

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

In the Matter of)
)
Revision of Filing) CC Docket No. 96-23
Requirements)
)

REPORT AND ORDER

Adopted: November 8, 1996

Released: November 13, 1996

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. In this Report and Order, and pursuant to delegated authority, we adopt proposals set out in the Commission's Notice of Proposed Rulemaking (NPRM), Revision of Reporting Requirements, to eliminate thirteen information reporting requirements imposed on communications common carriers by the Commission's rules and policies.¹ We also reduce, pursuant to the NPRM, the frequency of filing obligations for four other reporting requirements imposed pursuant to Commission orders.

2. The Commission in the NPRM proposed to eliminate thirteen, and reduce the frequency of filing for six, information collection requirements applied to communications common carriers.² Earlier, the Commission had ordered the Common Carrier Bureau (Bureau) to conduct a review of all reports filed with the Bureau, including those reports not subject to the

¹ Revision of Filing Requirements, Notice of Proposed Rulemaking, CC Docket No. 96-23, FCC 96-64, (rel. Feb. 27, 1996). The Commission delegated to the Chief, Common Carrier Bureau, authority to determine whether to adopt any of the proposals set forth in that notice of proposed rulemaking and to issue any necessary reports or orders arising in that rulemaking. NPRM at para. 21.

² Id. at para. 2. While the Commission proposed to modify six reports pursuant to the NPRM, the Commission's proposals concerning the Automated Reporting and Management Information System (ARMIS) quality of service reports and the Payphone Compensation reports have been mooted by the passage of the Telecommunications Act of 1996 and subsequent Commission actions. See 47 U.S.C. §§ 272(b)(5), 276(b)(1)(A); Revision of Filing Requirements and Implementation of Section 402(b)(2)(B) of the Telecommunications Act of 1996: Annual ARMIS Reports, Order, CC Docket No. 96-23, DA 96-381 (rel. Mar. 20, 1996) (Annual ARMIS Reports Order); Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, CC Docket 96-128, FCC 96-388 (rel. Sept. 20, 1996) (Payphone Compensation Order). See also Part IV, infra.

Paperwork Reduction Act.³ Following its review, the Bureau, acting on delegated authority, eliminated three reporting requirements and reduced the frequency with which two other reports must be filed.⁴ In fact, the NPRM that initiated this proceeding is but one instance of the Commission's on-going commitment to eliminate unnecessary and burdensome regulation, including reporting requirements.⁵ Other deregulatory initiatives will follow upon the Commission's continuing review of its statutory mandate and its own practices and procedures.⁶

3. In this proceeding, commenters⁷ generally support the Commission's proposals,⁸ while several urge the Commission to go further and delete or modify reporting requirements other than those set out in the NPRM.⁹ Although we in almost all cases deny these requests as going beyond the scope of this proceeding, we will take into account the commenters' suggestions during our continuing review.¹⁰ Any further action will be undertaken only after affording opportunity for comment on discrete proposals in appropriate proceedings.

4. Pursuant to the Paperwork Reduction Act of 1995, the NPRM contained an Initial Paperwork Reduction Act Analysis to solicit comments from the general public and the Office

³ NPRM at para. 2. See also Public Notice, FCC No. 55228 (rel. Aug. 10, 1995).

⁴ See Public Notice, FCC No. 55228 (Aug. 10, 1995).

⁵ NPRM at para. 27.

⁶ See, e.g., "Common Carrier Bureau Seeks Suggestions on Forbearance," Public Notice, DA 96-798 (rel. May 17, 1996) (Bureau solicits informal comment regarding implementation of new Section 10(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 160(a), requiring the Commission to forbear from applying any regulation, or statutory provision of the Communications Act, under certain circumstances).

⁷ Fifteen parties filed comments in this proceeding. Six of these parties and three additional parties filed reply comments. Appendix A lists the commenters as well as the short names this Report and Order uses to refer to them. Additionally, on April 26, 1996, APCC filed a Request for Leave to File Late Reply Comments, which it further identified as "Ex Parte or Late Filed," to reply to issues raised in comments filed by AT&T and Sprint. We grant APCC's petition to the extent that we accept its comments as informal comments pursuant to Section 1.419(b) of the Commission's rules, 47 C.F.R. § 1.419(b).

⁸ See, e.g., Pacific Bell Comments at 1-2; NYNEX Comments at 1; BellSouth Comments at 1; ALLTEL Comments at 1; AT&T Comments at 1; GTE Comments at ii. Other parties directed their comments to certain proposals contained in the NPRM. See, e.g., CompTel Comments at 1, n.2 (addressing BOC-filed billing and collection contracts); NECA Comments at 1 (addressing FCC Form 492 and pooling reports); INS Comments at 1-2 (addressing, inter alia, semi-annual circuit reports, but generally "[applauding] the Commission's efforts to reduce unnecessary regulatory burdens on carriers' and the Commission's scarce resources").

⁹ See, e.g., GTE Comments at ii (endorsing NPRM proposals and generally urging Bureau to undertake more comprehensive review of reporting requirements).

¹⁰ See Part IV, infra.

of Management and Budget on the information collections requirements contained in the NPRM.¹¹ The Office of Management and Budget responded, "strongly supporting" the Commission's proposals and urging the Commission to take further action regarding, *inter alia*, the carrier-filed ARMIS reports and Cost Allocation Manuals (CAMS) as set forth *infra* at Part IV.¹²

II. ELIMINATION OF THIRTEEN REPORTS

A. Eliminating Divestiture-Related Reports

5. On June 14, 1995, the Bureau issued a Public Notice that sought public comment on whether there was a continuing need for several reports established at the time of the AT&T divestiture.¹³ As a result of the Bureau's review of regulations and reporting requirements and the comments filed in response to the Public Notice,¹⁴ the Commission in the NPRM proposed to eliminate three divestiture-related reports:

(1) Equal Access Progress Report: This report is submitted semi-annually by AT&T and Regional (Bell) Holding Companies under Condition 3 of the AT&T Divestiture Order.¹⁵

(2) Construction Budget Summary: Condition 10 of the AT&T Divestiture Order requires AT&T and Regional (Bell) Holding Companies to submit annual financial summary reports of telecommunications facility construction activity.¹⁶

(3) National Security and Emergency Preparedness Effectiveness Report (NSEP Report): This report is submitted annually by AT&T and Bellcore under Condition 12, AT&T Divestiture Order.¹⁷ It lists activities by the carriers that support national security efforts.

¹¹ NPRM at para. 23.

¹² Notice of Office of Management and Budget Action, at 2 (OMB No. 3060-0701) (rel. May 30, 1996).

¹³ "Common Carrier Bureau Solicits Comments on Elimination of Divestiture Reports," Public Notice CC 95-34 (rel. June 14, 1995).

¹⁴ The Commission received comments on July 14, 1995, from Ameritech, AT&T, NYNEX, Pacific Bell, Southwestern Bell, USTA, and U S WEST. Pursuant to the NPRM, these comments have been incorporated into the record of this proceeding. NPRM at n.6. In this Report and Order, we identify comments submitted pursuant to the Public Notice as "Public Notice Comments."

¹⁵ 96 FCC 2d 18 (1983), modified, 98 FCC 2d 141 (1984).

¹⁶ See id.

¹⁷ See id.

6. Discussion. Ameritech,¹⁸ AT&T,¹⁹ Bell Atlantic,²⁰ BellSouth,²¹ Citizens for a Sound Economy,²² NYNEX,²³ Pacific Bell,²⁴ Southwestern Bell,²⁵ USTA,²⁶ and U S WEST²⁷ explicitly support eliminating these three divestiture-related reports. For example, NYNEX argues that, while these reports may have been necessary in the past, they are no longer required. Regarding the Equal Access Progress Report, NYNEX states that the report is not necessary since the company now offers equal access at all end offices.²⁸ USTA and U S WEST concur in this assessment and note that information contained in the divestiture reports is also submitted by the carriers in the ARMIS reports.²⁹

7. Addressing the Construction Budget Summary and NSEP Reports, U S WEST states that these reports were developed to ensure that the Commission had "timely and relevant information" during the transition period following divestiture and that this period "has certainly elapsed after twelve years."³⁰ U S WEST concludes that any usefulness of the reports "does not

¹⁸ Ameritech Public Notice Comments at 1-5.

¹⁹ AT&T Comments at 1-3; AT&T Public Notice Comments at 1-2.

²⁰ Bell Atlantic Comments at 2.

²¹ BellSouth Comments at 2.

²² Citizens for a Sound Economy Reply Comments at 1-2.

²³ NYNEX Comments at 1-2; NYNEX Public Notice Comments at 1-2.

²⁴ Pacific Bell Comments at 2-3; Pacific Bell Public Notice Comments at 2-6.

²⁵ Southwestern Bell Comments at 2; Southwestern Bell Public Notice Comments at 1-2.

²⁶ USTA Comments at 2; USTA Public Notice Comments at 1-2.

²⁷ U S WEST Comments at 2-3; U S WEST Public Notice Comments at 2-3.

²⁸ NYNEX Comments at 1-2. See also U S WEST Comments at 2 (arguing that Equal Access Progress Report "no longer serves any useful purpose as the substantial majority of telephone customers nationwide now enjoy equal access"); Citizens for a Sound Economy Reply Comments at 3; Southwestern Bell Public Notice Comments at 1.

²⁹ USTA Public Notice Comments at 1-2; U S WEST Public Notice Comments at 2-3. Accord, Pacific Bell Public Notice Comments at 2-6 (information provided to Commission in ARMIS Reports 43-01 (Financial Results), 43-04 (Access Report), 43-06 (Service Quality), 43-07 (Infrastructure), and 43-08 (Operating Data) obviates need for duplicative information submitted in divestiture reports). See also Ameritech Public Notice Comments at 2-5.

³⁰ U S WEST Comments at 3. See also BellSouth Comments at 2.

support the time and effort it takes to produce them."³¹ AT&T agrees, noting that the Commission originally required the Construction Budget Summary Report in order to ensure against unforeseen effects on service following divestiture. AT&T states that "the competitive interexchange marketplace is an effective guarantor that customers will continue to receive high quality service" ³² Regarding the proposal to eliminate the NSEP Reports, AT&T notes that it, "many other carriers" and the Commission are represented on the National Coordinating Center for Telecommunications and on other NSEP task forces and advisory committees, and that these activities "obviate the need for any special NSEP reports."³³

8. We find the commenters' arguments persuasive and we eliminate these three reports. While it is by no means the case that all the information provided in the Equal Access Progress Reports and the Construction Budget Summary Reports is not needed by this Commission, the fact that it is available from other reports filed by carriers argues persuasively for elimination. The clear mandate of the Paperwork Reduction Act of 1995 is to eliminate burdensome, duplicative information requirements.³⁴ In the case of the NSEP Reports, we agree with AT&T that there are ample alternative means to assure that vital telecommunications and other national security interests are promoted. Finally, our decision to eliminate these three reports is supported by the fact that no party took issue with the commenters' analysis or challenged the proposed result.

B. Eliminating other Reports

(1) AT&T Customer Premises Equipment (CPE) Installation and Maintenance Report: AT&T submits this quarterly report pursuant to Furnishing of Customer Premises Equipment and Enhanced Services by American Telephone and Telegraph Co.³⁵ In this report, AT&T compares the level of service provided to customers who own CPE purchased from AT&T affiliates with that provided to customers who own CPE purchased from unaffiliated vendors.

