

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

In the Matter of	)	
	)	
Comprehensive Review of the Part 32 Uniform	)	WC Docket No. 14-130
System of Accounts	)	
	)	
Jurisdictional Separations and Referral to the	)	CC Docket No. 80-286
Federal-State Joint Board	)	

**REPORT AND ORDER**

**Adopted: October 16, 2018**

**Released: October 17, 2018**

By the Commission: Commissioner O’Rielly issuing a statement.

**I. INTRODUCTION**

1. In this Report and Order (Order), we simplify our Part 36 jurisdictional separations rules to allow all carriers to use the simpler jurisdictional separations processes previously reserved for smaller carriers. In so doing, we harmonize our Part 36 rules with the Commission’s previous amendments to our Part 32 accounting rules.<sup>1</sup> The amendments we adopt today to our Part 36 rules further our goal of updating and modernizing our rules to eliminate outdated compliance burdens on carriers so that they can focus their resources on building modern networks that bring economic opportunity, job creation, and civic engagement to all Americans.

**II. BACKGROUND**

2. Jurisdictional separations is the third step in a four-step regulatory process. First, a rate-of-return carrier records its costs and revenues in various accounts using the Uniform System of Accounts (USOA) prescribed by the Commission’s Part 32 rules.<sup>2</sup> Second, the carrier divides the costs and revenues in these accounts between regulated and nonregulated activities in accordance with Part 64 of the Commission’s rules, a step that helps ensure that the costs of nonregulated activities will not be recovered through regulated interstate rates.<sup>3</sup> Third, the carrier separates the regulated costs and revenues between the intrastate and interstate jurisdictions using the Part 36 rules.<sup>4</sup> Finally, the carrier apportions the interstate regulated costs among the interexchange services and rate elements that form the cost basis for its exchange access tariff. Carriers subject to rate-of-return regulation perform this apportionment in accordance with the Commission’s Part 69 rules.<sup>5</sup>

3. Historically, the Part 32 rules divided incumbent local exchange carriers (LECs) into two classes for accounting purposes based on the amounts of their annual regulated revenues. Class A incumbent LECs were the larger carriers, and Class B incumbent LECs were the smaller carriers (most

<sup>1</sup> See *Comprehensive Review of the Part 32 Uniform System of Accounts; Jurisdictional Separations and Referral to the Federal-State Joint Board*, WC Docket No. 14-130, CC Docket No. 80-286, Report and Order, 32 FCC Rcd 1735 (2017) (*Part 32 Reform Order*), *pet. for recon. pending*.

<sup>2</sup> See 47 CFR Part 32.

<sup>3</sup> The Part 64 cost allocation rules are codified at 47 CFR §§ 64.901-904.

<sup>4</sup> 47 CFR Part 36.

<sup>5</sup> 47 CFR Part 69.

recently those with less than \$157 million in annual regulated revenues).<sup>6</sup> Our former Part 32 rules required Class A carriers to create and maintain a more granular set of accounts than it required of the smaller Class B carriers.<sup>7</sup> In all but one case, Class A carrier accounts could be grouped into sets that were represented by single Class B carrier accounts—that is, such Class A accounts consolidated into, or “rolled up” into, Class B accounts.<sup>8</sup>

4. In the *Part 32 Reform Order*, the Commission eliminated the historical distinction between Class A and Class B incumbent LECs in the Part 32 rules. Now all carriers subject to Part 32 are required to keep only the less onerous accounts previously kept by Class B incumbent LECs.<sup>9</sup> Recognizing that the Part 32 accounting reforms had implications for the Part 36 jurisdictional separations rules, which distinguish between Class A and Class B incumbent LECs, the Commission referred to the Federal-State Joint Board on Jurisdictional Separations (Joint Board) consideration of how and when the Part 36 rules should be modified to reflect the reforms adopted in the *Part 32 Reform Order*.<sup>10</sup>

5. In October 2017, after seeking public comment on how best to harmonize the Part 32 and Part 36 rules,<sup>11</sup> the Joint Board released a *Recommended Decision*.<sup>12</sup> In its *Recommended Decision*, the Joint Board recommended changes to Part 36 including deleting rules pertaining to Class A accounts, deleting references to Class A and B accounts, and allowing former Class A carriers to select between the former Class A and B procedures for apportioning general support facilities costs.<sup>13</sup> The Joint Board also recommended that the Commission make certain stylistic and typographical corrections to the Part 36 rules.<sup>14</sup> The Joint Board recommended that the Part 36 revisions it proposed be effective as soon as practicable after January 1, 2018, the effective date of the *Part 32 Reform Order*.<sup>15</sup>

6. In February 2018, the Commission released the *Separations Harmonization NPRM*, which proposed amendments to Part 36 consistent with the *Recommended Decision*.<sup>16</sup> The Commission

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<sup>6</sup> See 47 CFR § 32.11(b) (2017); *Wireline Competition Bureau Announces Annual Adjustment of Revenue Thresholds*, Public Notice, 32 FCC Rcd 7646 (WCB 2017).

