bend Telco/TXU, Horry, Coastal Utilities, Blair, ACS of Anchorage, Fort Mill, Lancaster, and Rock Hill.

1 47 C.F.R. §§ 69.3(h) and 69.3(f)(1).

2 47 C.F.R. § 61.39.

3 July 1, 2004 Annual Access Charge Tariff Filings, Petition of AT&T Corp., WCB/Pricing 04-18 (filed June 23, 2004) (June 23 AT&T Petition); July 1, 2004 Annual Access Charge Tariff Filings, Petition of AT&T Corp., WCB/Pricing 04-18 (filed June 28, 2004) (June 28 AT&T Petition); July 1, 2004 Annual Access Charge Tariff Filings, Petition of GCI to Suspend and Investigate, WCB/Pricing 04-18 (filed June 23, 2004) (GCI Petition).

4 We note that Arlington Tel is affected because it concurs in Blair's tariff.

II. DISCUSSION

3. The LECs' annual tariff filings are largely compliant with Commission rules. Nevertheless, certain tariff filings require further inquiry. We find that, in their petitions to suspend and investigate the LECs' 2004 annual access tariffs, AT&T and GCI raise substantial questions of lawfulness regarding several carriers that warrant investigation.

4. AT&T and GCI allege that NECA has consistently overearned over several years and has not adjusted rates to avoid exceeding the 11.25 percent authorized rate-of-return.⁵ AT&T makes the same allegations regarding VITELCO and Fort Mill.⁶

5. GCI contends that NECA charges fees for entrance facilities that GCI has not requested and does not use at end offices where it has collocated its own multiplexing and transport facilities.⁷ GCI further contends that the demand for these facilities has been included in the calculation of rates.

6. AT&T contends that 2003 returns for a number of carriers substantially exceed the Commission prescribed rate-of-return, and that mid-course rate corrections, or adjustments, are required to bring these carriers' overall returns for the 2003-04 period within the appropriate range.⁸ These carriers are NECA, VITELCO, Chillicothe, CCTX (TXU), Fort Bend Telco/TXU, and Fort Mill.⁹

7. AT&T contends that VITELCO substantially understates 2004-05 projected demand for developing traffic sensitive access rates, resulting in overstated switching and information surcharge rates.¹⁰ AT&T also contends that VITELCO overstates access rates by implementing unexplained increases to presubscription expenses and unexplained decreases to the assignment of costs to the billing and collection element -- resulting in an increased interstate revenue requirement.¹¹

8. AT&T contends that the following carriers have filed excessive cash working capital requirements: Concord, Coastal Utilities, Horry, Fort Mill, ACS of Anchorage, Lancaster, and Rock Hill.¹²

9. Although no party petitioned against Blair's rates, we note that the rate development methodology employed by Blair may not relate the proposed rates for various elements to the appropriate costs.

10. After reviewing the tariffs, petitions in opposition to them, and the replies, we conclude that substantial questions of lawfulness exist that warrant further investigation of certain 2004 annual access tariffs. Accordingly, we suspend the 2004 annual access tariffs for one day for the following: NECA, VITELCO, Concord, Chillicothe, TXU Communications, Fort Bend Telco/TXU, Horry, Coastal Utilities, Blair, ACS of Anchorage, Fort Mill, Lancaster, and Rock Hill.

11. The specific issues that will be the subject of the investigation will be identified in an

⁵ June 23 AT&T Petition at 2-3; GCI Petition at 2-8.

⁶ June 23 AT&T Petition at 2-3, Exh. A-3; June 28 AT&T Petition at 5-6, Exh. B-2.

⁷ GCI Petition at 2, 8-11.

⁸ June 23 AT&T Petition at 4-6, Exh. B-1; June 28 AT&T Petition at 6-9, Exh. C.

⁹ June 23 AT&T Petition at 4-6, Exh. B-1; June 28 AT&T Petition at 6-9, Exh. C.

¹⁰ June 23 AT&T Petition at 9-10; June 28 AT&T Petition at 11-12.

¹¹ June 23 AT&T Petition at 11-13.

¹² June 23 AT&T Petition at 16-17; June 28 AT&T Petition at 12-14.

upcoming designation order and may include, but not be limited to, the issues identified above. We may also, by order, identify discrete issues that do not warrant further investigation.

