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and refile its interstate switched access tariffs and any state tariffs to remove any intercarrier charges applicable to terminating tandem-switched access service traversing a tandem switch that the terminating carrier or its affiliate owns.

[76 FR 73856, Nov. 29, 2011, as amended at 77 FR 48452, Aug. 14, 2012; 79 FR 28844, May 20, 2014]

§ 51.909 Transition of rate-of-return carrier access charges.

(a) Notwithstanding any other provision of the Commission's rules, on December 29, 2011, a Rate-of-Return Carrier shall:

(1) Cap the rates for all rate elements for services contained in the definitions of End Office Access Service, Tandem Switched Transport Access Service, and Dedicated Transport Access Service, as well as all other interstate switched access rate elements, in its interstate switched access tariffs at the rate that was in effect on the December 29, 2011; and

(2) Cap, in accordance with § 51.505(b)(2), the rates for rate all elements in its intrastate switched access tariffs associated with the provision of terminating End Office Access Service and terminating Tandem-Switched Transport Access Service at the rates that were in effect on the December 29, 2011,

(i) Using the terminating rates if specifically identified; or

(ii) Using the rate for the applicable rate element if the tariff does not distinguish between originating and terminating.

(3) Except as provided in paragraphs (a)(6) and (b)(4) of this section, nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(4) Notwithstanding the requirements of paragraph (a)(1) of this section, if a Rate-of-Return Carrier enters or exits the National Exchange Carrier Association (Association), as defined in § 69.2(d) of this chapter, traffic-sensitive tariff pursuant to the provisions of § 69.3(e)(6) of this chapter, the Association shall adjust its switched access rate caps ref-

erenced in paragraph (a)(1) of this section.

(i) For each entering Rate-of-Return Carrier, the Association shall:

(A) Determine each entering Rate-of-Return Carrier's interstate switched access revenues for the preceding calendar year;

(B) Determine the revenues that would have been realized by the entering Rate-of-Return Carrier in the preceding calendar year if it had used the Association's switched access rates (employing the rates for the appropriate bands) as of December 31 of the preceding year and the entering Rate-of-Return Carrier's switched access demand used to determine switched access revenues under paragraph (a)(4)(i)(A) of this section; and

(C) Subtract the sum of the revenues determined pursuant to paragraph (a)(4)(i)(B) of this section from the sum of the revenues determined pursuant to paragraph (a)(4)(i)(A) of this section.

(ii) The Association shall determine the amount by which each exiting Rate-of-Return Carrier is a net contributor or net recipient to or from the switched access segment of the Association pool as follows:

(A) The Association shall calculate the difference between each exiting Rate-of-Return Carrier's 2011–2012 tariff year projected interstate switched access revenues excluding Local Switching Support and the Rate-of-Return Carrier's projected switched access pool settlements excluding Local Switching Support for the same period with a net contribution amount being treated as a positive amount and a net recipient amount being treated as a negative amount. The Association shall divide the calculated difference by the Rate-of-Return Carrier's 2011–2012 tariff year projected interstate switched access revenues excluding Local Switching Support to produce a percent net contribution or net receipt factor.

(B) The Association shall multiply the factor calculated in paragraph (a)(4)(ii)(A) of this section by the Rate-of-Return Carrier's switched access revenues for the preceding calendar year to yield the amount of the Rate-of-Return Carrier's net contribution or net receipts for the calendar year.

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(iii) To determine the Association's adjusted switched access rate caps, the Association shall:

(A) Add the amounts calculated under paragraphs (a)(4)(i) and (a)(4)(ii) of this section;

(B) Divide the amount determined in paragraph (a)(4)(iii)(A) of this section by the preceding year's switched access revenues of the Rate-of-Return Carriers that will participate in the Association traffic-sensitive tariff for the next annual tariff period;

(C) The Association shall proportionately adjust its June 30 switched access rate caps by the percentage amount determined in paragraph (a)(4)(iii)(B) of this section.

