PUBLIC NOTICE

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2012 BIENNIAL REVIEW OF TELECOMMUNICATIONS REGULATIONS

CG Docket No. 13-29, EB Docket No. 13-35, IB Docket No. 13-30, ET Docket No. 13-36, PS Docket No. 13-31, WT Docket No. 13-32, WC Docket No. 13-33

The bureaus and offices conducting the Federal Communications Commission's 2012 biennial review of telecommunications regulations in accordance with Section 11(a) of the Communications Act of 1934, as amended, have completed their reviews. Section 11(a) requires the Commission to review every two years all regulations issued under the Communications Act that apply to the operations or activities of any provider of telecommunications service and to determine whether any such regulation "is no longer necessary in the public interest as the result of meaningful economic competition between providers of such [telecommunications] service." *See* 47 U.S.C. § 161(a). This Public Notice summarizes the bureaus' and offices' determinations and recommendations.

On February 5, 2013, the Commission issued a Public Notice seeking comment on whether any rules subject to Section 11(a) should be repealed or modified as the result of meaningful economic competition between providers of telecommunications service.[1] Staff considered the public comments, as well as developments in the marketplace, in deciding whether to recommend repeal or modification of rules subject to the biennial review requirement.

Independent of the requirements of Section 11, some of the bureaus recommended that the Commission consider modifying or repealing various rules that they determined may be unnecessary in the public interest for reasons other than those related to competitive developments that fall within the scope of Section 11 review. The Commission will consider those recommendations in separate proceedings.

The bureaus and offices conducting the Section 11(a) review make the following recommendations:

Wireline Competition Bureau (WCB)

WCB reviewed all rules administered by WCB in 47 C.F.R. Parts 1, 32, 36, 42, 43, 51, 52, 53, 54, 59, 61, 63, 64, 65, 68, and 69, as well as the comments addressing those rules filed in response to the Commission's request for public comments in this proceeding. WCB notes that many of the rules subject

[1] Public Notice, *Commission Seeks Public Comment in 2012 Biennial Review of Telecommunications Regulations*, FCC 13-17, 28 FCC Rcd 1556 (2013).

to our biennial review process and discussed in the comments filed in this docket have already been modified or addressed in the context of the Commission's recent orders ruling on a wide-ranging forbearance petition filed by the United States Telecom Association (USTelecom),[2] discussed below. Other rules are already the subject of pending rulemaking proceedings.[3] Based on its Section 11 review, WCB concludes that none of the above rules is "no longer necessary in the public interest as the result of meaningful economic competition between providers of telecommunications service" except potentially for sections 1.774(f); 51.221, 51.501-51.515, 51.701-51.715; and 52.15(g)(2)(i); 61.26, 61.41; 64.1601 65.301-65.305; 69.4, 69.104, 69.111, 69.112, 69.114, 69.115, 69.118, 69.124, 69.125, 69.129, 69.152, and 69.153, and Part 69, Subpart H, all of which are already the subject of pending rulemaking proceedings.[4]

Part 1, Subpart V

In comments filed in this proceeding, Verizon and Verizon Wireless (Verizon) reassert their arguments from the 2010 biennial review that the Commission's Form 477 broadband data collection (sections 1.7001-1.7002) should be as streamlined as possible and should not duplicate data the Commission can obtain from other sources.[5] Verizon argues that, because "much of the information that is being collected on geographic coverage and transfer rates on the Form 477 may soon be available to the Commission in even more detail through the BDIA state broadband mapping program…the Commission should consider to what extent the census-track [sic] level data on the Form 477 is still necessary."[6] Verizon requests that Form 477 be redesigned to incorporate an "all-state" filing for providers who serve multiple states.[7]

The staff notes that this proposed rule change was within the scope of the *Form 477 Modernization* proceeding[8] and that Verizon made similar comments in the record of that proceeding.[9]

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[2] *See* Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, WC Docket No. 12-61 (filed Feb. 16, 2012) (USTelecom Petition); *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61, Order, 28 FCC Rcd 2605 (2013) (*USTelecom Forbearance Short Order*); *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61, Memorandum Opinion and Order, Report and Order, Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, FCC 13-69 (rel. May 17, 2013) (*USTelecom Forbearance Long Order*).

[3] *See Additional Rules Under Review in Ongoing Rulemakings*, *infra,* at pp. 9-10.

[4] *See* note 3 *supra*.

[5] *See* Comments of Verizon and Verizon Wireless, WC Docket No. 13-33 (filed March 6, 2013), Attach. B at 11-13 (Verizon Comments). Verizon's comments rely in substantial part on its filings in other proceedings, which are attached to its comments in this docket and incorporated by reference.

[6] *Id.* at 12.

[7] *Id.*

[8] *Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 11-10, 10-132, 08-190, 07-38, Notice of Proposed Rulemaking, 26 FCC Rcd 1508 (2011).

[9] Comments of Verizon and Verizon Wireless, WC Docket No. 11-10 (filed March 30, 2011).

The Commission released an Order on Form 477 Modernization in June 2013[10] and did not find that these rules are no longer necessary in the public interest as a result of meaningful economic competition. The Commission uses the Form 477 data to meet its statutory obligation to assess the state of broadband availability, to update its universal service policies, and to meet certain public safety obligations.[11] In addition, the Commission makes the data available to states, researchers, and the public to inform their own activities regarding voice and broadband networks and services.[12] Hence, competitive developments have not affected the need for this rule. We accordingly do not find that the rule is "no longer necessary in the public interest as the result of meaningful economic competition between providers of [telecommunications] service." However, the Commission agreed with Verizon's argument about allowing a single filing for providers serving multiple states, as the collection of deployment data through Form 477, which will begin in 2014, will allow providers serving multiple states to make a single, nationwide filing with the Commission for all of their deployment and subscription data.[13]

Part 32

In their 2012 biennial review comments, CenturyLink and Verizon advocate eliminating the continuing property record (CPR) requirements in Section 32.2000.[14] Although both parties argue for the elimination of CPR requirements for all carriers, their specific basis for elimination is that CPR rules are a vestige of rate-of-return regulation and no longer serve any purpose in price cap regulation.[15] Both parties' arguments are based on non-competitive factors. WCB notes that in the recent *USTelecom Forbearance Long Order*, the Commission granted forbearance to price-cap carriers from applying the CPR rules subject to certain conditions, finding that those rules were overly broad for purposes of regulating price cap carriers and not necessary to ensure just and reasonable rates.[16] The Commission declined, however, to eliminate the CPR rules for rate-of-return carriers, but recognized that continued application of those rules may be more burdensome than necessary and found it appropriate to refresh the record of an open rulemaking on these issues to consider whether it could make changes to the CPR rules to reduce the burden.[17] Based on its Section 11 review, WCB does not find that the CPR rules are "no longer necessary in the public interest as the result of meaningful economic competition between providers of [telecommunications] services," but notes that the Commission may revise those rules as they apply to rate-of-return carriers for other reasons in the pending rulemaking.

