

# STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION  
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May 23, 2016

Dear Indiana Local Exchange Carrier:

The Indiana Utility Regulatory Commission's (Commission's) Communications Division has received several inquiries regarding procedures for filing 2016 intrastate access tariffs.

The Federal Communications Commission's (FCC's) Universal Service Fund/Intercarrier Compensation Transformation Order (USF/ICC Transformation Order) established procedures for local exchange carriers (LECs) to make filings each year, starting in 2012 – primarily, but not exclusively, related to Transitional Intrastate Access Services (47 CFR § 51.903(j)). These filings are needed to transition certain interstate and intrastate switched access rates to bill-and-keep and (for companies without an applicable interconnection agreement in place on Dec. 29, 2011) to file initial intrastate tariffs for non-access reciprocal compensation rates. Enclosed are selected FCC and IURC requirements.

**Also enclosed are instructions on how to complete and file the intrastate (IURC) access tariff filings that are scheduled to become effective July 1, 2016, as mandated by the FCC.** We also have included instructions regarding the procedures for carriers to file their Eligible Recovery and CAF-ICC certification statements with their intrastate access tariff filings. This represents a change from how we have handled these certification statements in previous years. (In the past, we requested companies to file their certification statements separately from their intrastate access filings.)

Please contact Karl Henry at (317) 232-5585 or [khenry@urc.in.gov](mailto:khenry@urc.in.gov) if you have any questions regarding these instructions.

Sincerely,

*for*  
Pamela D. Taber, CPA  
Director of Communications  
Indiana Utility Regulatory Commission  
(317) 232-2755

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## Selected FCC Filing Requirements and Procedures

### **FCC Requirements for ILECs (Step 5 Revenue Reductions<sup>1</sup>)**

Effective July 1, 2016, each incumbent local exchange carrier (ILEC) shall have on file with the IURC intrastate access tariffs that implement the following FCC requirements for Transitional Intrastate Access Service (directly, through filing its own intrastate access tariff, *or* through mirroring, concurring in, or adopting another carrier's applicable switched access tariff):

- Price cap carriers shall implement the requirements set forth at 47 CFR 51.907(f), and as further described in the FCC's USF/ICC Transformation Order and related orders.
- Rate-of-return carriers shall implement the requirements set forth at 47 CFR 51.909(f), and as further described in the FCC's USF/ICC Transformation Order and related orders.

### **FCC Requirements for CLECs**

Although there are no new requirements for competitive local exchange carriers (CLECs) this year under the USF/ICC Transformation Order, CLEC Access Reciprocal Compensation rates for both originating and terminating switched exchange access services<sup>2</sup> remain capped at the rates of the competing ILEC, as they have been since July 1, 2013, "in accordance with the same procedures specified in [47 CFR § 61.26]"<sup>3</sup> – including, but not limited to<sup>4</sup>, the following statement in 47 CFR § 61.26(c):

"The benchmark rate for a CLEC's switched exchange access services will be the rate charged for similar services by the competing ILEC. If an ILEC to which a CLEC benchmarks its rates, pursuant to this section, lowers the rate to which a CLEC benchmarks, the CLEC must revise its rates to the lower level within 15 days of the effective date of the lowered ILEC rate."

### **Switched Exchange Access Service Rates and Rate Elements Not Included in the Definition of Transitional Intrastate Access Service**

To the extent an LEC seeks to file new or revised rates, charges, terms, and/or conditions for switched exchange access services that are excluded from the definition of "Transitional Intrastate Access Service," the filing will be subject to the Commission's 30-Day Filing rules<sup>5</sup> or, in the alternative, to the Commission's instant mirroring procedures.<sup>6</sup>

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<sup>1</sup> See, e.g., *USF/ICC Transformation Order*, at para. 801 & related chart. See, also, related provisions in the FCC rules, 47 CFR, Part 51, Subpart J.

<sup>2</sup> The scope of the term "switched exchange access services" for CLECs includes, but is not limited to, the description set forth at 47 CFR 61.26(a)(3).

<sup>3</sup> 47 CFR 51.911(c).

<sup>4</sup> For example, see, also, 47 CFR §§ 61.26(d) - 61.26(f).

<sup>5</sup> Indiana Administrative Code, Title 170, Article 1, Rule 6 (170 IAC 1-6).

<sup>6</sup> See, Commission Order in Cause No. 44004 (July 13, 2011),

## **Tariffed Non-Access Reciprocal Compensation Services and Rates**

As has been the case since July 1, 2013, tariffed (default) transitional intrastate non-access reciprocal compensation rates shall not "exceed that carrier's tariffed interstate access rate in effect in [Indiana] on January 1 of that same year [in this case, 2016], for equivalent functionality"<sup>7</sup> and shall comply with all applicable federal and state laws.