(2) AT&T Nondiscrimination Report for Enhanced Services Providers: AT&T submits this report on a quarterly basis pursuant to Amendment of Section 64.702 of the Commission's Rules and Regulations, (Third Computer Inquiry).³⁶ In these reports, AT&T must compare the level

³¹ U S WEST Comments at 3.

³² AT&T Comments at 2.

³³ Id.

³⁴ 44 U.S.C. §§ 3501, 3507.

³⁵ 102 FCC 2d 655, 690-91 (1985). See also, AT&T Structural Relief Order, modified in part on recon., 104 FCC 2d 739 (1986) (AT&T Structural Relief Reconsideration Order).

³⁶ 104 FCC 2d 958, 1055-56 (1986) (Phase I Order), modified on recon., 2 FCC Rcd 3072, 3086 (1987) (Phase II Order).

of service provided to enhanced service affiliates with that provided to enhanced service competitors.

9. In 1991, the Commission eliminated nondiscrimination reporting for those AT&T network services subject to maximum streamlined regulation.³⁷ The Commission found that, because the interexchange and business services markets had become subject to effective competition, AT&T no longer had the incentive or ability to discriminate against competing CPE vendors or enhanced services providers, so installation and maintenance nondiscrimination reports were no longer necessary with respect to most of AT&T's services.³⁸ In 1993, the Commission added AT&T's 800 services to the list of services subject to streamlined treatment.³⁹ In the NPRM, the Commission tentatively concluded, that because so few AT&T services remain subject to CPE or enhanced services nondiscrimination reporting, and those few are so rarely used, these requirements should be eliminated.⁴⁰

10. Discussion. We consider these nondiscrimination reports together in part because both reports serve similar purposes and in part because AT&T, the sole party subject to these reporting requirements, indicates that it files these reports together in one submission.⁴¹ AT&T,⁴² Citizens for a Sound Economy,⁴³ and Southwestern Bell⁴⁴ support eliminating these reporting requirements. AT&T specifically notes that "analog private line services, which are all that remain subject to these requirements, are so rarely used that the reports serve no relevant purpose."⁴⁵ AT&T reasons that, with so little activity in these services, there is effectively no opportunity for discrimination and, thus, no need for these reports.⁴⁶ In Reply Comments, AT&T

³⁷ These services included AT&T's Basket 3 services and AT&T services not subject to price cap regulation. Competition in the Interstate Interexchange Marketplace, Report and Order, CC Docket No. 90-132, FCC 91-251, 6 FCC Rcd 5880, 5909 (1991), affirmed with modifications, 10 FCC Rcd 4562 (1995).

³⁸ Id. at 5909.

³⁹ Competition in the Interstate Interexchange Marketplace, Second Report and Order, CC Docket No. 90-132, FCC 93-258, 8 FCC Rcd 3668 (1993) (800 Streamlining Order).

⁴⁰ NPRM at para. 4-6.

⁴¹ AT&T Comments at 3, n.5.

⁴² Id. at 3.

⁴³ Citizens for a Sound Economy Reply Comments at 4.

⁴⁴ Southwestern Bell Comments at 2 (articulating its support for all of the proposed actions in the NPRM without specific comment on this report).

⁴⁵ AT&T Comments at 3.

⁴⁶ Id. n.5.

notes that no party opposed this proposed action.⁴⁷

11. AT&T also asks the Commission to clarify that two allegedly related affidavits are also eliminated by our actions here. The first affidavit (documentary affidavit) affirms that AT&T's quarterly reports are true and that AT&T has not discriminated in providing installation and maintenance as between customers of its own and other's enhanced services. The second affidavit referred to by AT&T affirms that AT&T has followed the installation procedures in its Open Network Architecture Plan (ONA) and has not discriminated in the quality of network services used by competing enhanced service providers.

12. No parties opposed the Commission's conclusion in the NPRM that these reports can be eliminated because incentives for discrimination no longer exist. Accordingly, we eliminate the requirement that AT&T file the CPE and Enhanced Services nondiscrimination reports. We also eliminate the related documentary affidavit because it is clearly required solely to support the reports. With regard to the second affidavit (ONA affidavit), it is not clear to us that this affidavit can or should be eliminated in this proceeding. The Commission is considering ONA related issues in an on-going rulemaking and the continuing need for this affidavit would be more appropriately considered in that proceeding.⁴⁸ Accordingly, we reject AT&T's suggestion as to the ONA affidavit at this time.

(3) AT&T Service Quality: Equipment Blockage and Failure Report

13. This semi-annual report is submitted by AT&T pursuant to Policies and Rules Regarding Rates for Dominant Carriers.⁴⁹ The report provides the Commission with the means to monitor and ensure that service quality for equal access exchanges is comparable to service quality for non-equal access exchanges. Because at the end of 1994 approximately 98% of the nation's lines had been converted to equal access (in contrast to 86% in 1989),⁵⁰ the Commission in the NPRM found that this report is no longer relevant for the purposes originally intended. With these concerns in mind, we proposed to eliminate it.

14. Discussion. Parties generally concur with the assessment in the NPRM that equal access has largely been achieved and the underlying need for this report has, therefore, been obviated.⁵¹ We affirm that assessment and eliminate this report.

⁴⁷ AT&T Reply Comments at 1.

⁴⁸ See Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services (Computer III Further Remand), Notice of Proposed Rulemaking, 10 FCC Rcd 8360 (1995).

⁴⁹ 4 FCC Rcd 2873, 2955 (1989).

⁵⁰ See Federal Communications Commission, CCB, Industry Analysis Division, "Telephone Lines and Offices Converted to Equal Access," (Oct. 1995).

⁵¹ AT&T Comments at 4; Citizens for a Sound Economy Reply Comments at 3.

(4) BOC CPE Installation and Maintenance Report; BOC CPE Affidavits for Nondiscriminatory Provision of Network Maintenance

15. The BOC CPE installation and maintenance report is a quarterly report required by the BOC CPE Relief Order.⁵² The report compares the number and/or percentage of lines/circuits not installed by the Bell Operating Companies (BOCs) by the requested date for affiliated and unaffiliated CPE vendors, so that the Commission may monitor whether the BOCs are discriminating against unaffiliated CPE vendors with respect to installation and maintenance.⁵³ As an alternative to submitting a quarterly CPE maintenance report described above, a BOC may instead submit an annual affidavit certifying that it has not discriminated in the provision of network installation and maintenance.⁵⁴ The Commission originally adopted this alternative maintenance certification scheme in the belief that it was unlikely that BOCs could or would discriminate based on the identity of the CPE vendor in providing network maintenance services.⁵⁵ Since the inception of this certification scheme, all affidavits have certified non-discrimination and nothing in the record before us disputes those attestations. For example, in the nine years since the Commission established the nondiscrimination reporting and alternative affidavit requirements, the Commission has received no formal complaints from any party alleging unlawful discrimination by a BOC in the provision of installation and maintenance services. Through the NPRM, the Commission sought comment on the costs and benefits of eliminating the foregoing requirements.

16. Discussion. Bell Atlantic,⁵⁶ BellSouth,⁵⁷ Citizens for a Sound Economy,⁵⁸ NYNEX,⁵⁹ Pacific Bell,⁶⁰ Southwestern Bell,⁶¹ USTA,⁶² and U S WEST⁶³ specifically support

⁵² Furnishing of Customer Premises Equipment by the Bell Operating Telephone Companies and the Independent Telephone Companies, Report and Order, CC Docket No. 86-79, FCC 86-529, 2 FCC Rcd 143, 155 (1987) (BOC CPE Relief Order), modified on recon., 3 FCC Rcd 22 (1987) (BOC CPE Relief Reconsideration Order).

⁵³ See Detariffing of Customer Premises Equipment and Enhanced Services, Memorandum Opinion and Order, CC Docket No. 81-893, FCC 93-237, 8 FCC Rcd 3891 (1993) (Second Computer Inquiry).

⁵⁴ See BOC CPE Relief Reconsideration Order, 3 FCC Rcd at 26.

⁵⁵ See id.

⁵⁶ Bell Atlantic Comments at 2.

⁵⁷ BellSouth Comments at 3.

⁵⁸ Citizens for a Sound Economy Reply Comments at 4.

⁵⁹ NYNEX Comments at 2.

⁶⁰ Pacific Bell Comments at 3.

eliminating these reporting and affidavit requirements. Many parties refer to the NPRM and point out that there have been no formal complaints since the inception of these requirements.⁶⁴ Some of these parties state that they are not aware of any informal complaints.⁶⁵ Southwestern Bell states that the formal complaint process is sufficient to handle any claims of unlawful competition.⁶⁶ Additionally, NYNEX comments that, given the high level of competition in the market for installation and maintenance, any discrimination would be brought to the Commission's attention.⁶⁷ BellSouth describes the administrative burdens associated with these requirements, noting that BOCs spend considerable time training service personnel, reviewing service records, and generating reports to comply with this requirement.⁶⁸

17. We find these arguments persuasive and conclude that these requirements are unnecessary. We note, particularly, the apparent lack of any formal or informal complaints and the availability of other means at the disposal of aggrieved parties and the Commission to redress discrimination. Again, we note that no parties describe any incidents of discrimination or oppose the elimination of these requirements. Accordingly, we eliminate these reports and affidavits.

(5) BOC Sales Agency Program and Vendor Support Program Report

18. This report is submitted annually by each BOC pursuant to the BOC CPE Relief Order.⁶⁹ The report contains information on the BOCs' sales agency programs and vendor sales activity. If the BOC has an affiliated entity that is an authorized sales agent, the report will set out a comparison of affiliated and unaffiliated vendor sales activity. The original purpose of the report was to ensure that the BOCs provide independent CPE vendors with meaningful opportunities to market their CPE jointly with BOC network services. In the NPRM, the Commission stated its belief that these sales agency reports are no longer generally used by independent CPE vendors, and that, therefore, the reports may not as a practical matter serve the purposes for which they were intended.

⁶¹ Southwestern Bell Comments at 3.

⁶² USTA Comments at 2.

⁶³ U S WEST Comments at 4.

⁶⁴ Bell Atlantic Comments at 2; BellSouth Comments at 2; Southwestern Bell Comments at 3; U S WEST Comments at 4.

⁶⁵ Bell Atlantic Comments at 2; U S WEST Comments at 4.

⁶⁶ Southwestern Bell Comments at 3.

⁶⁷ NYNEX Comments at 2.

⁶⁸ BellSouth Comments at 3.

⁶⁹ See 2 FCC Rcd at 156.

19. Discussion. Bell Atlantic,⁷⁰ BellSouth,⁷¹ Citizens for a Sound Economy,⁷² NYNEX,⁷³ Pacific Bell,⁷⁴ Southwestern Bell,⁷⁵ USTA,⁷⁶ and U S WEST⁷⁷ all specifically support eliminating this reporting requirement. Several parties state that with increasing competition there is little incentive to discriminate against unaffiliated vendors.⁷⁸ NYNEX, for example, comments that discrimination is unlikely in its case because it is seeking to expand its sales channels not to diminish them.⁷⁹ Both Southwestern Bell and U S WEST state that they are unaware of any evidence that independent CPE vendors continue to use or have a legitimate need for such a report.⁸⁰

20. Based on the record, we are convinced that the current competitive CPE market is an effective check against discrimination and that these reports are no longer necessary. Accordingly, we eliminate them.