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[10] *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Report and Order, FCC 13-87 (rel. June 27, 2013).

[11] *Id.*, at para. 14.

[12] *Id*.

[13] *Id*., at para. 23.

[14] Comments of CenturyLink, WC Docket No. 13-33 (filed March 6, 2013) at 6-7 (CenturyLink Comments); Verizon Comments at 4.

[15] CenturyLink Comments at 6-7; Verizon Comments at 2-3; Comments of Verizon and Verizon Wireless, WC Docket No. 10-272 (filed January 31, 2011) at 5-6.

[16] *USTelecom Forbearance Long Order*, paras. 80-89.

[17] *USTelecom Forbearance Long Order*, paras. 90-92. On July 23, 2013, the Commission issued a Public Notice seeking comment on retention of CPR rules for rate-of-return carriers. *Parties Asked to Refresh the Record Regarding Property Records for Rate-of-Return Carriers*, Public Notice, DA 13-1617, released July 23, 2013.

CenturyLink also asserts that the Commission should eliminate the materiality threshold in Section 32.26 and should allow carriers to follow a materiality threshold consistent with GAAP, arguing that the current rule does not "reflect the competitive nature of the market."[18] WCB notes that the Commission concluded in the *USTelecom Forbearance Long Order* that forbearance from the Part 32 Uniform System of Accounts rules (of which Section 32.26 is included) is not warranted and that, on balance, the Part 32 rules enhance competition.[19] The Commission recognized, however, that "in certain respects, price cap regulation and our reform of universal service and intercarrier compensation have altered the manner in which accounting data may be used" and acknowledged that "further streamlining of our rules is likely appropriate."[20] The Commission stated its intention to "initiate a Notice of Proposed Rulemaking within 90 days and thereby conduct a comprehensive review of the Part 32 Uniform System of Accounts, as it applies to price cap carriers . . ." Additionally, the Commission specifically required price-cap carriers to continue to comply with the Part 32 Uniform System of Accounts rules and to provide Part 32 data on request by the Commission, as a condition of forbearance from the Cost Assignment Rules for price cap carriers.[21] Based on the Commission's overall determinations concerning Part 32, WCB does not find that the materiality threshold in Section 32.26 is "no longer necessary in the public interest as the result of meaningful economic competition between providers of [telecommunications] service," but notes that the Commission has proposed revising the rules for other reasons in the pending rulemaking proceeding**.**

Part 42

In its biennial review comments, Verizon incorporated prior comments filed in GN Docket No. 12-353 regarding the TDM-to-IP Evolution.[22] In those comments, Verizon states that "[t]he Commission should also eliminate the Part 42 recordkeeping requirements [specifically sections 42.4, 42.5, 42.7 and 42.10(a)], which require incumbent Local Exchange Carriers (ILECs) to maintain physical records or copies in obsolete formats."[23] The Commission considered these issues in the USTelecom Forbearance Petition proceeding[24] and granted forbearance from Section 42.4 (which requires each carrier to maintain a master index of the records it keeps), 42.5 (which governs how records may be reproduced), and 42.7 (the basic retention rule) because advances in technology have made these requirements outmoded and the rule does not reflect current practices.[25] Based on the Commission's actions, these rules no longer "apply" to telecommunications services within the meaning of Section 11 and, accordingly, WCB will not make a Section 11 determination with respect to them. With regard to section 42.10(a), in the *USTelecom Forbearance Long Order*, the Commission granted forbearance from application of section 42.10(a) for interexchange carriers (IXCs) that maintain an Internet website, subject to the condition that such IXCs maintain and make available on their websites the information about the rates, terms, and conditions of

[18] CenturyLink Comments at 7-8.

[19] *USTelecom Forbearance Long Order* at paras. 56-77.

[20] *USTelecom Forbearance Long Order*, para. 77.

[21] *Id.* at para. 43.

[22] Verizon Comments, Attach. A.

[23] Verizon Comments, Attach. A, App. A, at A-3.

[24] *See USTelecom Forbearance Long Order* at paras. 95-100.

[25] *Id.*

their services.[26] IXCs that do not maintain Internet websites are required to continue to make this information available at physical locations consistent with section 42.10(a).[27] WCB notes that the Commission found it in the public interest to modify/forbear from applying that rule and, based on its Section 11 review, WCB does not find that the remainder of the Part 42 rules are "no longer necessary as the result of meaningful economic competition between providers of [telecommunications] service."

Part 43

Verizon recommends that the Commission eliminate Section 43.21(c), which requires each miscellaneous common carrier with operating revenues exceeding the indexed revenue threshold to file annually a letter showing its operating revenues for that year and the value of its total communications plant at the end of that year.[28] Verizon stated that, "[w]ith the elimination of rate-of-return regulation, this rule…serves no regulatory purpose and is time-consuming and costly to carriers."[29] The Commission considered these issues in the USTelecom Forbearance Petition proceeding and granted forbearance from the requirement that carriers file operating revenues because carriers are filing equivalent information with the Commission in other contexts.[30] Based on the Commission's actions, this requirement no longer "applies" to telecommunications services within the meaning of Section 11 and, accordingly, WCB is not required to make a Section 11 determination with respect to it.

Also in the *USTelecom Forbearance Long Order*, the Commission granted forbearance to publicly traded carriers subject to the rule from the requirement in Section 43.21(c) that carriers file information regarding the value of their total communications plant.[31] Based on the Commission's actions, these rules no longer "apply" to telecommunications services provided by publicly traded carriers within the meaning of Section 11 and, accordingly, WCB is not required to make a Section 11 determination with respect to them. For those carriers subject to this rule that are not publicly traded, the Commission granted forbearance on condition that those carriers provide the value of total communications plant to the Commission in a timely manner if the Commission requests this information.[32] Based on its analysis under Section 11, WCB does not recommend further action in connection with these rules as they apply to carriers that are not publicly traded.

Part 51, Subpart D

The USTelecom Petition sought forbearance from Sections 51.325-51.335 of the Commission's rules, which govern notice of network changes.[33] Verizon filed comments in this biennial review

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[26] *Id.* at para. 98.