## **Special Access Services**

Even though intrastate special access rates, charges, and rate structures are not subject to the mandatory mirroring requirements in the USF/ICC Transformation Order, parties are reminded that the Commission's tariff requirements and procedures still apply to intrastate special access tariffs. Accordingly, to the extent an LEC seeks to file new or revised rates, charges, rate structures, terms, and/or conditions for intrastate special access services, such a filing will be subject to the Commission's instant mirroring procedures<sup>8</sup> or, in the alternative, to the Commission's 30-Day Filing rules.<sup>9</sup>

## **IURC Filing Requirements**

If you include a hyperlink to your tariffs within a cover letter or within the body of a tariff, please make sure that the hyperlink is functional, accurate, and current. Hyperlinks must take the user directly to the relevant tariff and/or web page(s) referenced, without requiring the user to click through any other tariff and/or web page(s) as a prerequisite.

## **Instant Mirroring Filings**

- Intrastate access tariff change filings that mirror, concur in, or adopt changes to an interstate or intrastate access tariff are subject to the Commission's instant mirroring requirements, which are explained in the Commission's Order in Cause No. 44004, issued July 13, 2011.
- The subject line for instant mirroring cover letters and email notices should read as follows:  
*Re: Intrastate Switched Access Service - 2016 Instant Mirroring Filing and Explanation of Compliance with FCC and IURC Requirements.*
- Instant mirroring notices should identify which (and whose) interstate access tariff and/or FCC Transmittal No. ##, or whose intrastate access tariff, the filing company will be mirroring, concurring in, or adopting (e.g., "[Company Name] is mirroring/concurring in/adopting the interstate [intrastate] switched and special access tariff [Tr. #] of [Company Name OR Filing Entity Name]: Tariff F.C.C. No. # [Tr. #] or [Tariff I.U.R.C. No. #]."
- As noted in Ordering Paragraph No. 2 of the Commission's June 13, 2011, Order in Cause No. 44004, changes to your intrastate rates and charges become effective at the same time as the underlying changes to the corresponding interstate rates and charges that are being mirrored. **Accordingly, if you are making an instant mirroring filing and you want the effective date for your intrastate tariff or tariff filing to deviate**

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<sup>7</sup> 47 CFR § 51.705(c)(3).

<sup>8</sup> See, Commission Order in Cause No. 44004 (July 13, 2011),

<sup>9</sup> Indiana Administrative Code, Title 170, Article 1, Rule 6 (170 IAC 1-6).

**from the corresponding interstate rates and charges, you must clearly and explicitly request an alternative effective date.**

### 30-Day Filings

- The subject line for 30-day filing cover letters and notices should read as follows:  
*Re: 30-Day Filing (Pursuant to 170 IAC 1-6) and Explanation of Compliance with FCC Requirements*
- Initial, replacement, or complete intrastate access tariffs should be filed under the Commission's 30-Day Filing rules.
- Intrastate access tariffs and tariff changes that do not mirror, concur in, or adopt an interstate tariff or another carrier's intrastate access tariff remain subject to the Commission's 30-day filing rules.
- The company or entity filing an intrastate access 30-day tariff filing with the Commission must attach a cover letter that includes or explains the following:
  - The purpose of the filing;
  - A statement that the filing is being made pursuant to 170 IAC 1-6;
  - A clear description of which (and whose) interstate access tariff and/or FCC Transmittal, or whose intrastate access tariff, the filing company will be mirroring, concurring in, or adopting (e.g., "[Company Name] is mirroring/concurring in/adopting the interstate [intrastate] switched and special access tariff [Tr. #] of [Company Name OR Filing Entity Name]: Tariff F.C.C. No. # [Tr. #] or [Tariff I.U.R.C. No. #], subject to certain exceptions, as shown clearly in the intrastate access tariff that is the subject of the 30-Day Filing."
  - Contact information for the filing company or entity regarding this filing, including the following for each person to be contacted: name, telephone number, mailing address, and either an email address or a fax number.
- Please leave the effective date blank on any 30-day filings. The effective date will be stamped by the Commission after approval of the tariff changes under 170 IAC 1-6-8.
- If a filing contains any intrastate exceptions, the **entire** filing will be treated as a 30-day filing, even if the remainder of the filing would otherwise be treated as an instant mirroring filing.
- **Do NOT attach any Eligible Recovery or CAF-ICC support certification statements to 30-day filings. (Carriers filing 30-day filings should still submit their certification statements to the IURC Communications Division separately.)**

### **Additional Instructions for CLECs**

As noted earlier, "The benchmark rate for a CLEC's switched exchange access services will be the rate charged for similar services by the competing ILEC. If an ILEC to which a CLEC benchmarks its rates, pursuant to this section, lowers the rate to which a CLEC benchmarks, the CLEC must revise its rates to the lower level within 15 days of the effective date of the lowered ILEC rate." (47

CFR 61.26(c)). This may affect the date by which some CLECs are able to make their intrastate access tariff filings with the Commission.

