



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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May 9, 2000

DOMESTIC, INTEREXCHANGE CARRIER DETARIFFING ORDER TAKES EFFECT

COMMON CARRIER BUREAU IMPLEMENTS NINE-MONTH TRANSITION PERIOD

COMMENT SOUGHT ON MODIFICATIONS TO TRANSITION PLAN

DA 00-1028
CC Docket No. 96-61

COMMENTS: May 31, 2000

REPLY COMMENTS: June 9, 2000

On May 1, 2000, the Commission's 1996 Order detariffing the interstate, domestic, interexchange services of nondominant interexchange carriers (IXCs) became effective.¹ In this Notice, the Common Carrier Bureau (1) implements a nine-month transition period ending January 31, 2001, in the manner specified by the Commission in the *Detariffing Order*, (2) seeks comment on possible modifications to the requirements for that transition period, and (3) provides technical guidance for carriers with respect to implementation of detariffing.

This Notice addresses only the immediate obligations of carriers under the *Detariffing Order*. During the transition period, the Commission's Consumer Information Bureau intends to conduct several public forums aimed at ensuring that consumers are fully informed about their rights under this new regime.

Background

On October 31, 1996, the Commission released the *Detariffing Order* directing all nondominant IXCs to "cancel their tariffs for interstate, domestic, interexchange services on file

¹ *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace Detariffing Order*, 11 FCC Red 20730 (1996) (*Detariffing Order*).

with the Commission within nine months of the effective date of the order and not to file any such tariffs thereafter.”² The Order was published in the Federal Register on November 22, 1996 and was effective on December 22, 1996. A number of carriers requested reconsideration of the *Detariffing Order*³ and requested review from the Court of Appeals for the District of Columbia Circuit. On February 13, 1997, the court stayed the *Detariffing Order* pending judicial review. On reconsideration, the Commission modified its decision so as to allow (1) tariffing of dial around 1+ services using the carrier access code, and (2) tariffing of new customer services for a limited period of 45 days.⁴ On further reconsideration, the Commission adopted public disclosure requirements regarding the rates, terms, and conditions governing detariffed services.⁵ On April 28, 2000, the court of appeals upheld the Commission’s orders requiring detariffing for interstate, domestic, interexchange services.⁶ On May 1, 2000, the court lifted the stay, and the rules adopted in this docket are now in effect.⁷

The nine-month transition period that the Commission adopted in the *Detariffing Order* began on December 27, 1996 but was interrupted after less than two months by the stay. In the *Order on Reconsideration*, the Commission declined to address any transition issues, and delegated authority to the Common Carrier Bureau to determine the appropriate transition period and to address other transition issues when the detariffing rules became effective.⁸

Transition Requirements

By this Notice, the Bureau establishes a new transition period beginning May 1, 2000 and ending January 31, 2001.

Carriers may file new and revised tariffs for mass market interstate, domestic, interexchange services during the transition period.

Carriers may not file new or revised interstate, domestic, interexchange tariffs for contract tariff offerings and other long-term service arrangements.⁹ Pending public comment and further consideration by the Bureau, this prohibition applies to arrangements that bundle domestic and international services.

Carriers must cancel, by the end of transition period, the tariff offerings that are subject to the *Detariffing Order*.

² *Id.* at 20779, paras. 89, 90.

³ See *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace*, Order on Reconsideration, 12 FCC Rcd 15014 (1997) (*Order on Reconsideration*); Second Order on Reconsideration and Erratum, 14 FCC Rcd 6004 (1999) (*Second Order on Reconsideration*).

⁴ *Order on Reconsideration*, 12 FCC Rcd at 15034 and 15037, paras. 32 and 39.

⁵ *Second Order on Reconsideration*, 14 FCC Rcd at 6015, para. 18.

⁶ *MCI WorldCom, Inc. et al. v. FCC*, Opinion, 2000 WL 390520, No. 96-1459 (D.C.Cir. 2000).

⁷ *MCI WorldCom, Inc. et al. v. FCC*, No. 96-1459, Order (D.C.Cir. May 1, 2000).

⁸ *Order on Reconsideration*, 12 FCC Rcd at 15044, para. 52.

⁹ Examples of such long-term service arrangements include AT&T’s Tariff 12 options, MCI’s special customer arrangements, and Sprint’s custom network service arrangement. *Detariffing Order*, 11 FCC Rcd at 20780, para. 90.