[27] *Id.*

[28] Verizon Comments, Att. A, App. A, at A-5.

[29] *Id.*

[30] *USTelecom Forbearance Long Order* at paras.113.

[31] 47 C.F.R. §43.21(c); *USTelecom Forbearance Long Order* at paras. 113-115.

[32] *Id.*

[33] USTelecom Petition at 56-59.

supporting modification or elimination of these rules.[34] In the *USTelecom Forbearance Long Order*, the Commission denied this portion of the forbearance request, finding that these rules ensure the widespread availability of network change information, which is an important factor in removing potential barriers to competition, and that USTelecom failed to demonstrate that forbearance from these rules would be in the public interest.[35] WCB does not find new facts or circumstances to reach a different conclusion here. WCB finds here that Sections 51.325-51.335 remain "necessary in the public interest," and therefore recommends that these rules be maintained in their current form at this time.

Additionally, the *USTelecom Forbearance Long Order* granted forbearance from application of the Equal Access Scripting Requirement (EA Scripting Requirement) to all ILECs that remain subject to the rule.[36] The EA Scripting Requirement is preserved by Section 251(g) of the Act, which requires that carriers provide wireline services in compliance with pre-existing equal access and non-discrimination requirements until the requirements are explicitly superseded by subsequent Commission action.[37] Based on the Commission's actions, this requirement no longer "applies" to telecommunications services within the meaning of Section 11 and, accordingly, WCB is not required to make a Section 11 determination with respect to this rule.

Part 54

In comments filed in this proceeding, Verizon states that the geographic scope and the range of responsibilities for eligible telecommunications carriers (ETCs) established by Sections 54.201-54.209 should be narrowed to reflect an increasingly competitive marketplace.[38] In particular, Verizon asserts that the Commission should cease requiring that ETCs serve areas for which the service provider does not receive Universal Service Fund (USF) support, and areas that are not profitable to serve and where consumers have alternatives.[39] Verizon also states that ETCs should be relieved of service obligations by removing their Lifeline obligations as a condition of ETC status.[40] Verizon maintains that Lifeline areas are now served by competitive wireless carriers, and that low-income households are increasingly moving to a wireless-only option.[41] WCB notes that these issues are under review in two current ongoing rulemakings, namely, the *Connect America Fund, et al.,* Report and Order and Further Notice of Proposed Rulemaking,[42] and the *Lifeline and Link Up Reform and Modernization, et al*, Report and Order and Further Notice of Proposed Rulemaking.[43] Because these rules are not purely based on competitive factors, WCB does not find that these rules are "no longer necessary in the public interest as a result of meaningful economic competition between providers of [telecommunications] services" at this time.

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[34] *See* Verizon at 3, Attach. A at 25-27, and Attach. C.

[35] *USTelecom Forbearance Long Order* at para. 124.

[36] *Id*. at paras. 16-17 and Appendix B.

[37] 47 U.S.C. § 251(g). Verizon filed comments in this current proceeding supporting modification or elimination of these rules. *See* Verizon Comments at 3, Attach. A at 32, and Attach. C.

[38] Verizon Comments, Attach. A at 30.

[39] *Id.*

[40] *Id.* at 31.

[41] *Id.*

[42] 26 FCC Rcd 17663, at paras. 1089-1102 (2011).

[43] 27 FCC Rcd 6656, at paras. 502-504 (2012).

WCB will incorporate Verizon's 2012 biennial review comments regarding ETCs into the record of the proceedings referenced above.

Part 63

In the *USTelecom Forbearance Long Order*, the Commission reviewed but denied a request for forbearance from the rules requiring a carrier to obtain Commission approval prior to discontinuing "legacy" offerings where that carrier offers IP broadband services as "replacement services."[44] Verizon supported modification or deletion of these rules in comments filed in this biennial review.[45] In denying the relief requested, the Commission found that the discontinuance rules are designed to ensure that the Commission is fully informed of any public interest concerns during an orderly transition to alternative services, and that notice and opportunity to comment prior to service discontinuance provide important consumer protections.[46] WCB does not find new facts or circumstances to reach a different conclusion here and therefore recommends that these rules be maintained in their current form at this time.

Part 64, Subparts A, C, E, and H

In the *USTelecom Forbearance Short Order*, the Commission granted forbearance for all carriers from application of the rules governing traffic damage claims,[47] and the furnishing of facilities to foreign governments for international communications,[48] and from application of the reporting requirements for the extension of unsecured credit for communications services to candidates for federal office in Subpart H.[49] The Commission subsequently granted further relief in the *USTelecom Forbearance Long Order*, forbearing from application of the recordkeeping and collection action requirements of Subpart H.[50] In addition, the Commission granted forbearance for all carriers from application of Commission rules governing the recording of telephone conversations between a telephone company and the public in the *USTelecom Forbearance Long Order*.[51] Verizon's comments in this biennial review proceeding supported modification or elimination of these rules.[52] Based on the Commission's actions, these rules no longer "apply" to telecommunications services within the meaning of Section 11 and, accordingly, WCB is not required to make a Section 11 determination with respect to them.

Part 64, Subpart G

In previous biennial reviews, WCB staff have noted that the Commission's *Computer II* rules governing the provision of enhanced services by the Bell Operating Companies (BOCs) and the uncodified comparably efficient interconnection and open network architecture (CEI/ONA) requirements,

[44] *USTelecom Forbearance Long Order* at para. 131.

[45] *See* Verizon Comments at 3, Attach. A at 28-30, and Attachment C.

[46] *USTelecom Forbearance Long Order* at paras. 129-134.

[47] *USTelecom Forbearance Short Order* at 2609-10, paras. 8-9, 2611-12, paras. 15-16.

[48] *Id*. at 2611-12, paras. 13-16.

[49] *USTelecom Forbearance Short Order*, 28 FCC Rcd at 2610-11, paras. 10-12, 2611-12, paras. 15-16.

[50] *USTelecom Forbearance Long Order* at para. 170 and Appendix B.

[51] *Id*. at paras. 174-75 and Appendix B.

[52] *See* Verizon Comments in WC Docket No. 13-33, Attach. A at Appendix A, pp. A4-A5, and Attachment C.

which were adopted in the Commission's *Computer III* proceeding, may no longer be necessary in the public interest in their current form as a result of competition, and recommended that the Commission consider repealing or modifying them.[53] Both CenturyLink and Verizon filed comments in this biennial review proceeding supporting modification or elimination of these rules.[54] In the *Reporting Requirements Order* released with the *USTelecom Forbearance Long Order*, the Commission eliminated the legacy reporting obligations associated with the *Computer III* requirements.[55] Based on the Commission's actions, these rules no longer "apply" to telecommunications services within the meaning of Section 11 and, accordingly, WCB is not required to make a Section 11 determination with respect to them.