(6) Billing and Collection Contracts

21. This report is submitted by incumbent local exchange carriers (ILECs) on an as-needed basis pursuant to the Common Carrier Bureau's Public Notice released in CC Docket No. 85-88.⁸¹ According to that Public Notice, each ILEC provides a list of all billing and collection contracts under which it provides such services. From time to time as necessary, the ILEC updates the list on file with the Commission. As ILECs previously enjoyed a virtual monopoly

⁷⁰ Bell Atlantic Comments at 3.

⁷¹ BellSouth Comments at 3.

⁷² Citizens for a Sound Economy Reply Comments at 4.

⁷³ NYNEX Comments at 2.

⁷⁴ Pacific Bell Comments at 3.

⁷⁵ Southwestern Bell Comments at 4.

⁷⁶ USTA Comments at 2.

⁷⁷ U S WEST Comments at 5.

⁷⁸ NYNEX Comments at 2; Southwestern Bell Comments at 4.

⁷⁹ NYNEX Comments at 2.

⁸⁰ Southwestern Bell Comments at 4; U S WEST Comments at 5.

⁸¹ Public Notice, 2 FCC Rcd 809 (Com. Car. Bur. 1987). See Detariffing of Billing and Collection Services, Report and Order, CC Docket No. 85-88, FCC 86-31, 102 FCC 2d 1150 (1986). That Public Notice clarified the reporting requirement imposed by the Commission when it detariffed such billing and collection services in 1986.

on certain information necessary for the billing and collection of end users, this service was in the past subject to tariff. As non-ILECs gained access to such information and the service became more competitive, however, the Commission relaxed the tariff requirement and simply required these ILECs to file lists of those contracts. In the NPRM, the Commission observed that such lists are seldom used by the staff or the public and proposed to eliminate this reporting requirement entirely.⁸²

22. Discussion. ALLTEL,⁸³ Bell Atlantic,⁸⁴ BellSouth,⁸⁵ Citizens for a Sound Economy,⁸⁶ CompTel,⁸⁷ GTE,⁸⁸ NYNEX,⁸⁹ Pacific Bell,⁹⁰ Southwestern Bell,⁹¹ Sprint,⁹² USTA,⁹³ and U S WEST⁹⁴ explicitly support eliminating this requirement. A number of the parties allege that the market for billing and collection services has become so competitive that it is essentially self-regulating.⁹⁵ For example, Bell Atlantic cites the Commission's decision to detariff billing and collection services to support the proposition that the billing and collection services market is sufficiently competitive to prevent or correct unreasonable practices or excessive rates.⁹⁶ Similarly, U S WEST notes that many interexchange carriers (IXCs) no longer use BOC-supplied

⁸² In 1992, the Commission invited comments on whether to eliminate this requirement. See Commission Proposes Relieving Local Exchange Carriers of Reporting Obligation for Billing and Collection Contracts, Public Notice, 7 FCC Rcd 4042 (Com. Car. Bur. 1992).

⁸³ ALLTEL Comments at 1.

⁸⁴ Bell Atlantic Comments at 3.

⁸⁵ BellSouth Comments at 4.

⁸⁶ Citizens for a Sound Economy Reply Comments at 4.

⁸⁷ CompTel Comments at 2.

⁸⁸ GTE Comments at 1.

⁸⁹ NYNEX Comments at 2.

⁹⁰ Pacific Bell Comments at 3.

⁹¹ Southwestern Bell Comments at 4.

⁹² Sprint Comments at 1.

⁹³ USTA Comments at 2.

⁹⁴ U S WEST Comments at 6.

⁹⁵ Bell Atlantic Comments at 3; Bell Atlantic Reply Comments at 2-3; GTE Comments at 2; USTA Reply Comments at 2; U S WEST Reply Comments at 6.

⁹⁶ Bell Atlantic Reply Comments at 2.

billing and collection services and argues that the reporting requirement is unnecessary.⁹⁷

23. Moreover, several parties comment that billing and collection information may be obtained in other ways.⁹⁸ Bell Atlantic states that, under the 1996 Act, information on billing and collection contracts must be made available for public inspection.⁹⁹ NYNEX generally notes that the Commission has ample authority to obtain copies of these contracts if it suspects discrimination.¹⁰⁰ Finally, GTE suggests that the Commission's formal complaint procedures are adequate to handle any discrimination issues that might arise.¹⁰¹

24. CompTel also supports our proposal, but it urges the Commission to require BOCs to file with the Commission copies of any billing and collection contracts they enter into with their affiliates.¹⁰² CompTel argues that such a requirement is necessary to prevent discrimination in favor of BOC affiliates.¹⁰³ According to CompTel, carriers competing with BOC affiliates should be allowed to review billing and collection contracts between BOCs and their affiliates.¹⁰⁴ In reply comments, however, Bell Atlantic, Pacific Bell, USTA, and U S WEST all oppose CompTel's proposal.¹⁰⁵ These parties reiterate their position that the market is sufficiently competitive to prevent discrimination.¹⁰⁶ Pacific Bell labels CompTel's proposal as more burdensome than the original reporting requirement which the Commission proposed to eliminate.¹⁰⁷ Similarly, Bell Atlantic finds CompTel's proposal illogical given CompTel's support for our proposed action.¹⁰⁸ Additionally, Bell Atlantic and Pacific Bell respond that there are

⁹⁷ U S WEST Comments at 5.

⁹⁸ Bell Atlantic Reply Comments at 2-3; NYNEX Comments at 3; GTE Comments at 2.

⁹⁹ Bell Atlantic Reply Comments at 2.

¹⁰⁰ NYNEX Comments at 3.

¹⁰¹ GTE Comments at 2.

¹⁰² CompTel Comments at 2.

¹⁰³ Id. at 2-5.

¹⁰⁴ Id. at 2.

¹⁰⁵ Bell Atlantic Reply Comments at 1-4; Pacific Bell Reply Comments at 1-3; USTA Reply Comments at 1-2; U S WEST Reply Comments at 2.

¹⁰⁶ Bell Atlantic Reply Comments at 1-4; USTA Reply Comments at 2. See also U S WEST Reply Comments at 2 (accusing CompTel of seeking economic advantage by imposing regulatory burdens on its potential competitors).

¹⁰⁷ Pacific Bell Reply Comments at 2.

¹⁰⁸ Bell Atlantic Reply Comments at 2.

sufficient alternative opportunities to monitor these contracts.¹⁰⁹ These parties allege that Section 272(b)(5) of the 1934 Act, as amended, requires BOCs to make all transactions between itself and its separate affiliates available for public inspection.¹¹⁰ Bell Atlantic and Pacific Bell argue that this section ensures the public availability of all contracts, including billing and collection contracts. Additionally, Bell Atlantic contends that biennial audits required under the 1996 Act will ensure compliance with structural separation provisions.¹¹¹

25. We have decided to eliminate this reporting requirement because, as we noted in the NPRM, it is apparent that the reports are seldom used either by Commission staff or by the public. This tentative conclusion was not contradicted by the parties. Some of these parties go further and urge the Commission to acknowledge that the billing and collection market is so competitive as to be self regulating, but affirming such a claim is unnecessary to support a decision to eliminate these reports.¹¹² Neither need we construe Section 272 of the 1934 Act, as amended, to interpret its language regarding the public availability of billing and collection contracts or the particulars of any required audits. Section 272 will be construed in more appropriate Commission proceedings.¹¹³ It is enough to note that the Commission has ample authority to obtain copies of contracts or other data about billing and collection arrangements should it need specific information in order to investigate particular complaints or for other reasons. Accordingly, we eliminate the billing and collection contracts reporting requirement. For the same reasons, we reject CompTel's proposal which would actually seem to increase the filing burdens that we have decided to eliminate.

(7) Circuit Report

26. Section 63.07(b) of the Commission's rules requires nondominant carriers that construct or acquire initial or additional circuits to file a report concerning these circuits semi-annually on February 1 and August 1 of each year.¹¹⁴ These reports provide information on

¹⁰⁹ Id.; Pacific Bell Reply Comments at 2.

¹¹⁰ Bell Atlantic Reply Comments at 2 (citing 47 U.S.C. § 272(b)(5)); Pacific Bell Reply Comments at 2.

¹¹¹ Bell Atlantic Reply Comments at 2.

¹¹² We note that, in deciding to detariff billing and collection services, the Commission indicated that the market for such services is increasingly competitive. See Detariffing of Billing and Collection Services, Report and Order, 102 FCC 2d 1150 (1986).

¹¹³ See Implementation of the Telecommunications Act of 1996: Accounting Safeguards under the Telecommunications Act of 1996, Notice of Proposed Rulemaking, CC Docket No. 96-150, FCC 96-309, (rel. July 18, 1996). See also Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended, Notice of Proposed Rulemaking, CC Docket No. 96-149, FCC 96-308 (rel. July 18, 1996).

¹¹⁴ 47 C.F.R. § 63.07(b).

interstate communications facilities constructed and operated by nondominant carriers. This information permits the Commission, as part of its regulatory program governing interstate services provided by nondominant carriers, to perform a public interest assessment of the facilities investments of these carriers, as envisioned in its Competitive Carrier Proceeding.¹¹⁵

27. As explained by the Commission in the NPRM, it is no longer necessary to require these reports on a routine basis from all nondominant carriers and the Commission proposed to eliminate this report. Instead, the Commission noted that it can obtain this information in individual instances if and when the need arises. The Commission explained in the NPRM that this would reduce administrative burdens on nondominant carriers of routinely collecting and filing this information as well as related burdens placed on the Commission.¹¹⁶

28. Discussion. AT&T,¹¹⁷ Citizens for a Sound Economy,¹¹⁸ GTE,¹¹⁹ INS,¹²⁰ Southwestern Bell,¹²¹ Sprint,¹²² and USTA¹²³ specifically support the elimination of this report. Sprint comments that the original intent of this requirement was to prevent overspending by rate-of-return regulated common carriers.¹²⁴ Both Sprint and AT&T conclude that this report is no longer needed to fulfill that goal.¹²⁵ AT&T argues that the competitive interexchange marketplace is better suited than regulatory scrutiny to assess the need for circuit construction and acquisition.¹²⁶ Further, AT&T asserts that there is an appreciable burden on carriers and

¹¹⁵ Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, 45 FR 76148, 76163 (Nov. 18, 1980) (Competitive Carrier Proceeding).

¹¹⁶ NPRM at para. 11.

¹¹⁷ AT&T Comments at 5.

¹¹⁸ Citizens for a Sound Economy Reply Comments at 4.

¹¹⁹ GTE Comments at 2.

¹²⁰ INS Comments at 1.

¹²¹ Southwestern Bell Comments at 2.

¹²² Sprint Comments at 1-2.

¹²³ USTA Comments at 2.

¹²⁴ Sprint Comments at 2.

¹²⁵ Id. at 1-2; AT&T Comments at 5.