<sup>7</sup> See 47 CFR § 32.11(c), (d) (2017). The differences in the two account structures were set forth in tables contained in 47 CFR §§ 32.103, 32.2000, 32.3000, 32.3999, 32.4999, 32.5999, 32.6999 (2017).

<sup>8</sup> For example, Accounts 6211 (non-digital switching expense) and 6212 (digital electronic switching expense) were Class A-only accounts, while Account 6210 (central office switching expense) was a Class B account. See 47 CFR §§ 32.6211, 32.6212, 32.6210 (2017). Account 6210, in turn, was defined as solely representing “expenses of the type and character required of Class A companies in Accounts 6211 through 6212.” 47 CFR § 32.6210 (2017).

<sup>9</sup> *Part 32 Reform Order*, 32 FCC Rcd at 1740-42, paras. 15-19.

<sup>10</sup> *Id.* at 1749, para. 46.

<sup>11</sup> *Federal-State Joint Board on Separations Seeks Comment on Referral for Recommendations of Rule Changes to Part 36 as a Result of Commission Revisions to Part 32 Accounting Rules*, Public Notice, WC Docket No. 14-130, CC Docket No. 80-286, 32 FCC Rcd 3236 (Fed.-State Jt. Bd. 2017).

<sup>12</sup> *Comprehensive Review of the Part 32 Uniform System of Accounts; Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, WC Docket No. 14-130, CC Docket No. 80-286, Recommended Decision, 32 FCC Rcd 8678 (Fed.-State Jt. Bd. 2017) (*Recommended Decision*).

<sup>13</sup> General support facilities are land, buildings, motor vehicles, aircraft, special purpose vehicles, garage work equipment, other work equipment, furniture, office equipment, and general purpose computers. See 47 CFR § 36.111.

<sup>14</sup> *Recommended Decision*, 32 FCC Rcd at 8680-82, paras. 5-10.

<sup>15</sup> *Id.* at 8682, para. 10.

<sup>16</sup> *Comprehensive Review of the Part 32 Uniform System of Accounts; Jurisdictional Separations and Referral to the Federal-State Joint Board*, WC Docket No. 14-130, CC Docket No. 80-286, Notice of Proposed Rulemaking, 33 FCC Rcd 2612, 2613, para. 3 (2018) (*Separations Harmonization NPRM*); see *Comprehensive Review of the Part 32 Uniform System of Accounts; Jurisdictional Separations and Referral to the Federal-State Joint Board*, 83 Fed. Reg.

also sought comment on the effective date for any changes to Part 36 to harmonize those rules with Part 32 reforms.<sup>17</sup> USTelecom filed the only comment on the merits, and it supports the proposals in the *Separations Harmonization NPRM*.<sup>18</sup>

### III. DISCUSSION

7. In this Order, we harmonize our Part 36 jurisdictional separations rules with the changes to the Part 32 accounting rules that the Commission adopted in the *Part 32 Reform Order*. Our amendments to Part 36 implement the Commission's proposals in the *Separations Harmonization NPRM* to adopt, with minor exceptions, the Joint Board's recommendations and to amend the Part 36 rules consistent with those recommendations.<sup>19</sup> We agree with USTelecom that these rule changes do not risk undermining the primary purpose of the Part 36 rules, which is to "prevent incumbent LECs from recovering the same costs in the interstate and intrastate jurisdictions," and will instead "simplify the accounting rules by removing unnecessary burdensome regulations that require carriers and ultimately consumers to incur unnecessary costs."<sup>20</sup>

8. First, we remove from our Part 36 rules references to Class A accounts because carriers are no longer required to keep such accounts.<sup>21</sup> As the Commission proposed, we: (a) delete references to Class A accounts and the phrase "Class B accounts" in Part 36 rules that contain parallel references to Class A accounts and the Class B accounts into which they roll up; (b) delete references to current-year account balances and modify references to Class A carriers in other Part 36 rules; and (c) delete references to Class A accounts in sections 36.501 and 36.505 of the rules.<sup>22</sup> As USTelecom explains, these revisions are "necessary clean-up to ensure that both rule parts [i.e., Parts 32 and 36] work together consistently" and further the Part 32 reforms by "removing additional unnecessary and burdensome rules for carriers of all sizes."<sup>23</sup>

9. Second, we amend section 36.112 to allow former Class A carriers (carriers with revenue equal to or greater than \$157 million for calendar year 2016) to select between the legacy Class A and Class B procedures in apportioning their general support facilities costs.<sup>24</sup> As the Commission observed in the *Separations Harmonization NPRM*, this is the only Part 36 rule that provides different separations

(Continued from previous page) \_\_\_\_\_

10817 (Mar. 13, 2018) (triggering *Separations Harmonization NPRM* comment and reply cycle). Comments were due April 12, 2018; reply comments were due April 27, 2018. *See id.*

<sup>17</sup> *See Separations Harmonization NPRM*, 33 FCC Rcd at 2615, para. 12.

