

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

In the Matter of	)	
	)	
	)	
July 1, 2007	)	WCB/Pricing No. 07-10
Annual Access Charge Tariff Filings	)	
	)	

**ORDER**

**Adopted: June 28, 2007**

**Released: June 28, 2007**

By the Chief, 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)(2) of the Commission's rules to file revisions to their interstate tariffs to become effective June 30, 2007, or July 2, 2007.<sup>1</sup> In addition, several rate-of-return LECs that are subject to section 61.38 of the rules<sup>2</sup> and that file their own traffic-sensitive tariffs filed tariffs. These LECs filed their original tariff transmittals on June 15, 2007, or June 22, 2007, and subsequent revisions as reflected in Appendix A. AT&T Corporation (AT&T), Qwest Communications Corporation (Qwest), Sprint Nextel Corporation (Sprint Nextel), and Verizon (the Petitioners) filed petitions to suspend and investigate the tariffs of carriers leaving the NECA traffic-sensitive pool and filing their own tariffs pursuant to section 61.39 of the Commission's rules.<sup>3</sup> AT&T, General Communication Incorporated (GCI), and Verizon<sup>4</sup> filed petitions to suspend and investigate NECA's Tariff No. 5.<sup>5</sup> On June 26, 2007, NECA and a number of the LECs filing pursuant to section 61.39 of the

<sup>1</sup> 47 C.F.R. §§ 69.3(h) and 69.3(f)(2).

<sup>2</sup> 47 C.F.R. § 69.38.

<sup>3</sup> July 2007 Annual Access Charge Tariff Filings, Petition of AT&T Corp. to Suspend and Investigate LEC Tariffs Filed Pursuant to Section 61.39, WCB/Pricing 07-10 (filed June 22, 2007) (AT&T Petition) (AT&T also petitioned to suspend and investigate Reasnor Telephone Company and Union Telephone Company); July 2007 Annual Access Charge Tariff Filings, Qwest Conditional Petition to Suspend and Investigate, WCB/Pricing 07-10 (filed June 19, 2007) (Qwest Petition); July 2007 Annual Access Charge Tariff Filings, Petition to Suspend and Investigate of Sprint Nextel Corporation, WCB/Pricing 07-10 (filed June 22, 2007) (Sprint Nextel Petition); July 2007 Annual Access Charge Tariff Filings, Petition of Verizon to Suspend and Investigate Tariff Filings, WCB/Pricing 07-10 (filed June 19, 2007) (Verizon Petition).

<sup>4</sup> The Verizon companies participating in this filing are the regulated, wholly-owned subsidiaries of Verizon Communications, Inc.

<sup>5</sup> July 2007 Annual Access Charge Tariff Filings, Petition of AT&T Corp. to Suspend for One Day and Investigate National Exchange Carrier Association Tariff F.C.C. No. 5, Transmittal No. 1172, WCB/Pricing 07-10 (filed June 22, 2007) (AT&T NECA Petition); July 2007 Annual Access Charge Tariff Filings, Petition of GCI to Reject, or, in the Alternative to Suspend and Investigate Tariff Filing, WCB/Pricing 07-10 (filed June 22, 2007); July 2007 Annual Access Charge Tariff Filings, Petition of Verizon to Suspend NECA Tariff F.C.C. No. 5, Access Service, Transmittal No. 1172, WCB/Pricing 07-10 (filed June 22, 2007) (Verizon NECA Petition).

Commission's rules filed replies to the petitions.<sup>6</sup>

2. In this Order, we suspend for one day and set for investigation the switched access rates contained in the 2007 annual access tariffs of the carriers listed in Appendices B and C.

## 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 petition to suspend and investigate the LECs' 2007 annual access tariffs, the Petitioners raise substantial questions of lawfulness that warrant investigation.