In the *USTelecom Forbearance Long Order*, the Commission was unable to find, based on the record presented, that enforcement of the *Computer II* and *Computer III* regulations as they apply to narrowband competitive enhanced service offerings throughout the country are unnecessary to ensure that charges, practices, and classifications are just and reasonable; that enforcement of these rules is unnecessary for the protection of consumers; or that forbearance from application of the requirements is consistent with the public interest.[56] The Commission has issued a Further Notice of Proposed Rulemaking seeking comment on whether it should eliminate or substantially reduce the remaining narrowband requirements, given the substantial changes in the marketplace for narrowband services since these requirements were enacted.[57] WCB does not find new facts or circumstances to reach a different conclusion here. Thus, WCB does not find that the rules are "no longer necessary in the public interest as the result of meaningful economic competition between providers of [telecommunications] service," but notes that the Commission may revise the rules for other reasons in the pending rulemaking.

Part 64, Subpart T

In the *USTelecom Forbearance Long Order*, the Commission conditionally granted in part USTelecom's request for forbearance from the requirement that an independent ILEC provide in-region long distance services through the use of a separate affiliate.[58] The Commission concluded that forbearance from Section 64.1903 is warranted for independent ILECs subject to price cap regulation.[59] It further concluded that it need not formally grant USTelecom's separate request for forbearance from dominant carrier regulation when in-region long distance services are provided by an independent ILEC on an integrated basis because those requirements do not apply in the first instance under existing precedent.[60] Based on the Commission's actions, these rules no longer "apply" to telecommunications services within the meaning of Section 11 and, accordingly, WCB is not required to make a Section 11 determination with respect to them. However, the Commission found that forbearance from Section

[53] *See*, *e.g*., *2006 Biennial Review*, 22 FCC Rcd at 2859-60.

[54] *See* CenturyLink Comments in WC Docket No. 13-33 at pp. 2-6; Verizon Comments in WC Docket No. 13-33 at p. 4, Attach. A at App. A, pp. A3-A4, Attach. B at pp. 3-5, and Attach. C.

[55] In the *Reporting Requirements Order* portion of the *USTelecom Forbearance Long Order*, the Commission granted the BOCs permanent relief from the legacy reporting obligations associated with the *Computer III* requirements. *USTelecom Forbearance Long Order* at paras. 188-193.

[56] *Id*. at paras. 26-27.

[57] *Id*. at paras. 194-210.

[58] *Id*. at paras. 139-140 and Appendix B. Verizon filed comments in this current proceeding supporting modification or elimination of these rules. *See* Verizon Comments in WC Docket No. 13-33 at Attach. C.

[59] *Id*. at paras. 141-148.

[60] *Id*. at paras. 154-162.

64.1903 for independent ILECs subject to rate-of-return regulation was not warranted due to the continuing potential for cost misallocation.[61] The Commission also issued a Second Further Notice of Proposed Rulemaking seeking comment on potential alternatives that would reduce regulatory burdens while accomplishing the same objectives as the current requirements.[62] WCB does not find new facts or circumstances to reach a different conclusion here. Thus, WCB does not find that these rules are "no longer necessary in the public interest as the result of meaningful economic competition between providers of [telecommunications] service," but notes that the Commission may revise the rules for other reasons in the pending rulemaking.

Part 64, Subpart DD

In its biennial review comments, Verizon advocates elimination of quarterly reporting and certification filing requirements for prepaid calling card providers in Section 64.5001.[63] WCB notes that in the recent *USTelecom Forbearance Order*, the Commission granted forbearance from the reporting and certification requirements in Section 64.5001, except for the quarterly certification requirement in Section 64.5001(c)(3) as it applies to those providers that lack a "two-year track record of complying with their obligations to file annual and quarterly Telecommunications Reporting Worksheets, FCC Forms 499-A and 499-Q.[64] The Commission declined relief from the quarterly reporting and certification requirements only for a narrow class of carriers on the basis that the certification requirement is necessary to ensure that carriers without a track record of compliance with the Commission's rules adhere to the Universal Service Fund contribution rules.[65] Based on its Section 11 review, WCB does not find that the prepaid calling card certification filing requirement as it relates to providers that lack a two-year record of compliance is "no longer necessary in the public interest as a result of meaningful economic competition between providers of [telecommunications] service."

Part 69

Verizon maintains in its 2012 biennial review comments that the Commission should complete access charge reform by transitioning down originating access rates.[66] WCB notes that the Commission is considering issues relating to the transition of originating access charges in the USF/ICC Transformation FNPRM.[67] WCB has determined that these rules in their current form may be "no longer necessary in the public interest as a result of meaningful economic competition between providers of [telecommunications] service." WCB will incorporate Verizon's 2012 biennial review comments into the record of the pending proceeding.

Additional Rules Under Review in Ongoing Rulemakings

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[61] *Id*. at paras. 149-153.

[62] *Id*. at paras. 211-243.

[63] Verizon Comments at Attachment B, 6-7.

[64] *USTelecom Forbearance Order* at paras. 178-187.

[65] *Id.* at para. 185.

[66] Verizon Comments at 3.

[67] *USF/ICC Transformation Order*, 26 FCC Rcd at 18109-18120, paras. 1297-1325.

WCB notes that the Commission has earlier determined to evaluate whether rules in the following parts should be modified or repealed: Part 1, Section 1.774(f) (Pricing flexibility);[68] Part 51, Section 51.221 (Reciprocal compensation), Sections 51.501-51.515 (Pricing of elements), and Sections 51.701-51.715 (Reciprocal compensation);[69] Part 52, Section 52.15(g)(2)(i) (Central office code administration);[70] Part 61, Section 61.26 (Tariffing of competitive interstate switched exchange access services) and Section 61.41 (Price cap requirements generally);[71] Part 64, Section 64.1601 (Delivery requirements and privacy restrictions);[72] Part 65, Sections 65.301-65.305 (Exchange carriers' costs and calculations);[73] and Part 69, Sections 69.4 (Charges to be filed), 69.104 (End user common line for non-price cap incumbent local exchange carriers), 69.111 (Tandem-switched transport and tandem charge), 69.112 (Direct-trunked transport), 69.118 (Traffic sensitive switched services), 69.124 (Interconnection charge), 69.125 (Dedicated signaling transport), 69.129 (Signaling for tandem switching), 69.152 (End user common line for price cap local exchange carriers);[74] as well as sections 69.114 (Special access), 69.115 (Special access surcharges), 69.153 (Presubscribed interexchange carrier charge), and Subpart H – Pricing Flexibility).[75] Additionally, the Commission has referred issues relating to Part 36 to the Federal-State Joint Board.[76] In light of the fact that the Commission is considering revising the rules in the pending rulemaking proceedings, WCB has determined that these rules in their current form may be "no longer necessary in the public interest as a result of meaningful economic competition between providers of [telecommunications] service."

