

paragraph (a) of this section, to an existing operating or other agreement with a foreign carrier to provide switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point, and the amendment relates to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, the carrier must also file with the International Bureau a modification request under §64.1001 of this chapter. The amendment to the operating or other agreement cannot become effective until the modification request has been granted under §64.1001(e) of this chapter.

(f) *Confidential treatment.* (1) A carrier providing service on an international route that is exempt from the international settlements policy under paragraph (e)(3) of this section, but that is otherwise required by paragraphs (a) and (b) of this section to file a contract covering service on that route with the Commission, may request confidential treatment under §0.457 of this Chapter for the rates, terms and conditions that govern the settlement of U.S. international traffic.

(2) Carriers requesting confidential treatment under this paragraph must include the information specified in §64.1001(c) of this Chapter. Such filings shall be made with the Commission, with a copy to the Chief, International Bureau. The transmittal letter accompanying the confidential filing shall clearly identify the filing as responsive to §43.51(f).

NOTE 1 TO §43.51: For purposes of this section, *affiliated* and *foreign carrier* are defined in §63.09 of this chapter.

NOTE 2 TO §43.51: To the extent that a foreign government provides telecommunications services directly through a governmental organization, body or agency, it shall be treated as a foreign carrier for the purposes of this section.

NOTE 3 TO §43.51: Carriers shall rely on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points for purposes of determining which of their foreign carrier contracts are subject to the contract filing requirements set forth in this section. The Commission's list of foreign

carriers that do not qualify for the presumption that they lack market power in particular foreign points is available from the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>. The Commission will include on the list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points any foreign carrier that has 50 percent or more market share in the international transport or local access markets of a foreign point. A party that seeks to remove such a carrier from the Commission's list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier lacks 50 percent market share in the international transport and local access markets on the foreign end of the route or that it nevertheless lacks sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market. A party that seeks to add a carrier to the Commission's list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier has 50 percent or more market share in the international transport or local access markets on the foreign end of the route or that it nevertheless has sufficient market power to affect competition adversely in the U.S. market.

NOTE 4 TO §43.51: The Commission's list of international routes exempted from the international settlements policy is available on the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

[66 FR 16879, Mar. 28, 2001, as amended at 69 FR 23153, Apr. 28, 2004]

#### **§43.53 Reports regarding division of international toll communication charges.**

(a) Each communication common carrier engaged directly in the transmission or reception of telegraph communications between the continental United States and any foreign country (other than one to which the domestic word-count applies) shall file a report with the Commission within thirty (30) days of the date of any arrangement concerning the division of the total telegraph charges on such communications other than transiting. A carrier first becoming subject to the provisions of this section must, within thirty (30) days thereafter, file with the Commission a report covering any such existing arrangements.

(b) In the event that any change is made which affects data previously filed, a revised page incorporating such change or changes must be filed with

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the Commission not later than thirty (30) days from the date the change is made, provided, however, that any change in the amount of foreign participation in charges for outbound communications or in the respondent's participation in charges for inbound communications must be filed not later than thirty (30) days from the date the change is agreed upon.

(c) A single copy of each such report must be filed in a format that contains a clear, concise and definite statement of the arrangements.

[51 FR 45891, Dec. 23, 1986, as amended at 52 FR 8453, Mar. 18, 1987]

**§ 43.61 Reports of international telecommunications traffic.**

(a) Each common carrier engaged in providing international telecommunications service between the area comprising the continental United States, Alaska, Hawaii, and off-shore U.S. points and any country or point outside that area shall file a report with the Commission not later than July 31 of each year for service actually provided in the preceding calendar year.

(1) The information contained in the reports shall include actual traffic and revenue data for each and every service provided by a common carrier, divided among service billed in the United States, service billed outside the United States, and service transiting the United States.

(2) Each common carrier shall submit a revised report by October 31 identifying and correcting any inaccuracies included in the annual report exceeding five percent of the reported figure.

(3) The information required under this section shall be furnished in conformance with the instructions and reporting requirements prepared under the direction of the Chief, Wireline Competition Bureau, prepared and published as a manual, in consultation and coordination with the Chief, International Bureau.

(b) *Quarterly Traffic Reports.* (1) Each common carrier engaged in providing international telecommunications service between the area comprising the continental United States, Alaska, Hawaii, and off-shore U.S. points and any country or point outside that area shall file with the Commission, in addi-

tion to the report required by paragraph (a) of this section, actual traffic and revenue data for each calendar quarter in which the carrier's quarterly minutes exceed the corresponding minutes for all carriers by one or more of the following tests:

(i) The carrier's aggregate minutes of facilities-based or facilities resale switched telephone traffic for service billed in the United States are greater than 1.0 percent of the total of such minutes of international traffic for all U.S. carriers published in the Commission's most recent § 43.61 annual report of international telecommunications traffic;

(ii) The carrier's aggregate minutes of facilities-based or facilities resale switched telephone traffic for service billed outside the United States are greater than 1.0 percent of the total of such minutes of international traffic for all U.S. carriers published in the Commission's most recent § 43.61 annual report of international telecommunications traffic;

(iii) The carrier's aggregate minutes of facilities-based or facilities switched telephone traffic for service billed in the United States for any foreign country are greater than 2.5 percent of the total of such minutes of international traffic for that country for all U.S. carriers published in the Commission's most recent § 43.61 annual report of international telecommunications traffic; or

(iv) The carrier's aggregate minutes of facilities-based or facilities resale switched telephone traffic for service billed outside the United States for any foreign country are greater than 2.5 percent of the total of such minutes of international traffic for that country for all U.S. carriers published in the Commission's most recent § 43.61 annual report of international telecommunications traffic.

(2) Except as provided in this paragraph, the quarterly reports required by paragraph (b)(1) of this section shall be filed in the same format as, and in conformance with, the filing procedures for the annual reports required by paragraph (a) of this section.

(i) Carriers filing quarterly reports shall include in those reports only their provision of switched, facilities-