(iv) The interstate switched access rate caps determined pursuant to paragraph (a)(4)(iii)(C) of this section shall be the new capped interstate switched access rates for purposes of § 51.909(a). The Association shall provide support in its annual access tariff filing to justify the revised interstate switched access rate caps, the Access Recovery Charges that will be assessed, and the amount of Connect America Fund ICC support each carrier will be eligible to receive.

(5) A Rate-of-Return Carrier exiting the Association traffic-sensitive tariff pursuant to § 69.3(e)(6) of this chapter must establish new switched access rate caps as follows:

(i) The Rate-of-Return Carrier shall multiply the factor determined in paragraph (a)(4)(ii)(A) of this section by negative one and then proportionately adjust the Association's capped switched access rates as of the date preceding the effective date of the exiting Rate-of-Return Carrier's next annual tariff filing by this percentage. A Rate-of-Return Carrier that was a net contributor to the pool will have rate caps that are lower than the Association's switched access rate caps, while a net recipient will have switched access rate caps that are higher than the Association's switched access rate caps;

(ii) The interstate switched access rate caps determined pursuant to paragraph (a)(5)(i) of this section shall be the new capped interstate switched access rates of the exiting Rate-of-Return Carrier for purposes of § 51.909(a). An

exiting Rate-of-Return Carrier shall provide support in its annual access tariff filing to justify the revised interstate switched access rate caps, the Access Recovery Charges that will be assessed, and the amount of Connect America Fund ICC support the carrier will be eligible to receive.

(6) If the Association revises its interstate switched access rate caps pursuant to paragraph (a)(4) of this section, each Rate-of-Return Carrier participating in the upcoming annual Association traffic-sensitive tariff shall:

(i) Revise any of its intrastate switched access rates that would have reached parity with its interstate switched access rates in 2013 to parity with the revised interstate switched access rate levels;

(ii) The Association shall provide Rate-of-Return Carriers that are participating in the Association traffic-sensitive pool with notice of any revisions the Association proposes under paragraph (a)(4) of this section no later than May 1.

(b) *Step 1.* Beginning July 1, 2012, notwithstanding any other provision of the Commission's rules:

(1) Each Rate-of-Return Carrier shall file intrastate access tariff provisions, in accordance with § 51.505(b)(2), that set forth the rates applicable to Transitional Intrastate Access Service in each state in which it provides Transitional Intrastate Access Service.

(2) Each Rate-of-Return Carrier shall establish the rates for Transitional Intrastate Access Service using the following methodology:

(i) Calculate total revenue from Transitional Intrastate Access Service at the carrier's interstate access rates in effect on December 29, 2011, using Fiscal Year 2011 intrastate switched access demand for each rate element.

(ii) Calculate total revenue from Transitional Intrastate Access Service at the carrier's intrastate access rates in effect on December 29, 2011, using Fiscal Year 2011 intrastate switched access demand for each rate element.

(iii) Calculate the Step 1 Access Revenue Reduction. The Step 1 Access Revenue Reduction is equal to one-half of the difference between the amount calculated in (b)(2)(i) of this section

and the amount calculated in (b)(2)(ii) of this section.

(iv) A Rate-of-Return Carrier may elect to establish rates for Transitional Intrastate Access Service using its intrastate access rate structure. Carriers using this option shall establish rates for Transitional Intrastate Access Service such that Transitional Intrastate Access Service revenue at the proposed rates is no greater than Transitional Intrastate Access Service revenue at the intrastate rates in effect as of December 29, 2011 less the Step 1 Access Revenue Reduction, using Fiscal Year 2011 intrastate switched access demand. Carriers electing to establish rates for Transitional Intrastate Access Service in this manner shall notify the appropriate state regulatory authority of their election in the filing required by § 51.907(b)(1).

