



PUBLIC NOTICE

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WIRELINER COMPETITION BUREAU FINDS NO SIGNIFICANT ADVERSE COMMENTS ON DIRECT FINAL RULE

GN Docket No. 25-133

By this Public Notice, the Wireline Competition Bureau (Bureau) confirms that no “significant adverse” comments were filed in response to the *Direct Final Rule* released by the Commission on September 30, 2025.¹ In the *Direct Final Rule*, the Commission identified and repealed rules that regulate obsolete technology, are no longer used in practice by the Commission or carriers, or are otherwise outdated or unnecessary.² Although public notice and comment were not required under the Administrative Procedure Act (APA) to repeal such rules, the Commission elected to provide an opportunity for input.³ The Commission explained that a rule would be repealed only if no “significant adverse comments” were filed.⁴ The Commission further explained that “where warranted by the record,” the Bureau will issue a Public Notice “briefly explain[ing] why any comments filed were not determined to be significant adverse comments.”⁵ For the reasons discussed below, the Bureau confirms that none of the comments filed in response to the *Direct Final Rule* qualify as “significant adverse” comments.

Background. Under the APA, agencies may forgo notice and public comment for good cause when such procedures “are impracticable, unnecessary, or contrary to the public interest.”⁶ The Commission relied on this authority in the *Direct Final Rule* when it repealed 386 rules—including sections 43.21(d) and (f).⁷

The *Direct Final Rule* was published in the Federal Register with a 20-day comment period and a 60-day effective date.⁸ Two parties filed comments in the record of the *Direct Final Rule* proceeding. The California Public Utilities Commission (CPUC) recommends that the Commission retain sections 43.21(d) and (f) of its rules, stating that “[t]he reports enable the CPUC to evaluate the allocation of costs

¹ *Delete, Delete, Delete*, GN Docket No. 25-133, Direct Final Rule, 40 FCC Rcd 8166 (2025) (*Direct Final Rule*). The *Direct Final Rule* was published in the Federal Register on April 16, 2026 and provided notice of the June 15, 2026 effective date. Deleting Obsolete and Duplicative Wireline Rules, 91 Fed. Reg. 20372 (Apr. 16, 2026) (Direct Final Rule FR Summary).

² *Direct Final Rule*, 40 FCC Rcd at 8166-67, para. 4.

³ *Id.* at 8166, para. 2.

⁴ *Id.*

⁵ *Id.* at 8169, paras. 8-9.

⁶ 5 U.S.C. § 553(b)(B). Prior notice and comment are “unnecessary” when “the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.” *Util. Solid Waste Activities Grp. v. EPA*, 236 F.3d 749, 755 (D.C. Cir. 2001) (quoting *South Carolina v. Block*, 558 F. Supp. 1004, 1016 (D.S.C. 1983)).

⁷ *Direct Final Rule*, 40 FCC Rcd at 8166-68, para. 4 & n.6.

⁸ Direct Final Rule FR Summary, 91 Fed. Reg. 20372.

and revenues between a carrier's regulated and nonregulated operations.”⁹ One other party, the Center for Regulatory Analysis and Engagement, filed comments that “support[] the Commission's effort to remove outdated, dormant, and duplicative provisions that no longer appear to serve meaningful operational or public-interest functions.”¹⁰

Discussion. As the Commission explained in the *Direct Final Rule*, to qualify as a “significant adverse comment,” the comment must explain why the direct final rule is “inappropriate, including challenges to the rule's underlying premise or approach” or “would be ineffective or unacceptable without a change.”¹¹ The “touchstone for analysis is whether a comment materially calls into question the conclusion that prior notice and comment is unnecessary under the APA.”¹² The Commission directed the Bureau to withdraw any part of the *Direct Final Rule* found to be subject to significant adverse comments.¹³

Section 43.21(d) of the Commission's rules required financial data reports of network plant investment from “[e]ach communications common carrier required by order to file a manual allocating its costs between regulated and nonregulated operations.”¹⁴ This rule applied only to a carrier that met a \$100 million revenue threshold adjusted for inflation.¹⁵ Section 43.21(f) also required “[e]ach incumbent local exchange carrier with operating revenues . . . that equal or exceed the indexed revenue threshold” of \$100 million adjusted for inflation to file an annual “report showing . . . its revenues, expenses, taxes, plant in service, other investment and depreciation reserves, and other such data as are required by the Commission.”¹⁶

These reports have not been filed with the Commission in nearly two decades. As the *Direct Final Rule* explained, the Commission previously granted forbearance from cost-assignment and related reporting requirements, including sections 43.21(d) and (f) for price cap carriers, and thus determined that the rules were no longer necessary to ensure reasonable rates, protect consumers, or further the public interest in 2008.¹⁷ Nothing in the CPUC's comments undermines or addresses this rationale.

⁹ See Comments of the People of the State of California and the California Public Utilities Commission, GN Docket 25-133, at 1 (filed May 6, 2026) (collectively, CPUC Comments). 47 CFR § 43.21(d), (f).