<sup>18</sup> *See* Comments of the USTelecom Association, WC Docket No. 14-130, CC Docket No. 80-286, at 3 (filed Apr. 12, 2018) (USTelecom Comments) (supporting the Commission's proposed Part 36 rule changes). The New Networks Institute and Irregulars filed joint comments that do not address in any way the proposals in the *Separations Harmonization NPRM*. *See* New Networks Institute and the Irregulars Comments, WC Docket No. 14-130, CC Docket No. 80-286 (filed Apr. 27, 2018).

<sup>19</sup> *See Separations Harmonization NPRM*, 33 FCC Rcd at 2613, paras. 3; *id.* at 2613, para. 8 n.20.

<sup>20</sup> *See* USTelecom Comments at 3.

<sup>21</sup> *See Separations Harmonization NPRM*, 33 FCC Rcd at 2614-15, para. 9; *Recommended Decision*, 32 FCC Rcd at 8680-81, paras. 5-6.

<sup>22</sup> *See Separations Harmonization NPRM*, 33 FCC Rcd at 2614-15, para. 9; *Recommended Decision*, 32 FCC Rcd at 8680-81, paras. 5-6.

<sup>23</sup> *See* USTelecom Comments at 3.

<sup>24</sup> *See Separations Harmonization NPRM*, 33 FCC Rcd at 2615, para. 10; *see also Recommended Decision*, 32 FCC Rcd at 8682, paras. 7-9; 47 CFR § 36.112.

procedures for legacy Class A and B carriers.<sup>25</sup> We agree with the Joint Board that requiring all carriers to use the method previously used only by Class B carriers would “impose a compliance burden on current Class A carriers because they would have to change their well-established manner of allocating general support expense.”<sup>26</sup> We find that both procedures provide reasonable methods for separating general support facilities costs and allowing legacy Class A carriers to select between these procedures will simplify compliance for carriers while having, at most, a de minimis effect on separations results.<sup>27</sup> We also agree with USTelecom that it is reasonable to allow carriers the “flexibility” to “adjust their selection[s] as their business needs change” over time.<sup>28</sup> Accordingly, we allow legacy Class A carriers to choose between the procedures previously identified as Class A or Class B procedures in apportioning their general support facilities costs, and to adjust their selection when they chose to do so.<sup>29</sup>

10. Third, consistent with the Joint Board’s recommendation and the Commission’s proposals, we correct certain stylistic and typographical errors in Part 36.<sup>30</sup> As USTelecom explains, these ministerial corrections make the separations rules clearer.<sup>31</sup>

11. We agree with the Joint Board that its proposed revisions to Part 36 should “become effective as soon as practicable” and with USTelecom’s argument that adopting the Commission’s proposed harmonizing changes to Part 36 “as soon as possible” avoids potentially “confusing” and “contradictory” rules.<sup>32</sup> We also agree with USTelecom that January 1, 2019 is the earliest practicable effective date for these changes, because it corresponds with the carriers’ practices of keeping their USOA accounts on a calendar year basis and using their USOA accounting results for regulatory purposes.<sup>33</sup> We therefore select January 1, 2019 as the effective date of the rule changes we adopt today.<sup>34</sup>

#### IV. PROCEDURAL MATTERS

12. *Paperwork Reduction Act Analysis.* This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.<sup>35</sup> In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork

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<sup>25</sup> *Separations Harmonization NPRM*, 33 FCC Rcd at 2615, para. 10; *see also Recommended Decision*, 32 FCC Rcd at 8681-82, paras. 7-9.

<sup>26</sup> *See Recommended Decision*, 32 FCC Rcd at 8681-82, paras. 8.

<sup>27</sup> *See id.* at 8681-82, paras. 8-9.

<sup>28</sup> *See USTelecom Comments* at 4; *see also Recommended Decision*, 32 FCC Rcd at 8681-82, paras. 8-9.

<sup>29</sup> The language we adopt for section 36.112(a) reflects minor changes from the Commission’s proposal. *See infra* Appx. A at para. 2 (specifying that former Class A carriers’ general support facilities costs are apportioned among the operations “on the basis of either the method in paragraph (a)(1) or the method in (a)(2) of [section 36.112]”).

<sup>30</sup> *See Separations Harmonization NPRM*, 33 FCC Rcd at 2615, para. 11; *Recommended Decision* 32 FCC Rcd at 8682, para. 10.

<sup>31</sup> USTelecom Comments at 4.

<sup>32</sup> *See Recommended Decision*, 32 FCC Rcd at 8682, para. 10; USTelecom Comments at 4.

<sup>33</sup> *See USTelecom Comments* at 4.

