

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

In the Matter of )  
 )  
Modernizing Common Carrier Rules ) WC Docket No. 15-33  
 )

**NOTICE OF PROPOSED RULEMAKING**

**Adopted: February 2, 2015**

**Released: February 6, 2015**

**Comments Due: (30 days after date of publication in the Federal Register)**

**Reply Comments Due: (45 days after date of publication in the Federal Register)**

By the Commission:

**I. INTRODUCTION**

1. This Notice of Proposed Rulemaking (Notice) seeks to update our rules to better reflect current requirements and technology by removing outmoded regulations from the Code of Federal Regulations (C.F.R.). The Notice proposes to update the C.F.R. by (1) eliminating certain rules from which the Commission has forborn, and (2) eliminating references to telegraph service in certain rules.

2. The Notice follows two orders adopted in 2013 that granted forbearance from 126 legacy wireline regulations,<sup>1</sup> and the *Process Reform Report*, a Commission staff report that suggested eliminating or streamlining wireline rules that are unnecessary as a result of marketplace or technology changes.<sup>2</sup>

3. We propose to eliminate several rules from which the Commission has granted unconditional forbearance for all carriers. These are: (1) section 64.804(c)-(g), which governs a carrier's recordkeeping and other obligations when it extends to federal candidates unsecured credit for communications service;<sup>3</sup> (2) sections 42.4, 42.5, and 42.7, which require carriers to preserve certain records;<sup>4</sup> (3) section 64.301, which requires carriers to provide communications service to foreign

<sup>1</sup> *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61, Order, 28 FCC Rcd 2605 (2013) (*USTelecom Forbearance Short Order*); *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations et al.*, WC Docket No. 12-61 et al., Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627 (2013) (*USTelecom Forbearance Long Order*) (together, *USTelecom Orders*), *aff'd sub nom. Verizon and AT&T, Inc. v. FCC*, 770 F.3d 961 (D.C. Cir. 2014).

<sup>2</sup> In this Notice, we propose to address Recommendations 5.37 and 5.38 of the *Process Reform Report*. *FCC Seeks Public Comment on Report on Process Reform*, GN Docket No. 14-25, Public Notice, 29 FCC Rcd 1338, 1415-17, Attach., *Report on FCC Process Reform (Process Reform Report)* (2014).

<sup>3</sup> 47 C.F.R. § 64.804(c)-(g); see *USTelecom Forbearance Short Order*, 28 FCC Rcd at 2610-11, paras. 10-13; *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7702-03, paras. 167-70. This proposal is also consistent with Recommendation 5.37 in the *Process Reform Report*. *Process Reform Report*, 29 FCC Rcd at 1415-16.

<sup>4</sup> 47 C.F.R. §§ 42.4, 42.5, and 42.7; see *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7671-74, paras. 93-100.

governments for international communications;<sup>5</sup> (4) section 64.501, governing telephone companies' obligations when recording telephone conversations;<sup>6</sup> (5) section 64.5001(a)-(c)(2), and (c)(4), which imposes certain reporting and certification requirements for prepaid calling card providers;<sup>7</sup> and (6) section 64.1, governing traffic damage claims for carriers engaged in radio-telegraph, wire-telegraph, or ocean-cable service.<sup>8</sup>

4. We also propose to remove references to "telegraph" from certain sections of the Commission's rules. This proposal is consistent with Recommendation 5.38 of the *Process Reform Report*. Specifically, we propose to remove "telegraph" from: (1) section 36.126 (separations); (2) section 54.706(a)(13) (universal service contributions); and (3) sections 63.60(c), 63.61, 63.62, 63.65(a)(4), 63.500(g), 63.501(g), and 63.504(k) (discontinuance).<sup>9</sup>

5. We seek comment on these proposed modifications. And for each of the rules addressed in this Notice, we seek comment on whether there are other steps the Commission should or must take, along with elimination of the rule or the term "telegraph" from the C.F.R., in order to ensure that any telegraph service provider is not subject to unnecessary regulatory obligations. With this Notice, we would clarify regulatory requirements, and modernize our rules to better reflect the state of the current telecommunications market.