(v) A Rate-of-Return Carrier may elect to apply its interstate access rate structure and interstate rates to Transitional Intrastate Access Service. In addition to applicable interstate access rates, the carrier may, between July 1, 2012 and July 1, 2013, assess a transitional per-minute charge on Transitional Intrastate Access Service end office switching minutes (previously billed as intrastate access). The transitional per-minute charge shall be no greater than the Step 1 Access Revenue Reduction divided by Fiscal Year 2011 Transitional Intrastate Access Service end office switching minutes. Carriers electing to establish rates for Transitional Intrastate Access Service in this manner shall notify the appropriate state regulatory authority of their election in the filing required by § 51.907(b)(1).

(3) Except as provided in paragraph (b)(4) of this section, nothing in this section obligates or allows a Rate-of-Return carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(4) If a Rate-of-Return Carrier must make an intrastate switched access rate reduction pursuant to paragraph (b)(2) of this section, and that Rate-of-Return Carrier has an intrastate rate for a rate element that is below the

comparable interstate rate for that element, the Rate-of-Return Carrier shall:

(i) Increase the rate for any intrastate rate element that is below the comparable interstate rate for that element to the interstate rate no later than July 1, 2013;

(ii) Include any increases made pursuant to paragraph (b)(4)(i) of this section in the calculation of its eligible recovery for 2012.

(c) *Step 2.* Beginning July 1, 2013, notwithstanding any other provision of the Commission's rules:

(1) Transitional Intrastate Access Service rates shall be no higher than the Rate-of-Return Carrier's interstate Terminating End Office Access Service, Terminating Tandem-Switched Transport Access Service, and Originating and Terminating Dedicated Transport Access Service rates and subject to the same rate structure and all subsequent rate and rate structure modifications. Except as provided in paragraph (c)(2) of this section, nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions to increase such rates.

(2) If a Rate-of-Return Carrier made an intrastate switched access rate reduction in 2012 pursuant to paragraph (b)(2) of this section, and that Rate-of-Return Carrier has an intrastate rate for a rate element that is below the comparable interstate rate for that element, the Rate-of-Return Carrier shall:

(i) Increase any intrastate rate element that is below the comparable interstate rate to the interstate rate by July 1, 2013; and

(ii) Include any increases made pursuant to paragraph (c)(2)(i) of this section in the calculation of its eligible recovery for 2013.

(d) *Step 3.* Beginning July 1, 2014, notwithstanding any other provision of the Commission's rules:

(1) Notwithstanding the rate structure rules set forth in § 69.106 of this chapter or anything else in the Commission's rules, a Rate-of-Return Carrier shall establish separate originating and terminating interstate and

intrastate rate elements for all components within interstate End Office Access Service. For fixed charges, the Rate-of-Return Carrier shall divide the amount based on relative originating and terminating end office switching minutes. If sufficient originating and terminating end office switching minute data is not available, the carrier shall divide such charges equally between originating and terminating elements.

(2) Nothing in this Step shall affect Tandem-Switched Transport Access Service or Dedicated Transport Access Service.

(3) Each Rate-of-Return Carrier shall establish rates for interstate and intrastate terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate the 2011 Baseline Composite Terminating End Office Access Rate. The 2011 Baseline Composite Terminating End Office Access Rate means the Composite Terminating End Office Access Rate calculated using Fiscal Year 2011 interstate demand and the interstate End Office Access Service rates at the levels in effect on December 29, 2011.

(ii) Each Rate-of-Return Carrier shall calculate its 2014 Target Composite Terminating End Office Access Rate. The 2014 Target Composite Terminating End Office Access Rate means \$0.005 per minute plus two-thirds of any difference between the 2011 Baseline Composite Terminating End Office Access Rate and \$0.005 per minute.

(iii) Beginning July 1, 2014, no Rate-of-Return Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2014 Target Composite Terminating End Office Access Rate. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2014, and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable inter-

state terminating end office access rates. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2014 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates.

(4) Nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(e) *Step 4.* Beginning July 1, 2015, notwithstanding any other provision of the Commission's rules:

(1) Each Rate-of-Return Carrier shall establish rates for interstate and intrastate terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate its 2015 Target Composite Terminating End Office Access Rate. The 2015 Target Composite Terminating End Office Access Rate means \$0.005 per minute plus one-third of any difference between the 2011 Baseline Composite Terminating End Office Access Rate and \$0.005 per minute.

