Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 600 feet upstream of Allen Road	*459
Just upstream of Jarvis Road	*507
Approximately 2,100 feet upstream of Jarvis Road	*527
Sandy Creek West Tributary:	
At confluence with Sandy Creek	*513
Approximately 100 feet upstream of Jarvis Road	*552
Approximately 2,800 feet upstream of Jarvis Road	*576
Glaize Creek:	
Just downstream of Moss Hollow Road	*438
Just upstream of Chasteen Lane	*445
Just downstream of Old Lemay Ferry Road	*512
Approximately 1,500 feet upstream of Quarry Road	*570
Moss Hollow Creek:	
Approximately 360 feet downstream of Moss Hollow Road	*438
Just upstream of Kentucky Road	*523
Approximately 120 feet upstream of Upper Moss Hollow Road	*544
Kneff Road Tributary:	
Approximately 100 feet downstream of County Highway M	*465
Approximately 100 feet upstream of Kneff Farm Road	*512
Just upstream of Old Lemay Ferry Road	*547
Approximately 1,050 feet upstream of Dry Fork Road	*612
Old Lemay Ferry Road Tributary:	
At confluence with Glaize Creek	*511
Just downstream of Wedde Road	*565
Just upstream of Old Lemay Ferry Road (first crossing)	*633
Approximately 2,500 feet upstream of Old Lemay Ferry Road (upstreammost crossing)	*685
Dutch Creek:	
Approximately 200 feet upstream of Little Dutch Creek Road	*468
Approximately 200 feet upstream of Eime Road	*530
Approximately 4,250 feet upstream of Eime Road	*571
Rock Creek:	
Just upstream of Old Lemay Ferry Road	*484
Just upstream of Lions Den Road	*496
Just upstream of Old State Highway 21	*577
Just upstream of Rustic Trails Drive	*652
Approximately 3,300 feet upstream of Rustic Trails Drive	*686
Maps are available for inspection at the Highway Department, 725 Maple Street, Court House, Annex Building, Hillsboro, Missouri.	
Oklahoma	
Bethany (City), Oklahoma County (FEMA Docket No. 7106)	
Unnamed Tributary to North Canadian River:	
Approximately 500 feet upstream of the confluence with the North Canadian River, at the City of Bethany corporate limits	*1,249
Approximately 1,450 feet upstream of the confluence with the North Canadian River	*1,250
Maps are available for inspection at City Hall, City of Bethany, 6700 Northwest 36th Street, Bethany, Oklahoma.	
Payne County (Unincorporated Areas) (FEMA Docket No. 7103)	
Stillwater Creek:	
Approximately 4,300 feet upstream of Fairground Road	*853
Approximately 4,700 feet upstream of Brush Creek Road	*857
Approximately 270 feet upstream of Perkins Road	*861
Approximately 3,500 feet downstream of Range Road	*886
Approximately 1,400 feet downstream of the confluence with North Stillwater Creek	*893
Maps are available for inspection at the Payne County Conservation District, 800 East Sixth Street, Stillwater, Oklahoma.	
Tulsa County (Unincorporated Areas) (FEMA Docket No. 7106)	
Little Sand Creek:	
Approximately 2,000 feet above the confluence with the Arkansas River	*668
At 11th Street	*676
Approximately 225 feet upstream of U.S. Highway 64	*706
Approximately 4,325 feet upstream of U.S. Highway 64	*740
Approximately 5,575 feet upstream of U.S. Highway 64	*749
Sand Creek:	
Approximately 1,600 feet upstream of the confluence with the Arkansas River	*664
Approximately 600 feet upstream of U.S. Highway 64	*695
Approximately 3,700 feet upstream of U.S. Highway 64	*716
Approximately 4,800 feet upstream of U.S. Highway 64	*727
Maps are available for inspection at 500 South Denver, Room 312, Tulsa, Oklahoma.	
Texas	
Glen Rose (City) and Somervell County (Unincorporated Areas) (FEMA Docket No. 7106)	
Paluxy River:	
Approximately 2,450 feet downstream of Elm Street	*620
At Elm Street	*624
Just upstream of U.S. Highway 67	*644
Maps are available for inspection at Town Hall, 201 Vernon Street, Glen Rose, Texas.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: January 13, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–1489 Filed 1–19–95; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 69

[CC Docket No. 91–213; FCC 94–325]

Transport Rate Structure and Pricing

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission affirmed the interim transport rate structure, the method used to establish initial transport rates under the interim rate structure, and the price cap rules adopted to regulate future changes in transport rates. The Commission also clarified certain implementation procedures with respect to the interim transport rate structure and pricing rules. In doing so, the Commission resolved all the remaining issues raised on reconsideration in this proceeding.