<sup>34</sup> *See id.* Nothing in this Order precludes a state or regulatory agency, or another party as part of a contractual requirement, from requiring a carrier to maintain the Class A accounts or otherwise maintain the USOA. *See, e.g.*, 7 CFR § 1770.11(b) (requiring certain Rural Utility Service borrowers to maintain Class A accounts); *see also Part 32 Reform Order*, 32 FCC Rcd at 1741, para. 16 & n.51.

<sup>35</sup> *See* 44 U.S.C. §§ 3501-3521; *Separations Harmonization NPRM*, 33 FCC Rcd at 2616, para. 15.

Relief Act of 2002, Public Law 107-198.<sup>36</sup>

13. *Congressional Review Act.* The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>37</sup>

14. *Final Regulatory Flexibility Act Analysis.* The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>38</sup> Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in the Report and Order on small entities.<sup>39</sup> The FRFA is set forth in Appendix B.

15. *Contact Person.* For further information regarding this proceeding, please contact Christopher S. Koves, Pricing Policy Division, Wireline Competition Bureau, at (202) 418-1520, or [Christopher.Koves@fcc.gov](mailto:Christopher.Koves@fcc.gov).

## V. ORDERING CLAUSES

16. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i) and (j), 201, 205, 220, 221(c), 303(r), 403, 410, this Report and Order IS ADOPTED.

17. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, 410, Part 36 of the Commission’s rules, 47 CFR Part 36, IS AMENDED as set forth in Appendix A, and such rule amendments SHALL BE EFFECTIVE on January 1, 2019.

18. IT IS FURTHER ORDERED that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

19. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>40</sup>

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>36</sup> See 44 U.S.C. § 3506(c)(4).

<sup>37</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>38</sup> 5 U.S.C. § 605(b).

<sup>39</sup> See 5 U.S.C. § 604.

<sup>40</sup> See 5 U.S.C. § 801(a)(1)(A).

## APPENDIX A

## FINAL RULES

For the reasons set forth above, the Federal Communications Commission amends 47 CFR part 36 as follows:

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

1. The authority citation for part 36 is amended to read as follows:

AUTHORITY: 47 U.S.C. 151, 152, 154(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, 410, and 1302 unless otherwise noted.

**§ 36.112 [Amended]**

2. Revise § 36.112 to read as follows:

**§ 36.112 Apportionment procedure.**

(a) The costs of the general support facilities of local exchange carriers that had annual revenues from regulated telecommunications operations equal to or greater than \$157 million for calendar year 2016 are apportioned among the operations on the basis of either the method in paragraph (a)(1) or the method in (a)(2) of this section, at the election of the local exchange carrier:

(1) The separation of the costs of the combined Big Three Expenses which include the following accounts:

*Plant Specific Expenses*

Central Office Switching Expenses	Account 6210.
Operators Systems Expenses	Account 6220.
Central Office Transmission Expenses	Account 6230.
Information Origination/Termination Expenses	Account 6310.
Cable and Wire Facilities Expenses	Account 6410.

*Plant Non-Specific Expenses*

Network Operations Expenses	Account 6530.
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*Customer Operations Expenses*

Marketing	Account 6610.
Services	Account 6620.

(2) The separation of the costs of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

(b) The costs of the general support facilities of local exchange carriers that had annual revenues from regulated telecommunications operations less than \$157 million for calendar year 2016 are apportioned

among the operations on the basis of the separation of the costs of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

**§ 36.121 [Amended]**

3. Amend § 36.121 as follows:
  - a. Revise paragraph (a); and
  - b. In paragraph (c)(1)(i), remove “130 volt” and add, in its place, “130-volt”.

The revision reads as follows:

**§ 36.121 General.**

(a) The costs of central office equipment are carried in the following accounts:

Central Office Switching	Account 2210.
Operator Systems	Account 2220.
Central Office—Transmission	Account 2230.

\* \* \* \* \*

**§ 36.124 [Amended]**

4. Amend § 36.124 as follows:
  - a. In paragraph (a), remove “Accounts 2210, 2211, and 2212” and add, in its place, “Account 2210”.
  - b. In paragraph (c), remove “assign the average balances of Accounts 2210, 2211, and 2212” and add, in its place, “assign the average balance of Account 2210”; and remove “assignment of the average balances of Accounts 2210, 2211, 2212, and 2215” and add, in its place, “assignment of the average balance of Account 2210 (or, if Accounts 2211, 2212, and 2215 were required to be maintained at the applicable time, the average balances of Accounts 2211, 2212, and 2215)”.