## II. DISCUSSION

### A. Deleting Rules From Which the Commission Granted Forbearance in the *USTelecom Orders*

6. In 2012, USTelecom requested forbearance from an array of legacy regulations.<sup>10</sup> In 2013, the Commission granted forbearance from many, but not all, of those rules.<sup>11</sup> The rationale for those decisions is set forth in the *USTelecom Orders*, and we are not seeking to reopen the decisions therein. In many instances, the Commission granted unconditional forbearance from a requirement, but the forbearance orders did not alter the text of the codified rule or remove the rule from the C.F.R. Thus, the rules appear in the C.F.R. even though the Commission has stated that it will forbear from applying such rules. Absent additional research, a carrier or a consumer might believe the regulations to be in force. We thus believe that deleting from the C.F.R. the rules identified below, for which the Commission granted unconditional forbearance, will clarify carriers' regulatory obligations and make the C.F.R. more accurately reflect the Commission's intended approach as to those rules. We therefore propose to eliminate from the C.F.R. the rules listed below from which the Commission forbore in the *USTelecom Orders*.

7. *Sections 42.4, 42.5, and 42.7.* Section 42.4 requires each carrier to maintain at its operating company headquarters a physical copy of its master index of records.<sup>12</sup> Section 42.5 governs

<sup>5</sup> 47 C.F.R. § 64.301; see *USTelecom Forbearance Short Order*, 28 FCC Rcd at 2611-12, paras. 13-16.

<sup>6</sup> 47 C.F.R. § 64.501; see *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7703-05, paras. 171-75.

<sup>7</sup> 47 C.F.R. § 64.5001(a), (b), (c)(1), (c)(2), and (c)(4); see *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7705-09, paras. 176-87.

<sup>8</sup> 47 C.F.R. § 64.1; see *USTelecom Forbearance Short Order*, 28 FCC Rcd at 2609-10, paras. 8-9. This proposal is also consistent with Recommendation 5.38 in the *Process Reform Report*. *Process Reform Report*, 29 FCC Rcd at 1416-17.

<sup>9</sup> See 47 C.F.R. §§ 36.126, 54.706(a)(13), 63.60(c), 63.61, 63.62, 63.65(a)(4), 63.500(g), 63.501(g), and 63.504(k).

<sup>10</sup> See Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, WC Docket No. 12-61 (filed Feb. 16, 2012).

<sup>11</sup> See generally *USTelecom Orders*.

<sup>12</sup> 47 C.F.R. § 42.4.

the preparation and preservation of the original records.<sup>13</sup> Section 42.7 governs how long a carrier must retain the master index of records and when records must be added.<sup>14</sup>

8. *Section 64.1.* This section covers traffic damage claims for carriers engaged in radio-telegraph, wire-telegraph, or ocean-cable service.<sup>15</sup>

9. *Section 64.301.* This section requires that common carriers furnish communications services to a foreign government “upon reasonable demand” and deny communications services to a foreign government, upon order of the Commission, when such government “fails or refuses” to provide communications services to the U.S. government.<sup>16</sup>

10. *Section 64.501.* Section 64.501 is the present-day iteration of rules first promulgated in 1947 governing telephone companies’ obligations when recording telephone conversations and precludes a telephone company from recording any telephone conversation with members of the public unless the recording is preceded by “verbal or written consent of all parties to the telephone conversation,” “preceded by verbal notification,” or “accompanied by an automatic tone warning device.”<sup>17</sup> In the *USTelecom Forbearance Long Order*, the Commission concluded that unconditional forbearance for all carriers was warranted stating that “since we initiated the rule more than 60 years ago, the Federal Wiretap Act, as well as State laws, have addressed the same issue in a more comprehensive fashion.”<sup>18</sup>