The staff also notes that the Commission has also initiated rulemaking proceedings in connection with rules in Parts 32, 36 and 54 generally, as they relate to Universal Service Support for High-Cost Areas;[77] Part 54, Subparts B,C and E, as they relate to Universal Service Support for Low-Income

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[68] *Special Access for Price Cap Local Exchange Carriers,* WC Docket No. 05-25, *AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services,* RM-10593, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 1994 (2005), Report and Order and Notice of Proposed Rulemaking, 27 FCC Rcd 16318 (2012) (*Special Access Proceeding*).

[69] *Connect America Fund, et al.*, WC Docket Nos. 10-208, 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011); *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011) (*USF/ICC Transformation FNPRM*); *Special Access Proceeding*.

[70] *Numbering Policies for Modern Communications*, WC Docket Nos. 13-97, 10-90, 07-243, 04-36, CC Docket Nos. 01-92, 99-200, 95-116, Notice of Proposed Rulemaking, Order, and Notice of Inquiry, FCC 13-51 (rel. Apr. 18, 2013).

[71] *See generally USF/ICC Transformation Order*, *Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers,* CC Docket No. 96-262, Seventh Report and Order, 16 FCC Rcd 9923 (2001) *and USF/ICC Transformation FNPRM.*

[72] *USF/ICC Transformation FNPRM.*

[73] *See USF/ICC Transformation FNPRM.*

[74] *See USF/ICC Transformation FNPRM.*

[75] *See Special Access Proceeding.*

[76] *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 24 FCC Rcd 6162 (2009) (referring interim and comprehensive reform to the Joint Board); *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 27 FCC Rcd 5593 (2012) (extending the separations freeze until June 30, 2014).

[77] *Federal-State Joint Board on Universal Service et al.*, CC Docket Nos. 96-45, 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No.

Consumers;[78] Part 54, Subpart F (Universal Service Support for Schools and Libraries);[79] Part 54, Subpart G (Universal Service Support for Health Care Providers),[80] and Part 54, Subpart H (Administration).[81] These proceedings were not initiated based on competitive factors, and thus we cannot find that these rules in their current form are "no longer necessary in the public interest as a result of meaningful economic competition."

Wireless Telecommunications Bureau (WTB)

WTB staff reviewed the relevant rules in 47 C.F.R. Parts 1, 17, 20, 22, 24, 27, 80, 90, 95, and 101 that fall within the scope of its delegated authority, as well as the comments addressing those rules filed in response to the Commission's request for public comment in this proceeding. Based on its Section 11 review, WTB does not recommend that the Commission repeal or modify any of the rules within its purview as no longer necessary in the public interest as the result of meaningful economic competition between providers of telecommunications services.

Part I, Subpart F (Wireless Telecommunications Services Applications and Procedures)

With respect to rules within WTB's purview, Verizon asks that the Commission clarify that wholly owned wireless subsidiaries do not need to file a separate FCC Form 602 reporting ownership where the wholly owned subsidiary is listed on the parent company's Form 602.[82] Further, Verizon requests that the Commission permit spectrum subleasing applications to be filed electronically on FCC Form 608 rather than in paper copy.[83] Finally, Verizon suggests that the Commission eliminate the FCC

96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244 (2001) (*Rural Task Force Order FNPRM)*; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, 18 FCC Rcd 22559 (*Qwest Remand Order FNPRM*); *High-Cost Universal Service Support et al.*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) (*Identical Support NPRM*); *High-Cost Universal Service Support et al.*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) (*Reverse Auctions NPRM*); *High-Cost Universal Service Support et al.*, WC Docket. No. 03-337 et al., Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6475 (2008) (*High-Cost Reform FNPRM*); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Notice of Inquiry and Notice of Proposed Rulemaking, 25 FCC Rcd 6657 (2010) (*High-Cost Model NOI and Reform NPRM*); *Connect America Fund et al.*, and WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order FNPRM*).

[78] *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (*Lifeline Reform Order FNPRM*).

[79] *Modernization of the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, FCC 13-100 (2013).

[80] *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 24546 (2003) (*2003 Rural Health Care FNPRM*); *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Second Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 24613 (2004) (*2004 Rural Health Care FNPRM);Rural Health Care Support Mechanism*, WC Docket No. 02-60, Notice of Proposed Rulemaking, 25 FCC Rcd 9371 (2010) (*2010 Rural Health Care NPRM*).

[81] *Universal Service Contribution Methodology: A National Broadband Plan For Our Future,* WC Docket No. 06-122, GN Docket No. 09-51, Further Notice of Proposed Rulemaking, 27 FCC Rcd 5357 (2012).

[82] Verizon and Verizon Wireless (Verizon) Comments, WT Docket No. 13-32 (filed Mar. 6, 2013) at 4.

[83] *Id.*

Form 603 requirement to identify whether the facilities associated with each license have been constructed (Item 116).[84]

Competitive developments have not affected the need for the rules concerning these forms because they are procedural in nature and serve Commission goals that are not affected by economic competition. More specifically, FCC Form 602 requires filers to report ownership information and Form 603 requires filers to provide notifications of authorizations and transfers of control, the purposes of which are not affected by competition levels. Further, the purpose of these forms is to collect ownership data or other information specific to the filer in determining whether the public interest would be served by a grant of the requested authorization. The collection of such data in these situations continues to be necessary, consistent with the purpose of the applicable policies. Competition also has not affected the requirement to file subleasing applications or notifications in paper copy, and Verizon does not dispute the continuing necessity for the data requested in these subleasing filings; instead, Verizon merely prefers an alternative method of submitting the data. We accordingly do not find that the rules are "no longer necessary in the public interest as the result of meaningful economic competition between providers of [telecommunications] service." Nonetheless, we recommend that in future efforts to update these forms, independent of the biennial review, the Commission consider whether it can improve the ways in which it collects the data gathered pursuant to these forms.