III. *EX PARTE* REQUIREMENTS

12. This investigation is a permit-but-disclose proceeding and subject to the requirements of section 1.1206(b) of the Commission's rules.¹³ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-sentence or two-sentence description of the views and arguments presented is generally required.¹⁴

IV. ORDERING CLAUSES

13. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the 2004 annual access tariffs for NECA, VITELCO, Concord, Chillicothe, TXU Communications, Fort Bend Telco/TXU, Horry, Coastal Utilities, Blair, ACS of Anchorage, Fort Mill, Lancaster, and Rock Hill ARE SUSPENDED for one day and an investigation IS INSTITUTED.

14. IT IS FURTHER ORDERED that NECA, VITELCO, Concord, Chillicothe, TXU Communications, Fort Bend Telco/TXU, Horry, Coastal Utilities, Blair, ACS of Anchorage, Fort Mill, Lancaster, and Rock Hill MAY FILE a supplement advancing the currently scheduled effective date to June 30, 2004, and then SUSPEND its tariff revision for one day, until July 1, 2004. For this purpose, we waive sections 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.58, 61.59.

15. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 204(a), and pursuant to the authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, NECA, VITELCO, Concord, Chillicothe, TXU Communications, Fort Bend Telco/TXU, Horry, Coastal Utilities, Blair, ACS of Anchorage, Fort Mill, Lancaster, and Rock Hill SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are subject to this investigation.

16. IT IS FURTHER ORDERED that each local exchange carrier or entity required to suspend its tariff revisions pursuant to this order SHALL FILE a supplement within five business days from the release date of this order reflecting the suspension. Carriers should cite the "DA" number on the instant order as the authority for the filings.

17. IT IS FURTHER ORDERED that the petitions to suspend and investigate or to reject the 2004 Annual Access Tariff Filings filed by AT&T and GCI ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

¹³ 47 C.F.R. § 1.1206(b).

¹⁴ 47 C.F.R. § 1.1206(b)(2).

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss
Chief, Pricing Policy Division
Wireline Competition Bureau

**APPENDIX A
FILINGS MADE BY ILECS FOR ACCESS REFORM AND USE**

EFFECTIVE: JULY 1, 2004

Issued: June 16, 2004

Price Cap ILECs

ALLTEL Telephone System	Transmittal No. 138	Tariff FCC No. 3 ¹⁵
Ameritech Operating Companies	Transmittal No. 1397	Tariff FCC No. 2
BellSouth Telecommunications, Inc.	Transmittal No. 828	Tariff FCC No. 1
CenturyTel Operating Companies	Transmittal No. 36	Tariff FCC Nos 2&3 ¹⁶
Cincinnati Bell Telephone	Transmittal No. 791	Tariff FCC No. 35
Citizens Telecommunications Companies	Transmittal No. 151	Tariff FCC No. 1
Frontier Communications of Minnesota and Frontier Communications of Iowa	Transmittal No. 66	Tariff FCC No. 1
Frontier Telephone of Rochester, Inc.	Transmittal No. 80	Tariff FCC No. 1
Iowa Telecommunications Services, Inc.	Transmittal No. 46	Tariff FCC No. 1
Nevada Bell Telephone Company	Transmittal No. 67	Tariff FCC No. 1
Pacific Bell Telephone Company	Transmittal No. 161	Tariff FCC No. 1
Qwest Corporation	Transmittal No. 198	Tariff FCC No. 1
Southern New England Telephone Co.	Transmittal No. 821	Tariff FCC No. 39
Southwestern Bell Telephone Company	Transmittal No. 3000	Tariff FCC No. 73
Sprint Local Telephone Companies	Transmittal No. 242	Tariff FCC No. 3
Valor Telecommunications Enterprises	Transmittal No. 41	Tariff FCC No. 1
Verizon Telephone Companies	Transmittal No. 459	Tariff FCC No. 1
Verizon Telephone Companies	Transmittal No. 460	Tariff FCC No. 11
Verizon Telephone Companies	Transmittal No. 461	Tariff FCC No. 14
Verizon Telephone Companies	Transmittal No. 462	Tariff FCC No. 16

Issued: June 16, 2004

Non-Price Cap ILECs

ALLTEL Telephone System	Transmittal No. 138	Tariff FCC No. 1 ¹⁷
Blair Telephone Company	Transmittal No. 1	Tariff FCC No. 1 ¹⁸
Chillicothe Telephone Company	Transmittal No. 80	Tariff FCC No. 1
Columbus Telephone Company	Transmittal No. 11	Tariff FCC No. 1
Consolidated Communications Cos.	Transmittal No. 3	Tariff FCC No. 1
GWNW Inc./ Management	Transmittal No. 198	Tariff FCC No. 2
ICORE	Transmittal No. 59 ¹⁹	Tariff FCC No. 2
John Staurulakis, Inc. (JSI)	Transmittal No. 96	Tariff FCC No. 1
Kiesling Associates LLP	Transmittal No. 3 ²⁰	Tariff FCC No. 1

¹⁵ ALLTEL's Tariff FCC No. 3 is subject to price cap regulation.

