



TMI Regulatory Digest

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For more details on any of these issues, please contact Amy Gross at agross@tminc.com or 407-740-3032.

Adopted Regulatory Changes:

California Revises Rates For Public Program Funds

On February 24, 2005, the California Public Utilities Commission (PUC) approved Resolutions revising the surcharge for the California High Cost Fund-A (CHCFA) to 0.15% and the surcharge for the Universal Lifeline Telephone Service program (ULTS) to 1.55%. The new rates become effective on April 1, 2005.

A third Resolution by the Commission reviewed the California Teleconnect Fund (CTF). A new budget was approved for the CTF; however, the surcharge remains unchanged at 0.16%.

California Approves SBC Price Cap Filing And Surcredits

The California Public Utilities Commission has issued a Resolution authorizing SBC to decrease its annual revenues by \$8.822 million. Because of the larger revenue decrease this year than last year, SBC's surcredits in 2005 will be higher than in 2004. The surcredits will be applied to all intraLATA exchange and private line service with the exception of Category III Services and the taxes and surcharges currently listed in the tariffs and all intraLATA toll and access services currently listed in the tariffs. The Resolution became effective February 1, 2005.

California Stays Bill Of Rights

The Public Utilities Commission of California has stayed its Decision adopting a Consumer Bill of Rights. The stay will be effective until the Commission issues a new decision adopting a consumer protection structure including a sufficient implementation period. The new decision, which the Commission intends to issue no later than the end of this year, will specify the effective date of the new consumer protection structure and the termination date of the stay. As confirmed with Staff, the stay of the Decision restored the status quo that existed before the new rules were adopted.

FCC Releases Text Of New UNE Rules

The Federal Communications Commission has released the text of its Order on Remand (Order) adopting new UNE rules. The Order replaces the rules adopted by the FCC in its August 2003, Triennial Review Order (TRO), which was in large part overturned by the U.S. Court of Appeals for the District of Columbia Circuit in March 2004. The Order also supercedes the interim UNE rules adopted by the FCC in July 2004. The Order, and the increased UNE rates it authorizes, becomes effective March 11, 2005. The 12- or 18-month transition periods also begins on March 11, 2005.

Under the new rules, ILECs will no longer be required to unbundle mass market local switching. CLECs will be given 12 months to transition away from the use of UNE-P. The transition period will only be available for a CLEC's embedded customer base. During the transition period, UNE-P rates will increase.

DS1 and DS3 loops and DS1, DS3, and dark fiber transport will continue to be available as UNEs subject to a route-by-route impairment test based on economic conditions in the wire center. There will be a 12-month transition period and a price increase on routes where no impairment is found. The FCC made a finding of no-impairment for all dark fiber loops and entrance facilities. Dark fiber UNEs will be phased out over an 18-month period.

Other areas addressed in the Order include: the framework to be used to determine whether unbundling is required; whether special access is an alternative to UNEs; special access conversions and EELs; and renegotiation of interconnection agreements.

FCC Rules That AT&T's PrePaid Calling Card Service Is Not Enhanced; USF Contributions and Intrastate Access Are Owed

The Federal Communications Commission has ruled that AT&T's enhanced prepaid calling card (EPPC) service is not an interstate enhanced service. As such, it is not exempt from Universal Service Fund (USF) contributions and intrastate access-charges.

Specifically, the FCC found that (1) the inclusion of short advertisements for third-party vendors before calling-card calls could be completed did not make the calls an information or enhanced service, and (2) the routing of the prepaid card calls to switching platforms in other states did not make the calls interstate if the caller and called party are in the same state.

AT&T was directed to file revised Forms 499-A reflecting all prepaid calling card revenue not previously reported. All other companies providing service similar to those described in the Order were also directed to file new or revised Forms 499-A within 30 days of the effective date of the order as needed to properly report revenues from these services.

FCC Allows SBCIS To Obtain Numbering Resources For VoIP Directly from NANPA; Others May Obtain Similar Relief

The Federal Communications Commission has waived its rules so that SBC Internet Services, Inc. (SBCIS) can obtain numbering resources directly from the North American Numbering Plan Administrator (NANPA) and/or the Pooling Administrator (PA).

The numbering resources will be used for deploying IP-enabled services, including VoIP services offered on a commercial basis to residential and business customers. The waiver will remain in effect until the FCC adopts final numbering rules for IP-enabled services. The FCC said that, to the extent other entities seek similar relief, it would grant such requests.

