

average schedule companies, that are affiliated with such carriers; and

(3) On an elective basis, to local exchange carriers, other than those specified in paragraph (a)(2) of this section, that are neither participants in any Association tariff, nor affiliated with any such participants, except that affiliation with average schedule companies shall not bar a carrier from electing price cap regulation provided the carrier is otherwise eligible.

(b) If a telephone company, or any one of a group of affiliated telephone companies, files a price cap tariff in one study area, that telephone company and its affiliates, except its average schedule affiliates, must file price cap tariffs in all their study areas.

(c) Except as provided in paragraph (e) of this section, the following rules in this paragraph (c) apply to telephone companies subject to price cap regulation, as that term is defined in §61.3(ee), which are involved in mergers, acquisitions, or similar transactions.

(1) Any telephone company subject to price cap regulation that is a party to a merger, acquisition, or similar transaction shall continue to be subject to price cap regulation notwithstanding such transaction.

(2) Where a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that is not subject to price cap regulation, the latter telephone company shall become subject to price cap regulation no later than one year following the effective date of such merger, acquisition, or similar transaction and shall accordingly file price cap tariffs to be effective no later than that date in accordance with the applicable provisions of this part 61.

(3) Notwithstanding the provisions of §61.41(c)(2), when a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that qualifies as an “average schedule” company, the latter company may retain its “average schedule” status or become subject to price cap regulation in accordance with §69.3(i)(3) of this chapter and the requirements referenced in that section.

(d) Except as provided in paragraph (e) of this section, local exchange carriers that become subject to price cap regulation as that term is defined in §61.3(ee) shall not be eligible to withdraw from such regulation.

(e) Notwithstanding the requirements of paragraphs (c) and (d) of this section, a telephone company subject to rate-of-return regulation may return lines acquired from a telephone company subject to price cap regulation to rate-of-return regulation, provided that the acquired lines will not be subject to average schedule settlements, and provided further that the telephone company subject to rate-of-return regulation may not for five years elect price cap regulation for itself, or by any means cause the acquired lines to become subject to price cap regulation.

[55 FR 42382, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990, as amended at 56 FR 55239, Oct. 25, 1991; 64 FR 46589, Aug. 26, 1999; 65 FR 38695, June 21, 2000; 65 FR 57741, Sept. 26, 2000; 69 FR 25336, May 6, 2004]

EFFECTIVE DATE NOTE: At 69 FR 25336, May 6, 2004, §61.41 was amended by revising paragraphs (c) introductory text and (d) and adding a new paragraph (e). These paragraphs contain information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§61.42 Price cap baskets and service categories.

(a)–(c) [Reserved]

(d) Each local exchange carrier subject to price cap regulation shall establish baskets of services as follows:

(1) A basket for the common line, marketing, and certain residual interconnection charge interstate access elements as described in §§69.115, 69.152, 69.153, 69.154, 69.155, 69.156, and 69.157 of this chapter. For purposes of §§61.41 through 61.49, this basket shall be referred to as the “CMT basket.”

(2) A basket for traffic sensitive switched interstate access elements. For purposes of §§61.41 through 61.49 of this chapter, this basket shall be referred to as the “traffic-sensitive basket.”

(3) A basket for trunking services as described in §§69.110, 69.111, 69.112, 69.125(b), 69.129, and 69.155 of this chapter. For purposes of §§61.41 through

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61.49, this basket shall be referred to as the “trunking basket.”

(4)(i) To the extent that a local exchange carrier specified in § 61.41(a) (2) or (3) offers interstate interexchange services that are not classified as access services for the purpose of part 69 of this chapter, such exchange carrier shall establish a fourth basket for such services. For purposes of §§ 61.41 through 61.49 of this chapter, this basket shall be referred to as the “interexchange basket.”

(ii) If a price cap carrier has implemented interLATA and intraLATA toll dialing parity everywhere it provides local exchange services at the holding company level, that price cap carrier may file a tariff revision to remove corridor and interstate intraLATA toll services from its interexchange basket.

(5) A basket for special access services as described in § 69.114 of this chapter.

(e)(1) The traffic sensitive switched interstate access basket shall contain such services as the Commission shall permit or require, including the following service categories:

(i) Local switching as described in § 69.106(f) of this chapter;

(ii) Information, as described in § 69.109 of this chapter;

(iii) Data base access services;

(iv) Billing name and address, as described in § 69.128 of this chapter;

(v) Local switching trunk ports, as described in § 69.106(f)(1) of this chapter; and

(vi) Signalling transfer point port termination, as described in § 69.125(c) of this chapter.

(2) The trunking basket shall contain such switched transport as the Commission shall permit or require, including the following service categories and subcategories:

(i) Voice grade entrance facilities, voice grade direct-trunked transport, voice grade dedicated signalling transport,

(ii) High capacity flat-rated transport, including the following service subcategories:

(A) DS1 entrance facilities, DS1 direct-trunked transport, DS1 dedicated signalling transport, and

(B) DS3 entrance facilities, DS3 direct-trunked transport, DS3 dedicated signalling transport.

(iii) Tandem-switched transport, as described in § 69.111 of this chapter; and

(iv) Signalling for tandem switching, as described in § 69.129 of this chapter.

(3) The special access basket shall contain special access services as the Commission shall permit or require, including the following service categories and subcategories:

(i) Voice grade special access, WATS special access, metallic special access, and telegraph special access services;

(ii) Audio and video services;

(iii) High capacity special access, and DDS services, including the following service subcategories:

(A) DS1 special access services; and

(B) DS3 special access services;

(iv) Wideband data and wideband analog services.

(f) Each local exchange carrier subject to price cap regulation shall exclude from its price cap baskets such services or portions of such services as the Commission has designated or may hereafter designate by order.

(g) New services, other than those within the scope of paragraph (f) of this section, must be included in the affected basket at the first annual price cap tariff filing following completion of the base period in which they are introduced. To the extent that such new services are permitted or required to be included in new or existing service categories within the assigned basket, they shall be so included at the first annual price cap tariff filing following completion of the base period in which they are introduced.

[54 FR 19842, May 8, 1989, as amended at 55 FR 42382, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990; 56 FR 5956, Feb. 14, 1991; 56 FR 55239, Oct. 25, 1991; 57 FR 54718, Nov. 20, 1992; 58 FR 7868, Feb. 10, 1993; 58 FR 29552, May 21, 1993; 58 FR 31914, June 7, 1993; 58 FR 36145, July 6, 1993; 59 FR 10301, Mar. 4, 1994; 59 FR 32930, June 27, 1994; 60 FR 4569, Jan. 24, 1995; 60 FR 13639, Mar. 14, 1995; 60 FR 52346, Oct. 6, 1995; 62 FR 31930, June 11, 1997; 64 FR 46589, Aug. 26, 1999; 64 FR 51265, Sept. 22, 1999; 65 FR 38695, June 21, 2000]