¹²⁶ AT&T Comments at 5 ("The competitive interexchange market drives each carrier to establish the facilities optimally needed to serve customers and affords customers ample choice among service providers.").

Commission staff in collecting, producing and administering this information.¹²⁷ GTE suggests that this information can be obtained, if needed, through the general authority of Section 218 of Communications Act.¹²⁸ In reply comments, AT&T notes that no parties opposed eliminating this report.¹²⁹

29. We concur with the commenters' analysis. The interexchange marketplace serves as a more than adequate discipline for nondominant carriers in this regard. Further, eliminating this report is consistent with our goal of reducing burdensome and unnecessary reporting. Should the Commission need specific information at a later date, the Commission will rely on its authority under the Communications Act to obtain it. We therefore eliminate the Circuit Report requirement.

(8) Record Carrier Letter

30. Each record carrier with calendar year operating revenues over \$75 million is required, under Section 43.21(d) of the Commission's rules, to file a letter showing selected balance sheet and income items for that year with the Common Carrier Bureau Chief.¹³⁰ These letters must be filed by March 31 of the following year. The financial statement summary provides an indication of record carrier business. In the NPRM, the Commission noted that, in the 1950s, 80 percent of international traffic was handled by record carriers.¹³¹ In 1994 and 1995, this report was filed by two carriers representing 2 percent of the market. We therefore proposed to eliminate this report as unnecessary.

31. Discussion. No commenters object to our conclusion that this report is unnecessary. Citizens for a Sound Economy¹³² and Southwestern Bell¹³³ both support this proposal, but neither party offers any specific justification for its endorsement. We therefore eliminate this requirement based on the record and the specific conclusions set out in the NPRM.

(9) Report on Inside Wiring Services

¹²⁷ Id.

¹²⁸ GTE Comments at 2. See also INS Comments at 1-2.

¹²⁹ AT&T Reply Comments at 1.

¹³⁰ 47 C.F.R. § 43.21(d).

¹³¹ A record carrier is a carrier that provides services such as telegraph and telex. These services were originally called record services since they entailed a written record.

¹³² Citizens for a Sound Economy Reply Comments at 4 (stating generally that this report, among others, has minimal usefulness while imposing unnecessary burdens on the affected companies).

¹³³ Southwestern Bell Comments at 2.

32. This report is submitted by each ILEC with annual operating revenues of \$100 million or more pursuant to Section 43.41 of the Commission's rules.¹³⁴ This rule applies only to the ILEC serving the greatest number of access lines within the portions of the state that are, or would be, subject to state regulation. The report is due within 30 days of the publication or release of state or local rules and regulations concerning local exchange carrier prices for inside wire services. Report filers are also required to attach copies of any state or local statute, order, rule, law or other documents that regulate or propose to regulate ILEC prices for inside wiring services. This reporting requirement was established to gain information about regulations at the state level and their potential impact on federal wiring policy.

33. Discussion. Bell Atlantic,¹³⁵ BellSouth,¹³⁶ Citizens for a Sound Economy,¹³⁷ GTE,¹³⁸ NYNEX,¹³⁹ Pacific Bell,¹⁴⁰ Southwestern Bell,¹⁴¹ USTA,¹⁴² and U S WEST¹⁴³ all explicitly support eliminating this report. Several commenters state that this requirement is not necessary because the installation of telephones is increasingly deregulated.¹⁴⁴ For example, Bell Atlantic explains that none of the jurisdictions in which it operates regulate inside wiring services, so it does not file such reports.¹⁴⁵ Concluding that this report has outlived its usefulness, Bell Atlantic supports the proposal to eliminate it.¹⁴⁶

34. Many commenters state that there are alternative ways of gathering this

¹³⁴ 47 C.F.R. § 43.41.

¹³⁵ Bell Atlantic Comments at 4.

¹³⁶ BellSouth Comments at 4.

¹³⁷ Citizens for a Sound Economy Reply Comments at 4.

¹³⁸ GTE Comments at 3.

¹³⁹ NYNEX Comments at 3.

¹⁴⁰ Pacific Bell Comments at 3.

¹⁴¹ Southwestern Bell Comment at 5.

¹⁴² USTA Comments at 2.

¹⁴³ U S WEST Comments at 6.

¹⁴⁴ Id. at 6; Bell Atlantic Comments at 4.

¹⁴⁵ Bell Atlantic Comments at 4.

¹⁴⁶ Id.

information that would be much less cumbersome.¹⁴⁷ BellSouth notes there is no reason that a carrier could not provide this information on its own initiative should it perceive a rift developing between federal and state policies.¹⁴⁸ Agreeing, Bell Atlantic suggests that the Commission simply request that adversely affected parties report those provisions which appear to conflict with federal wiring policies.¹⁴⁹ GTE notes that the Commission can exercise its authority, pursuant to 47 U.S.C. § 218, to obtain such information if necessary.¹⁵⁰

35. We agree that the increasing deregulation of prices for inside wire service renders this report unnecessary. Further, we are also persuaded that should the Commission need information on a particular jurisdiction's inside wiring policy, there are ample alternative sources for this information. For these reasons, we eliminate this reporting requirement.

III. REDUCING THE FREQUENCY OF FILING REQUIREMENTS FOR OTHER REPORTS

A. Reducing Filing Requirements for Four Reports

(1) Form 492: Rate of Return Report

36. This one page quarterly report, submitted by NECA and ILECs not subject to the Commission's price cap regulation, contains total revenues, total expenses and taxes, operating income and the rate base for each company.¹⁵¹ The Commission noted in the NPRM that, while data is still needed to ensure that non-price cap companies do not exceed the authorized rate of return, this purpose might be accomplished by requiring an annual filing.¹⁵²

37. Discussion. Cincinnati Bell,¹⁵³ Citizens for a Sound Economy,¹⁵⁴ NECA,¹⁵⁵ and

¹⁴⁷ Id.; BellSouth Comments at 4; GTE Comments at 3; NYNEX Comments at 3; U S WEST Comments at 6.

¹⁴⁸ BellSouth Comments at 4.

¹⁴⁹ Bell Atlantic Comments at 4.

¹⁵⁰ GTE Comments at 3 (citing 47 U.S.C. § 218).

¹⁵¹ 47 C.F.R. § 65.600(b).

¹⁵² NPRM at para. 16.

¹⁵³ Cincinnati Bell Comments at 2.

¹⁵⁴ Citizens for a Sound Economy Reply Comments at 4.

¹⁵⁵ NECA Comments at 2.

Pacific Bell¹⁵⁶ each specifically support the proposal. Citizens for a Sound Economy reiterates the Commission's position that the monitoring objectives of this report can still be accomplished with annual submissions.¹⁵⁷ Pacific Bell recommends that the Commission should not simply reduce the frequency of filing but should eliminate this report altogether. Pacific Bell states that the information obtained in this report is redundant; specifically, it suggests that the same information can be obtained in the annual filing for price cap companies.¹⁵⁸ Cincinnati Bell questions whether any form of rate-of-return regulation is appropriate in light of the Telecommunications Act of 1996.¹⁵⁹

38. Based on the record before us, we conclude that reducing the frequency of this report will lessen the administrative burden on carriers without diminishing our ability to monitor rates of return. At this time, however, we will not accept Pacific Bell's invitation to eliminate this report. First, we believe that it is significantly beyond the scope of the delegation in this proceeding to eliminate a report when the NPRM merely proposed a procedural change to the frequency of filing. More fundamentally, however, we note that whatever the ultimate fate of rate-of-return regulation at the Commission, we have not eliminated rate-of-return-based scrutiny and the information submitted in this report is necessary if the Commission is to accomplish its regulatory responsibilities to ensure reasonable and nondiscriminatory rates. We believe that such reports continue to be necessary to further our statutory mandate, but we conclude that they may be filed annually. We note that ALLTEL recommends that the Commission take steps in this proceeding to revise the annual access tariff filings to coincide with the time period covered by the interstate rate-of-return monitoring reports.¹⁶⁰ ALLTEL asserts that this is required in order to remedy the current lack of linkage between the two-year rate-of-return monitoring period and the period covered by the annual access tariff filings for rate-of-return regulated companies such as ALLTEL. Because LECs use the rate-of-return data to calculate rates and the Commission uses the rate-of-return data to evaluate the annual access tariffs, we believe that this suggestion is impractical. If the time periods were to coincide, then the Commission would not have access to the current year's rate-of-return information to make calculations for sharing and low end adjustments that are needed to issue the annual access tariffs. Accordingly, we decline to adopt ALLTEL's suggestion.

¹⁵⁶ Pacific Bell Comments at 4.

¹⁵⁷ Citizens for a Sound Economy Reply Comments at 4.

¹⁵⁸ Pacific Bell Comments at 4.

¹⁵⁹ Cincinnati Bell Comments at 2. Cincinnati Bell further argues that the Commission should apply a threshold of \$1 billion in annual operating revenue to Form 492. It argues that this higher threshold would relax the burden on smaller LECs. Because the Commission did not address the threshold issue in the NPRM, we decline to follow this suggestion at this time.

¹⁶⁰ ALLTEL Comments at 2. We note that the annual access tariff filings are effective for the year starting July 1 and ending June 30, while the rate-of-return reports track the calendar year starting January 1 and ending December 31.

(2) Joint Board Monitoring Program - Pooling

39. The Joint Board Monitoring Program - Pooling reports (pooling reports) are submitted by NECA on both a monthly (summary of pool results) and an annual (long-term support) basis under Sections 69.605 and 69.612 of the Commission's rules.¹⁶¹ The pooling reports contain NECA pooling data and long-term support data and were established to keep track of support flows and costs of administering the support program. The Commission noted in the NPRM that these purposes could be accomplished by quarterly submissions.¹⁶²

40. Discussion. Citizens for a Sound Economy,¹⁶³ NECA,¹⁶⁴ and U S WEST¹⁶⁵ explicitly support quarterly submissions. Again, Citizens for a Sound Economy offers its general assessment that the monitoring objectives of this report may still be accomplished with less frequent submissions.¹⁶⁶ NECA explains that it has already been filing its monthly pooling reports on a quarterly basis as a result of "informal discussions with the Commission."¹⁶⁷ While NECA supports our proposal, it argues that the Commission should go further and eliminate this report because almost all of the same information can be obtained through Form 492.¹⁶⁸ NECA contends that the FCC Form 492 reports provide the Commission the level of detail needed for earnings monitoring.¹⁶⁹

41. We note that no commenters oppose reducing the frequency of this report. We conclude that reducing the frequency of filing to a quarterly basis will reduce the administrative burdens imposed on NECA while maintaining our ability to monitor subsidy flows and costs of administering the subsidies. We do not adopt NECA's suggestion to eliminate this requirement at this time because the pooling reports provide more detailed information than Form 492. Specifically, the Commission uses the more detailed breakdown of Carrier Common Line revenues, expenses, and investment, as well as traffic sensitive data, to review support flows and

¹⁶¹ See 47 C.F.R. §§ 69.605, 69.612.

¹⁶² NPRM at para. 17.

¹⁶³ Citizens for a Sound Economy Reply Comments at 4.

¹⁶⁴ NECA Comments at 3-4.

¹⁶⁵ U S WEST Comments at 8.