4. *Section 61.39 carriers exiting the NECA traffic-sensitive pool.* AT&T, Qwest,<sup>7</sup> Sprint Nextel, and Verizon argue that the Commission must suspend and investigate the tariffs filed by the carriers that are leaving the NECA traffic-sensitive pool this year and filing tariffs pursuant to section 61.39 of the Commission's rules. In support of their filing, the Petitioners contend that they have seen a pattern of access stimulation by section 61.39 carriers in recent years and they expect that many of the carriers leaving the pool will engage in such access stimulation practices.<sup>8</sup> They also note that some of the carriers leaving the traffic-sensitive pool, or an affiliate, have engaged in access stimulation in the past.<sup>9</sup> Because section 61.39 carriers establish rates based on historical costs (or average schedule settlements) and historical demand, the Petitioners contend that the carriers intending to engage in access stimulation know that the historical data relied on for these tariffs is not a good proxy for future demand.<sup>10</sup> Without suspending and investigating these tariffs, the Petitioners contend that the carriers at issue will earn returns that greatly exceed that permitted by the Commission's rules, with no remedy available because of the deemed lawful provision of section 204(a)(3) of the Communications Act of 1934, as amended.<sup>11</sup> As a result, Petitioners argue they and their customers are being charged excessively high access rates that the carriers at issue share with the parties providing the stimulating services.<sup>12</sup> Petitioners also contend that the access stimulation violates the intent of the *Small Carrier*

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<sup>6</sup> July 2007 Annual Access Charge Tariff Filings, National Exchange Carrier Association Reply, WCB/Pricing 07-10 (filed June 26, 2007) (NECA Reply); July 2007 Annual Access Charge Tariff Filings, Reply of Group of Companies Under Consortia Consulting Tariff F.C.C. No. 1 to Petitions to Suspend and Investigate, WCB/Pricing 07-10 (filed June 26, 2007) (Consortia Reply); July 2007 Annual Access Charge Tariff Filings, Reply of Alliance Communications Cooperative, Inc. to Petitions to Suspend and Investigate, WCB/Pricing 07-10 (filed June 26, 2007) (Alliance Reply); July 2007 Annual Access Charge Tariff Filings, Reply of Elsie Communications, Inc. to Petitions to Suspend and Investigate, WCB/Pricing 07-10 (filed June 26, 2007) (Elsie Reply); July 2007 Annual Access Charge Tariff Filings, Consolidated Reply to the Petitions to Suspend and Investigate Filed by Qwest Communications Corporation, AT&T Corp., Sprint Nextel Corporation and Verizon, WCB/Pricing 07-10 (filed June 26, 2007) (Broadband Network Group/ICORE Reply).

<sup>7</sup> The Qwest petition is conditional, requesting suspension and investigation only if the carriers refuse to certify that they have no reason to believe that their rates will increase by 300 percent during the tariff period, and that if they do, the carrier will file revised tariff rates. Qwest Petition at 9.

<sup>8</sup> See, e.g., AT&T Petition at 10; Verizon Petition at 10;

<sup>9</sup> See, e.g., AT&T Petition at 14; Verizon Petition at 13.

<sup>10</sup> See, e.g., Qwest Petition at 6-7.

<sup>11</sup> 47 U.S.C. § 204(a)(3). See Sprint Nextel Petition at 2-3;

<sup>12</sup> See, e.g., Sprint Nextel Petition at 10.

*Tariff Order*, which requires that rates filed by small LECs based on historical data be just and reasonable.<sup>13</sup>

5. *Reasnor Telephone Company, LLC*. AT&T argues that, while Reasnor's local switching rate has decreased, it has more than offset the decrease by significant increases to other rates, for example, a more than 1000 percent increase in tandem switching and tandem switched termination. AT&T states that Reasnor achieved these increases by using the recently approved proposed average schedule formulas. AT&T argues that these formulas were designed to create reasonable rates for carriers whose traffic does not fluctuate, not to create just and reasonable rates for access stimulating carriers like Reasnor. AT&T asserts that Reasnor is claiming a 107, 236 percent increase in costs even though its access minutes of use grew by 12,717 percent. AT&T therefore urges the Commission to suspend Reasnor's tariff and investigate the proper application of its average schedule rules.<sup>14</sup>

6. *Section 61.38 carriers exiting the NECA traffic-sensitive pool*. On our own motion, we conclude that the tariffs of those carriers exiting the NECA traffic-sensitive pool and filing their own tariffs pursuant to section 61.38 of the Commission's rules raise questions of whether rates would remain just and reasonable in the face of access stimulation.<sup>15</sup> Section 61.38 carriers set rates based on projected costs and demand and may establish high rates based on low demand. If these carriers then enter into access stimulation activities, they, like section 61.39 carriers, can generate increased revenues that likely would result in rates that are unjust and unreasonable, but which would be protected by the deemed lawful provision of the Act.<sup>16</sup> Our review of the access minutes of use data for section 61.38 carriers reentering the NECA pool indicates a likelihood that some of those carriers have participated in access stimulation activities.<sup>17</sup> We find that this information raises substantial questions of the lawfulness of the switched access rates filed by carriers under section 61.38 of our rules.