11. *Sections 64.804(c)-(g).*<sup>19</sup> These provisions require carriers to (1) obtain a signed application from the candidate for Federal office or a person on behalf of such candidate before extending credit; (2) serve written notice to the candidate for non-payment; (3) take appropriate action at law to collect any unpaid balance; (4) maintain certain associated records; and (5) carriers with revenues in excess of \$1 million must file an annual report with the Commission.<sup>20</sup>

12. *Sections 64.5001(a)-(c)(2), and (c)(4).*<sup>21</sup> Section 64.5001 establishes reporting and certification requirements for prepaid calling card providers.<sup>22</sup> Sections 64.5001(a) and (b) require prepaid calling card providers to report to their transport providers specific information, including percentage of interstate usage (PIU) factors and call volumes for which these factors were calculated.<sup>23</sup> Section 64.5001(c) requires the prepaid calling card provider to submit a quarterly certification statement signed by an officer of the company to the Commission with the following information: (1) the percentage of intrastate, interstate, and international calling card minutes for the reporting period; (2) the

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<sup>13</sup> 47 C.F.R. § 42.5.

<sup>14</sup> 47 C.F.R. § 42.7.

<sup>15</sup> 47 C.F.R. § 64.1. The *Process Reform Report* also recommended that the Wireline Competition Bureau delete section 64.1. *Process Reform Report*, 29 FCC Rcd at 1416-17 (Recommendation 5.38).

<sup>16</sup> 47 C.F.R. § 64.301.

<sup>17</sup> 47 C.F.R. § 64.501(a), (b), and (c); *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7704, para. 172.

<sup>18</sup> *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7704, para. 174.

<sup>19</sup> 47 C.F.R. § 64.804(c)-(g).

<sup>20</sup> *Id.*

<sup>21</sup> We do not propose to delete section 64.5001(c)(3) because the Commission did not grant unconditional forbearance. Rather, it granted forbearance “only to those prepaid calling card providers that have a two-year track record of timely filing required annual and quarterly Telecommunications Reporting Worksheets (FCC Forms 499-A and 499-Q) [and] [o]nce a prepaid calling card provider has established that track record, it need not comply further with section 64.5001(c)(3).” *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7706, para. 178.

<sup>22</sup> *Id.* at 7705, para. 176.

<sup>23</sup> 47 C.F.R. § 64.5001(a), (b).

percentage of total prepaid calling card revenue attributable to interstate and international calls for the reporting period; (3) it is making the required Universal Service Fund contribution based on the reported information; and (4) has complied with the reporting requirements in 64.5001(a).<sup>24</sup>

## B. Deleting Other Rules Relating to Telegraph Service

13. In the *Process Reform Report*, Commission staff suggested deleting references to telegraph service from several wireline rules.<sup>25</sup> The *Process Reform Report* recommended that the Wireline Competition Bureau delete section 64.1 and delete the word “telegraph” from the Commission’s separations, universal service contributions, and discontinuance rules.<sup>26</sup> We agree that the references to telegraph appear out of date, and propose to delete the word “telegraph” from the rules, as proposed in the Appendix, below.<sup>27</sup> We seek comment on this proposal.

14. In light of the evolution of technology away from the use of telegraphs, we believe that the references to telegraph service in the following rules are no longer necessary, and should be deleted. Continuing to include telegraph service in these rules appears unnecessary, and potentially confusing. We seek comment on whether there are any providers offering telegraph service today at all, and if so, whether such service offerings warrant retaining the term “telegraph” in the rules identified below. Would there be any practical impact if the Commission were to delete “telegraph” from these rules?