¹⁶⁶ Citizens for a Sound Economy Reply Comments at 4.

¹⁶⁷ NECA Comments at 3. Each quarterly report consists of three monthly reports.

¹⁶⁸ Id. at 3-4.

¹⁶⁹ Id.

costs of administering the support program.¹⁷⁰

(3) New Service Tracking Report

42. This ILEC-submitted quarterly report is required from all ILECs subject to price cap regulation.¹⁷¹ The report compares (a) the actual impact of a new service on the carrier's net quarterly revenues with (b) the projections provided by that carrier when it initially filed the new service tariff. The report enables staff to compare projected demand and related revenues for a new service with the actual results after that service becomes available. As a result, the staff can determine whether a particular carrier or carriers in general are providing reliable projections when new services are offered. These reports are employed to conduct studies to determine reliability of price cap carrier new service projections.¹⁷² The Commission in the NPRM found that such data is still needed, but proposed to adopt an annual filing requirement.¹⁷³

43. Discussion. Citizens for a Sound Economy,¹⁷⁴ GTE,¹⁷⁵ NYNEX,¹⁷⁶ Sprint,¹⁷⁷ and U S WEST¹⁷⁸ all support the proposed change. Additionally, Bell Atlantic,¹⁷⁹ GTE,¹⁸⁰ Pacific

¹⁷⁰ For example, NECA Administrative Costs are reported in the Joint Board Monitoring Program - Pooling Reports but not in Form 492.

¹⁷¹ See Policy and Rules Concerning Rates for Dominant Carriers, Report and Order, CC Docket No. 87-313, FCC 89-91, 4 FCC Rcd 2873, 3127 (1989) (AT&T Price Cap Order). See also Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, CC Docket No. 87-313, FCC 90-314, 5 FCC Rcd 6786, 6825 (1990).

¹⁷² In 1993, the Commission tentatively determined that these reports could be reduced in frequency and released an NPRM to that effect. See New Service Reporting Requirements under Price Cap Regulations, Notice of Proposed Rulemaking, CC Docket No. 92-275, FCC 92-514, 8 FCC Rcd 438 (1992). Of the eleven parties who submitted comments, none opposed the changes proposed by the Commission in the NPRM. These parties were: Ameritech Operating Companies, AT&T, Bell Atlantic, BellSouth, GTE, NYNEX, Rochester Telephone Corporation, The Southern New England Telephone Company, Southwestern Bell, United Telephone Companies, and USTA.

¹⁷³ NPRM at para. 18.

¹⁷⁴ Citizens for a Sound Economy Reply Comments at 4.

¹⁷⁵ GTE Comments at 5.

¹⁷⁶ NYNEX Comments at 3.

¹⁷⁷ Sprint Comments at 3.

¹⁷⁸ U S WEST Comments at 9.

¹⁷⁹ Bell Atlantic Comments at 4.

Bell,¹⁸¹ Southwestern Bell,¹⁸² Sprint,¹⁸³ USTA,¹⁸⁴ and U S WEST¹⁸⁵ recommend that the Commission eliminate this report. GTE supports annual filing and offers several reasons.¹⁸⁶ First, quarterly reports are of limited usefulness because service demand levels build gradually over time. Second, since carrier demand forecasts are developed for a twelve-month period, annual reporting of actual results would make forecast monitoring more meaningful. Third, the Commission's elimination of the "net revenue test," as part of the introduction for new services, essentially renders quarterly reporting moot, according to GTE. In addition, U S WEST comments that there is a large administrative burden associated with this report.¹⁸⁷

44. Urging the Commission to go beyond the NPRM, Sprint suggests that the report should be eliminated because it is not effective. Sprint comments that the customer inputs for demand are often inadequate and skew the results in this report.¹⁸⁸ Sprint concludes that the report, as drafted, is not an adequate tool for this analysis.¹⁸⁹ Pacific Bell states that the information obtained in this report is redundant.¹⁹⁰ Southwestern Bell comments that the information can be obtained elsewhere.¹⁹¹ Bell Atlantic states that the Commission could achieve the same results by comparing information in the annual access tariff filing to the projections.¹⁹² Additionally, GTE argues that the report is unnecessary because there is sufficient competition to force ILECs to modify price levels or restructure new offerings if the market reacts

¹⁸⁰ GTE Comments at 5.

¹⁸¹ Pacific Bell Comments at 4.

¹⁸² Southwestern Bell Comments at 6.

¹⁸³ Sprint Comments at 3.

¹⁸⁴ USTA Comments at 2.

¹⁸⁵ U S WEST Reply Comments at 3.

¹⁸⁶ GTE Comments at 6.

¹⁸⁷ U S WEST Reply Comments at 8 ("Compiling the data for this report is extremely time consuming for U S WEST, as the information required must come from a variety of different sources.").

¹⁸⁸ Sprint Comments at 3.

¹⁸⁹ Id.

¹⁹⁰ Pacific Bell Comments at 4 (arguing that the information obtained in this report is also gathered in the annual filing for price cap companies).

¹⁹¹ Southwestern Bell Comments at 6.

¹⁹² Bell Atlantic Comments at 4.

unfavorably.¹⁹³

45. In reply comments, MCI specifically opposes eliminating the report.¹⁹⁴ MCI stresses that this report is necessary to evaluate ILEC projections for new services.¹⁹⁵ MCI states that ILECs have an incentive to underestimate demand so that they may set prices at an artificially high level.¹⁹⁶ According to MCI, this report is an effective means of monitoring and preventing such abuse.¹⁹⁷

46. We note that the majority of commenters support less frequent filing of this report and that not even MCI opposes an annual filing. We therefore reduce the frequency of this report to an annual basis. We do not accept the invitation from some commenters to eliminate this report altogether. At this time, we conclude that this report is necessary for the Commission to determine the reliability of new service projections by price cap carriers.

(4) Report of Unsecured Credit to Political Candidates

47. This report is submitted semi-annually by all carriers having operating revenues in excess of \$1 million for the preceding year.¹⁹⁸ It shows, by account, any amount due and unpaid as of the end of the month prior to the reporting date for interstate and for communications services rendered by or on behalf of candidates for Federal office, when such amount results from the extension of unsecured credit. The reporting requirement was established pursuant to Section 401 of the Federal Election Campaign Act of 1971.¹⁹⁹ The Commission in the NPRM noted that the report serves as a check on the implied contributions by carriers to candidates for Federal office, and solicited comment whether annual filings would meet the requirements of the statute.²⁰⁰

48. Discussion. AT&T,²⁰¹ Citizens for a Sound Economy,²⁰² GTE,²⁰³ NYNEX,²⁰⁴ and

¹⁹³ GTE Comments at 5.

¹⁹⁴ MCI Reply Comments at 2-3 (without comment as to the proposed change in reporting frequency).

¹⁹⁵ Id.

¹⁹⁶ Id.

¹⁹⁷ Id.

¹⁹⁸ 47 C.F.R. § 64.804(g).

¹⁹⁹ Pub. L. No. 92-225, § 401, 86 Stat. 3 (1972).

²⁰⁰ NPRM at para. 20.

²⁰¹ AT&T Comments at 7; AT&T Reply Comments at 2-3.

U S WEST²⁰⁵ all support our proposed action. NYNEX states that the articulated purpose of this report can still be achieved by filing annually as opposed to semi-annually.²⁰⁶ U S WEST concurs that more frequent reporting would not provide significant benefits.²⁰⁷ AT&T argues that this report is unnecessary because it is owed only small balances and that it continues to utilize appropriate collection efforts.²⁰⁸ Alternatively, AT&T suggests that the report should only be filed after a primary or an election.²⁰⁹

49. We agree with the commenters that annual filing adequately serves the purposes articulated in the Federal Election Campaign Act of 1971 and we, therefore, reduce the filing requirement for this report so that it need only be submitted on an annual basis.

IV. ARMIS REPORTS, PAYPHONE REPORTS, AND OTHER PROPOSALS

A. ARMIS Reports and Related Proposals

50. Among the proposals in the NPRM, the Commission also proposed to reduce the filing of the Automated Reporting and Management Information System (ARMIS) quality of service reports (Report 43-05) from quarterly to semi-annually.²¹⁰ This proposal was mooted by events and Commission action. Section 402(b)(2)(B) of the 1996 Act provides that ARMIS reports may be filed annually to the extent a carrier is required to file such reports at all.²¹¹ Accordingly, the Bureau, acting on delegated authority, rescinded the proposal concerning ARMIS quality of service reports and established that the reports may be filed annually beginning on April 1, 1996.²¹²

²⁰² Citizens for a Sound Economy Reply Comments at 4.

²⁰³ GTE Comments at 7.

²⁰⁴ NYNEX Comments at 3.

²⁰⁵ U S WEST Comments at 10.

²⁰⁶ AT&T Comments at 6.

²⁰⁷ U S WEST Comments at 10.

²⁰⁸ AT&T Comments at 7.

²⁰⁹ Id.; AT&T Reply Comments at 2-3.

²¹⁰ NPRM at para. 15. Among the commenters addressing this issue, only the Iowa Utilities Board opposed the proposal. Iowa Utilities Board Reply Comments at 1-2.

²¹¹ 1996 Act, § 402(b)(2)(B).

²¹² Annual ARMIS Reports Order, CC Docket No. 96-23, DA 96-381.

51. Various ILECs took the opportunity when commenting on this issue to argue for the elimination of other ARMIS reports. BellSouth, for example, urges the Commission to eliminate ARMIS Reports 43-01, 43-02, and 43-03 because the information contained in them allegedly is redundant or unnecessary. Similarly, Cincinnati Bell urges the Commission to eliminate ARMIS Reports 43-05, 43-06, and 43-07, while Bell Atlantic says that ARMIS Report 43-04 is unnecessary and can be eliminated, along with Reports 43-08 and 495 A and 495 B. Altogether, these commenters argue that the Commission should eliminate ten ARMIS reports.²¹³

52. AT&T and MCI, on the other hand, argue against eliminating any of these additional ARMIS reports. In defense of ARMIS 43-04, AT&T argues that this report is necessary because it is the only publicly available means of monitoring ILEC compliance with the Commission's rules on jurisdictional separations and access charges.²¹⁴ MCI concurs in this assessment and argues that ARMIS Reports 43-01, 43-02, 43-03, and 43-04 each serve different functions, report different data, and separate information differently.²¹⁵ MCI urges that these reports are necessary to counter a "consistent history" of shifting costs from nonregulated to regulated services.²¹⁶ Relatedly, MCI supports the continued use of Forms 495 A and B to monitor the treatment of shared investment between regulated and nonregulated services.²¹⁷ Finally, MCI opposes ILEC efforts to eliminate ARMIS Reports 43-05, 43-06, and 43-07 because this information is necessary to monitor quality and service standards.²¹⁸ It argues that there is not nearly enough competition in the local markets to protect the public interest effectively without these reports.²¹⁹

53. Other ILEC commenters went beyond calling for the elimination of specific ARMIS reports to urge the Commission to reduce more generally the reporting burdens on LECs by raising the annual revenue threshold for LECs filing ARMIS reports and cost allocation

²¹³ See also ALLTEL Reply Comments at 2 (supporting recommendations of Cincinnati Bell and others). Although it did not recommend the elimination of ARMIS reports in its comments in this proceeding, Southwestern Bell urges the Commission to review all ARMIS reports with a view toward simplifying some and eliminating those reports found to be unnecessary. Southwestern Bell Comments at 6. See also U S WEST Reply Comments at 4-5.