Part 17 (Construction, Marking, and Lighting of Antenna Structures)

NTCH, Inc. ("NTCH"), which filed comments in support of a Petition for Expedited Rulemaking filed by CTIA-The Wireless Association (CTIA) asking the Commission to commence a rulemaking to add an exception from public notice requirements for certain temporary towers,[85] also filed comments in this 2012 biennial review docket.[86] NTCH supports CTIA's request for an exception from the public notice requirements for temporary towers under certain circumstances. In this docket, NTCH suggests that the Commission modify Part 17 of its rules as part of the biennial review process and declare that the relevant Part 17 rule is no longer necessary as it pertains to temporary towers, thereby avoiding a new rulemaking or adoption of a temporary waiver during a pending rulemaking. After NTCH filed its comments, the Commission released the *Interim Waiver Order* granting the request for interim waiver of the notification requirements for temporary towers that: (1) will be in use for no more than 60 days; (2) require notice of construction to the FAA; (3) do not require marking or lighting under FAA regulations; (4) will be less than 200 feet in height; and (5) involve no or only minimal ground disturbance.[87] As noted in the *Interim Waiver Order*, the Commission intends in the near future to issue a Notice of Proposed Rulemaking that will consider CTIA's request for a permanent exemption from environmental

[84] *Id.*; pursuant to Section 1.946(d), wireless radio licensees are required to notify the Commission when they have met the coverage or substantial service obligation associated with their license. 47 C.F.R. § 1.946(d) ("*Licensee notification of compliance*." A licensee who commences service or operations within the construction period or meets its coverage or substantial services obligations within the coverage period must notify the Commission by filing FCC Form 601.The notification must be filed within 15 days of the expiration of the applicable construction or coverage period.").

[85] *See* Public Notice, RM-11688, DA 13-53 (WTB January 25, 2013), seeking comment on CTIA Petition.

[86] Comments of NTCH, Inc., WT Docket No. 13-32 (filed Mar. 5, 2013).

[87] Amendment of Parts 1 and 17 of the Commission's Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications for Certain Temporary Towers; 2012 Biennial Review of Telecommunications Regulations, *Order*, RM No. 11688, WT Docket No. 13-32, 18 FCC Rcd 7758 (r2013) at ¶¶ 9, 12. (*"Interim Waiver Order").*

notification procedures for temporary towers. The interim waiver adopted by the Commission will remain in effect pending completion of that rulemaking proceeding.[88]

The Part 17 rules establish the procedures by which the Commission registers and assigns painting and lighting requirements to those antenna structures that may pose a physical hazard to aircraft.[89] As such, competitive developments have not affected the need for this rule part. Accordingly, we do not find that this rule part is "no longer necessary in the public interest as the result of meaningful economic competition between providers of such [telecommunications] service." While staff concludes that Part 17 rules remain necessary in the public interest, the Commission, in the context of RM No. 11688 and the intended Notice of Proposed Rulemaking discussed above, is now considering whether certain modifications may be in the public interest for reasons other than those related to competitive developments that fall within the scope of Section 11 review. Staff recommends that the Commission proceed with its intended Notice of Proposed Rulemaking on this Part 17 matter regarding the specific recommendations of CTIA, supported by NTCH, with a view to examining the Part 17 rules to modify or eliminate, without compromising public safety goals, any rules which create unnecessary administrative burdens or are apt to confuse owners and licensees who attempt to comply with our Part 17 rules.

Part 22 (Public Mobile Services)

Verizon submitted comments on various rules, asking that particular data collection requirements be modified or eliminated. With respect to rules within WTB's purview, Verizon asks that the Commission eliminate its requirement that public mobile service providers file reports of complaints concerning equal employment laws.[90] Specifically, Verizon requests that the Commission eliminate its Section 22.321(c) requirement that licensees submit an annual report containing alleged violations of federal or state equal employment opportunity law filed against the licensee.[91]

Competition does not affect the need for this information, and we thus cannot find, pursuant to Section 11, that this rule is no longer necessary in the public interest as a result of meaningful economic competition. The Commission's rules require that public mobile service licensees must afford equal opportunity in employment to all qualified persons, and personnel must not be discriminated against.[92] The reporting requirement is intended to monitor compliance with this policy and is not affected by competition levels. We find that the collection of such data continues to be necessary, consistent with the purpose of the applicable policy. This requirement continues to be useful for providing the Advisory Committee on Diversity for Communications in the Digital Age access to information that could materially contribute to its mission, which is to make recommendations to the Commission regarding policies and practices that will further enhance the ability of minorities and women to participate in telecommunications and related industries. We accordingly do not find that the rule is "no longer necessary in the public interest as the result of meaningful economic competition between providers of [telecommunications] service." Nonetheless, we recommend that in future efforts to update such forms, independent of the biennial review, the Commission consider whether it can improve the ways in which it collects the data gathered pursuant to these forms.

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[88] *Id.* at ¶ 9.

[89] 47 C.F.R. Part 17.

[90] Verizon Comments, WT Docket No. 13-32 (filed Mar. 6, 2013) at 4.

[91] 47 C.F.R. §22.321(c).

[92] *See* 47 C.F.R. §22.321.

International Bureau (IB)

IB staff reviewed relevant rules administered by IB in 47 C.F.R. Parts 25, 43, and 63 in this biennial review. In prior biennial reviews, IB has reviewed the rules in Subpart J of Part 64 (Miscellaneous Rules Relating to Common Carriers), which, until recently, contained rules administered by IB regarding the Commission's International Settlements Policy (ISP). In 2012, however, the Commission eliminated the ISP rules except for one provision, which continues to apply to Cuba.[93] In doing so, the Commission moved that continuing requirement to Part 63. It also amended and moved to Part 63 the remaining portion of Subpart J concerning requests for Commission intervention on U.S. international routes on which there may be anti-competitive conduct by foreign carriers. Finally, it removed and reserved Subpart J. As a result, there no longer exist any rules within Part 64 that are administered by IB

IB staff finds that, with one exception, as discussed below, the rules are appropriate for the current state of competition in the international and satellite services markets and concludes that none of the rules administered by the Bureau is "no longer necessary in the public interest as the result of meaningful economic competition between providers of such [telecommunications] service."[94] However, IB noted that some rules may no longer be necessary for other reasons, such as evolving technology and new opportunities to streamline filing requirements. For example, the Commission is conducting a comprehensive review of Part 25 to eliminate unnecessary technical and information filing requirements, update rules to accommodate evolving technology, and simplify existing requirements.[95]

Part 63 (Extension of Lines, New Lines, and Discontinuance, Reduction, Outage and Impairment of Service by Common Carriers)

The *2010 Biennial Review Report* observed that, in its current form, the Effective Competitive Opportunities test (ECO Test) may no longer be necessary as a result of increased competition among telecommunications service providers, and recommended that the Commission consider modifying or repealing the ECO Test rule.[96] In October 2012, the Commission released a Notice of Proposed Rulemaking seeking comment on whether to eliminate, or, in the alternative, simplify the ECO Test that applies to Commission review of international section 214 authority applications filed by foreign carriers or their affiliates.[97]

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[93] *International Settlements Policy Reform*, IB Docket No. 11-80, Report and Order, 27 FCC Rcd 15521 (2012).

