

**Access Charge Reform, CC Docket No. 96-262, First Report and Order;
Second Order on Reconsideration and Memorandum Opinion and Order;
and Fifth Report and Order**

SUPPORTING STATEMENT

A. Justification:

1. The recently-released *Report and Order and Memorandum Opinion and Order*, Section 272 (f) (1) Sunset of the BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules; Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services, *Report and Order and Memorandum Opinion and Order* in WC Docket No. 02-112; CC Docket No. 00-175; WC Docket No. 06-120 (*Sunset Order*), adds to this information collection the paragraphs identified as new below.

Background:

In the *Fifth Report and Order (Fifth Order)*, CC Docket No. 96-262, Access Charge Reform, the Commission modified the rules that govern the provision of interstate access services by those price cap Local Exchange Carriers (LECs) subject to price regulation to advance the pro-competitive, de-regulatory national policies embodied in the Telecommunications Act of 1996. The pricing flexibility framework we adopted in this *Fifth Order* was designed to grant greater flexibility to price cap LECs as competition develops, while ensuring that:

- (1) price cap LECs do not use pricing flexibility to deter efficient entry or engage in exclusionary pricing behavior; and
- (2) price cap LECs do not increase rates to unreasonable levels for customers that lack competitive alternatives. The information collection requirements are as follows:

Currently Approved Information Collection Requirements:

- a. Showings under the Market-Based Approach: In the *Fifth Order*, the Commission provided detailed rules for implementing the market-based approach, pursuant to which price cap LECs would receive pricing flexibility in the provision of interstate access services as competition for those services develops. The *Fifth Order* granted immediate pricing flexibility to price cap LECs in the form of streamlined introduction of new services, geographic deaveraging of rates for services in the trunking basket, and removal of certain interstate interexchange services from price cap regulation. The *Fifth Order* also provided for additional pricing flexibility, to be granted in two phases, that is contingent upon competitive showings.

To obtain Phase I relief:

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- Price cap LECs must demonstrate that competitors have made irreversible, sunk investments in the facilities needed to provide the services at issue.
 - For instance, for dedicated transport and special access services, price cap LECs must demonstrate that unaffiliated competitors have collocated in at least 15 percent of the LEC's wire centers within a Metropolitan Statistical Area (MSA) or collocated in wire centers accounting for 30 percent of the LEC's revenues from these services within an MSA.
 - Higher thresholds apply, however, for channel terminations between a LEC end office and an end user customer. In that case, the LEC must demonstrate that unaffiliated competitors have collocated in 50 percent of the price cap LEC's wire centers within an MSA or collocated in wire centers accounting for 65 percent of the price cap LEC's revenues from this service within an MSA.
- For traffic-sensitive, common line, and the traffic-sensitive components of tandem-switched transport services, a LEC must show that competitors offer service over their own facilities to 15 percent of the price cap LEC's customer locations within an MSA. Phase I relief permits price cap LECs to offer, on one day's notice, volume and term discounts and contract tariffs for these services, so long as the services provided pursuant to contract are removed from price caps.

To obtain Phase II relief:

- Price cap LECs must demonstrate that competitors have established a significant market presence (i.e., that competition for a particular service within the MSA is sufficient to preclude the incumbent from exploiting any individual market power over a sustained period) for provision of the services at issue.
- Phase II relief for dedicated transport and special access services is warranted when a price cap LEC demonstrates that unaffiliated competitors have collocated in at least 50 percent of the LEC's wire centers within an MSA or collocated in wire centers accounting for 65 percent of the LEC's revenues from these services within an MSA.
- Again a higher threshold applies to channel terminations between a LEC end office and an end user customer. In that case, a price cap LEC must show that unaffiliated competitors have collocated in 65 percent of the LEC's wire centers within an MSA or collocated in wire centers accounting for 85 percent of the LEC's revenues from this service within an MSA.

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- Phase II relief permits price cap LECs to file tariffs for these services on one day's notice, free from both our Part 61 rate level and our Part 69 rate structure rules.
- b. Contract-based Tariff Filings: Price cap LECs who have made a Phase I showing may now offer contract-based tariffs. Contract-based tariffs enable price cap LECs to tailor services to their customers' individual needs, but also prevent targeting by requiring that price cap LECs make contract tariffs available to all similarly situated customers. See 47 C.F.R. §§ 61.55 and 69.727.