²¹⁴ AT&T Reply Comments at 4.

²¹⁵ MCI Reply Comments at 4. See also AT&T Reply Comments at 4-5 (arguing that 43-04 contains more disaggregated and detailed data than either the ARMIS 43-01 or 43-03 Reports).

²¹⁶ MCI Reply Comments at 4.

²¹⁷ Id. at 5.

²¹⁸ Id. at 5-6.

²¹⁹ Id.

manuals (CAMs) from \$100 million to \$1 billion.²²⁰ These suggestions were opposed by AT&T and MCI who both argued that this proceeding was not the appropriate forum to address such far-reaching changes to Commission reporting policy.²²¹

54. Discussion. We concur with AT&T and MCI that the proposals by some of the BOCs to eliminate these ARMIS reports and make general changes to our reporting thresholds for ARMIS reports and the CAMs go far beyond the declared scope of this proceeding which was limited to certain specifically identified reporting requirements. Further, although the Commission has delegated authority to the Bureau to "issue any necessary reports and orders arising from this rulemaking proceeding," we think it would be inappropriate to move significantly beyond the stated scope of this proceeding in view of the explicit delegation in this case. Had the Commission indicated that elimination of ARMIS reports or CAM filing revisions would be considered in this docket, it is likely that many more parties would have elected to participate. It is, at any rate, clear from the comments of MCI, AT&T and CompTel that there is significant opposition to eliminating these reports. For all these reasons, we decline to adopt the recommendations of the BOCs at this time. We note that the Commission has issued an Order and Notice of Proposed Rulemaking in CC Docket 96-193, "Implementation of the Telecommunications Act of 1996: Reform of Filing Requirements and Carrier Classifications," that addresses further reform of ARMIS reports, CAM filing requirements, and carrier classification.²²²

B. Payphone Reports

55. Finally, in the NPRM, the Commission proposed to reduce the filing frequency for the payphone compensation reports submitted by AT&T and Sprint.²²³ This reporting requirement was imposed as a condition to waivers, granted pursuant to CC Docket No. 91-35, that allowed AT&T and Sprint to compensate payphone operators on a per-call basis as opposed to a flat-rate, per-phone basis.²²⁴

²²⁰ See Cincinnati Bell Comments at 1-3; accord ALLTEL Reply Comments at 1-2.

²²¹ AT&T Reply Comments at 4, n.6; MCI Reply Comments at 8.

²²² See "Implementation of the Telecommunications Act of 1996: Reform of Filing Requirements and Carrier Classifications," Order and Notice of Proposed Rulemaking, CC Docket No. 96-193, FCC 96-370 (rel. Sept. 12, 1996) (considering revenue threshold requirements for CAMs and for several ARMIS Reports, including Reports 43-01, 43-02, 43-03, 43-04, 43-08, Form 495-A, and Form 495-B).

²²³ NPRM at para. 19.

²²⁴ Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Second Report and Order, CC Docket No. 91-35, 7 FCC Rcd 3251 (1992); Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Memorandum Opinion and Order, CC Docket No. 91-35, 10 FCC Rcd 1590 (1994) (AT&T Waiver); Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Memorandum Opinion and Order, CC Docket No. 91-35, 10 FCC Rcd 5490 (1995)

56. Discussion. Although most commenters supported the proposed modification,²²⁵ this proposal has been mooted by the Commission's implementation of Section 276 of the 1934 Act, as amended.²²⁶ Section 276 directs the Commission to establish a plan to ensure "that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call" from their payphone.²²⁷ On September 20, 1996, the Commission issued a Report and Order in CC Docket 96-128, "Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996," that restructured the Commission's rules and policies governing the payphone industry.²²⁸

57. In the Payphone Compensation Order, the Commission noted that Section 276 "supersedes the compensation obligations established in CC Docket No. 91-35, including the waivers granted to AT&T and Sprint."²²⁹ The Commission specifically revoked the waivers of Section 64.131 of the Commission's rules granted to AT&T and Sprint, and as a result, eliminated the associated reports.²³⁰ Because the Commission has acted to eliminate these reports, the Bureau, acting on delegated authority, rescinds the proposal in the NPRM.

V. CONCLUSION

58. By these actions, we eliminate or significantly decrease the regulatory burden on the public by substantially reducing the reporting burden on carriers subject to our regulation. In requiring the public to provide the Commission with only that information that the Commission needs to carry out its statutory functions, we maintain our public interest obligations while acting consistently with the President's Regulatory Reform Initiative. We emphasize that the actions taken here constitute only one step in a continuing process of regulatory streamlining and reform.

VI. ADMINISTRATIVE MATTERS

59. *Final Regulatory Flexibility Analysis*. Pursuant to the Regulatory Flexibility Act

(Sprint Waiver).

²²⁵ AT&T Comments at 6; Citizens for a Sound Economy Reply Comments at 4; Sprint Comments at 3; but see APCC Comments at 2 (opposing attempts to eliminate the report but not commenting on the proposed modification).

²²⁶ 47 U.S.C. § 276(b)(1)(A).

²²⁷ Id.

²²⁸ Payphone Compensation Order, CC Docket No. 96-128, FCC 96-388.

²²⁹ Id. at para. 119.

²³⁰ Id. at para. 373.

of 1980, as amended, 5 U.S.C. Section 601, et seq., the Commission's final analysis in this Report and Order is attached as Appendix B.

60. *Final Paperwork Reduction Act of 1995 Analysis.* The decision herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Pub. L. 104-13, and has been approved in accordance with the provisions of that Act. The Office of Management and Budget (OMB) offered its strong support for the actions as proposed. In addition, OMB made three suggestions in addition to our proposals: 1) that the word "annual" be added to the revised language for § 65.600(b)²³¹ to make clear that the reports are required on an annual basis; 2) that the Commission conduct a rulemaking to address the filing requirements associated with the ARMIS and CAM reporting thresholds; and 3) that the Commission consider modifying the annual access tariff filing periods to coincide with the periods covered by the interstate rate of return monitoring reports.²³² First, we agree with OMB and ALLTEL that the revised language for § 65.600(b) should more clearly specify that reports are required on an annual basis. We believe that our revised language for § 65.600(b), adopted herein, achieves that result. Second, as discussed supra at Part IV, the Commission will address ARMIS and CAM filing requirements and carrier classification in another proceeding. Finally, we decline to alter the annual access tariff filing period because the present schedule allows the Commission to use the current years rate-of-return reports to evaluate and calculate annual access tariffs.²³³

²³¹ Notice of Office of Management and Budget Action, at 2 (OMB No. 3060-0701) (rel. May 30, 1996). OMB suggests a change to § 65.500(b). We assume this to be a typographical error. ALLTEL, whose suggestion OMB specifically supports, also suggests a change to § 65.600(b).

²³² Notice of Office of Management and Budget Action, at 2.

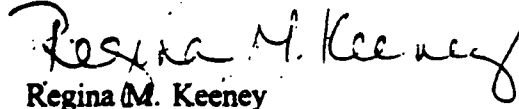
²³³ See supra Part III. A. (1).

VII. ORDERING CLAUSES

61. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), 201-205, 218, 226, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 151, 154(i), 154(j), 201-205, 218, 226, 303(r), and Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that the Commission's rules and policies ARE AMENDED as set forth in Appendices C and D which are hereby incorporated by reference.

62. IT IS FURTHER ORDERED, pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that the proposal in Revision of Filing Requirements that Payphone Compensation reports be filed semiannually is rescinded.

FEDERAL COMMUNICATIONS COMMISSION



Regina M. Keeney

Chief, Common Carrier Bureau

APPENDIX A

Parties filing Comments, Reply Comments, and Informal Comments**Comments:**

ALLTEL Telephone Services Corporation (ALLTEL)
AT&T Corp. (AT&T)
Bell Atlantic Telephone Companies (Bell Atlantic)
BellSouth Corporation and BellSouth Telecommunications, Inc. (BellSouth)
Cincinnati Bell Telephone (Cincinnati Bell)
Competitive Telecommunications Association (CompTel)
GTE Service Corporation (GTE)
Iowa Network Services, Inc. (INS)
National Exchange Carriers Association (NECA)
NYNEX Telephone Companies (NYNEX)
Pacific Bell and Nevada Bell (Pacific Bell)
Southwestern Bell Telephone Company (Southwestern Bell)
Sprint Corporation (Sprint)
United States Telephone Association (USTA)
U S WEST Communications, Inc. (U S WEST)

Reply Comments:

ALLTEL
AT&T
Bell Atlantic
Citizens for a Sound Economy Foundation (Citizens for a Sound Economy)
Iowa Utilities Board
MCI Telecommunications Corporation (MCI)
Pacific Bell
USTA
U S WEST

Informal Comments:

American Public Communications Council (APCC)

APPENDIX B

FINAL REGULATORY FLEXIBILITY ANALYSIS

I. Final Analysis of this Report and Order

A. Introduction

1. The Commission in the NPRM concluded that an Initial Regulatory Flexibility Analysis (IRFA) mandated in certain circumstances by the Regulatory Flexibility Act (RFA) was not required as there were no small entities affected by the proposals described in the NPRM.²³⁴ After the NPRM was adopted, however, Congress amended the RFA in the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. No. 104-121, 110 Stat. 847 (1996).²³⁵ Pursuant to the amended requirements of the RFA and after further consideration of the potential economic impact on small entities, this Report and Order includes a Final Regulatory Flexibility Analysis (FRFA) as set out in this Appendix B.

B. Need for and Objectives of the Rules and Actions Taken

2. In this Report and Order, the Common Carrier Bureau (Bureau), upon delegated authority from the Commission, eliminates thirteen reporting requirements and modifies four others so as to significantly reduce the frequency by which affected entities must file information with the Commission. The Bureau takes these actions in furtherance of the President's Regulatory Reform Initiative and the overall de-regulatory objectives of the Paperwork Reduction Act. This action is part of the Commission's and Bureau's continuing efforts to reduce the regulatory burden on the public by reducing the amount of information the public must provide to the Commission. In short, the results of the Bureau's actions in this Report and Order are entirely deregulatory and represent significant reductions of the burdens imposed on the public -- including small entities. No additional or substitute burdens are imposed on the public to replace the reporting requirements that are eliminated.

C. Summary of Significant Issues Raised by the Public in Response to the IRFA

3. As explained in paragraph 1, supra, the Commission in the NPRM concluded that an IRFA was not required and, as a result, no comments were filed addressing such an analysis. In general, however, the commenters praised and supported the Commission's proposed deregulatory actions. In fact, no party opposed any of the deregulatory actions adopted in this Report and Order. While not every party discussed every action proposed in the NPRM, the overwhelming consensus was that the actions taken in this Report and Order -- all of which serve

²³⁴ NPRM at para. 22.