[94] *See* 47 U.S.C. § 161(a).

[95] *See Comprehensive Review of Licensing and Operating Rules for Satellite Services*, IB Docket No. 12-267, Notice of Proposed Rulemaking, 27 FCC Rcd 11619 (2012).

[96] *See 2010 Biennial Review Report*, 26 FCC Rcd at 16948-49. *See also* 47 C.F.R. § 63.18(k) (ECO Test).

[97] *Reform of Rules and Policies on Foreign Carrier Entry into the U.S. Telecommunications Market*, IB Docket No. 12-299, Notice of Proposed Rulemaking, 27 FCC Rcd 12765 (2012).

In its comments filed in this proceeding, Verizon requests that the Commission discontinue section 214 international service authorizations for CMRS providers.[98] Verizon has previously made this request in response to biennial review public notices issued by the Commission.[99] Verizon makes no new arguments in response to the *2012 Biennial Review Public Notice,* but merely attaches to its comments pleadings filed in previous biennial review proceedings.[100] As noted in past reports, the Commission has considered and rejected proposals to eliminate this requirement in the past.[101] Verizon has not demonstrated that a different result is warranted now. The Bureau continues to recommend that the Commission not review or eliminate this requirement because the requirement is necessary to address national security and law enforcement concerns, and these concerns warrant retention of this requirement regardless of the competitive state of the market. Other than Verizon's comments, the Bureau did not receive any comments suggesting that the Commission should repeal or modify any other rules within the Bureau's purview.

Public Safety & Homeland Security Bureau (PSHSB)

PSHSB staff reviewed all public safety-related rules in 47 C.F.R. Parts 1, 4, 9-12, 20, 22, 25, 64, and 90 pursuant to Section 11(a) to determine whether they are (1) "issued under this Act," *i.e.,* the Communications Act of 1934, as amended; (2) "apply to the operations or activities of any provider of telecommunications services," as that term is defined in such Act;[102] and (3)"no longer necessary in the public interest as the result of meaningful economic competition between providers of such service," as required by Section 11 of the Communications Act of 1934, as amended.[103] As Verizon, the only commenter addressing these rules, recognizes, even with respect to the provision of telecommunications services, ". . . there are issues – such as public safety . . . – that may continue to require some regulatory involvement or backstop to protect and serve consumers even as technologies evolve."[104] As noted below, this need may exist regardless of whether or not there has been increased competition in the marketplace. A primary goal of PSHSB is to support and advance initiatives that further strengthen and enhance the security and reliability of the nation's communications infrastructure and those public safety and emergency response capabilities that will better enable the Commission to assist the public, first responders, law enforcement, hospitals, the communications industry, and all levels of government in the event of a natural disaster, pandemic, or terrorist attack. The presence or absence of meaningful economic competition between telecommunications service providers, which is the focus of Section 11 of the Communications Act and the Commission's biennial review of its regulations, is not necessarily relevant when assessing the continued need for the public safety and homeland security regulations that PSHSB superintends.

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[98] Verizon Comments at 4.

[99] *See, e.g., 2010 Biennial Review Report*, 26 FCC Rcd at 16949.

[100] Verizon Comments at 4.

[101] *See, e.g., 2010 Biennial Review Report*, 26 FCC Rcd at 16949.

[102] The term "telecommunications services" includes only "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. § 153(53).

[103] 47 U.S.C. § 161.

[104] Comments of Verizon, att. A at 3 (March 6, 2013).

The staff's review of rules relevant to PSHSB activities and operations, and of the one comment submitted in connection with the biennial review proceeding with respect thereto, does not support elimination or modification of the subject rules as a result of competitive developments in the marketplace. Specifically, staff does not find that these rules are "no longer necessary in the public interest as the result of meaningful economic competition between providers of such [telecommunications] service."

Part 4 (Outage Reporting)

Verizon filed comments in this proceeding asserting that the outage reporting requirements in Part 4 of the Commission's rules should be adjusted. 47 C.F.R. §§ 4.1 - 4.13. Verizon notes that the Commission's service disruption reporting rules involve a three-step process, requiring carriers to (1) notify the Commission within 120 minutes of certain network outages; (2) file an initial report within three days; and (3) file a final report within 30 days. 47 C.F.R. § 4.9. According to Verizon, the reporting requirements are significantly more onerous than the Commission initially estimated, and the practical utility of these notifications and reports is unclear. Verizon notes that the Commission initially estimated that the total number of outage reports from *all* carriers would be fewer than 1,000 reports per year, but that many large carriers must file more than 1,000 reports *each* per year. Verizon's recommendation is to eliminate the first of these three steps (notifying the Commission within 120 minutes of certain network outages). However, it does not purport to tie this recommendation to "meaningful economic competition" pursuant to Section 11.[105]

The biennial review concerns the modification or elimination of regulations that the Commission determines are "no longer necessary in the public interest as the result of meaningful economic competition between providers of such service." 47 U.S.C. § 161(a)(2). The Commission's Part 4 rules allow for the monitoring of communication network service disruptions that could affect homeland security, public health or safety, and the economic well-being of the Nation. This network outage monitoring is used to foster and facilitate the reliability of communications networks on which public safety first responders, other public safety end-users, and consumers depend. In making its suggestions, Verizon does not allege, and staff does not conclude, that any of the Part 4 rules should be modified or eliminated in light of "meaningful economic competition" pursuant to Section 11. Consequently, we believe that such modification is outside the Scope of Section 11. Independent of the requirements of Section 11, however, staff recommends that because this comment submitted in the biennial review requests that the Commission amend the Part 4 rules, including data collections, the Commission should consider such requests in an appropriate future proceeding addressing revisions to Part 4.