In the *Further Notice of Proposed Rulemaking* portion of the *Fifth Order*, the Commission sought comment on whether to permit incumbent LECs to deaverage common line and traffic sensitive access elements without a competitive showing. To the extent that parties advocate conditioning deaveraging upon satisfaction of a competitive showing in the *FNPRM*:

- (a) The Commission sought comment on the appropriate showing and the procedure by which evidence can be presented and evaluated.
 - (b) The Commission sought comment on the means of recognizing any geographic variation in common line and traffic sensitive costs, i.e., methods of defining geographic pricing zones.
 - (c) The Commission sought comment on whether to permit incumbent LECs to define their own zones.
 - (d) The Commission sought comment on whether we should require parties to submit for prior approval such zone pricing plans in advance of tariff filings, as we initially required for special access and switched transport zone pricing plans.
 - (e) The Commission sought comment on whether we should predicate Phase II relief for these services on a similar showing that competitors offer these services over their own facilities but adopt a threshold higher than fifteen percent, and, if so, what this threshold should be. If a different approach is warranted for Phase II relief, what should the relevant test(s) be?
- c. Proposed Deaveraging of Common Line and Traffic Sensitive Access Elements: Deaveraging common line and traffic sensitive access elements would require at least one additional tariff filing and may require an additional competitive showing.
- d. Proposed Common Line and Traffic Sensitive Phase II Showings: Incumbent LECs seeking pricing flexibility for switched services may be required to file a petition demonstrating that each LEC has met the triggers, and make an initial tariff filing.

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New Information Collection Requirements:

- e. Contract Tariff Certification: Each of AT&T, Qwest and Verizon incumbent LECs is now required, pursuant to the Section 272 (f)(1) Sunset of the BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules; Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services, *Report and Order and Memorandum Opinion and Order* in WC Docket No. 02-112; CC Docket No. 00-175; WC Docket No. 06-120 (*Sunset Order*), see FCC 07-159, to provide a certification to the Commission, pursuant to 47 C.F.R. § 69.727(a)(iii), prior to providing contract tariff services to itself or to any affiliate that is neither a section 272 nor a rule 64.1903 separate affiliate for use in the provision of any in-region, long distance services to provide service pursuant to that contract tariff to an unaffiliated customer.

As noted on the OMB Form 83i, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

The Commission's authority to collect this information is provided under 47 U.S.C. §§ 201-205, 303(r).

2. The need for these information collection requirements is as follows:

Currently Approved Information Collection Requirements:

The information to be collected is submitted to the FCC by incumbent LECs for use in determining whether the incumbent LECs should receive the regulatory relief proposed in the *Orders*.

The information collected under the *Second Order on Reconsideration and Memorandum Opinion and Order* is submitted by the LECs to the interexchange carriers (IXCs) for use in developing the most cost-efficient rates and rate structures.

New Information Collection Requirements:

The certification required of AT&T, Qwest and Verizon incumbent LECs is currently required of all price cap LECs that provide interexchange services through a Section 272 or rule 64.1903 affiliate. To ensure that equivalent protection is in place in the event the BOCs provide in-region, long distance services directly, we implement in the *Sunset Order* this information collection requirement, e.g., the certification, for AT&T, Qwest and Verizon.

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3. The Commission has established a program of mandatory electronic filing of tariffs and associated documents by local exchange carriers. These carriers must file tariffs and associated documents electronically in accordance with the requirements established by the Bureau. Other parties may also file documents in tariff proceedings via the Electronic Tariff Filing System. *See* 47 C.F.R. § 1.774(e).
4. There will be no duplication of information. In most instances, the information sought is unique to each carrier.
5. (a) The majority of the currently approved information collection requirements affect only incumbent price-cap LECs, which are mostly or entirely large entities. Nonetheless, these information collection requirements may also affect small entities in some instances.

(b) The new information collection requirements will affect only AT&T, Qwest and Verizon incumbent LECs which are large entities.
6. As a result of the *Sunset Order*, the Commission adopted new information collection requirements that affected section 272's requirements regarding the provision of in-region, long distance service. To ensure equitable treatment of in-region, long distance service providers, AT&T, Qwest and Verizon will now be subject to the same rules as other in-region, long distance service providers which will be less burdensome and less costly for these providers.
7. FCC requirements do not impose any obligations that would require parties to report information to the FCC more often than quarterly, nor will our requirements impose any other special circumstances.
8. Pursuant to 5 C.F.R. § 1320.8(d), the Commission's notice was published in the Federal Register on October 12, 2007 (72 FR 58021) (copy attached). No comments were received.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information under section 0.459 of the Commission's rules. *See* also 47 C.F.R. § 1.774(b).
11. There are no questions of a sensitive nature with respect to the information collection described herein, nor are there any privacy impacts, as noted above.
12. The following represents the estimated hours burden of the information collections:

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Currently Approved Information Collection Requirements:

a. Showings under Market-Based Approach:

1. Number of respondents: Approximately 17.

2. Frequency of response: One time filing.

This obligation is voluntary on the part of an incumbent LEC that wants to remove certain requirements associated with FCC rules.