¹⁰ Comments by the Center for Regulatory Analysis and Engagement, GN Docket No. 25-133, at 2, 5 (filed May 5, 2026) (“CRAE supports the Commission's effort to modernize and simplify obsolete portions of the wireline regulatory framework. Many of the provisions identified in this proceeding appear tied to outdated technologies, expired transition systems, legacy tariff structures, or regulatory arrangements that no longer correspond to present communications markets.”). We reference these comments for the sake of completeness but do not provide further analysis because they support the actions taken in the *Direct Final Rule* and thus are not “significant adverse.” *Direct Final Rule*, 40 FCC Rcd at 8169, para. 9.

¹¹ *Direct Final Rule*, 40 FCC Rcd at 8169, para. 7 (citing Administrative Conference of the United States, Recommendation 2024–6, Public Engagement in Agency Rulemaking Under the Good Cause Exemption, 89 Fed. Reg. 106406, 106409, para. 4 (Dec. 30, 2024) (*ACUS Public Engagement and Good Cause Recommendation*)).

¹² *Direct Final Rule*, 40 FCC Rcd at 8169 n.15 (explaining “our statutory determination of ‘good cause’ to forgo notice and comment ultimately represents the critical issue, rather than the particular language used by ACUS”).

¹³ *Id.* at 8169, paras. 8-9.

¹⁴ 47 CFR § 43.21(d).

¹⁵ See 47 CFR §§ 43.21(d), 64.903 (requiring that cost allocation manuals be filed by “[e]ach incumbent local exchange carrier having annual revenues from regulated telecommunications operations that are equal to or above the indexed revenue threshold (as defined in § 32.9000)”). “*Indexed revenue threshold for a given year* means \$100 million, adjusted for inflation.” 47 CFR § 32.9000 (italics in original).

¹⁶ See 47 CFR §§ 43.21(f), 32.9000.

¹⁷ *Direct Final Rule*, 40 FCC Rcd at 8167 n.6 (citing *Service Quality Customer Satisfaction, Infrastructure and Operating Data Gathering, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of*

(continued....)

The CPUC's comments do not qualify as "significant adverse" because they do not explain why the direct final rule would be inappropriate, ineffective, or unacceptable, nor do they materially call into question the conclusion that prior notice and comment is unnecessary under the APA. The CPUC's assertion that it relies on sections 43.21(d) and (f) and that these rules are essential for the intrastate rate regulation of small incumbent local exchange carriers is baseless.¹⁸ First, small carriers have never been subject to these rules, and even carriers that meet the revenue threshold have not filed these reports with the FCC in nearly two decades.¹⁹ Second, the Commission has previously rejected this argument.²⁰ In granting AT&T forbearance from the cost assignment rules in 2008, the Commission explained that the cost assignment rules, which include sections 43.21(d) and (f), could not be justified for federal ratemaking purposes and were not necessary for intrastate ratemaking because states may act under their own authority to obtain data they need.²¹

For these reasons, the CPUC's comments do not qualify as "significant adverse." Accordingly, the repeal of these sections as set forth in the amendments to the FCC's rules in the Appendix of the *Direct Final Rule* item is effective on June 15, 2026 as ordered.²²

For further information, please contact Marv Sacks of the Pricing Policy Division, Wireline Competition Bureau at marvin.sacks@fcc.gov.

Certain of the Commission's ARMIS Reporting Requirements et. al., WC Docket Nos. 08-190 et al., Memorandum Opinion and Order and Notice of Proposed Rulemaking, 23 FCC Rcd 13647, 13660-61, paras. 23, 26 (2008) (*ARMIS Forbearance Order*). In the *ARMIS Forbearance Order*, the Commission granted Qwest and Verizon the same conditional forbearance from the Cost Assignment Rules it granted to AT&T in the *AT&T Cost Assignment Rules Forbearance Order*. *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160 from Enforcement of Certain of the Commission's Cost Assignment Rules*, WC Docket No. 07-21 et al., Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (*AT&T Cost Assignment Rules Forbearance Order*).

¹⁸ See CPUC Comments at 2, 4.

¹⁹ See *supra* note 17. All carriers that meet a \$100 million revenue threshold are also price cap carriers, such that granting forbearance from this rule for "price cap carriers" means that no carrier is subject to this rule today.

²⁰ The Commission rejected a related argument made by the CPUC when it filed comments in the 2008 cost assignment rule forbearance proceeding. At that time, the CPUC opposed AT&T's forbearance petition, arguing "any changes to the FCC's cost assignment rules should be closely coordinated with state commissions." Reply Comments of the California Public Utilities Commission and of the People of the State of California on AT&T's Petition for Forbearance, WC Docket No. 07-21, at 2 (filed Apr. 13, 2007).

²¹ *AT&T Cost Assignment Rules Forbearance Order*, 23 FCC Rcd at 7320-22, paras. 32-34 ("We conclude that we do not have authority . . . to maintain federal regulatory requirements that meet the three-prong forbearance test with regard to interstate services in order to maintain regulatory burdens that may produce information helpful to state commissions for intrastate regulatory purposes solely. . . . [W]e would expect that any states that may rely on the Cost Assignment Rules and resulting data for state regulatory purposes would assert their jurisdiction to obtain the needed information . . ."); see also *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations et al.*, WC Docket No. 12-61 et al., Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627, 7654, para. 50 (2013).

²² See *Direct Final Rule*, 40 FCC Rcd at 8170-71, paras. 14-16; see also Appendix, *id.* at 8173 (amending 47 CFR § 43.21 by removing and reserving paragraphs that include (d) and (f)).