The FCC also asked the North American Numbering Council (NANC) to review whether and how the FCC's numbering rules should be modified to allow IP-enabled service providers to access numbering resources.

FCC Revises Safe Harbor For PIC Change Charges

The Federal Communications Commission has adopted two new safe harbors for PIC change charges assessed by ILECs. The new rates are \$1.25 for PIC changes processed electronically and \$5.50 for changes processed manually. The current safe harbor is \$5.00 for all changes. If the interstate and intrastate PICs are changed at the same time, the charge for the interstate PIC change is cut in half (*e.g.*, would be \$0.63). The safe-harbor amounts do not apply to PIC change charges assessed by CLECs.

ILECs were directed to file tariff revisions conforming to the new safe harbors within 30 days after the FCC's Order is published in the Federal Register. The new rates must be effective on 15 days' notice.

Indiana Reduces InTRAC (TRS) Surcharge

The Indiana Utility Regulatory Commission has approved a reduction in the monthly surcharge relating to dual party relay service in Indiana. The new surcharge is \$0.03 and will become effective on April 1, 2005.

Indiana statutes require all Indiana local exchange telephone companies (including CLECs) to impose a monthly surcharge on each residential and business line (or line equivalent) of its customers to fund and recover the costs of providing dual party relay service.

Iowa Adopts Revisions To Slamming Rule

The Iowa Utilities Board has amended its slamming rule to include provisions similar to those in place on the federal level for transfer of a customer base from one carrier to another. In addition, the amendment removes the list of examples of appropriate verification data. The new provisions will become effective March 23, 2005.

Kansas Approves SBC "Win" and "Retention" Offerings

The Kansas Corporation Commission has approved SBC tariff filings offering win and retention discounts. SBC must file cost floor analysis with its win and retention

offerings and may impose a term requirement not to exceed one year until July 1, 2005. SBC will continue to have the flexibility to request a Long Run Incremental Cost study review for a service. Staff was directed to work with the Office of Public Affairs and Consumer Protection to develop information for the Commission's website to provide consumers with suggestions on how to pursue service options.

Kansas Reduces Universal Service Fund Assessment For 2005

The Kansas Corporation Commission has reduced the Kansas Universal Service Fund (KUSF) assessment rate for 2005. Effective March 1, 2005, the assessment rate will decrease from the current rate of 4.87% to 4.327%. The assessment is applied to intrastate retail revenues, net of uncollectibles and excluding amounts recovered from customers in the form of KUSF flow-through charges.

Kansas Sets New Payphone Line Rates For SBC

The Kansas Corporation Commission has adopted new payphone line rates for payphones in SBC territory. The new line rate will be \$18.36 without the end user common line charge. SBC was directed to file new tariffs to be effective April 1, 2005.

Maine Sets Quarterly USF Assessment Rate

The Maine Universal Service Fund (MUSF) Administrator has issued a letter notifying all MUSF carrier contributors of the new quarterly assessment rate. The new rate is 1.50%, and it is effective as of March 1, 2005.

Michigan Approves New UNE Rates

The Michigan Public Service Commission has approved new UNE rates for SBC Michigan and directed that interconnection agreements be amended accordingly. SBC was also instructed to perform a true-up of all charges billed under its tariffs and interconnection agreements after November 6, 2004, the effective date of the new wholesale rates. CLECs must execute and return the required interconnection agreement amendment to SBC within 21 days of receipt.

New Hampshire Approves Customer Education Plan In Billing Practices Proceeding

The New Hampshire Public Utilities Commission has issued an Order in its investigation of third party processing of bill payments. The Commission's Order approved a customer education program that requires

utilities to provide a notice to their customers at least twice a year. Utilities must submit the details about the timing of the notice and the delivery format chosen on a yearly basis to the Commission's Consumer Affairs Division. The first notice to customers should be provided by April 12, 2005.

New York Orders Verizon To Provide DS1 and DS3 UNE Loops

The New York Public Service Commission has directed Verizon to perform all routine network modifications necessary to make high capacity (DS1 and DS3) UNE loops available without imposing any charge for such modifications. The Commission's Order requires Verizon to "immediately cease its no facilities policy." In addition, the Commission concluded that no amendments to interconnection agreements are necessary for Verizon to perform these network modifications.