Carriers are allowed to cancel their tariffs for interstate, domestic, interexchange service at any time during the nine-month period. Tariffs may be cancelled by replacement, supplement, or expiration. A supplement is identical to a tariff page but should be designated as a supplement instead of a numbered page. The contents of the supplement should state: "Pursuant to the *Detariffing Order*, CC Docket 96-61, 11 FCC Rcd 20730 (1996), this tariff is cancelled in its entirety effective (state date of cancellation)." Tariff cancellations must be submitted on diskette or CD-ROM, in Word Perfect 5.1, Microsoft Word 6.0 or Microsoft Word 97 software (see the attached Filing Guide for instructions). Pursuant to Section 1.1105 of the Commission's rules, tariff filing must be accompanied by a filing fee, which is currently six hundred thirty dollars (\$630.00), per tariff filing.

Carriers may cancel the portions of "mixed" services tariffs that are subject to detariffing by either: (1) canceling the entire tariff and refiling a new tariff for only those services that remain subject to tariff filing requirements; or (2) issuing revised tariff pages canceling the material in tariffs that relate to services subject to forbearance.

In order to minimize their costs, carriers may cancel several tariffs or revise several tariffs under one cover letter with the payment of one filing fee provided that each tariff has the same issuing carrier name and the issued date is identical for each tariff. In addition, organizations that file tariffs on behalf of several carriers may request waiver of applicable filing rules so that they may cancel the tariffs of several carriers or file revisions to tariffs of several carriers under one cover letter with the payment of one filing fee. Waiver of the applicable filing rules for this purpose must be requested by filing an Application for Special Permission, including the applicable filing fee, pursuant to sections 61.151, 61.152, and 61.153 of the Commission's rules. 47 C.F.R §§ 61.151, 61.152, 61.153. The applicable rules to be waived are sections 61.20(b)(1) and 61.21(b) of the Commission's Rules, 47 C.F.R. §§ 61.20(b)(1), 61.21(b).

Ongoing Requirements for Detariffed Services

Geographic Rate Averaging and Rate Integration

Sections 64.1900(a) and (b) of the Commission's rules require that: "(a) A nondominant provider of interexchange telecommunications services, which provides detariffed interstate, domestic, interexchange service, shall file with the Commission, on an annual basis, a certification that it is providing such services in compliance with its geographic rate averaging and rate integration obligations pursuant to section 254(g) of the Communications Act of 1934, as amended"; and, "(b) The certification filed pursuant to paragraph (a) of this section shall be signed by an officer of the company, under oath." 47 C.F.R. §§ 64.1900(a),(b).

Carriers with tariffs currently on file should file this certification letter (company logo, original and two copies) with the Secretary, FCC, 445 12th Street, S.W., Washington, D.C. 20554, Attention: Competitive Pricing Division, Common Carrier Bureau. This certification should be filed initially, at the same time and in a separate package as the filing that either

cancels their domestic, interstate interexchange service tariff(s) or revises the existing tariff to remove references to interstate, domestic interexchange services. Carriers who are not currently providing such services, and therefore do not have tariffs on file with the Commission, should file this certification letter with the Commission by the time they begin to offer interstate, domestic interexchange services to the public. **Carriers are reminded that this certification filing is an annual requirement.** There is no filing fee required for the certification letter.

Public Disclosure

Section 42.10 (a) of the Commission's rules requires that: "[a] nondominant interexchange carrier shall make available to any member of the public, in a least one location, during regular business hours, information concerning its current rates, terms and condition for all of its detariffed interstate, domestic, interexchange services. Such information shall be made available in an easy to understand format and in a timely manner. When responding to an inquiry or complaint from the public concerning rates, terms and conditions for such services, a carrier shall specify that such information is available and the manner in which the public may obtain the information." 47 C.F.R. § 42.10(a).

Section 42.10 (b) of the Commission's rules states that: "a nondominant IXC that maintains an Internet website shall make such rate and service information specified in paragraph (a) of this section available on-line at its Internet website in a timely and easily accessible manner, and shall update this information regularly. 47 C.F.R. § 42.10(b).

Modifications to Transition Plan – Request for Comment

In its Petition for Reconsideration, AT&T argued that IXCs should be permitted to continue tariffing bundled domestic and international services during the transition period. In the *Order on Reconsideration*, the Commission delegated resolution of this and other transition issues to the Bureau.¹⁰ We therefore seek comment on whether permissive tariffing should be permitted during all or part of the nine-month transition period for bundled domestic and international service offerings. We also seek comment on how quickly the IXCs that currently have websites should be required to come into full compliance with the web posting requirement adopted in the *Second Order on Reconsideration*. Finally, we request comment on whether any other modifications should be made to the transition plan.