**§ 36.125 [Amended]**

5. Amend § 36.125 as follows:
  - a. In paragraph (a), remove “Accounts 2210, 2211, and 2212” and add, in its place, “Account 2210”; remove “e.g. transmitters,” and add, in its place, “e.g., transmitters,”; remove “directors” and, add in its place, “directors,”; and remove “e.g. switching” and add, in its place, “e.g., switching”.
  - b. In paragraph (h), remove “assign the average balances of Accounts 2210, 2211, and 2212” and add, in its place, “assign the average balance of Account 2210”; and remove “assignment of the average balances of Accounts 2210, 2211, 2212, and 2215” and add, in its place, “assignment of the average balance of Account 2210 (or, if Accounts 2211, 2212, and 2215 were required to be maintained at the applicable time, the average balances of Accounts 2211, 2212, and 2215)”.

**§ 36.126 [Amended]**

6. Amend § 36.126 as follows:
  - a. In paragraph (a), remove “Accounts 2230 through 2232 respectively” and add, in its place, “Account 2230”;

- b. In the introductory text of paragraph (b), remove “equipment” and add, in its place, “equipment”;
- c. In paragraphs (b)(5) and (b)(6), remove “assign the average balances of Accounts 2230 through 2232” and add, in its place, “assign the average balance of Account 2230”; and remove “assignment of the average balances of Accounts 2230 through 2232” and add, in its place, “assignment of the average balance of Account 2230 (or, if Accounts 2231 and 2232 were required to be maintained at the applicable time, the average balances of Accounts 2231 and 2232)”.

**§ 36.154 [Amended]**

- 7. Amend § 36.154(b) by removing “jurisdiction” and adding, in its place “jurisdiction”.

**§ 36.201 [Amended]**

- 8. Amend § 36.201 as follows:
  - a. Redesignate paragraph (a) as an undesignated paragraph; and
  - b. In the table, remove “(Class B telephone companies); Basic area revenue—Account 5001 (Class A telephone companies)”.

**§ 36.211 [Amended]**

- 9. Amend § 36.211 as follows:
  - a. Redesignate paragraph (a) as an undesignated paragraph; and
  - b. In the table:
    - i. Remove “Basic local service revenue (Class B telephone companies)” and add, in its place, “Basic Local Service Revenue”; and
    - ii. Remove the entry “Basic Area Revenue (Class A telephone companies)”.

- 10. Amend § 36.212 by revising the section heading to read as follows:

**§ 36.212 Basic local services revenue—Account 5000.**

\* \* \* \* \*

**§ 36.301 [Amended]**

- 11. Amend § 36.301 as follows:
  - a. Redesignate paragraph (a) as an undesignated paragraph; and
  - b. In the table:
    - i. Remove “(Class B Telephone Companies); Accounts 6112, 6113, 6114, 6121, 6122, 6123, and 6124 (Class A Telephone Companies)”;
    - ii. Remove “Accounts 6210, 6220, 6230 (Class B Telephone Companies); Accounts 6211, 6212, 6220, 6231, and 6232 (Class A Telephone Companies)” and add, in its place, “Accounts 6210, 6220, and 6230”;
    - iii. Remove “(Class B Telephone Companies); Accounts 6311, 6341, 6351, and 6362 (Class A Telephone Companies)”;
    - iv. Remove “(Class B Telephone Companies); Accounts 6411, 6421, 6422, 6423, 6424, 6426, 6431, and 6441 (Class A Telephone Companies)”;
    - v. Remove “(Class B Telephone Companies); Accounts 6511 and 6512 (Class A Telephone Companies)”;
    - vi. Remove “(Class B Telephone Companies); Accounts 6531, 6532, 6533, 6534, and 6535 (Class A Telephone Companies)”;



- vii. Remove “(Class B Telephone Companies); Accounts 6611 and 6613 (Class A Telephone Companies)”;
- viii. Remove “Local Bus. Office” and add, in its place, “Local Business Office”; and
- ix. Remove “(Class B Telephone Companies); Accounts 7210, 7220, 7230, 7240, and 7250 (Class A Telephone Companies)”.

#### **§ 36.302 [Amended]**

12. Amend § 36.302 in the introductory text to paragraph (c)(1)(i) and in paragraph (c)(1)(i) by removing “SRC” and adding, in its place, “SRCs”.

#### **§ 36.310 [Amended]**

13. Amend § 36.310(a) to read as follows:

##### **§ 36.310 General.**

\* \* \* \* \*

(a) Plant specific operations expenses include the following accounts:

Network Support Expenses	Account 6110.
General Support Expenses	Account 6120.
Central Office Switching Expenses	Account 6210.
Operator System Expenses	Account 6220.
Central Office Transmission Expenses	Account 6230.
Information Origination/Termination Expenses	Account 6310.
Cable and Wire Facilities Expenses	Account 6410.

\* \* \* \* \*

#### **§ 36.311 [Amended]**

14. Amend § 36.311 by revising the section heading to read as follows:

##### **§ 36.311 Network Support/General Support Expenses—Accounts 6110 and 6120.**

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#### **§ 36.321 [Amended]**

15. Amend § 36.321 as follows:
- a. Revise the section heading;
  - b. Remove, from the table in paragraph (a), “(Class B telephone companies); Accounts 6211 and 6212 (Class A telephone companies)” and “(Class B telephone companies); Accounts 6231 and 6232 (Class A telephone companies)”;
  - c. Remove, from paragraph (b), “equipment. Accounts” and add, in its place, “equipment—Accounts”.