North Carolina Clarifies Rules On Promotional Discounts For Bundled Packages Of Regulated And Nonregulated Services

The North Carolina Utilities Commission has issued an order clarifying the circumstances under which ILECs and CLECs may offer promotional discounts for bundled packages of regulated and nonregulated services on one day's notice. The Order also sets forth the circumstances under which such offerings must be made available for resale. A notice of appeal or similar motion for review or reconsideration of this Order must be filed by February 21, 2005.

Pennsylvania IXCs May Withdraw Tariffs

The Pennsylvania Public Utility Commission has issued a Secretarial Letter to all IXCs informing them of their option to cancel their informational tariffs or price lists for competitive services. As a result of recent legislation, IXCs are no longer required to file informational tariffs or price lists for their competitive services.

IXCs may cancel their respective tariffs already filed with the Commission or withdraw any pending tariff supplements. Alternatively, IXCs may continue to file tariff supplements with the Commission that modify existing competitive service rates or conditions of service; any such filings will become effective on one day's notice.

Pending Regulatory Changes:

Alaska Seeks Comment On Impact Of New Federal Law Governing Wholesale Access Charges In Alaska

The Regulatory Commission of Alaska is seeking comment on how it should respond to a new federal law

regulating the level of wholesale access charges that can be charged in contracts. The new provision requires that all carriers be charged the tariffed switch access rates in effect as of November 15, 2004, subject to a three percent annual reduction starting January 1, 2006, and ending December 31, 2009. The Commission is seeking comment on how it should proceed in light of the new law, including whether it should adopt any changes to existing Alaska regulations. Comments are due March 3, 2005.

California Sets Schedule For Phase II Of Access Charge Investigation

The California Public Utilities Commission has issued a scoping memo for Phase II of its Intrastate Carrier Access Charges investigation. The memo sets forth schedules dates for serving testimony and conducting hearings, if required, on Phase II issues. Testimony is due by February 14, 2005.

FCC Seeks Comment On Fiscal Year 2005 Regulatory Fees

The FCC has issued a Notice of Proposed Rulemaking (Notice) seeking comment on its proposed Regulatory Fees for 2005. For interstate telephone service providers (ITSPs), including IXCs, IXC resellers, debit card providers, OSPs, pay telephone providers, and competitive local exchange carriers, the proposed 2005 fee factor is 0.00243 per revenue dollar. This is an increase over the year 2004 fee factor of 0.00218. The FCC is also seeking comment on ways to improve its billing for ITSPs. Comments on the proposal are due on March 8, 2005. Reply Comments are due March 18, 2005.

Florida Seeks Comment On IXC Rule Changes; Would Retain Operator Service and Inmate Rate Caps

The Florida Public Service Commission has proposed revisions to its interexchange telecommunications company rules to reflect 2003 statutory changes deregulating those services. The proposed rules reduce the Commission's regulatory authority over interexchange service providers. This includes elimination of the requirement that IXCs obtain a certificate, adoption of a registration process in lieu of certification, and simplification of IXC tariff filing requirements. Since payphones are used by many persons as the sole form of telecommunications, the proposed rules retain the operator services rate cap. Similarly, since inmates do not have a choice of carriers, the rules also retain the rate cap for confinement facilities. Written requests for hearing or comments are due no later than February 25, 2005.

Kansas Announces Issues And Procedural Schedule for Phase II Of The K2A Arbitration

The Kansas Corporation Commission has announced the issues to be addressed in Phase II of its mega-arbitration associated with the development of the successor agreement to the Kansas 271 Agreement (K2A). The Order also sets forth the procedural schedule to be followed. Initial testimony is due February 24, 2005.

Michigan Seeks Comment On Impact Of FCC TRO Remand Order

The Michigan Public Service Commission is seeking comment on the effect of the FCC's TRO Remand Order on its proceedings addressing the future content of interconnection agreements between ILECs and CLECs. Initial comments must be filed by February 24, 2005; reply comments are due March 3, 2005.

Follow-Up:

RBOCs File Wire Center Impairment Data With FCC

The Federal Communications Commission directed Verizon, Qwest, SBC, and BellSouth to file information identifying the wire centers in their operating areas in which they claim no unbundling is required for dedicated transport and DS1 and DS3 loops. All four RBOCs filed the required information on February 18, 2005. The data identifies, by Common Language Location Identifier (CLLI) code: (1) the wire centers in each company's operating areas that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport; and (2) the wire centers that satisfy the nonimpairment thresholds for DS1 and DS3 loops.