¹⁶ Century's Tariff FCC Nos. 2 & 3 are subject to price cap regulation.

¹⁷ ALLTEL's Tariff FCC No. 1 is subject to rate-of-return regulation.

¹⁸ Arlington Telephone Company concurs in Blair's tariff.

¹⁹ Removes Odin Telephone Exchange from ICORE tariff.

Montrose Mutual Telephone Co.	Transmittal No. 4	Tariff FCC No. 1 ²¹
Moultrie Independent Telephone Co.	Transmittal No. 17	Tariff FCC No. 1
National Exchange Carrier Association	Transmittal No. 1030	Tariff FCC No. 5
South Central Rural Telephone Coop	Transmittal No. 1	Tariff FCC No. 1
Union Telephone Company (SD)	Transmittal No. 1	Tariff FCC No. 1
Virgin Islands Telephone Corp.	Transmittal No. 53	Tariff FCC No. 1

Issued: June 23, 2004

ICORE	Transmittal No. 60 ²²	Tariff FCC No. 2
-------	----------------------------------	------------------

Issued: June 24, 2004**Non-Price Cap ILECs**

ACS Anchorage	Transmittal No. 22	Tariff FCC No. 1
CenturyTel Operating Companies	Transmittal No. 37	Tariff FCC No. 1 ²³
Dunkirk and Fredonia Telephone Co.	Transmittal No. 32	Tariff FCC No. 2
Illinois Consolidated Telephone Company	Transmittal No. 122	Tariff FCC No. 2
Iowa Network Services, Inc.	Transmittal No. 22	Tariff FCC No. 1
John Staurulakis, Inc. (JSI)	Transmittal No. 97	Tariff FCC No. 1
Madison River	Transmittal No. 18	Tariff FCC No. 1
Minnesota Independent Equal Access Co.	Transmittal No. 18 ²⁴	
Puerto Rico	Transmittal No. 57	Tariff FCC No. 1
South Dakota Network, LLC	Transmittal No. 4	Tariff FCC No. 1
SureWest	Transmittal No. 9	Tariff FCC No. 1
TUECA	Transmittal No. 182	Tariff FCC No. 2

Issued: June 25, 2004

KIN Network, Inc.	Letter ²⁵	
-------------------	----------------------	--

Issued: June 29, 2004

Ameritech Operating Companies	Transmittal No. 1398	Tariff FCC No. 2
CenturyTel Operating Companies	Transmittal No. 38	Tariff FCC Nos 2&3
Nevada Bell Telephone Company	Transmittal No. 68	Tariff FCC No. 1

Issued: June 30, 2004

John Staurulakis, Inc. (JSI)	Transmittal No. 98	Tariff FCC No. 1
------------------------------	--------------------	------------------

(...continued from previous page)

²⁰ Removes Oneida Telephone Exchange and Woodhull Community Telephone from Kiesling tariff.

²¹ Cancels tariff in its entirety.

²² Deletes Odin Telephone Exchange on page of issuing carriers in ICORE tariff, effective July 8, 2004.

²³ Century's Tariff FCC No.1 is subject to rate-of-return regulation.

²⁴ No rates were revised and no tariff pages were filed.

²⁵ No rates were revised and no tariff pages were filed.

APPENDIX B**REPLY COMMENTERS RESPONDING TO PETITIONS AGAINST
2004 ANNUAL ACCESS FILINGS MADE ON JUNE 16, 2004**

ALLTEL Communications, Inc.
Chillicothe Telephone Company
Consolidated Communications of Texas and Consolidated Communications of Fort Bend
GVNW Consulting, Inc.
John Staurulakis, Inc.
Moultrie Independent Telephone Company
National Exchange Carrier Association
SBC Communications Inc.
Virgin Islands Telephone Corporation

**REPLY COMMENTERS RESPONDING TO PETITIONS AGAINST
2004 ANNUAL ACCESS FILINGS MADE ON JUNE 24, 2004**

ACS of Anchorage, Inc.
CenturyTel Operating Companies/TUECA
John Staurulakis, Inc.
Illinois Consolidated Telephone Company
Madison River
Minnesota Independent Equal Access Corporation
Puerto Rico Telephone Company
SureWest Telephone