

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Delete, Delete, Delete	)	GN Docket No. 25-133
	)	
Safeguarding and Securing the Open Internet	)	WC Docket No. 23-320
	)	
Restoring Internet Freedom	)	WC Docket No. 17-108
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-48
	)	
Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185
	)	

ORDER

Adopted: July 11, 2025

Released: July 11, 2025

By the Chief, Wireline Competition Bureau:

1. By this Order, we conform Parts 8, 20, and 51 of the Commission’s rules to court decisions nullifying certain provisions within those Parts. In the *Delete, Delete, Delete* proceeding, the Commission made clear its goal to “review its rules to identify and eliminate those that are unnecessary in light of current circumstances.”¹ The Wireline Competition Bureau takes this action in furtherance of that goal, finding that these rules “no longer have any operative effect,” and therefore should not remain in the Code of Federal Regulations.² Specifically, this action will remove from our regulations approximately 5 pages, 2,991 words, and 41 rules or requirements.

2. We first conform Parts 8 and 20 of the Commission’s rules to the decision of the Sixth Circuit Court of Appeals (Sixth Circuit) in *Ohio Telecom Ass’n v. FCC (Ohio Telecom)*,³ which set aside the *Second Title II Order*,⁴ by restoring the text of those rules to how they would have read absent the changes adopted in the *Second Title II Order*. The Commission adopted the *Second Title II Order* on April 25, 2024, reclassifying broadband Internet access service (BIAS) as a telecommunications service under Title II of the Communications Act of 1934 (the Act) and instituting conduct rules on BIAS providers. The Commission published a summary of the *Second Title II Order* in the Federal Register on July 22, 2024.⁵ In accordance with normal procedure, the Code of Federal Regulations was revised to

¹ *Delete, Delete, Delete*, GN Docket No. 25-133, Public Notice, DA 25-219, at 1 (rel. Mar. 12, 2025).

² *Id.* at 5.

³ *Ohio Telecom Ass’n v. FCC (In re MCP No. 185)*, 124 F.4th 993 (6th Cir. 2025) (*Ohio Telecom*), *pet. for rehearing denied*.

⁴ *Safeguarding and Securing the Open Internet*, WC Docket 23-320, Declaratory Ruling, Order, Report and Order, and Order on Reconsideration, 39 FCC Rcd 4975 (2024) (*Second Title II Order*), *pets. for review granted and order set aside*, *Ohio Telecom Ass’n v. FCC*, 124 F.4th at 999.

⁵ Federal Communications Commission, *Safeguarding and Securing the Open Internet; Restoring Internet Freedom*, 89 Fed. Reg. 45404 (May 22, 2024).

reflect the rules adopted in the *Second Title II Order*. On August 1, 2024, the Sixth Circuit issued an order staying the effective date of the *Second Title II Order* pending judicial review. On January 2, 2025, the Sixth Circuit issued its decision in *Ohio Telecom* setting aside the *Second Title II Order*, holding that, under the Act, broadband providers offer only an information service under the Act and that the Commission is not permitted to classify mobile broadband as a commercial mobile service.⁶ As a result of the Sixth Circuit's stay order and final decision, the rules adopted in the *Second Title II Order* never went into effect, and the text that currently appears in the Code of Federal Regulations does not accurately reflect the rules actually in effect. Accordingly, we restore Part 8 and Part 20 of the Commission's rules to reflect how they would read absent the changes adopted in the *Second Title II Order*, accounting for amendments to Part 8 adopted in other Commission actions.⁷

3. We next remove requirements from Part 51 of our rules that were vacated by the Eighth Circuit Court of Appeals (Eighth Circuit) in *Iowa Utilities Board II* roughly 25 years ago but never removed from the Code of Federal Regulations.⁸ *Iowa Utilities Board II* was an intermediate step in the litigation concerning the Commission's rules adopted in the 1996 *Local Competition Order*.⁹ Although the Commission and other parties were successful in appealing portions of *Iowa Utilities Board II* to the Supreme Court, no party, including the Commission, appealed the Eighth Circuit's rulings vacating sections 51.303 or 51.405(a), (c), (d) of the Commission's rules or the Eighth Circuit's reasoning for vacating sections 51.513 and 51.611 unique to such sections.¹⁰ Section 51.405(b), the sole subsection of section 51.405 not vacated by *Iowa Utilities Board II*, merely repeats the substance of the first sentence of section 251(f)(2) of the Act and is not cross-referenced elsewhere in the Commission's rules, and