3. Total annual responses: Approximately 377.

The Commission has recalculated the total annual responses to comply with the requirements of the OMB [spell out what ROCIS stands for] (ROCIS), as follows:

Phase I:

- We estimate that a dedicated transport and special access (except channel terminations to end users) will submit approximately 74 filings annually, which is roughly the number of MSAs with more than one price cap LEC, and the rest of the study areas, minus the 62 study areas where pricing flexibility has already been granted.
- We estimate that channel terminations to end users filing submit approximately 69 filings annually, which is roughly the number of MSAs with more than one price cap LEC, and the rest of the study areas, minus those 83 study areas where pricing flexibility has already been granted.
- We estimate that a common line and traffic sensitive services filing submit approximately 84 filings annually, which is roughly the number of MSAs with more than one price cap LEC and the rest of the study areas, minus those 8 study areas where pricing flexibility has already been granted.

Phase I Total: $74 + 69 + 84 = 227$ filings (responses)

Phase II:

- We estimate that a dedicated transport and special access (except channel terminations to end users) filing will submit approximately 71 filings annually, which is the number of MSAs and the rest of the study areas, minus those 77 study areas where pricing flexibility has already been granted.

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- We estimate that channel terminations to end users will submit approximately 79 filings annually, which is the number of MSAs and the rest of the study areas, minus those 35 study areas where pricing flexibility has already been granted.

Phase II Totals: $71 + 79 = 150$ filings (responses)

Phases I and II Total: $227 + 150 = 377$ filings/year (responses)

4. Total annual burden hours: 26,655 hours

Phase I:

- We estimate that each of the 74 dedicated transport and special access (except channel terminations to end users) filings¹ will take roughly 5 hours to prepare and submit:

$74 \text{ filings} \times 5 \text{ hours per filing} = 370 \text{ hours.}$

- We estimate that each of the 69 channel terminations to end users filings² will take roughly 5 hours to prepare and submit:

$69 \text{ filings} \times 5 \text{ hours per filing} = 345 \text{ hours.}$

- We estimate that each of the 84 common line and traffic sensitive services filings³ will take roughly 300 hours to prepare and submit:

$84 \text{ filings} \times 300 \text{ hours per filing} = 25,200 \text{ hours.}$

Phase I Totals: $370 \text{ hours} + 345 \text{ hours} + 25,200 \text{ hours} = 25,915 \text{ hours}$

Phase II:

- We estimate that each of the 71 dedicated transport and special access (except channel terminations to end users) filings³ will take roughly 5 hours to prepare and submit:

¹ The 74 filings are roughly the number of MSAs with more than one price cap LEC, and the rest of the study areas, minus the 62 study areas where pricing flexibility has already been granted.

² The 69 filings are roughly the number of MSAs with more than one price cap LEC, and the rest of the study areas, minus those 83 study areas where pricing flexibility has already been granted.

³ The 84 filings are roughly the number of MSAs with more than one price cap LEC and the rest of the study areas, minus those 8 study areas where pricing flexibility has already been granted.

³⁴ The 71 filings are the number of MSAs and the rest of the study areas, minus those 77 study areas where pricing flexibility has already been granted.

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71 filings x 5 hours per filing = 355 hours.

- We estimate that each of the 79 channel terminations to end users filings⁴ will take 5 hours to prepare and submit:

79 filings x 5 hours per filing = 395 hours.

Phase II Totals: 355 hours + 395 hours = 750 hours

Total for Phases I & II: 25,915 hours + 750 hours = **26,665 hours**

5. Total estimate of annualized cost to respondents: \$1,472,625

The Commission estimates that the respondents will use senior staff to prepare the approximately 377 filings, totaling 26,665 hours annually at a cost of approximately \$55.00 per hour. Thus:

26,665 hours/year x \$55.00 = \$1,466,575.00

b. Contract-based Tariff Filings:

1. Number of respondents: Approximately 17.
2. Frequency of response: On occasion, approximately 20 times per year.
3. Total annual responses: Approximately 340 responses

17 respondents x 20 responses/year = 340 responses

4. Total annual burden hours: 1,020 hours.

The Commission estimates that this requirement will take approximately 3 hours and that 17 entities will respond 20 times per year.