EFFECTIVE DATE: February 21, 1995.

FOR FURTHER INFORMATION CONTACT: Matthew J. Harthun, (202) 418–1590 or David L. Sieradzki, (202) 418–1576, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Third Memorandum Opinion and Order on Reconsideration in CC Docket No. 91–213, adopted December 15, 1994, and released December 22, 1994. The complete text of this Third Memorandum Opinion and Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

Synopsis of Memorandum Opinion and Order

A. The Interim Rate Structure

1. The interim rate structure is a significant improvement over the ''equal charge'' rate structure. We believe that the interim rate structure is consistent with all three of our goals in this proceeding: (1) Encouraging efficient use of transport facilities by allowing pricing that reflects the way costs are incurred; (2) facilitating full and fair interexchange competition; and (3) avoiding interference with the development of interstate access competition. Having weighed the costs associated with an interim approach—namely, the effect on tandem competition and the delay in implementing a full cost-based rate structure—against the benefits associated with its balancing of our three public interest goals, we conclude that our cautious approach of adopting an interim rate structure and seeking comment on a long-term rate structure was a reasonable step towards a more cost-based transport rate structure.

2. We decline to hold open this proceeding, as suggested in the record. We conclude that we have had sufficient time to evaluate the interim restructure. We conclude, however, that continued monitoring of the effects of the interim transport rate structure would be in the public interest, and we delegate authority to the Chief, Common Carrier Bureau, to continue and refine the Bureau's transport monitoring program. With our affirmation of the interim transport rate structure, we retain our conclusions that: (1) non-Tier 1 local exchange carriers (LECs) are exempt from implementing the interim transport rate structure; (2) if such LECs provide entrance facilities, they must provide them on a flat-rated basis; and (3) such LECs must offer flat-rated direct-trunked transport upon receipt of a bona fide request.

B. Initial Benchmark Level and Permanent Rate Relationships

3. We affirm the benchmark used in setting the initial transport rates and our use of price cap rules to govern subsequent changes in the price cap LECs' transport rates.

4. *Adjusting the Benchmark or Applying It to Subsequent Rate Changes.* We decline to revise the benchmark used to establish initial transport rates or establish rigid rate relationships based on such a benchmark. We conclude that the small and medium interexchange carriers' (IXCs') suggested level of the benchmark lacks adequate cost justification. We continue to believe that special access rates provide a rational framework for establishing the initial transport rates.

5. Further, fixed rate relationships are not consistent with LEC price cap regulation. We believe that requiring permanent rate relationships between DS3, DS1, and tandem-switched transport rates would interfere with the efficient functioning of the market, and could retard long-distance price reductions, depress telecommunications usage, and inhibit economic growth. We reject the related recommendation to require the LECs to reset their tandem-switched transport rates annually based on DS3 and DS1 direct-trunked transport rates, weighted based on updated fiber/copper ratios. We continue to believe that price cap rules, rather than required annual adjustments guided by cost factors, are the most appropriate means, in an increasingly competitive access market, to govern ongoing changes in rates for LEC services, including tandem-switched transport.

6. We also decline to require the LECs to place uniform overhead loadings on their transport rates as a means of constraining changes to the price relationships between DS3 and DS1 rates. We conclude that even if it were demonstrated that different transport services are ''like services,'' differences between the levels of overhead loadings recovered in those rates would not necessarily constitute unreasonable discrimination. (We note that allegations that specific rates of individual carriers are discriminatory are not before us in this proceeding.)