⁶ See *Ohio Telecom*, 124 F.4th at 998. The Sixth Circuit issued its mandate on March 20, 2025, after denying a petition for rehearing en banc by the Intervenor. See *Ohio Telecom*, slip op. (Mar. 11, 2025). The Intervenor has sought and received an extension until August 8, 2025, to file any petition for writ of certiorari with the Supreme Court. See *Free Press, et al. v. Ohio Telecom Association, et al.*, Application to Extend Time to File a Petition for a Writ of Certiorari from June 9, 2025 to August 8, 2025, Case No. 24A____ (May 22, 2025).

⁷ See *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 13686 (2022); *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Order, 38 FCC Rcd 6193 (2023); *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Order on Reconsideration, 38 FCC Rcd 8238 (2023); *Cybersecurity Labeling for Internet of Things*, PS Docket No. 23-239, Report and Order and Further Notice of Proposed Rulemaking, 39 FCC Rcd 2497 (2024) (*IoT Labeling Order*). When the Commission adopted the *IoT Labeling Order*, it split Part 8 of the Commission's rules into Subpart A, which contained the existing transparency requirements, and Subpart B, which contained the new cybersecurity labeling requirements. See *IoT Labeling Order*, 39 FCC Rcd at 2583, Appendix A. Because the Sixth Circuit's decision setting aside the *Second Title II Order* does not affect the rules contained in Subpart B, Appendix A only reflects changes to the relevant portions of Subpart A. We also rename the headings for Part 8 and Subpart A to conform to the restored rule language and find that good cause exists to forgo notice and comment to rename these headings given that the heading changes simply reflect the correct rule content and do not result in substantive changes. With respect to Part 20, although the *Second Title II Order* did not amend the authority for that part, we make a non-substantive correction to the authority, changing section 302 to section 302a and find that good cause exists to forgo notice and comment to make this change since it is a non-substantive change that simply corrects the authority citation.

⁸ *Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8th Cir. 2000) (*Iowa Utilities Board II*), reversed in part on other grounds, *Verizon Communications Inc. v. FCC*, 535 U.S. 467 (2002) (*Verizon v. FCC*).

⁹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996), *aff'd in part and vacated in part*, *Competitive Telecommunications Ass'n v. FCC*, 117 F.3d 1068 (8th Cir. 1997); *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997); *aff'd in part and remanded*, *AT&T v. Iowa Utils. Bd.*, 525 U.S. 326 (1999).

¹⁰ 47 CFR §§ 51.303, 51.405(a), (c), (d), 51.513, 51.611. The Eighth Circuit based its holding vacating sections 51.513 and 51.611 on two independent grounds, the first of which, judicial estoppel, was unique to such sections (as opposed to other sections that the Eighth Circuit considered) and never appealed. See *Iowa Utilities Board II*, 219 F.3d at 757-58.

therefore serves no purpose.¹¹ Accordingly, we delete sections 51.303, 51.405, 51.513, and 51.611, finding that doing so has no effect on the scope and nature of the currently enforceable Commission requirements and simply effectuates the Eighth Circuit's action in *Iowa Utilities Board II*.

4. Pursuant to 5 U.S.C. § 553(b)(B), because we are simply conforming the text of the Commission's rules in the Code of Federal Regulations to reflect the rules that are actually in effect as a result of the *Ohio Telecom* and *Iowa Utilities Board II* decisions, not taking any independent action or exercising any discretion, we find that notice and public procedure are unnecessary for this action.¹² For the same reason, pursuant to 5 U.S.C. § 553(d), this action will be effective immediately upon publication in the *Federal Register*.¹³

5. The changes to Parts 8, 20, and 51 of the Commission's rules to conform to these court decisions are reflected in Appendix A.