²³⁵ Subtitle II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. § 601 et seq.

either to eliminate or reduce filing burdens imposed by regulation -- would serve the public interest. Some parties encouraged the Commission to make additional revisions to reporting requirements beyond those proposed in the NPRM.²³⁶ Accordingly, we conclude that nothing in the record demonstrates that small entities will be adversely affected by implementation of this Report and Order. This conclusion is bolstered by the supportive comments of USTA, whose members include small and mid-size companies.²³⁷

D. Description and Estimate of Number of Small Businesses to Which Rules and Actions Will Apply

4. For purposes of this analysis, we examined the relevant definition of "small entity" or "small business" and applied this definition to examine those entities that are subject to the reporting requirements in question. The RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.²³⁸ Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).²³⁹ Moreover, SBA has defined a small business for Standard Industrial Classification (SIC) category 481 (Telephone Communications) to be small entities when they have fewer than 1,500 employees.²⁴⁰

5. As an initial matter we note that, as demonstrated by the following list, the entities affected by the vast majority of the deregulatory actions taken by the Bureau in this Report and Order are among the largest communications companies, namely, AT&T, Sprint, the Regional (Bell) Holding Companies (RHCs), and the Bell Operating Companies (BOCs):

- (1) Equal Access Progress Report: submitted by AT&T and RHCs;
- (2) Construction Budget Summary: submitted by AT&T and RHCs;

²³⁶ See generally Part IV, *supra*, (discussing proposals to revise reports not discussed in the NPRM); see also Part III, *supra*, (discussing commenters' proposals to eliminate reports that the Commission proposed for modification). See, e.g., BellSouth Comments at 5-6 (urging the Commission to eliminate ARMIS Reports 43-01, 43-02, and 43-03).

²³⁷ See USTA Comments at 1-3; USTA Reply Comments at 1.

²³⁸ See 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632).

²³⁹ 15 U.S.C. § 632. See, e.g., Brown Transport Truckload, Inc. v. Southern Wipers, Inc., 176 B.R. 82, 89 (N.D. Ga. 1994).

²⁴⁰ 13 C.F.R. § 121.201.

- (3) National Security and Emergency Preparedness Effectiveness Report (NSEP Report): submitted annually by AT&T and Bellcore;
- (4) AT&T Customer Premises Equipment (CPE): Installation & Maintenance Report;
- (5) AT&T Service Quality: Equipment Blockage and Failure Report;
- (6) AT&T Nondiscrimination Report for Enhanced Service Providers;
- (7) BOC Customer Premises Equipment (CPE) Affidavits for Non-Discrimination Provision of Network Maintenance;
- (8) BOC Customer Premises Equipment (CPE) Installation & Maintenance Report;
- (9) BOC Sales Agency Program and Vendor Support Program Report;
- (10) Billing and Collection Contracts: submitted by incumbent local exchange carriers (ILECs).
- (11) Circuit Report: filed by 36 nondominant carriers.
- (12) Record Carrier Letter: filed by record carriers with operating revenues over \$75 million.
- (13) Report on Inside Wiring Service: filed by ILECs with operating revenues over \$100 million;
- (14) Form 492 Rate of Return Report: filed by ILECs not subject to price cap regulation and the National Exchange Carrier Association (NECA);
- (15) Joint Board Monitoring Program: Pooling: submitted by NECA;
- (16) New Service Tracking Report: submitted by ILECs subject to price-cap regulation;
- (17) Report of Unsecured Credit to Political Candidates: submitted by all carriers having revenue in excess of \$1 million.

6. Setting aside the ten actions that are addressed exclusively to some of the largest communications entities, only the adopted actions addressing the following reports would appear to possibly implicate some small entities: (3) NSEP Report; (10) Billing and Collection; (11) Circuit Report; (12) Record Carrier Letter; (14) Form 492 Rate of Return Report; (15) Joint Board Monitoring Program; and (17) Report of Unsecured Credit to Political Candidates. Moreover, it is easy to quantify the number of all entities (i.e., including a putative smaller number of small entities) affected by four of the seven actions not addressed exclusively to the largest entities. Thus, action (3), NSEP Report, affects only one entity other than AT&T

(Bellcore); action (11), Circuit Report, affects only 36 entities; action (12), Record Carrier Letter, affects only two entities; and action (15), Joint Board Monitoring Program, affects only one entity (NECA). Assuming, arguendo, that some of these affected entities are "small businesses" or "small entities," the subset of such putative small businesses or entities could only, by definition, equal and not exceed the forty (40) members that, at a maximum, constitute the affected entity set for these four actions. Furthermore, the regulatory actions adopted in the Report and Order, in every case, effect reductions in regulatory burdens: as a result of the Report and Order, fewer regulatory burdens are imposed on all affected entities, large and small alike.

7. Thus, only three of the report-related actions adopted in this Report and Order are addressed to entity groups for which small business or entity subsets, per SBA definition, are difficult to identify and quantify: (10) Billing and Collection (submitted by all ILECs); (14) Form 492 Rate of Return Report (filed by NECA and all ILECs not subject to price cap regulation); and (17) Report of Unsecured Credit to Political Candidates (submitted by all carriers having revenue in excess of \$1 million). We proceed to consider these entity groups.

8. First, addressing the groups "all ILECs" and "all ILECs not subject to price cap regulation," we note that only one action, (10), Billing and Collection, affects ILECs generally, while a second, (14) Rate of Return Report, affects one readily identifiable entity (NECA) and a subset of "all ILECs" that excludes the largest ILECs (i.e., "all ILECs not subject to price cap regulation"). Furthermore, we note that the Commission has found ILECs to be "dominant in their field of operation" since the early 1980's, and consistently has certified under the RFA²⁴¹ that ILECs are not subject to regulatory flexibility analyses because they are not small businesses.²⁴² The Commission has made similar determinations in other areas.²⁴³ We firmly believe that the Commission's consistent and long-standing definitional treatment of all ILECs as dominant (and hence exempt from treatment as small businesses under prong (2) of the SBA test set out supra) should not be altered here. We will, however, out of an abundance of caution and prudence, include small ILECs, as defined in relation to SBA SIC 481, in this FRFA to remove any possible issue of RFA compliance.

9. Neither the Commission nor SBA has developed a definition of small providers of local exchange services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of ILECs nationwide of which we are aware

²⁴¹ See 5 U.S.C. § 605(b).

²⁴² See, e.g., Expanded Interconnection with Local Telephone Company Facilities, Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd 5809 (1991); MTS and WATS Market Structure, Report and Order, 2 FCC Rcd 2953, 2959 (1987) (citing MTS and WATS Market Structure, Third Report and Order, 93 FCC 2d 241, 338-39 (1983)).

²⁴³ See, e.g., Implementation of Sections of the Cable Television Consumer Protection Act of 1992: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7418 (1995).

appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services.²⁴⁴ Although it seems certain that some of these carriers are not independently owned and operated (prong 1 of the SBA definition of small business concerns), or have more than 1,500 employees (prong 3), we are unable at this time to estimate with greater precision the number of ILECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small ILECs that may be affected by the actions adopted in this Report and Order. Again, in every case, these actions either eliminate or reduce the regulatory burdens imposed on any such small ILECs.

10. The final deregulatory action adopted by this Report and Order poses the most difficulty in identifying affected small business concerns. Number (17), Report of Unsecured Credit to Political Candidates, must be submitted by all *carriers* having revenue in excess of \$1 million. The relevant set of small business concerns affected by this report obviously includes the set of ILECs identified above ("fewer than 1,347 small ILECs") to the extent that any earn more than \$1 million in annual revenues, but also must include small business concerns from all other carrier groups, including both wireline and wireless (radiotelephone) carriers.²⁴⁵ We first discuss non-LEC wireline carriers, including interexchange carriers (IXCs), competitive access providers (CAPs), Operator Service Providers (OSPs), Pay Telephone Operators, and resellers.

11. Neither the Commission nor SBA has developed definitions for small entities specifically applicable to these wireline service types. The closest applicable definition under SBA rules for all these service types is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs, CAPs, OSPs, Pay Telephone Operators, and resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data: 97 companies reported that they are engaged in the provision of interexchange services; 30 companies reported that they are engaged in the provision of competitive access services; 29 companies reported that they are engaged in the provision of operator services; 197 companies reported that they are engaged in the provision of pay telephone services; and 206 companies reported that they are engaged in the resale of telephone services.²⁴⁶ Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, and, further, that within the potential set of small entities not all would earn annual revenues in excess of \$1 million, we are unable at this time to estimate

²⁴⁴ Federal Communications Commission, CCB, Industry Analysis Division, "Telecommunications Industry Revenue: TRS Fund Worksheet Data", Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier) (Feb. 1996) (TRS Worksheet).

²⁴⁵ SBA has established SIC 4812 to distinguish small entities providing radiotelephone communications from SIC 4813 small entities providing telephone communications except radiotelephone.

²⁴⁶ TRS Worksheet, at Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier).

with greater precision the number of IXC's, CAP's, OSP's, Pay Telephone Operators, and resellers that would both qualify as small business concerns under SBA's definition and be subject to the Report's \$1 million annual revenue requirement. Consequently, we estimate that there are fewer than 97 small entity IXC's; 30 small entity CAP's; 29 small entity OSP's; 197 small entity pay telephone service providers; and 206 small entity providers of resale telephone service that might be affected by the actions and rules adopted in this Report and Order. Again, in every case, these actions and rules either eliminate or reduce the regulatory burdens imposed on any such small entities.

12. We now discuss non-wireline carriers, including: Wireless (Radiotelephone) Carriers; Cellular Service Carriers; and Mobile Service Carriers.

13. SBA has developed a definition of small entities for Wireless (Radiotelephone) Carriers. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.²⁴⁷ According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons.²⁴⁸ The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, and, further, that within the set of potential small entities not all such entities would earn annual revenues in excess of \$1 million, we are unable to estimate with greater precision the number of radiotelephone carriers and service providers that would both qualify as small business concerns under SBA's definition and be subject to the Report's \$1 million annual revenue requirement. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that might be affected by the actions and rules adopted in this Report and Order. Again, in every case, these actions and rules either eliminate or reduce the regulatory burdens imposed on any such small entities.

14. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to Cellular Service Carriers and to Mobile Service Carriers. The closest applicable definition under SBA rules for both services is for telephone companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of Cellular Service Carriers and Mobile Service Carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 789 companies reported that they are engaged in the provision of cellular services and 117 companies reported that they are engaged in the provision of mobile services.²⁴⁹

²⁴⁷ United States Department of Commerce, Bureau of the Census, "1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size," at Firm Size 1-123 (1995) (1992 Census).

²⁴⁸ 13 C.F.R. § 121.201, Standard Industrial Classification (SIC Code 4812).

²⁴⁹ TRS Worksheet, at Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier).

Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, and, further, that within the potential set of small entities not all would earn annual revenues in excess of \$1 million, we are unable at this time to estimate with greater precision the number of Cellular Service Carriers and Mobile Service Carriers that would qualify as small business concerns under SBA's definition and be subject to the Report's \$1 million annual revenue requirement. Consequently, we estimate that there are fewer than 789 small entity Cellular Service Carriers and fewer than 117 small entity Mobile Service Carriers that might be affected by the actions and rules adopted in this Report and Order. Again, in every case, these actions and rules either eliminate or reduce the regulatory burdens imposed on any such small entities.