15. *Section 36.126 of the Separations Rules.* Jurisdictional separations is the process by which incumbent local exchange carriers (LECs) apportion regulated costs between intrastate and interstate jurisdictions.<sup>28</sup> As part of this process, section 36.126 identifies equipment that is considered “Circuit equipment—Category 4.”<sup>29</sup> Section 36.126 lists “telegraph,” “telegraph system terminals,” “telegraph carrier terminals,” “telegraph private line services,” and “telegraph repeaters” as examples of such equipment.<sup>30</sup> We propose to delete these terms throughout section 36.126. Would deletion have any practical impact? As noted in the *Process Reform Report*, we anticipate sharing this Notice with the Federal-State Joint Board on Separations.<sup>31</sup>

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<sup>24</sup> *Id.* at § 64.5001(c); *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7706, paras. 180 (“With respect to the first and second prongs of our forbearance analysis, we find that the requirements in rule 64.5001 related to reporting and certifying prepaid calling card traffic for the purpose of distinguishing minutes of use between interstate and intrastate jurisdictions are no longer necessary to ensure just and reasonable rates or to prevent unreasonable or unjust discrimination. As USTelecom explains, and no commenter disputes, “[c]arriers have established business practices for exchanging required data” in the absence of these requirements.”); *id.* at 181 (“For the same reasons, under the second prong of our analysis, we find that these provisions are not necessary to protect consumers, and note recent consumer protection efforts by the Commission involving the prepaid calling card industry.”).

<sup>25</sup> *Process Reform Report*, 29 FCC Rcd at 1416-17.

<sup>26</sup> *Id.* at 1417.

<sup>27</sup> As noted above, we propose to delete from the C.F.R. section 64.1 in its entirety.

<sup>28</sup> See, e.g., *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Further Notice of Proposed Rulemaking, 29 FCC Rcd 3340, 3340, para. 3 (2014). Incumbent LECs assign regulated costs to various categories of plant and expenses, and the costs in each category are apportioned between the intrastate and interstate jurisdictions. *Id.* at 3340, para. 4.

<sup>29</sup> 47 C.F.R. § 36.126.

<sup>30</sup> *Id.*

<sup>31</sup> *Process Reform Report*, 29 FCC Rcd at 1416. We note that there is a pending referral to the Federal-State Joint Board on separations that welcomed input on “whether, how, and when the Commission’s jurisdictional separations rules should be modified.” *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 24 FCC Rcd 6162, 6167, para. 15 (2009). Thus, we need not specifically refer this discrete matter.

16. *Section 54.706(a)(13) of the Universal Service Rules.* Section 54.706(a) requires providers of interstate telecommunications services to contribute to the universal service fund if they provide more than a *de minimis* amount of such service, and subparagraph (a)(13) lists telegraph as an illustrative example of interstate telecommunications.<sup>32</sup> We propose to delete the term “telegraph” from section 54.706(a)(13), and seek comment on this proposal. No entities filing FCC Form 499 indicate that they are providing telegraph service, and we are not aware of any interstate telegraph providers today.<sup>33</sup> If telegraph providers with more than a *de minimis* amount of service existed, they still would be required to contribute to the universal service fund, but this proposed rule change would update the rule to be in line with today’s marketplace.

17. *Portions of Part 63 of the Discontinuance, Reduction, Outage and Impairment Rules.* Section 214(a) of the Communications Act of 1934, as amended states in part that “[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby.”<sup>34</sup> Today, carriers providing telegraph service must comply with the Commission’s Part 63 rules, which were adopted pursuant to section 214(a). We propose to delete references to “telegraph” as proposed in the Appendix below.<sup>35</sup> To the extent that any entities are still providing telegraph service, we intend to exempt telegraph service from all exit regulation by exercising our forbearance authority and we seek comment on whether we should do so.<sup>36</sup> We seek comment on this proposal.

### III. PROCEDURAL MATTERS

#### A. *Ex Parte* Rules

18. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>37</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

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<sup>32</sup> 47 C.F.R. § 54.706(a)(13).

<sup>33</sup> *De minimis* providers are required to register and file FCC Form 499 even if they do not contribute.

<sup>34</sup> 47 U.S.C. § 214(a).