7. While we continue to believe that a certain level of pricing flexibility is needed to enable the LECs to meet increasing competition in the local access market, we also recognize that without sufficient regulatory constraints the LECs could price their transport services anti-competitively. We have addressed this concern through special safeguards in the price cap system: placing DS3 flat-rated transport, DS1 flat-rated transport, and tandem-switched transport in separate service categories and subcategories, and retaining the +2% upper pricing band for tandem-switched transport services. We continue to believe that this approach best balances our concerns about potential anti-competitive LEC pricing and the LECs' need for some pricing flexibility in the face of increased competition, and thus, best promotes our public interest goals. We note, however, that this decision does not limit our discretion in addressing the separate record developed in our pending LEC Price Cap Review proceeding (Price Cap Performance Review for Local Exchange Carriers, Notice of Proposed Rulemaking, 59 FR 12888 (March 18, 1994)).

8. *Applying the Benchmark Separately to Different Transport Segments.* The method we used to create the benchmark was based on a typical configuration of LEC transport offerings, using rates from analogous special access offerings—one IXCs would likely use to purchase transport services, and competitive access providers would likely use to offer services that could be substituted for both entrance facilities and interoffice facilities. We decline to require the LECs to satisfy separate benchmark requirements for entrance facilities and for direct-trunked transport.

9. *Methodology for LECs with Rate Ratios Below the Benchmark.* We decline to revise the method by which those LECs with September 1992 special access rates below the 9.6 to 1 benchmark established initial transport rates.

C. Price Cap Service Categories and Price Bands

1. Tandem Switching

10. We decline to place tandem switching and local switching into the same price cap basket, whether that basket is the traffic sensitive basket or a new ''switching'' basket. We note also that this decision does not limit our discretion in addressing the separate record developed in the *LEC Price Cap Review* proceeding. We see no reason to treat tandem switching differently from tandem-switched transport transmission elements, and we retain the tandem switch element in the tandem-switched transport service category.

11. We also reject SW Bell's proposal to place the interconnection charge into a separate ''public policy'' basket. Until

we have completed our evaluation of what underlying costs are recovered in the interconnection charge and how the interconnection charge revenues should be reallocated or otherwise disposed of, we conclude that the interconnection charge service category should be included in the trunking basket.

12. Finally, we decline to price the tandem switching element incrementally, or to eliminate that element. We conclude that such measures would not be in the public interest.

2. Price Cap Service Categories and Pricing Bands

13. In our 1994 *Second Transport Order (Transport Rate Structure and Pricing,* Second Report and Order, 59 FR 10300 (March 4, 1994)), we specifically placed tandem-switched transport, DS1, and DS3 flat-rated services into separate service categories and service subcategories in order to prevent the LECs from offsetting lower rates for services subject to more competition with higher rates for less competitive services. We concluded in that order, and continue to believe, that separate price cap service categories and pricing bands are sufficient to protect against potential anti-competitive behavior. Accordingly, we decline to eliminate the separate service categories and subcategories that apply to transport services.

14. We also decline to put entrance facilities and interoffice facilities into separate service categories. No sufficient reason exists to place entrance facilities and interoffice facilities in separate service categories and to restrict the LECs' pricing flexibility between these services. We decline to eliminate the limited upward pricing flexibility permitted for tandem-switched transport.

D. The Interconnection Charge

1. Mid-Course Adjustment to the Interconnection Charge

15. We clarify that the period to be used in calculating the amount of any mid-course adjustment to the interconnection charge is from the effective date of the initial transport tariffs (December 30, 1993) through December 31, 1994. This calculation will define the amount that will prospectively establish the appropriate level for the interconnection charge. We further clarify that the mid-course adjustment to the interconnection charge permits recoupment of under-recovered interconnection charge revenues from December 30, 1993 to the effective date of the tariff implementing the mid-course adjustment. We intended that the interconnection charge yield only an initial rate restructure that was revenue-neutral. We interpret ''initial'' to apply to the first year after the implementation of the new rates. Subsequent changes to the interconnection charge will be governed by the price cap rules. LECs must file requests for mid-course adjustments to the interconnection charge no later than March 31, 1995. We delegate authority to the Chief, Common Carrier Bureau, to specify the format and content of such filings.