E. Description of Projected Reporting, Record Keeping and Other Compliance Requirements of the Rules

15. As detailed in the body of the Report and Order, these rules will significantly reduce the amount of reporting, record keeping, and compliance requirements which was previously placed on the regulated entities -- including the small entities identified above. In our efforts to quantify the economic impact of this Report and Order on small businesses, we refer to the Office of Management and Budget (OMB) and its analyses of administrative burdens imposed by agency rules and policies.²⁵⁰ OMB has approved Bureau estimates of "burden hours" for the following reports which our analysis has shown to affect small entities: (11) Circuit Report, (12) Record Carrier Letter, (14) Form 492 Rate of Return Report, and (17) Report of Unsecured Credit to Political Candidates.²⁵¹

16. With respect to those four reports affecting small entities that are eliminated by this Report and Order, the Bureau has prepared and OMB has approved estimates of the benefits for two of these reports: (10) Circuit Report and (12) Record Carrier Letter.²⁵² According to these Bureau and OMB estimates, the Bureau's action to eliminate the Circuit Report will result in a savings of 500 hours per year, in toto, to the nondominant carriers formerly required to file that report.²⁵³ For those record carriers formerly required to file the Record Carrier Report, it is estimated that this Report and Order will save approximately 20 hours per year, in toto, by

²⁵⁰ Paperwork Reduction Act of 1995, Pub. L. 104-13 (1995).

²⁵¹ NPRM, 61 FR at 10523.

²⁵² See Section D, supra (concluding that four reports eliminated by this Report and Order might potentially affect small entities: (1) NSEP Report, (10) Billing and Collection Report, (11) Circuit Report, and (12) Record Carrier Letter).

²⁵³ NPRM, 61 FR at 10523. See OMB No. 3060-0149. The per-hour reduction was calculated by comparing the OMB hourly estimates provided in the NPRM (showing the burden on entities after the Report and Order) with the OMB control number listing (showing the approved burdens for the respective reporting requirements as existing before this Report and Order).

eliminating this report.²⁵⁴ While OMB does not maintain estimates for the other two reports eliminated, (1) NSEP Report and (10) Billing and Collection Report, it is clear that, as a result of the Bureau's actions, the small businesses previously subject to these reports will see reduced expenses for associated accounting, legal, and administrative activities.

17. As set out in Section D, the Bureau modified three reports that might potentially affect small entities: (14) Form 492 Rate of Return Report, (15) Joint Board Monitoring Program, and (17) Report of Unsecured Credit to Political Candidates. According to OMB analysis of report (14), the Form 492 Rate of Return Report, the Bureau's action in this Report and Order will reduce the total burden on all businesses, both small and otherwise, by 840 hours per year.²⁵⁵ OMB estimates for report (17), Report of Unsecured Credit to Political Candidates, indicate that as a result of the Bureau's action in this Report and Order, carriers -- small entities and otherwise -- will spend 104 hours less per year, in toto, to comply with the reporting requirement.²⁵⁶ With respect to (15) the Joint Board Monitoring Program, no OMB estimates are available to calculate the precise economic benefit to NECA -- the only entity subject to this reporting requirement; however, it is clear that by reducing the frequency of filing from monthly to quarterly reports, NECA will bear a relatively smaller burden than it did under the prior schedule.

F. Steps Taken to Minimize Impact on Small Entities Consistent with Stated Objectives

18. As discussed in detail in Section E, to the extent that it affects small entities, the impact of this Report and Order is only beneficial. The primary thrust of this Report and Order is to reduce administrative burdens wherever possible. It does not impose any new requirements. Because this action does not include changes in format reports or additional reporting requirements, there are no steps necessary to minimize any impact on small entities. Small entities and large entities alike should be able to benefit immediately from the Bureau's actions to eliminate or reduce requirements pursuant to this Report and Order.

G. Significant alternatives considered and rejected

19. Again, the action does not impose additional burdens on small entities and will in fact have a positive impact by reducing administrative burdens on a wide variety of entities. Nonetheless, we did consider a number of alternatives to the Report and Order as issued.

20. Where we merely modified the filing frequency, we received comments from a

²⁵⁴ NPRM, 61 FR at 10523. See OMB No. 3060-0515.

²⁵⁵ NPRM, 61 FR at 10523. See OMB No. 3060-0355.

²⁵⁶ NPRM, 61 FR at 10523. See OMB No. 3060-0147.

number of parties recommending that we instead eliminate the subject reporting requirements.²⁵⁷ We carefully considered these options in light of our own experience and in light of reply comments from other parties. As discussed in detail in Part III, we are persuaded that these reports still serve important interests and should be retained.²⁵⁸ We conclude that this Report and Order achieves the proper balance between reducing burdens and fulfilling important monitoring objectives.

21. Another alternative considered was offered by CompTel, an association of telecommunications providers including interexchange carriers. CompTel suggested imposing a new requirement to replace the Billing and Collections Report. While specifically supporting our proposed elimination of the Billing and Collections Report, CompTel argued that copies of all such contracts should be filed with the Commission. We rejected CompTel's proposal because it would impose significant administrative burdens on ILECs, both large and small, to monitor a market which the vast majority of the parties concluded to be fully competitive.

22. We received several proposals to eliminate or alter reports which were not addressed in the NPRM. For example, Cincinnati Bell Telephone, a self-described mid-size local exchange carrier, proposes that the Commission increase the revenue threshold for filing for various reports including Cost Allocation Manuals (CAMS).²⁵⁹ While we recognize that such changes might exempt smaller ILECs from some of these filing requirements, we choose not to follow such suggestions without giving other parties an opportunity to comment. We believe that such this and other such proposals would be more appropriately considered in a separate proceeding and are outside the scope of our delegated authority. To that extent, we reaffirm that this Report and Order is a reflection of our continuing commitment to minimizing the adverse impact of the Commission's rules.

H. Report to Congress

23. The Bureau shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. §801 (a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

²⁵⁷ See Part III, supra (discussing alternative proposals submitted by commenters for the Form 492 Rate of Return Report, supra at para. 37-38, Joint Board Monitoring Program, supra at para. 40-41, New Service Tracking Report, supra at para. 43-46, Report of Unsecured Credit to Political Candidates, supra at para. 48-49).

²⁵⁸ Id.

²⁵⁹ Cincinnati Bell Telephone Comments at 1-2.

APPENDIX C

AMENDMENTS TO THE COMMISSION'S RULES

1. The authority citation continues to read as follows:

AUTHORITY: Sections 1, 4(i), 4(j), 201-205, 218, 226, 303(r) and 403 of the Communications Act of 1934, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 218, 226, 303(r), 403, unless otherwise noted.

ELIMINATION OF REPORTS:

2. Circuit Report: Part 63 of the Commission's Rules and Regulations (Chapter 1 of Title 47 of the Code of Federal Regulations, Part 63) is hereby amended as follows:

Section 63.07(b) is hereby amended by deleting the present 63.07(b) in its entirety.

* * * * *

3. Record Carrier Letter: Part 43 of the Commission's Rules and Regulations (Chapter 1 of Title 47 of the Code of Federal Regulations, Part 43) is hereby amended as follows:

Section 43.21(d) is hereby amended by deleting, "Each record carrier with operating revenues over \$75 million for a calendar year shall file a letter showing selected income statement and balance sheet items for that year with the Common Carrier Bureau Chief. These letters must be filed by March 31 of the following year."

* * * * *

MODIFICATION OF REPORTS:

4. Form 492: Rate of Return Report: Part 65 of the Commission's Rules and Regulations (Chapter 1 of Title 47 of the Code of Federal Regulations, Part 65) is hereby amended as follows:

Section 65.600(b) is hereby amended by substituting "after the end of each calendar year, an annual rate of return monitoring report which shall be the enforcement period report." in place of, "after the end of each calendar quarter, a quarterly rate of return monitoring report." in the present Section 65.600(b).

Section 65.600(b) is further amended by deleting "Each report shall contain two parts. The

first part shall contain rate of return information on a cumulative basis from the start of the enforcement period through the end of the quarter being reported. The second part shall contain similar information for the most recent quarter. The final quarterly monitoring report for the entire enforcement period shall be considered the enforcement period report."

* * * * *

5. Report of Unsecured Credit to Political Candidates: Part 64 of the Commission's Rules and Regulations (Chapter 1 of Title 47 of the Code of Federal Regulations, Part 64) is hereby amended as follows:

Section 64.804 is hereby amended by deleting "and July 31, 1973" in the present 64.804(g).

* * * * *

APPENDIX D

AMENDMENTS TO COMMISSION POLICIES

1. Equal Access Progress Report: It is ordered that the reporting requirement placed on AT&T and the Regional Holding Companies pursuant to Condition 3, AT&T Divestiture Order, in connection with equal access is hereby terminated.

* * * * *

2. Construction Budget Summary: It is ordered that the reporting requirement placed on AT&T and the Regional Holding Companies pursuant to Condition 10, AT&T Divestiture Order, in connection with construction budgeting is hereby terminated.

* * * * *

3. National Security and Emergency Preparedness Effectiveness Report (NSEP Report): It is ordered that the reporting requirement placed on AT&T and the Regional Holding Companies pursuant to Condition 3, AT&T Divestiture Order, in connection with national security and emergency preparedness is hereby terminated.

* * * * *

4. AT&T Customer Premises Equipment (CPE): Installation & Maintenance Report: It is ordered that the reporting requirement placed on AT&T in connection with customer premises equipment installation and maintenance is hereby terminated.

* * * * *

5. AT&T Service Quality: Equipment Blockage and Failure Report: It is ordered that the reporting requirement placed on AT&T in connection with service quality (equipment blockage and failure) is hereby terminated.

* * * * *

6. AT&T Nondiscrimination Report for Enhanced Service Providers: It is ordered that the reporting requirement placed on AT&T in connection with the provision of enhanced services is hereby terminated.

* * * * *

7. BOC Customer Premises Equipment (CPE) Affidavits for Non-Discrimination Provision of Network Maintenance: It is ordered that the affidavits requirement placed on Bell Operating Companies in connection with customer premises equipment installation and

maintenance is hereby terminated.

* * * * *

8. BOC Customer Premises Equipment (CPE) Installation & Maintenance Report: It is ordered that the reporting requirement placed on Bell Operating Companies in connection with customer premises equipment installation and maintenance is hereby terminated.

* * * * *

9. BOC Sales Agency Program and Vendor Support Program Report: It is ordered that the reporting requirement placed on Bell Operating Companies in connection with sales agency programs and vendor sales activity is hereby terminated.

* * * * *

10. Billing and Collection Contracts: It is ordered that the reporting requirement placed on incumbent local exchange carriers in connection with their contracts for billing and collection services for interstate communications is hereby terminated.

* * * * *

11. Report on Inside Wiring Service: It is ordered that the reporting requirement placed on incumbent local exchange carriers in connection with inside wiring service is hereby terminated.

* * * * *

12. Joint Board Monitoring Program: Pooling: It is ordered that the reporting requirement placed on NECA in connection with summary of pool results is hereby modified. The summary of pool results will be required quarterly instead of monthly.

* * * * *

13. New Service Tracking Report: It is ordered that the reporting requirement placed on all price cap companies in connection with new service tracking is hereby modified. Reports will be required annually instead of quarterly.