<sup>35</sup> *Process Reform Report*, 29 FCC Rcd at 1416-17 (Recommendation 5.38). The relevant provisions are 47 C.F.R. §§ 63.60(c), 63.61, 63.62, 63.65(a)(4), 63.500(g), 63.501(g), and 63.504(k).

<sup>36</sup> 47 U.S.C. § 214(a).

<sup>37</sup> 47 C.F.R. § 1.1200 *et seq.*

## B. Comment Filing Procedures

19. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

## C. Accessible Formats

20. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

## D. Initial Regulatory Flexibility Certification

21. The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>38</sup> requires that agencies prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities."<sup>39</sup> The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>40</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>41</sup> A small business concern is one which: (1) is independently owned and operated; (2) is not

<sup>38</sup> See 5 U.S.C. § 601 *et seq.* The RFA has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>39</sup> 5 U.S.C. § 605(b).

<sup>40</sup> 5 U.S.C. § 601(6).

<sup>41</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration (SBA) and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.

dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>42</sup>

22. In the Notice, the Commission seeks to update the C.F.R. by (1) eliminating certain rules from which the Commission has forborn, and (2) eliminating references to telegraph service in certain rules. Specifically, the Commission proposes to eliminate several rules from which the Commission has granted unconditional forbearance for all carriers. These are: (1) sections 64.804(c)-(g), which govern a carrier's recordkeeping and other obligations when it extends to federal candidates unsecured credit for communications service; (2) sections 42.4, 42.5, and 42.7, which require carriers to preserve certain records; (3) section 64.301, which requires carriers to provide communications service to foreign governments for international communications; (4) section 64.501 governing telephone companies' obligations when recording telephone conversations; (5) sections 64.5001(a)-(c)(2), and (c)(4), which impose certain reporting and certification requirements for prepaid calling card providers; and (6) section 64.1 governing traffic damage claims for carriers engaged in radio-telegraph, wire-telegraph, or ocean-cable service.<sup>43</sup> The Notice also seeks to remove references to "telegraph" from certain sections of the Commission's rules, consistent with Recommendation 5.38 of the *Process Reform Report*. Specifically, we propose to remove "telegraph" from (1) section 36.126 (separations); (2) section 54.706(a)(13) (universal service contributions); and (3) sections 63.60(c), 63.61, 63.62, 63.65(a)(4), 63.500(g), 63.501(g), and 63.504(k) (discontinuance).<sup>44</sup>

23. The rule changes proposed in the Notice, if adopted by the Commission, would remove requirements governing reporting, recordkeeping, and other compliance obligations. All providers, including those deemed to be small entities under the SBA's standard will have reduced costs and burdens and would benefit by being relieved from compliance with these rules. Carriers are no longer required to comply with rules from which the Commission granted unconditional forbearance. Therefore, removing these rules is not likely to have any economic impact on carriers.<sup>45</sup> While the Notice also seeks to remove "telegraph" from several rule provisions not currently subject to forbearance, the number of telegraph service providers today is likely very small. As such, we do not believe the proposals in the Notice would impact a substantial number of small entities.

24. The Commission therefore certifies, pursuant to the RFA, that the proposals in this Notice, if adopted, will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in this Notice require additional RFA analysis, they should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of this Notice, including a copy of this initial regulatory flexibility certification, to the Chief Counsel for Advocacy of the SBA.<sup>46</sup> In addition, a copy of this Notice of Proposed Rulemaking and this initial certification will be published in the Federal Register.<sup>47</sup>

#### **E. Initial Paperwork Reduction Act of 1995 Analysis**

25. This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44

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<sup>42</sup> Small Business Act, 15 U.S.C. § 632.

<sup>43</sup> See *supra* para. 3.

<sup>44</sup> See *supra* para. 4.

<sup>45</sup> 47 C.F.R. §§ 64.804(c)-(g), 42.4, 42.5, 42.7, 64.301, 64.501, 64.5001(a)-(c)(2), (c)(4), 64.1.