Consumer and Governmental Affairs Bureau (CGB)

CGB staff reviewed relevant rules administered by CGB in 47 C.F.R. Parts 1, 6, 7, 64 and 68. Based on its review, CGB does not find that any of these rules are "no longer necessary in the public interest as the result of meaningful economic competition between providers of [telecommunications] service."

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[105] *See* Commission 2010 Biennial Review of Telecommunications Regulations, *Public Notice,* DA 11-2050 (rel. Dec. 23, 2011), Comments of Verizon and Verizon Wireless App. B at 14-16, PS Docket No. 10-270 *et al*. PSHSB staff concluded that it would be inappropriate to address those comments in the Commission's 2010 biennial review, but suggested the Commission might consider them in the context of a future proceeding relating to revisions to the Part 4 rules.

Part 68 (Connection of Terminal Equipment to the Telephone Network)

The Telecommunications Industry Association (TIA) filed comments in response to the Commission's 2012 Biennial Review Public Notice.[106] In its comments, TIA reiterates its desire for Commission review of the rulemaking petition it filed on October 25, 2012, requesting that the Commission modify its rules in Part 68 relating to standards for hearing aid compatibility (HAC) volume control.[107] In that Petition, TIA requested that the Commission issue a Notice of Proposed Rulemaking to update relevant Part 68 references to incorporate the most recent TIA standard – ANSI/TIA-4965 – over a two year phase-in period, to allow persons with hearing loss to achieve a more consistent experience for amplified gain level.[108] TIA also asked the Commission to incorporate this standard into Part 68 in a manner that would allow the standard to be updated as needed, without additional rulemakings,[109] and that the Commission clarify that this standard covers interconnected VoIP telephones.[110] TIA also requests that the Commission heighten enforcement of Part 68 rules generally.[111] TIA claims that incorporation of the new standard also would improve access for hard of hearing consumers to emergency services, lead to harmonization across agencies and internationally[112] and provide regulatory certainty for manufacturers who seek to comply with Part 68.[113] In its comments filed in this proceeding, TIA asserts that this

[106] Comments of TIA, CG Docket 13-29, WC Docket No. 13-33 (filed Mar. 6, 2013).

[107] Telecommunications Industry Association, *Access to Telecommunications Equipment and Services by Persons with Disabilities*, RM-11682, Petition for Rulemaking (filed Oct. 25, 2012) (*TIA Petition*). TIA states that it represents the global information and communications technology (ICT) industry through standards development, advocacy, tradeshows, business opportunities, market intelligence and world-wide environmental regulatory analysis. TIA asks the Commission to revise Section 68.317 of the Commission's Rules, 47 C.F.R. § 68.317, to reference the most recent TIA standard, which it says will provide a more consistent experience of amplified gain level.

[108] *TIA Petition at 4.* TIA explains that it has updated its HAC volume control standards several times since the HAC volume control requirements were first adopted by the Commission, but requests that the new standard, *Receive Volume Control Requirements for Digital and Analog Wireline Terminal*s, available at http:global.ihs.com/search_res.cfm?RID=TIA&INPUT_DOC_NUMBER=ANSI/TIA-4965, become the defining standard for the HAC volume control.

[109] *Id. at* 7. TIA suggests that the Commission affirm that the Wireline Competition Bureau and Office of Engineering and Technology Chiefs have the authority to revise references to the volume control standards for terminal equipment as administrative updates rather than substantive updates, to avoid the need for future regulatory changes. *TIA Petition at* 12, and fn. 17. It also urges the Commission continue to engage the terminal equipment industry through its Administrative Council for Terminal Attachments (ACTA). *TIA Petition at* 12.

[110] *Id. at* 16, fn. 27.

[111] *Id. at* 11.

[112] *Id.* at 13, 16.

[113] *Id.* at 15-16.

biennial review proceeding provides an appropriate procedural vehicle to "update references in Part 68 of the FCC's rules to TIA standards which set HAC volume control requirements."[114]

CGB released a Public Notice seeking comments on the TIA Petition regarding its request to revise the Part 68 volume control gain requirements for terminal equipment.[115] CGB will review comments filed in response to the Public Notice and determine whether to initiate a rulemaking proceeding to update the Part 68 HAC volume control gain requirement standards.Pending such review, CGB does not recommend changes to the Part 68 rules that CGB administers as part of the biennial review. In this regard, we note that the purpose of Part 68 is, in part, to provide for uniform standards for the compatibility of hearings aids and telephones to ensure that persons with hearing aids have reasonable access to the telephone network, which the rules continue to do. and will continue to do, even if new standards are incorporated. Moreover, because Part 68 as it applies to hearing aid compatibility is not competition-related, we do not find that Part 68 is "no longer necessary in the public interest as a result of meaningful economic competition between providers of [telecommunications] service." Staff therefore recommends that repeal or modification is not warranted under section 11.[116]

No other party has yet filed comments in this proceeding expressly addressing any of the rule parts administered by CGB.

Enforcement Bureau (EB)

Based on EB's review of Sections 1.711 through 1.736, 1.80, and 1.89 of the Rules, as well as its review of comments filed in response to the Public Notice (none of which advocated elimination or modification of any of those rules), EB find that competitive developments in the marketplace do not provide grounds for eliminating or modifying those rules. Staff does not find that these rules are "no longer necessary in the public interest as the result of meaningful economic competition between providers of such [telecommunications] service" under Section 11 of the Act.

Office of Engineering & Technology (OET)

OET staff reviewed the rules it administers in 47 C.F.R. Parts 1, 2, 5, 15, and 18 pursuant to Section 11. OET's review did not reveal any rules that are no longer necessary in the public interest as the result of meaningful economic competition between providers of telecommunications services. No parties filed comments in this proceeding requesting that any of those rules be repealed or modified. Accordingly, OET does not recommend that the Commission repeal or modify any of these rules in this proceeding.

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[114] TIA Comments at 2.

[115] *Request for Comment on Petition for Rulemaking filed by the Telecommunications Industry Association regarding Hearing Aid Compatibility Volume Control Requirements*, Public Notice, CG Docket No. 13-46, DA 13-1601 (rel. July 19, 2013).

[116] Notwithstanding its recommendation in the context of this Section 11 review, the staff is supportive of seeking public comment on the previously filed TIA rulemaking petition regarding revision of the Part 68 HAC volume control gain requirements for terminal equipment. Under such approach, the Commission could review comments filed in response to the petition and consider whether it is in the public interest to update its Part 68 HAC volume control gain requirements.

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