17 respondents x 20 submissions/year x 3 hours = 1,020 hours.

5. Total estimate of annualized cost to respondents for the hour burden for collection of information: \$40,800.

The filing should identify, within the contract, that the price cap LEC already has negotiated six elements of the contract required under 47 C.F.R. § 61.55. It is

⁴⁵ The 79 filings are roughly the number of MSAs and the rest of the study areas, minus those 35 study areas where pricing flexibility has already been granted.

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difficult to provide a sound estimate of respondent's cost without conducting a survey. However, assuming that respondents use mid to senior level personnel to comply with Part 61 requirements comparable in pay to Federal government, we estimate respondent's cost to be approximately \$40 per hour.

17 respondents x 20 filings/year x 3 hours/filing x \$40/hour = \$40,800.

c. Proposed Deaveraging of Common Line and Traffic Sensitive Access Elements:

1. Number of respondents: Approximately 17.
2. Frequency of response: One time.
3. Total annual responses: 17
4. Total annual burden: 1,853 hours.

The Commission estimates that this requirement will take approximately 109 hours and that 17 entities will respond once a year.

17 respondents x 1 submission x 109 hours = 1,853 hours

5. Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$56,800.
6. Explanation of calculation: If an additional competitive showing is required, each filing could take as much as 20 hours to complete. The Commission estimates that the average cost for respondents is approximately \$40.00 per hour.

Total industry:

71 Annual Access Tariff Filings (per 17 price cap LECs) x 20 hrs/filing x \$40/hr = \$56,800. [where does 71 come from?]

d. Proposed Common Line and Traffic Sensitive Phase II Showings:

1. Number of respondents: Approximately 17.
2. Frequency of response: One time.
3. Total annual responses: 150 filings

The Commission estimates that respondents will make approximately 150 filings in any year.

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4. Total annual burden hours: 750 hours.

The Commission estimates that the 17 respondents require approximately 5 hours to prepare and submit each one time filing:

$$150 \text{ one time filings} \times 5 \text{ hours/filing} = 750 \text{ hours}$$

5. Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$30,000.00

6. Explanation of calculation: The Commission is seeking further comment on the common line and traffic sensitive Phase II filing. We maintain our previous estimate that it could take 300 hours for each Phase II filing for the common line and traffic sensitive filings. The Commission estimates that the average cost for respondents is approximately \$40.00 per hour.

$$750 \text{ hours/year} \times \$40.00/\text{hour} = \$30,000.00$$

New Information Collection Requirements:

- e. Contract Tariff Certification:

1. Number of respondents: 3
2. Frequency of response: On occasion.

This obligation is required each time each respondent provides contract tariff services to itself or to any affiliate that is neither a section 272 nor a rule 64.1903 separate affiliate for use in the provision of any in-region, long distance services.

3. Total annual responses: 3

$$3 \text{ respondents} \times 1 \text{ response/year} = 3 \text{ responses/year}$$

4. Total annual burden hours: 60 hours.

The Commission estimates that this requirement will take approximately 20 hours and that the 3 respondent entities (BOCs) will respond once a year.

$$3 \text{ respondents} \times 1 \text{ submission/year} \times 20 \text{ hours} = 60 \text{ hours}$$

5. Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$2,400.00

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6. Estimation of calculation: The Commission estimates that respondents will use staff equivalent to mid to senior level personnel for the 3 BOCs to complete and file the information, which we estimate to be approximately \$40.00 per hour.

We estimate it will take approximately 60 hours to comply with the requirement:

$$3 \text{ respondents} \times 20 \text{ hours per filing} \times \$40.00/\text{hour} = \$2,400.00$$

Information Collection Requirements	Number of Respondents	Number of Responses	Burden Hours	“Industry Costs”
<i>Currently Approved</i>				
a. Showings under market-based approach	17	377	26,665	\$1,466,575.00
b. Contract-based tariff filings	17	340	1,020	\$40,800.00
c. Proposed deaveraging of common line and traffic sensitive access elements	17	17	1853	56,800? \$83,755.60
d. Proposed common line and traffic sensitive Phase II showings	17	150	750	\$30,000.00
Totals	17	884	30,288	\$1,621,130.60
<i>New Information</i>				
e. Contract tariff certification	3	20	60	\$2,400.00
Totals	3	20	60	\$2,400.00
Cumulative Totals	17	904	30,348	\$1,623,530.60

Total Number of Respondents: 17

Total Number of Responses Annually: 904

Total Annual Burden Hours: 30,348 hours

Total Industry Costs: \$1,623,530.60

- 13 a. The following represents the Commission’s estimate of the annual cost burden to respondents or record keepers resulting from this collection of information: \$0.