(ii) Beginning July 1, 2015, no Rate-of-Return Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2015 Target Composite Terminating End Office Access Rate. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2015, and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for

both interstate and intrastate terminating End Office Access Service no greater than the 2015 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(2) [Reserved]

(f) *Step 5.* Beginning July 1, 2016, notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall establish interstate terminating End Office Access Service rates such that its interstate Composite Terminating End Office Access Service rate does not exceed \$0.005 per minute. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2016, and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2016 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(g) *Step 6.* Beginning July 1, 2017, notwithstanding any other provision of the Commission's rules:

(1) Each Rate-of-Return Carrier shall establish interstate and intrastate

rates for terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate its 2017 Target Composite Terminating End Office Access Rate. The 2017 Target Composite Terminating End Office Access Rate means \$0.0007 per minute plus two-thirds of any difference between that carrier's 2016 Target Composite Terminating End Office Access Rate and \$0.0007 per minute.

(ii) Beginning July 1, 2017, no Rate-of-Return Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2017 Target Composite Terminating End Office Access Rate. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2017, and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2017 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(2) [Reserved]

(h) *Step 7.* Beginning July 1, 2018, notwithstanding any other provision of the Commission's rules:

(1) Each Rate-of-Return Carrier shall establish interstate and intrastate rates for terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate its 2018 Target Composite Terminating End Office Access Rate. The 2018 Target Composite Terminating End Office Access Rate means \$0.0007 per minute plus one-third of any difference between that carrier's 2016 Target Composite Terminating End Office Access Rate and \$0.0007 per minute.

(ii) Beginning July 1, 2018, no Rate-of-Return Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2018 Target Composite Terminating End Office Access Rate. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2018 and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2018 interstate Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(2) [Reserved]

(1) *Step 8.* Beginning July 1, 2019, notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall establish interstate and intrastate rates for terminating End Office Access Service that do not exceed \$0.0007 per minute.

(j) *Step 9.* Beginning July 1, 2020, notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall, in accordance with a bill-and-keep methodology, revise and refile its federal access tariffs

and any state tariffs to remove any intercarrier charges for terminating End Office Access Service.

(k) As set forth in FCC 11-161, states will facilitate implementation of changes to intrastate access rates to ensure compliance with the Order. Nothing in this section shall alter the authority of a state to monitor and oversee filing of intrastate tariffs.

[76 FR 73856, Nov. 29, 2011, as amended at 77 FR 48452, Aug. 14, 2012; 78 FR 26267, May 6, 2013; 79 FR 28845, May 20, 2014]

§ 51.911 Access reciprocal compensation rates for competitive LECs.

(a) *Caps on Access Reciprocal Compensation and switched access rates.* Notwithstanding any other provision of the Commission's rules:

(1) In the case of Competitive LECs operating in an area served by a Price Cap Carrier, no such Competitive LEC may increase the rate for any originating or terminating intrastate switched access service above the rate for such service in effect on December 29, 2011.

(2) In the case of Competitive LEC operating in an area served by an incumbent local exchange carrier that is a Rate-of-Return Carrier or Competitive LECs that are subject to the rural exemption in § 61.26(e) of this chapter, no such Competitive LEC may increase the rate for any originating or terminating intrastate switched access service above the rate for such service in effect on December 29, 2011, with the exception of intrastate originating access service. For such Competitive LECs, intrastate originating access service subject to this subpart shall remain subject to the same state rate regulation in effect December 31, 2011, as may be modified by the state thereafter.

(b) Except as provided in paragraph (b)(7) of this section, beginning July 3, 2012, notwithstanding any other provision of the Commission's rules, each Competitive LEC that has tariffs on file with state regulatory authorities shall file intrastate access tariff provisions, in accordance with § 51.505(b)(2), that set forth the rates applicable to Transitional Intrastate Access Service in each state in which it provides Transitional Intrastate Access Service.