6. IT IS ORDERED that Parts 8, 20, and 51 of the Commission's rules, 47 CFR Parts 8, 20, and 51, are amended as set forth in Appendix A, effective upon publication in the Federal Register.

7. The Bureau has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is non-major under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Joseph S. Calascione
Chief
Wireline Competition Bureau

¹¹ Compare 47 CFR § 51.405(b); 47 U.S.C. § 251(f)(2).

¹² 5 U.S.C. § 553(b)(B); see, e.g., *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118, 134-35 (D.C. Cir. 2015).

¹³ We find "good cause" under 5 U.S.C. § 553(d) to make the rules effective immediately upon publication in the Federal Register. See 5 U.S.C. § 553(d)(3) (stating that publication of a "substantive" rule shall be made not less than 30 days before its effective date, "except . . . as otherwise provided by the agency for good cause found and published with the rule"). In determining whether good cause exists, an agency should "balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling." *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996) (internal quotation marks omitted). Because the rule changes adopted in the *Second Title II Order* have never been in effect and because the rules vacated in *Iowa Utilities Board II* have been nullified for 25 years, we find that there will be no burden on the public from making these changes effective upon Federal Register publication, while doing so will have the benefit of ensuring that inoperative rules do not linger in the Code of Federal Regulations unnecessarily.

APPENDIX A**Rules**

The Federal Communications Commission amends 47 CFR parts 8, 20, and 51 as follows:

Part 8 – INTERNET TRANSPARENCY FOR CONSUMERS

1. The authority citation for part 8 is revised to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201(b), 257, 302a, 303(r), 312, 333, 503 and 1753.

2. Revise the heading for part 8 to read as set forth above.
3. Revise the heading for subpart A to read as follows:

Subpart A – Broadband Transparency

4. Remove § 8.1.
5. Redesignate § 8.2 as § 8.1.
6. Amend § 8.1 by revising paragraph (a) introductory text, revising paragraph (b), and adding paragraph (c) to read as follows:

§ 8.1 Transparency.

(a) Any person providing broadband internet access service shall publicly disclose accurate information regarding the network management practices, performance characteristics, and commercial terms of its broadband internet access services sufficient to enable consumers to make informed choices regarding the purchase and use of such services and entrepreneurs and other small businesses to develop, market, and maintain internet offerings. Such disclosure shall be made via a publicly available, easily accessible website or through transmittal to the Commission.

* * * * *

(b) Broadband internet access service is a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part. For purposes of paragraphs (a)(1) through (6) of this section, “mass-market” services exclude service offerings customized for the customer through individually negotiated agreements even when the services are supported by federal universal service support.

(c) A network management practice is reasonable if it is appropriate and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband internet access service.

7. Remove §§ 8.3 and 8.6.

PART 20 – COMMERCIAL MOBILE SERVICES

8. The authority citation for part 20 is revised to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 155, 157, 160, 201, 214, 222, 251(e), 301, 302a, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 610, 615, 615a, 615b, and 615c, unless otherwise noted.

9. Amend § 20.3 by revising paragraph (2) of the definition of *commercial mobile radio service*, revising paragraph (1) of the definition of *interconnected service*, and revising the definition of *public switched network* as follows:

§ 20.3 Definitions.

* * * * *

Commercial mobile radio service. * * *

* * * * *

- (2) The functional equivalent of such a mobile service described in paragraph (1) of this definition.

* * * * *

Interconnected service. A service:

- (1) That is interconnected with the public switched network, or interconnected with the public switched network through an interconnected service provider, that gives subscribers the capability to communicate to or receive communication from all other users on the public switched network; or

- (2) * * *

* * * * *

Public switched network. Any common carrier switched network, whether by wire or radio, including local exchange carriers, interexchange carriers, and mobile service providers, that uses the North American Numbering Plan in connection with the provision of switched services.

* * * * *

PART 51 – INTERCONNECTION

10. Remove and reserve §§ 51.303, 51.405, 51.513, and 51.611.

§ 51.303 [Removed and Reserved]

§ 51.405 [Removed and Reserved]

§ 51.513 [Removed and Reserved]

§ 51.611 [Removed and Reserved]