7. After reviewing the petitions against the tariffs, and on our own motion, we conclude that substantial questions of lawfulness exist that warrant further investigation of certain of the 2007 annual access tariffs. We accordingly suspend the switched access rates contained in the 2007 annual access tariffs of the carriers listed in Appendices B and C for one day. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but not be limited to, the issues identified in paragraphs 4-6, *supra*. We may also, by order, identify discrete issues that do not warrant further investigation.

### III. *EX PARTE* REQUIREMENTS

8. This investigation is a permit-but-disclose proceeding and subject to the requirements of section 1.1206(b) of the rules.<sup>18</sup> Persons making oral *ex parte* presentations are reminded that

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<sup>13</sup> *Regulation of Small Telephone Companies*, 2 FCC Rcd 3811, 3812, para. 7 (1987) (*Small Carrier Tariff Order*).

<sup>14</sup> AT&T Petition at 23.

<sup>15</sup> 47 C.F.R. § 61.38. We note that the group of Century Tel companies exiting the NECA pool filed averaged rates along with CenturyTel of Wisconsin, which had an existing tariff. Therefore, we also suspend the tariff of CenturyTel of Wisconsin.

<sup>16</sup> *See* 47 U.S.C. § 204(a)(3).

<sup>17</sup> *See* NECA Reply, Appendix 1.

<sup>18</sup> 47 C.F.R. § 1.1206(b).

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.<sup>19</sup>

#### IV. ORDERING CLAUSES

9. 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 switched access rates contained in the 2007 annual access tariffs of the carriers listed in Appendices B and C are SUSPENDED for one day and an investigation IS INSTITUTED.

10. IT IS FURTHER ORDERED that the carriers listed in Appendices B and C MAY FILE a supplement advancing the currently scheduled effective date to June 29, 2007, and then SUSPEND its tariff revision for one day, until June 30, 2007. For this purpose, we waive sections 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.58, 61.59.

11. 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, the carriers listed in Appendices B and C SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are subject to this investigation.

12. IT IS FURTHER ORDERED that each local exchange carrier 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.

13. IT IS FURTHER ORDERED that the petitions to suspend and investigate the 2007 Annual Access Tariff Filings filed by AT&T Corporation, Qwest Communications Corporation, Sprint Nextel Corporation, GCI and Verizon ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin  
Chief, Wireline Competition Bureau

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<sup>19</sup> 47 C.F.R. § 1.1206(b)(2).

## APPENDIX A-2007 ACCESS FILINGS MADE BY ILECS

**Issued: June 15, 2007****Price Cap ILECs**

Ameritech Operating Companies	Transmittal No. 1629	Tariff FCC No. 2
BellSouth Telecommunications, Inc.	Transmittal No. 1080	Tariff FCC No. 1
CenturyTel Operating Companies	Transmittal No. 55	Tariff FCC Nos 2&3 <sup>1</sup>
Cincinnati Bell Telephone	Transmittal No. 818	Tariff FCC No. 35
Citizens Telecommunications Companies	Transmittal No. 174	Tariff FCC No. 1
Embarq Local Operating Companies	Transmittal No. 31	Tariff FCC No. 1
Frontier Tel. Of Minnesota and Iowa	TRP only	
Frontier Telephone of Rochester	TRP only	
Hawaiian Telcom, Inc.	TRP only	Tariff FCC No. 1
Iowa Telecommunications Services, Inc.	Transmittal No. 64	Tariff FCC No. 1
Micronesian Telecommunications Corp.	Transmittal No. 7	Tariff FCC No.1
Nevada Bell Telephone Company	Transmittal No. 159	Tariff FCC No. 1
Pacific Bell Telephone Company	Transmittal No. 355	Tariff FCC No. 1
Qwest Corporation	Transmittal No. 325	Tariff FCC No. 1
Southern New England Telephone Co.	Transmittal No. 947	Tariff FCC No. 39
Southwestern Bell Telephone Company	Transmittal No. 3212	Tariff FCC No. 73
Valor Telecommunications Enterprises	Transmittal No. 65	Tariff FCC Nos. 1
Verizon Telephone Companies	Transmittal No. 821	Tariff FCC Nos. 1, 11, 14, 16 & 20
Windstream Telephone System	Transmittal No. 6	Tariff FCC Nos.1&3