Parties are requested to provide comment on or before May 31, 2000. Replies will be due on or before June 9, 2000. Parties that wish to meet to discuss transition procedures and issues are requested to schedule meetings with the Competitive Pricing Division prior to the close of the comment period.

This matter shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte*

¹⁰ *Order on Reconsideration*, 12 FCC Red at 15044, para. 52.

presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

An original and four copies of all comments and reply comments must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 –12th Street, S.W., TW-A325, Washington, D.C. 20554. In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 – 20th Street, N.W., Washington, D.C. 20036, and one copy with the Chief, Competitive Pricing Division, 445 12th Street, S.W., T.W. – A225, Washington, D.C. 20554.

For additional assistance, contact the Competitive Pricing Division, (202) 418-1540. In the Consumer Information Bureau, contact Peter Friedman, (202) 418-1400.

TARIFF FILING GUIDE

TABLE 1--- COMPONENTS TO ASSEMBLE

1. The Cover Letter – addressed to Secretary, Federal Communications Commission, Washington DC 20554 (International carriers must reference the FCC file number that granted the 214 authority).
2. Tariff (on diskette or CD-ROM in Word Perfect 5.1, Microsoft Word 6.0 or Microsoft Word 97)
3. Completed FCC Fee Form 159
4. Check (to FCC) for Filing Fee (\$630)

TABLE 2--- TARIFF PACKAGES

1. MELLON BANK PACKAGE

- A. **Original** Cover Letter
- B. Completed FCC Fee Form 159
- C. Check for Filing Fee

NOTE: DO NOT SEND A TARIFF WITH THIS PACKAGE.

2. SECRETARY PACKAGE

- A. **Copy** of Cover Letter
- B. Tariff (on diskette or CD-ROM in Word Perfect 5.1, Microsoft Word 6.0 or Microsoft Word 97)

3. COMMERCIAL CONTRACTOR PACKAGE

- A. **Copy** of Cover Letter
- B. Tariff (on diskette or CD-ROM in Word Perfect 5.1, Microsoft Word 6.0 or Microsoft Word 97)

4. TARIFF AND PRICING ANALYSIS BRANCH PACKAGE*

- A. **Copy** of Cover Letter
- B. Tariff (on diskette or CD-ROM in Word Perfect 5.1, Microsoft Word 6.0 or Microsoft Word 97)

*This package should be clearly labeled---*Public Reference Copy*---

TABLE 3... PACKAGE ADDRESSES

1. MELLON BANK PACKAGE

Hand Delivery:

Federal Communications Commission
c/o Mellon Bank
Three Mellon Bank Center
525 William Penn Way
27th Floor, Room 153-2713
Pittsburgh, PA 15259-0001
ATTN: Wholesale Lock box
Shift Supervisor

Mail Delivery:

Federal Communications Commission
Tariff Filings
P.O. Box 358150
Pittsburgh, PA 15251-5150

2. SECRETARY PACKAGE* **

Hand Delivery:

Secretary
Federal Communications Commission
445 12th Street SW., TW-A325
Washington, DC 20024

Mail Delivery:

Secretary
Federal Communications Commission
445 12th Street SW., TW-A325
Washington, DC 20554

3. COMMERCIAL CONTRACTOR PACKAGE

Hand Delivery:

Commercial Contractor
Federal Communications Commission
445 12th Street SW., CY-B400
Washington, DC 20024

Mail Delivery:

Commercial Contractor
Federal Communications Commission
445 12th Street SW., CY-B400
Washington, DC 20554

4. TARIFF AND PRICING ANALYSIS BRANCH PACKAGE**

Hand Delivery:

Chief, Tariff & Pricing Analysis Branch
Federal Communications Commission
445 12th Street SW., 5-A207
Washington, DC 20024

Mail Delivery:

Chief, Tariff & Pricing Analysis Branch
Federal Communications Commission
445 12th Street SW., 5-A207
Washington, DC 20554

- * The date on which the Secretary Package is stamped as received by the Secretary's Office or Commission mail room is defined as the official filing date. The effective date of a nondominant tariff shall fall on not less than one day after the official filing date.
- ** The Secretary package and the Tariff and Pricing Analysis Branch package must be sent in separate packages by the same means of delivery so they will be received on the same date.