### **Additional Instructions for RLECs**

**General.** It is assumed that each RLEC will either concur in West Point’s intrastate access tariff (perhaps with exceptions) or another tariff or file its own intrastate access tariff (that will, presumably, mirror, concur in, or adopt an interstate access tariff – again, perhaps with some exceptions). **Any intrastate exceptions to the access tariff you mirror, concur in, or adopt will require you to file a 30-day filing to reflect and incorporate those exceptions.**

Impact of the FCC-mandated reductions in your authorized interstate rate of return. As parties are aware, “On March 30, 2016, the [FCC] released the *Rate-of-Return Reform Order*, which, among other things, represcribed the authorized rate of return from 11.25 percent to 9.75 percent. The rate of return is a key input in the rate-of-return revenue requirement calculation, which is the basis for a rate-of-return [ILEC’s] common line and special access rates. In addition, this requirement may affect decisions on mirroring and on whether there is a need for any intrastate exceptions, for certain services. Beginning July 1, 2016, the current 11.25 percent rate of return will be reduced by 25 basis points per year until July 1, 2021, when it arrives at the 9.75 percent rate of return.”<sup>10</sup> The FCC went on to say, “In order to implement the annual rate of return reductions contemplated by the *Rate-of-Return Reform Order* beginning July 1, 2016, all rate-of-return incumbent LECs will be required to file access service tariff revisions each year reflecting the revised rate of return.”<sup>11</sup> This is true even if an individual rate-of-return carrier has historically filed an interstate access service tariff only in odd-numbered years.<sup>12</sup>

To the extent the represcription of the authorized interstate rate of return necessitates any modifications to the intrastate filing requirements and procedures discussed in this guidance letter, Commission staff will provide additional information for rate-of-return ILECs when such information becomes available. In that regard, please be aware that the Commission is engaged in ongoing discussions with TDS, INECA, JSI, and several individual rate-of-return carriers about potential effects of the mandatory reduction in the authorized interstate rate of return on intrastate access tariffs in Indiana. In the meantime, the Commission encourages individual Indiana RLECs to engage in similar discussions on their own, as well.

### **FCC-mandated Eligible Recovery and CAF-ICC Certification Statements to Be Filed at the IURC**

The FCC requires both price cap carriers and rate-of-return carriers to certify to state commissions that they are “not seeking any duplicative recovery in the state jurisdiction for

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<sup>10</sup> *In the Matter of Material to be Filed in Support of 2016 Annual Access Tariff Filings*, WC Docket No. 16-71, at para. 3, Order (DA 16-399, rel. April 13, 2016).

<sup>11</sup> *In the Matter of Material to be Filed in Support of 2016 Annual Access Tariff Filings*, WC Docket No. 16-71, at para. 4, Order (DA 16-399, rel. April 13, 2016).

<sup>12</sup> 47 CFR § 61.39; *In the Matter of Material to be Filed in Support of 2016 Annual Access Tariff Filings*, WC Docket No. 16-71, at para. 5, Order (DA 16-399, rel. April 13, 2016). *See, also*, 47 CFR § 61.38; *In the Matter of Material to be Filed in Support of 2016 Annual Access Tariff Filings*, WC Docket No. 16-71, at para. 4, Order (DA 16-399, rel. April 13, 2016).

any Eligible Recovery subject to the [FCC's authorized] recovery mechanism.”<sup>13</sup> Both price cap carriers and rate-of-return carriers that are eligible and elect to receive CAF-ICC support are also required to certify to state commissions that they have complied with applicable FCC requirements related to eligible recovery and the access recovery charge (ARC) and are eligible to receive CAF-ICC support.<sup>14</sup>

Please include your eligible recovery and CAF-ICC certification statements as attachments to the cover letter(s) for your respective intrastate access tariff instant mirroring filing(s) or your letter(s) of concurrence (e.g., an RLEC letter of concurrence in the West Point intrastate access tariff). **Do NOT attach certification statements to 30-day filings. (Carriers filing 30-day filings should still submit their certification statements separately to the IURC Communications Division.)**

**Notwithstanding the provisions of 47 CFR §§ 54.304(c)(1) or (d)(1), or of any other FCC regulations, please do not include any confidential data or materials in your intrastate access tariff filings or certification statements. In the event that staff or the Commission subsequently requires Indiana local exchange carriers to file or submit access tariff- or certification-related data or materials it believes should be afforded confidential treatment, specific instructions will be issued to that effect, consistent with appropriate legal requirements regarding confidentiality.**

**\*\*\*All filings and notices addressed in this letter should be sent to:**

Indiana Utility Regulatory Commission  
Communications Division  
Attn: Brittany Webb – Tariff Administrator  
101 W. Washington Street, Suite 1500E  
Indianapolis, IN 46204  
(317) 232-5559  
[brwebb@urc.in.gov](mailto:brwebb@urc.in.gov)

<sup>13</sup> For price cap carriers, *see*, 47 CFR §51.915(d)(3). For rate-of-return carriers, *see*, 47 CFR § 51.917(d)(vii). The underlying prohibitions against duplicative recovery are set forth at 51.915(d)(1)(viii)(2) and 51.917(d)(1)(vii) for price cap and rate-of-return carriers, respectively.

<sup>14</sup> For price cap carriers, *see*, 47 CFR §§ 54.304(c) & 51.915(f)(6). For rate-of-return carriers, *see*, 47 CFR §§ 54.304(d) & 51.917(f)(3).