**Issued: June 15, 2007****Non-Price Cap ILECs**

Alliance Communications Cooperative	Transmittal Nos. 7	Tariff FCC No.
Alliance Communications Cooperative	Transmittal Nos. 8	Tariff FCC No. 1
Beehive Telephone Companies	Transmittal No. 34 <sup>2</sup>	Tariff FCC No. 1
The Blair Telephone Company	Transmittal No. 9 <sup>3</sup>	Tariff FCC No. 1
Broadband Network Group	Transmittal No. 1	Tariff FCC No. 1
CenturyTel Operating Companies	Transmittal No. 55	Tariff FCC No. 1 <sup>4</sup>
Chariton Valley Telephone Corporation	Transmittal No 13	Tariff FCC No. 1
Columbus Telephone Company	Transmittal No. 13	Tariff FCC No. 1

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<sup>1</sup> Century's Tariff FCC Nos. 2 & 3 are subject to price cap regulation.

<sup>2</sup> This filing cancels Beehive's access tariff.

<sup>3</sup> This filing cancels Blair's access tariff.

<sup>4</sup> Century's Tariff FCC No. 1 is subject to rate of return regulation.

## APPENDIX A-2007 ACCESS FILINGS MADE BY ILECS (CONT'D)

**Issued: June 15, 2007****Non-Price Cap ILECs**

Consortia Consulting	Transmittal No. 1	Tariff FCC No. 1
Dalton Telephone Company	Transmittal No. 5 <sup>5</sup>	Tariff FCC No. 1
Elsie Communications, Inc.	Transmittal No. 1	Tariff FCC No. 1
Etex Telephone Cooperative	Transmittal No. 12	Tariff FCC No. 1
Farmers Mutual Telephone Company (ID)	Transmittal No. 1	Tariff FCC No. 1
Geneseo Telephone Company	Transmittal No. 12	Tariff FCC No. 1
Glenwood Telephone Membership	Transmittal No. 3 <sup>6</sup>	Tariff FCC No. 1
Great Plains Communications	Transmittal No. 84	Tariff FCC No. 3
Gridley Telephone Company	Transmittal No. 15	Tariff FCC No. 1
GVNW Inc./ Management	Transmittal No. 206	Tariff FCC No. 2
Harrisonville Telephone Company	Transmittal No. 38	Tariff FCC No. 2
ICORE	Transmittal No. 80	Tariff FCC No. 2
James Valley Cooperative Telephone Co.	Transmittal No. 10	Tariff FCC No. 1
John Staurulakis, Inc. (JSI)	Transmittal No. 129 <sup>7</sup>	Tariff FCC No. 1
John Staurulakis, Inc. (JSI)	Transmittal No. 130	Tariff FCC No. 1
Kiesling Associates	Transmittal No. 6 <sup>8</sup>	Tariff FCC No. 1
National Exchange Carrier Association	Transmittal No. 1172	Tariff FCC No. 5
Royal Telephone Company	Transmittal No. 1	Tariff FCC No. 1
South Central Telephone Assn. (Kansas)	Transmittal No. 16 <sup>9</sup>	Tariff FCC No. 2
Superior Telephone Cooperative	Transmittal No. 2 <sup>10</sup>	Tariff FCC No. 1
Tri-County Telephone Association	Transmittal No. 9 <sup>11</sup>	Tariff FCC No. 1
Union Telephone Company (WY/UT)	Transmittal No. 77	Tariff FCC No. 2
United Telephone Association	Transmittal No. 6 <sup>12</sup>	Tariff FCC No. 1
Wheat State Telephone Company	Transmittal No. 3 <sup>13</sup>	Tariff FCC No. 1

**Issued: June 18, 2007**

GVNW Inc./ Management	Transmittal No. 207	Tariff FCC No. 2
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<sup>5</sup> This filing cancels Dalton's access tariff.

<sup>6</sup> This filing cancels Glenwood's access tariff.