The revision reads as follows:

##### **§ 36.321 Central office expenses—Accounts 6210, 6220, and 6230.**

\* \* \* \* \*

16. Amend § 36.331 by revising the section heading to read as follows:

**§ 36.331 Information origination/termination expenses—Account 6310.**

\* \* \* \* \*

17. Amend § 36.341 by revising the section heading to read as follows:

**§ 36.341 Cable and wire facilities expenses—Account 6410.**

\* \* \* \* \*

**§ 36.351 [Amended]**

18. Amend § 36.351 as follows:
- a. Redesignate paragraph (a) as an undesignated paragraph; and
  - b. In the table:
    - i. Remove “(Class B telephone companies); Accounts 6511 and 6512 (Class A telephone companies)”;
    - ii. Remove “(Class B telephone companies); Accounts 6531, 6532, 6533, 6534, and 6535 (Class A telephone companies)”.

19. Amend § 36.352 by revising the section heading to read as follows:

**§ 36.352 Other property plant and equipment expenses—Account 6510.**

\* \* \* \* \*

20. Amend § 36.353 by revising the section heading to read as follows:

**§ 36.353 Network operations expenses—Account 6530.**

\* \* \* \* \*

**§ 36.371 [Amended]**

21. Amend § 36.371 in the table by removing “Account 6610 (Class B telephone companies); Accounts 6611 and 6613 (Class A telephone companies)”.

22. Amend § 36.372 by revising the section heading to read as follows:

**§ 36.372 Marketing—Account 6610.**

\* \* \* \* \*

**§ 36.375 [Amended]**

23. Amend § 36.375 in paragraphs (b)(4) and (5), by removing “through (4)” and adding, in its place, “through (3)”.

**§ 36.392 [Amended]**

24. Amend § 36.392(c) as follows:
  - a. Remove “(Class B Telephone Companies); Accounts 6211 and 6212 (Class A Telephone Companies)”;
  - b. Remove “(Class B Telephone Companies); Accounts 6231 and 6232 (Class A Telephone Companies)”;
  - c. Remove “(Class B Telephone Companies); Accounts 6311, 6341, 6351, and 6362 (Class A Telephone Companies)”;
  - d. Remove “(Class B Telephone Companies); Accounts 6411, 6421, 6422, 6423, 6424, 6426, 6431, and 6441 (Class A Telephone Companies)”;
  - e. Remove “(Class B Telephone Companies); Accounts 6531, 6532, 6533, 6534, and 6535 (Class A Telephone Companies)”;
  - f. Remove “(Class B Telephone Companies); Accounts 6611 and 6613 (Class A Telephone Companies)”.
25. Amend § 36.411 as follows:
  - a. Revise the section heading;
  - b. Redesignate paragraph (a) as an undesignated paragraph;
  - c. Revise the final entry in the list.

The revisions read as follows:

**§ 36.411 Operating taxes—Account 7200.**

\* \* \* \* \*

Provision for Deferred Operating Income Taxes

**§ 36.501 [Amended]**

26. Amend § 36.501 by removing “(Class B Telephone Companies); Account 3410 (Class A Telephone Companies)”.

**§ 36.505 [Amended]**

27. Amend § 36.505 as follows:
  - a. Revise the section heading;
  - b. Redesignate paragraph (a) as an undesignated paragraph.

The revision reads as follows:

**§ 36.505 Accumulated amortization—Tangible—Account 3400.**

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**§§ 36.3, 36.123, 36.124, 36.125, 36.126, 36.141, 36.142, 36.152, 36.157, 36.191, 36.374, 36.375, 36.377, 36.378, 36.379, 36.380, 36.381, and 36.382 [Amended]**

28. In addition to the amendments set forth above, in 47 CFR part 36, remove the words “twelve month” and add, in their place, the words “twelve-month” in the following places:
  - a. Section 36.3(a) and (b);

- b. Section 36.123(a)(5) and (6);
- c. Section 36.124(c) and (d);
- d. Section 36.125(h) and (i);
- e. Section 36.126(b)(5), (b)(6), (c)(4), (e)(4), and (f)(2);
- f. Section 36.141(c);
- g. Section 36.142(c);
- h. Section 36.152(d);
- i. Section 36.157(b);
- j. Section 36.191(d);
- k. Section 36.374(b);
- l. Section 36.375(b)(4);
- m. Section 36.377 introductory text and (a)(1)(ix), (2)(vii), (3)(vii), (4)(vii), (5)(vii), and (6)(vii);
- n. Section 36.378(b)(1);
- o. Section 36.379(b)(1);
- p. Section 36.380(d) and (e);
- q. Section 36.381(c); and
- r. Section 36.382(a).