These information collection requirements impose no start-up costs on respondents.

- b. Estimated operations and maintenance and purchase of services component: \$15,500.
\$700,600?

Respondents are subject to a filing fee of \$775. We anticipate that approximately 17 respondents will be subject to the tariff filing requirement. Thus:

$$17 \text{ respondents filing 1 tariff submission} \times \$775 \text{ filing fee} = \$15,500.$$

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904 responses x \$775 filing fee = \$700,600 right

The Commission is reporting an increase in respondents (from 14 to 17 respondents) and an increase in the filing fee (from \$600 to \$775).

- c. Total annual cost requested: \$15,500. \$700,600

14. Estimated costs to the Commission:

- a. Market-Based Approach: We estimate that it will take approximately 5 hours to review each first and second category of Phase I filing, and 80 hours for category 3, or roughly 90 hours to review all Phase I filings. We further estimate that it will take approximately 5 hours to review each first and second category of Phase II filing, or roughly 10 hours to review these Phase II filings. These filings will be made over a five-year period, so that the Commission will spend roughly 20 hours per filing area. There are 430 filing areas. At a cost of \$55/hour, this translates to a total for the Commission of:

$100 \text{ hours} \times \$55/\text{hour} \times 430 \text{ filing areas} / 5 \text{ years} = 473,000 \text{ annually.}$

- b. Contract-based Tariff Filings: We estimate that the time required to review contract-based tariff filings is roughly 3 hours. At a cost of \$55/hour, this equals a total cost for the Commission of:

$340 \text{ filings} \times 3 \text{ hours} \times \$55/\text{hour} = \$56,100.$

- c. Proposed Deaveraging of Common Line and Traffic Sensitive Access Elements: We estimate that it will take approximately 5 hours to review each deaveraging filing. At a cost of \$55/hour, the total cost:

$71 \text{ deaveraging filing reviews} \times 5 \text{ hours} \times \$55/\text{hour} = \$19,525.$

- d. Proposed Common Line and Traffic Sensitive Phase II Showings: We estimate that the time required to review category 3 of the Phase II filings is 80 hours per filing. Over a five-year period, among the 430 filing areas, and at a cost of \$55/filing, this equals a total cost for the Commission of:

$80 \text{ hours} \times \$55/\text{hour} \times 430 \text{ filing areas} / 5 \text{ years} = \$378,400.$

- e. Contract Tariff Certification: The Commission notes that it does not review this information collection requirement.

Cost to the Commission: $\$473,000 + 56,100 + 19,525 + 378,400 = \$927,025.00$

15. The Commission notes the following changes since the previous submission, due in part to the release of the as a result of the release of the *Sunset Order*.

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- (a) The Commission is reporting an increase in respondents from 14 to 17 respondents;
 - (b) The total number of responses is now estimated to be 904, an increase of 887 responses. This increase is due primarily to the Commission's re-evaluation of how the number of responses is calculated (adjustment), but also to the addition of the new information collection requirement (e), which increased the total number of responses by 20, as a result of the *Sunset Order*.
 - (c) The total annual burden for this collection is 30,348 hours, a decrease of 25,166 hours, from the previously approved 55,514 hours. This decrease is due primarily to a re-evaluation of how the annual hourly burden is calculated (adjustment), but also, to the addition of three respondents as a result of the new information collection requirement (e), which yielded a 60 hour increase in burden (program change) as a result of the *Sunset Order*.
 - (c) The Commission has increased the filing fee from \$600 to \$775, which resulted in an increase in the total annual cost.
16. The Commission does not anticipate that it will publish any of the information.
17. We do not seek approval to not display the expiration date for OMB approval of the information collections.
18. The Commission notes the following changes since publication of the 60 day notice in the *Federal Register*:
- (a) We are republishing the 30 day notice in the *Federal Register* due to a further analysis of the methodology used to calculate the various burden estimates;
 - (b) We have now determined that there are approximately 904 responses, an increase of 887 responses, and approximately 30,348 hours, a decrease of 25,166 hours. Both changes are due to our analysis of the methodology that led us to re-calculate these estimates and to the Commission's adoption of the new information collection requirement following release of the *Sunset Order*.
 - (c) We have determined that the total annual costs are \$700,600

There are no other exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods:

The Commission does not anticipate that the collection of information will employ statistical methods.

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