16. The mid-course adjustment to the interconnection charge, should any LEC choose to avail itself of the adjustment, does not constitute retroactive ratemaking. The adjustment will affect only rates in effect after the date of the adjustment. It will not retroactively change the interconnection charge rates that customers already paid before the adjustment date. Nor will the adjustment require recoupment of revenues from customers or refunds to customers without suspension and an accounting order pursuant to Section 204(a) of the Communications Act, 47 U.S.C. 204(a).

17. That the mid-course adjustment will take into account revenues the LECs under-recovered before the date of the adjustment does not convert the adjustment into retroactive ratemaking. All interested parties were on notice prior to the effective date of the transport tariffs that the interconnection charge was subject to adjustment and that the purpose of that adjustment was to achieve more fully our objective of revenue neutrality during the transition from the old to the new rate structure. Therefore, any adjustment at a later date merely constitutes the implementation of a prospectively established obligation affecting the LECs and all access customers. The prior notice that the interconnection charge would be subject to adjustment, and the unique nature of the interconnection charge mid-course adjustment in the context of the major, Commission-required transport rate restructure, distinguish this case from cases in which a carrier generally seeks to adjust its rates prospectively to recoup costs from an earlier period. We do not address whether or not such cases would constitute retroactive ratemaking.

2. Burden of Proof for the Mid-Course Adjustment

18. We decline to modify the burden of proof associated with the mid-course adjustment. The LECs have the burden of demonstrating a significant under-recovery of revenues that justifies an adjustment to the interconnection charge. We affirm our determination that the LECs must prove the extent to which they have not been able to reuse facilities no longer needed after IXC reconfigurations.

19. We clarify, however, that the burden of proving that facilities could not be reused does not apply to facilities that are reused as a result of the transport restructure itself. For example, if a customer reconfigures its LEC entrance facility from 25 DS1 circuits to a lower-priced DS3 circuit running over the same physical facility, the ''reuse'' of that facility in providing DS3 service instead of DS1 service is not excluded from the computation of the interconnection charge. In such a case, the interconnection charge may reasonably include recovery of the difference between the price of the 25 DS1 circuits and the price of the DS3 circuit. The requirement that LECs show that they have been unable to reuse facilities applies to situations in which facilities are no longer used for interstate switched transport, and the LECs have not been able to put the facilities to any alternative uses. For example, if the customer terminates its use of the 25 DS1 circuits because, due to the transport restructure, it has decided to consolidate its points of presence, and the LEC is unable to put the entrance facility to any alternative uses in its network, then the LEC may reasonably include recovery of the lost DS1 revenues in the interconnection charge.

20. We also affirm our determination that the LECs should have the burden of proving that demand losses result from the transport rate restructure rather than competition. While we intend that the transport rate restructure be revenue-neutral to the LECs, competition in the provision of switched transport is likely to result in revenue losses to the LECs. The interconnection charge should not be used to shield LECs from the risks of revenue loss associated with growing competition.

3. Waiver of Non-Recurring Charges

21. We decline to modify the scope of the NRC waiver. As a general matter, we conclude that to broaden the scope of the NRC waiver to include network reconfigurations not related to the rate restructure would be unfair to the LECs and beyond the scope of this proceeding. Specifically, we conclude that six months was ample time for the mandated waiver to be held open, especially since IXCs had more than one year to plan any network reconfigurations before the new rate structure became effective. We reject

CompTel's recommendation that we require waiver of termination penalties in contracts for entrance facilities because we conclude that such a waiver would deny the LECs recovery of capital expenditures made specifically for a particular IXC. We also decline to adopt AT&T's proposal to require LECs to waive NRCs for all IXC consolidations because it is moot and beyond the scope of this proceeding. Moreover, we decline to restrict the NRC waiver to once per trunk, as USTA suggests, because, in light of the limited time period for which the waiver was available, we have no reason to believe that the significant churn envisioned by USTA occurred.

22. Finally, we conclude that, in their mid-course adjustment of the interconnection charge, the LECs are entitled, upon a proper showing, to take into account NRCs waived pursuant to the Commission's requirement. Therefore, if a LEC can demonstrate that, as a result of the Commission-mandated waiver of NRCs, the transport restructure yielded revenues significantly less than the amount it realized previously, in part, because the number of NRCs charged during the year fell short of the demand level used in calculating the initial interconnection charge, the LEC may seek a mid-course adjustment on this basis. We conclude that the Commission has statutory authority to allow this type of recovery through the interconnection charge because it is necessary to maintain revenue neutrality and because carrying out such an adjustment does not constitute retroactive ratemaking.