## APPENDIX B

## Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Commission has prepared this Final Regulatory Flexibility Analysis (FRFA) on the possible significant economic impact on small entities by this Report and Order (Order).<sup>2</sup> An Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Notice of Proposed Rulemaking (*Separations Harmonization NPRM*).<sup>3</sup> The Commission sought written public comment on the proposals in the *Separations Harmonization NPRM*, including comment on the IRFA.<sup>4</sup> The Commission did not receive comments on the IRFA.

**A. Need for, and Objectives of, the Order**

2. In this Report and Order (Order), the Commission amends its Part 36 jurisdictional separations rules to harmonize them with the Commission's reforms to reduce and eliminate unnecessary or outdated Part 32 accounting rules.<sup>5</sup> Jurisdictional separations are the third step in a four-step regulatory process used to establish tariffed rates for interstate and intrastate regulated services for incumbent local exchange carriers (LECs).<sup>6</sup> Carriers first record costs into various Part 32 accounts, which they then apportion into regulated and nonregulated costs pursuant to Part 64, and further separate the regulated costs between intrastate and interstate jurisdictions pursuant to Part 36.<sup>7</sup>

3. In the *Part 32 Reform Order*, the Commission amended its Part 32 Uniform System of Accounts (USOA) to streamline or eliminate unnecessary or outdated accounting rules.<sup>8</sup> Recognizing that Part 32 reforms implicated Part 36, the Commission asked the Federal-State Joint Board on Jurisdictional Separations (Joint Board) to prepare a recommended decision regarding the extent Part 36 should be modified in light of the Part 32 reforms.<sup>9</sup> The Joint Board released its *Recommended Decision* in October 2017.<sup>10</sup> In the *Separations Harmonization NPRM*, the Commission proposed and sought comment on adoption, with certain minor exceptions, of the Joint Board's recommendations and on amendments to Part 36 consistent with those recommendations.<sup>11</sup>

4. The purpose of the Part 36 amendments adopted in this Order are to ensure that Part 36 is consistent with the Part 32 reforms adopted in the *Part 32 Reform Order*. First, this Order removes

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-12, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> See 5 U.S.C. § 604.

<sup>3</sup> *Comprehensive Review of the Part 32 Uniform System of Accounts; Jurisdictional Separations and Referral to the Federal-State Joint Board*, WC Docket No. 14-130, CC Docket No. 80-286, Notice of Proposed Rulemaking, 33 FCC Rcd 2612, 2689-91, Appx. C (2018) (*Separations Harmonization NPRM*).

<sup>4</sup> *Id.* at 2617, para. 17; see also *id.* at 2689-91, Appx. C.

<sup>5</sup> See *Comprehensive Review of the Part 32 Uniform System of Accounts, Jurisdictional Separations and Referral to the Federal-State Joint Board*, Report and Order, 32 FCC Rcd 1735 (2017) (*Part 32 Reform Order*), *pet. for recon. pending*.

<sup>6</sup> *Separations Harmonization NPRM*, 33 FCC Rcd at 2613, para. 4.

<sup>7</sup> 47 CFR Part 36.

<sup>8</sup> *Part 32 Reform Order*, 32 FCC Rcd at 1739-49, paras. 12-45.

<sup>9</sup> *Id.* at 1749, para. 46.

<sup>10</sup> *Comprehensive Review of the Part 32 Uniform System of Accounts, Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, WC Docket No. 14-130 et al., Recommended Decision, 32 FCC Rcd 8678 (Fed.-State Jt. Bd. 2017) (*Recommended Decision*).

<sup>11</sup> *Separations Harmonization NPRM*, 33 FCC Rcd at 2613, para. 3.

unnecessary or outdated Part 36 references to Part 32 accounts that were eliminated by the *Part 32 Reform Order*. Second, this Order gives carriers the flexibility to select between two procedures for apportioning their general support facilities costs. Third, this Order makes certain stylistic and typographical corrections to Part 36. Finally, the Part 36 amendments adopted in this Order will take effect on January 1, 2019.

**B. Summary of Significant Issues Raised by Comments in Response to the IRFA**

5. There were no comments that specifically addressed the proposed rules and policies presented in the *Separations Harmonization NPRM* IRFA.

**C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration**

6. Pursuant to the Small Business Jobs Act of 2010,<sup>12</sup> which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

**D. Description and Estimate of the Number of Small Entities to Which Rules May Apply**

7. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>13</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>14</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>15</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>16</sup> Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.<sup>17</sup>

8. *Incumbent Local Exchange Carriers.* The rules adopted in this Order affect the tariffed rates for interstate and intrastate regulated services for incumbent local exchange carriers (LECs).<sup>18</sup> Neither the Commission nor the SBA has developed a small business size standard specifically for providers of incumbent local exchange services. The closest applicable size standard under the SBA rules

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<sup>12</sup> 5 U.S.C. § 604(a)(3).