<sup>46</sup> See 5 U.S.C. § 605(b).

<sup>47</sup> *Id.*

U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

**F. Contact Person**

26. For further information about this proceeding, please contact Alex Johns, FCC Wireline Competition Bureau, Competition Policy Division, Room 5-C317, 445 12th Street, S.W., Washington, D.C. 20554, (202) 418-1580, alexis.johns@fcc.gov.

**IV. ORDERING CLAUSES**

27. Accordingly, IT IS ORDERED, pursuant to sections 1, 2(a), 4(i), 4(j), 5, 10-11, 201-205, 214, 218-221, 225-228, 254, 303, 308, 403, 410, and 651 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C §§ 151, 152(a), 154(i), 154(j), 155, 160-161, 201-205, 214, 218-221, 225-228, 254, 303, 308, 403, 410, 571, 1302, and section 401 of the Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30141, that this Notice of Proposed Rulemaking IS ADOPTED.

28. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary



## APPENDIX

## Proposed Rule Amendments

## Part 36 — JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

Part 36 of Title 47 of the Code of Federal Regulations is amended as follows:

1. Amend Section 36.126 to read as follows:

§ 36.126 Circuit Equipment – Category 4

(a) For the purpose of this section, the term “Circuit Equipment” encompasses the Radio Systems and Circuit Equipment contained in Accounts 2230 through 2232 respectively. It includes central office equipment, other than switching equipment and automatic message recording equipment, which is used to derive communications transmission channels or which is used for the amplification, modulation, regeneration, testing, balancing or control of signals transmitted over communications transmission channels. Examples of circuit equipment in general use include:

(1) Carrier telephone system terminals.

(2) Telephone repeaters, termination sets, impedance compensators, pulse link repeaters, echo suppressors and other intermediate transmission amplification and balancing equipment except that included in switchboards.

\* \* \* \* \*

(8) Testboards, test desks, repair desks and patch bays, including those provided for test and control, and for transmission testing.

(b) \* \* \*

(4) In addition, for the purpose of identifying and separating property associated with special services, circuit equipment included in Categories 4.12 (other than wideband equipment) 4.13 and 4.23 is identified as either basic circuit equipment, i.e., equipment that performs functions necessary to provide and operate channels suitable for voice transmission (telephone grade channels), or special circuit equipment, i.e., equipment that is peculiar to special service circuits. Carrier telephone terminals and carrier telephone repeaters are examples of basic circuit equipment in general use, while audio program transmission amplifiers, bridges, monitoring devices and volume indicators are examples of special circuit equipment in general use. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(1) Interexchange Circuit Equipment Furnished to Another Company for Interstate Use – Category 4.21 – This category comprises that circuit equipment provided for the use of another company as an integral part of its interexchange circuit facilities used wholly for interstate services. This category includes such circuit equipment as telephone carrier terminals and microwave systems used wholly for interstate services. The total cost of the circuit equipment in this category for the study area is assigned to the interstate operation.

\* \* \* \* \*

(e) \* \* \*

(1) Interexchange Circuit Equipment Furnished to Another Company for Interstate Use Category – 4.21 – This category comprises that circuit equipment provided for the use of another company as an integral part of its interexchange circuit facilities used wholly for interstate services. This category includes such circuit equipment as telephone carrier terminals and microwave systems used wholly for interstate services. The total cost of the circuit equipment in this category for the study area is assigned to the interstate operation.

\* \* \* \* \*

(3) \* \* \*

(iii) The cost of special circuit equipment is segregated among private line services based on an analysis of the use of the equipment and in accordance with § 36.126(b)(4). The special circuit equipment cost assigned to private line services is directly assigned to the appropriate operations.

\* \* \* \* \*

#### Part 42 — PRESERVATION OF RECORDS OF COMMUNICATION COMMON CARRIERS

Part 42 of Title 47 of the Code of Federal Regulations is amended as follows:

2. § 42.4 **[Removed]**

Remove § 42.4.