E. Miscellaneous

1. Pricing Flexibility

23. We reaffirm that the LECs may offer term and volume discounts for switched transport services and may implement density zone pricing of switched transport, as set forth in the Switched Transport Expanded Interconnection Order (Expanded Interconnection with Local Telephone Company Facilities, Second Report and Order and Third Notice of Proposed Rulemaking, 58 FR 48756 (September 17, 1993)), and as reaffirmed and slightly modified by the Expanded Interconnection Remand Order, (Expanded Interconnection with Local Telephone Company Facilities, Memorandum Opinion and Order, 59 FR 38922 (August 1, 1994)). We decided these issues in the expanded interconnection proceeding, based on a separate and complete record. The present record, however, does not refute the need for this additional pricing flexibility in an increasingly competitive access market.

24. With respect to volume and term discounts, we clarify that the rules we adopted in the expanded interconnection proceeding regarding discounted transport offerings (47 U.S.C. 69.110(f)–(h), 69.111(i)–(k), and 69.112(f)–(h)) contemplate only volume discounts (reduced per-unit prices for a particular number of units of service) and term discounts (reduced per-unit prices for a specified service for a particular period of time). These rules do not provide for percentage or growth discounts—reduced per-unit prices for customers that commit to purchase a certain percentage of their past usage from a LEC, or reduced prices based on growth in traffic placed over a LEC's network. With respect to density zone pricing, we reaffirm our requirement that the price subindexes (i.e., the upper and lower pricing bands—not the rate levels) be the same in each zone when a LEC introduces density zone pricing in a study area.

2. Intermediate Hubbing and Tandem-Switched Transport

25. We decline to adopt Sprint's proposal to modify the definition of ''tandem-switched transport'' to include service between any customer-designated telephone company office and an end office, thus permitting IXCs to purchase (1) dedicated facilities to an intermediate hub that is not collocated at the serving wire center or at the tandem office; and (2) tandem-switched transport from that intermediate hub to an end office, rated based on the distance between the hub and the end offices without regard for the actual location of the intervening tandem office. We have already adopted rules that enable tandem-switched transport users to obtain efficiencies through intermediate hubbing. Sprint's proposal would substantially change the transport rate structure, and would lead to the pricing of more services in a manner that does not reflect the way facilities are deployed. Given our doubts about the efficiency benefits of Sprint's request and the fact that the existing rules already provide reasonable opportunities for tandem-switched transport users to compete with direct-trunked transport users, we decline to amend our prior decisions.

3. Meet Point Billing

26. We conclude that specific methods for assessing, and avoiding double billing for, the tandem charge and the interconnection charge under meet point billing arrangements are better left to the individual parties involved, given the wide variety and diversity of such arrangements. If such issues cannot be settled among the parties, we can address them in the future in the tariff process or pursuant to specific complaints filed with the Commission.

4. Prohibition on Ratcheting

27. We continue to believe that ratcheting by interconnectors benefits access customers and competition, and therefore, decline to modify our rules with respect to ratcheting.

Ordering Clauses

28. Accordingly, it is ordered, pursuant to Sections 1, 4(i) and (j), 201–205, 218, 220, 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 201–205, 218, 220, 403, and 405, that the petitions for reconsideration and clarification concerning the rate structure and pricing of local transport are denied, except to the extent indicated herein.

29. It is further ordered that the decisions and policies adopted herein shall be effective thirty days after the date of publication in the **Federal Register**.

30. It is further ordered that WilTel's Motion for Acceptance of Late-Filed Opposition to Petition for Reconsideration is granted.

31. It is further ordered that authority is delegated to the Chief, Common Carrier Bureau, as set forth herein.

List of Subjects in 47 CFR Part 61 and 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–1358 Filed 1–19–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 950104001–5001–01; I.D. 092694A]

RIN 0648–AF02

Groundfish of the Bering Sea and Aleutian Island Area; Amendment 21a

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.