<sup>13</sup> See 5 U.S.C. § 603(b)(3).

<sup>14</sup> See 5 U.S.C. § 601(6).

<sup>15</sup> See 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in the 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 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.” 5 U.S.C. § 601(3).

<sup>16</sup> See 15 U.S.C. § 632.

<sup>17</sup> See SBA, Office of Advocacy, Frequently Asked Questions about Small Business 1 (2016), [https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016\\_WEB.pdf](https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf).

<sup>18</sup> See *Separations Harmonization NPRM*, 33 FCC Rcd at 2613, para. 4.

is for Wired Telecommunications Carriers.<sup>19</sup> Under the SBA definition, a carrier is small if it has 1,500 or fewer employees.<sup>20</sup> According to the FCC's Telephone Trends Report data, 1,307 incumbent local exchange carriers (LECs) reported that they were engaged in the provision of local exchange services.<sup>21</sup> Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.<sup>22</sup> Consequently, the Commission estimates that most incumbent LECs are small entities that may be affected by the rules and policies adopted herein.

9. We have included small incumbent LECs in this RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."<sup>23</sup> The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.<sup>24</sup> Because our proposals concerning the Part 36 rules will affect all incumbent LECs, some entities employing 1,500 or fewer employees may be affected by the rule changes adopted in this Order. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts. The Order adopts changes to Part 36 that should result in reduced regulatory burdens on incumbent LECs. We note, however, that the reforms adopted in this Order are focused on incumbent LECs with regulated annual revenues equal to or above \$157 million, a group that likely excludes many small incumbent LECs.

**E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

10. None.

**F. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) the establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities.<sup>25</sup>

12. As discussed above, the purpose of this Order is to ensure that the Part 36 rules are

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<sup>19</sup> See 13 CFR § 121.201, NAICS code 513310.

<sup>20</sup> See 13 CFR § 121.201, NAICS code 517110.

<sup>21</sup> See Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, *Trends in Telephone Service*, Tbl. 5.3 (Sept. 2010) (*Trends in Telephone Service*).

<sup>22</sup> See *id.*

<sup>23</sup> See 5 U.S.C. § 601(3).

<sup>24</sup> See Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to Chairman William E. Kennard, FCC (filed May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." 15 U.S.C. § 632(a); 5 U.S.C. § 601(3). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR § 121.102(b).

<sup>25</sup> See 5 U.S.C. § 603(c)(1)-(4).

consistent with the amendments to the Part 32 rules adopted in the *Part 32 Reform Order*. In the *Separations Harmonization NPRM*, the Commission sought comment on the effects its Part 36 proposals would have on small entities, and whether any rules adopted should apply differently to small entities.<sup>26</sup> The Commission requested that commenters consider the costs and burdens of possible rule amendments on small incumbent LECs and whether such amendments would disproportionately affect specific types of carriers or ratepayers.<sup>27</sup>

13. The rules adopted in this Order will ease the administrative burden of regulatory compliance for incumbent LECs, including any small incumbent LECs those rules affect. The *Part 32 Reform Order* reduced the number of Part 32 accounts that incumbent LECs with regulated annual revenues equal to or above \$157 million are required to keep, and the amendments to Part 36 adopted in this Order would carry forward those reductions into the jurisdictional separations process.<sup>28</sup> The rules adopted in this Order apply solely to incumbent LECs and result in reduced regulatory burdens. We therefore certify that this Order will not have a significant impact on small entities.

**G. Federal Rules that may Duplicate, Overlap, or Conflict with the Final Rules**

14. None.

**H. Report to Congress**

15. The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.<sup>29</sup> In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>30</sup>

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<sup>26</sup> *Separations Harmonization NPRM*, 33 FCC Rcd at 2691, para. 10.

<sup>27</sup> *Id.*

<sup>28</sup> *See id.* at 2614, para. 6; *Part 32 Reform Order*, 32 FCC Rcd at 1740-42.

<sup>29</sup> 5 U.S.C. § 801(a)(1)(A).

<sup>30</sup> *See id.* § 604(b).



**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re:    *Comprehensive Review of the Part 32 Uniform System of Accounts*, WC Docket No. 14-130;  
      *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286.

With this Report and Order, the Commission concludes our implementation of the Separations Joint Board's Recommended Decision on harmonizing and updating our Part 36 jurisdictional separations rules. I am grateful for the concerted efforts of the Joint Board and Commission staff, and the process that enabled us to reach this occasion.

While I appreciate the consensus that led to the current result, I am aware that Joint Board members may disagree on how to pursue long-term separations reform. On that separate issue, I am encouraged by the Commission's progress on extending the existing separations freeze and look forward to taking further actions to eliminate unnecessary and technologically-irrelevant separations burdens.