

For Official Use

DAFFE/CLP/WP2/WD(2001)37



Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

15-Oct-2001

English text only

**DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS
COMMITTEE ON COMPETITION LAW AND POLICY**

**DAFFE/CLP/WP2/WD(2001)37
For Official Use**

Working Party No. 2 on Competition and Regulation

ACCESS PRICING (with a focus on telecommunications)

-- United States --

This document is submitted by the Delegation of the United States to the Working Party No. 2 FOR DISCUSSION at its next meeting on 15 October 2001.

JT00114538

Document complet disponible sur OLIS dans son format d'origine
Complete document available on OLIS in its original format

English text only

OVERVIEW OF THE REGULATION OF PRICING FOR ACCESS AND INTERCONNECTION

United States

Introduction

1. This paper discusses regulatory pricing of various access modes available in the United States.¹ Although the legal regime governing access offers new entrants a broad array of options for use of local facilities, the regulations are very complex, with different modes of access and different pricing available

1. Access Available to Competitive Local Exchange Providers

forward-looking approach attempts to determine what it would cost today to replace the functions of an

interexchange carriers. The FCC believes that in order to maintain low rates for telephone service, access charges have generally exceeded the forward-looking costs.¹⁷

16. Subsequently, the FCC undertook several proceedings to reform access charges. In the Price Cap proceeding, the Commission replaced the traditional rate of return system with an approach that established ranges of prices that could be charged for baskets of services. These prices would be adjusted periodically based on a prescribed factor that would adjust prices to account for changes in productivity.¹⁸ Following passage of the 1996 Act, the FCC also began proceedings to reform the rate structure of switched access charges.¹⁹ There were two main purposes of this proceeding: to consider ways to reduce the subsidies that were inherent in the existing access charge rate structure that recovered fixed costs through usage based charges and to permit the exchange carriers more pricing flexibility in light of increased competition.

17. As part of its program to implement the competitive policies of the 1996 Act, the FCC also initiated a proceeding to examine the rate levels of access charges. In May 1997, the FCC decided that, in the first instance, it would allow market forces to drive interstate access charges to economic cost. As a back-stop, however, the Commission ordered price-cap ILECs to file forward-looking economic cost studies on or before February 8, 2001.²⁰

18. The FCC has recently also adopted policies to govern the charges that new CLECs could levy upon the interexchange carriers for originating and terminating their calls.²¹ This proceeding was partly in response to complaints that CLECs were imposing terminating access charges on interexchange carriers that exceeded the rates charged by the incumbent LECs.

19. Finally, the FCC has requested comment on proposals to develop a regime for unifying all regulated forms of intercarrier compensation. A principal focus of these proposals would be to substitute

packet-switched network to provide a broadband connection to the Internet over the same loop that is used

NOTES

1. This discussion refers to the categories of “one-way” and “two-way” access described in the Working Party No. 2 Background Note, *see generally* Organization for Economic Co-operation and Development, Working Party No. 2 on Competition and Regulation, *Access Pricing: Theory and Application To Telecommunications* (2001), but such distinctions do not correspond precisely to conditions in the United States.
2. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified as amended in scattered sections of 47 U.S.C.).
3. 47 U.S.C. §§ 251(a)(1) & (c)(2).
4. *Id.* § 251(b)(5).
5. *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*

14. *Iowa Utilities Bd. v. FCC*, 219 F.3d 744 (8th Cir. 2000), *cert granted sub nom. Verizon Communications, Inc. v. FCC*, -- U.S. --, 121 S. Ct. 877 (Jan. 22, 2001) (No. 00-511).
15. *Association of Communications Enterprises v. FCC*, 253 F.3d 29 (D.C. Cir. 2001).
16. The FCC regulates interstate access charges pursuant to Section 201 of the Communications Act. *See generally* 47 C.F.R. Part 69.
17. Intercarrier NPRM ¶ 7. *See In re: Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776 (1997) (“*Universal Service Order*”).
18. *See In re: Price Cap Performance Review for Local Exchange Carriers*, Fourth Report and Order, 12 FCC Rcd 16,642 (1997), *rev'd in part, United States Tel. Ass'n. v. FCC*, 188 F.3d 521 (D.C. Cir. 1999).
19. *In re: Access Charge Reform*, First Report and Order, 12 FCC Rcd 15,982 (1997) (“*Access Charge Reform*”); *see also* Intercarrier NPRM