3. § 42.5 **[Removed]**

Remove § 42.5.

4. § 42.7 **[Removed]**

Remove § 42.7.

#### Part 54 — UNIVERSAL SERVICE

Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

5. § 54.706 **[Amended]**

In § 54.706, remove and reserve paragraph (a)(13).

#### Part 63 — EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

Part 63 of Title 47 of the Code of Federal Regulations is amended as follows:

6. Amend Section 63.60(c) to read as follows:

§ 63.60 Definitions.

For the purposes of this part, the following definitions shall apply:

\* \* \* \* \*

(c) Emergency discontinuance, reduction, or impairment of service means any discontinuance, reduction, or impairment of the service of a carrier occasioned by conditions beyond the control of such carrier where the original service is not restored or comparable service is not established within a reasonable time. For the purpose of this part, a reasonable time shall be deemed to be a period not in excess of the following: 10 days in the case of public coast stations; and 60 days in all other cases;

\* \* \* \* \*

7. Amend Section 63.61 to read as follows:

§ 63.61 Applicability.

Any carrier subject to the provisions of section 214 of the Communications Act of 1934, as amended, proposing to discontinue, reduce or impair interstate or foreign telephone service to a community, or a part of a community, shall request authority therefor by formal application or informal request as specified in the pertinent sections of this part:

\* \* \* \* \*

8. Amend the heading of Section 63.62 to read as follows:

§ 63.62 Type of discontinuance, reduction, or impairment of telephone service requiring formal application.

9. § 63.65 [**Amended**]

In § 63.65, remove and reserve paragraph (a)(4).

10. Amend Section 63.500(g) to read as follows:

§ 63.500 Contents of applications to dismantle or remove a trunk line.

The application shall contain:

\* \* \* \* \*

(g) Name of any other carrier or carriers providing telephone service to the community;

\* \* \* \* \*

11. Amend Section 63.501(g) to read as follows:

§ 63.501 Contents of applications to sever physical connection or to terminate or suspend interchange of traffic with another carrier.

The application shall contain:

\* \* \* \* \*

(g) Name of any other carrier or carriers providing telephone service to the community;

\* \* \* \* \*

12. Amend Section 63.504(k) to read as follows:

§ 63.504 Contents of applications to close a public toll station where no other such toll station of the applicant in the community will continue service and where telephone toll service is not otherwise available to the public through a telephone exchange connected with the toll lines of a carrier.

The application shall contain:

\* \* \* \* \*

(k) Description of the service involved, including a statement of the number of toll telephone messages sent-paid and received-collect, and the revenues from such traffic, in connection with the service proposed to be discontinued for each of the past 6 months; and, if the volume of such traffic handled in the area has decreased during recent years, the reasons therefor.

\* \* \* \* \*

#### Part 64 — MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

13. Remove and reserve subpart A, consisting of section 64.1.

Subpart A — Removed and Reserved.

§ 64.1 **[Removed]**

Remove § 64.1.

14. Remove and reserve subpart C, consisting of section 64.301.

Subpart C — Removed and Reserved

§ 64.301 **[Removed]**

Remove § 64.301.

15. Remove and reserve subpart E, consisting of section 64.501.

Subpart E — Removed and Reserved

§ 64.501 [**Removed**]

Remove § 64.501.

16. § 64.804 [**Amended**]

In § 64.804, remove and reserve paragraphs (c)-(g).

17. § 64.5001 [**Amended**]

In § 64.5001, remove paragraphs (a), (b), and (c).

18. Amend Section 64.5001 to read as follows:

§ 64.5001 Reporting and certification requirements.

On a quarterly basis, every prepaid calling card provider must submit to the Commission a certification, signed by an officer of the company under penalty of perjury, stating that it is making the required Universal Service Fund contribution based on the reported information. This provision shall not apply to any prepaid calling card provider that has timely filed every FCC Form 499-A and 499-Q due during the preceding two-year period.

\* \* \* \* \*