<sup>7</sup> This filing is only regulations for carriers entering JSI's access tariff.

<sup>8</sup> This filing cancels Kiesling's access tariff.

<sup>9</sup> This filing cancels South Central- Kansas' access tariff.

<sup>10</sup> This filing cancels Superior's access tariff.

<sup>11</sup> Tri-County's filing was made on 16 days' notice, effective 7/1/07.

<sup>12</sup> This filing cancels United Telephone's access tariff.

<sup>13</sup> This filing cancels Wheat State's access tariff.

## APPENDIX A-2007 ACCESS FILINGS MADE BY ILECS (CONT'D)

**Issued: June 20, 2007**Alliance Communications Cooperative  
James Valley Cooperative Telephone Co.Transmittal No. 9  
Transmittal No. 11Tariff FCC Nos. 1&2  
Tariff FCC No. 1**Issued: June 25, 2007**East Ascension Telephone Company  
Smithville Telephone CompanyTransmittal No. 13  
Transmittal No. 10Tariff FCC No. 1  
Tariff FCC No. 1**Issued: June 28, 2007**

ICORE

Transmittal No. 81

Tariff FCC No. 2

**APPENDIX B-COMPANIES LEAVING NECA AND ASSOCIATED  
TRANSMITTALS AFFECTED BY SUSPENSION**

<u>Alliance Communications Cooperative</u>	Transmittal Nos. 7 & 9	Tariff F.C.C. No. 2
<u>Broadband Network Group, LLC</u> Arthur Mutual Telephone Company Bascom Mutual Telephone Company Benton Ridge Telephone Company Buckland Telephone Company Fort Jennings Telephone Company Glandorf Telephone Company, Inc. Kalida Telephone Company, Inc. Middle Point Home Telephone Company Ottoville Mutual Telephone Company Ridgeville Telephone Company Sherwood Mutual Telephone Association, Inc. Vaughnsville Telephone Company	Transmittal No. 1	Tariff F.C.C. No. 1
<u>CenturyTel Operating Companies</u> CenturyTel of Central Wisconsin, LLC Spectra Communications Group, LLC Telephone USA of Wisconsin, LLC	Transmittal No. 55	Tariff F.C.C. No. 1
<u>Consortia Consulting</u> Beresford Municipal Telephone Company McCook Cooperative Telephone Company Roberts County Telephone Cooperative Assn/ RC Communications, Inc. Western Telephone Company	Transmittal No. 1	Tariff F.C.C. No. 1
<u>Elsie Communications, Inc.</u>	Transmittal No. 1	Tariff F.C.C. No. 1
<u>Farmers Mutual Telephone Company (ID)</u>	Transmittal No. 1	Tariff F.C.C. No. 1
<u>ICORE</u> Jordan-Soldier Valley Telephone Company Killduff Telephone Company Lynnville Telephone Company Northeast Iowa Telephone Company, Inc. Sully Telephone Association	Transmittal No. 80	Tariff F.C.C. No. 2



**APPENDIX B-COMPANIES LEAVING NECA AND ASSOCIATED  
TRANSMITTALS AFFECTED BY SUSPENSION (CONT'D)**

<u>John Staurulakis, Inc.</u> Camden Telephone & Telgraph Company, Inc. Chesnee Telephone Company Gearheart Communications Company, Inc. d/b/a Coalfields Telephone Company Mt. Vernon Telephone Company Oklahoma Communication Systems, Inc. Skyline Telephone Membership Corporation Tennessee Telephone Company Yadkin Valley Telephone Membership Corp	Transmittal No. 130	Tariff F.C.C. No. 1
<u>Royal Telephone Company</u>	Transmittal No. 1	Tariff F.C.C. No. 1
<u>Windstream Telephone System</u> Windstream Communications Kerrville, L.P Windstream Standard, Inc.	Transmittal No. 6	Tariff F.C.C. No. 1

**APPENDIX C-COMPANIES WITH EXISTING TARIFFS**  
**AFFECTED BY SUSPENSION**

<u>ICORE</u> Reasnor Telephone Company	Transmittal Nos. 80 & 81	Tariff F.C.C. No. 2
<u>CenturyTel Operating Companies</u> CenturyTel of Wisconsin	Transmittal No. 55	Tariff F.C.C. No. 1