

FCC MAIL SECTION

Federal Communications Commission

FCC 99-174

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DISPATCHED BY

In the Matter of)	
)	
Comprehensive Review of the)	
Accounting Requirements)	CC Docket No. 99-253
and ARMIS Reporting Requirements for)	
Incumbent Local Exchange Carriers: Phase 1)	

NOTICE OF PROPOSED RULEMAKING

Adopted: July 13, 1999

Released: July 14, 1999

Comment Date: August 23, 1999
Reply Comment Date: September 9, 1999

By the Commission: Commissioner Furchtgott-Roth issuing a statement.

I. INTRODUCTION

1. To keep pace with changing conditions as the telecommunications industry becomes increasingly competitive, we are initiating a comprehensive review of the Commission's accounting and reporting requirements. In this comprehensive review, we plan to reevaluate our existing accounting and reporting requirements to determine whether they should be modified or eliminated as changes occur in the industry. We also consider the appropriate timing of accounting and reporting modifications to assure that we will continue to have the information we need to make informed decisions. We are conducting this comprehensive review in a manner that will allow the states, industry, and interested members of the public the opportunity to participate fully in our consideration of changes in our accounting and reporting requirements.

2. We are performing this comprehensive review in two phases. Phase 1, which commences with this Notice of Proposed Rulemaking (NPRM) and will conclude by the end of the year, will address accounting and reporting reform measures that can be implemented without delay and still retain sufficient information for the Commission and state commissions to meet their responsibilities.¹ Phase 2, which will begin in the last quarter of 1999, will examine the current accounting and reporting structure and address long-term changes needed as local exchange markets

¹ See "Common Carrier Bureau Announces Initiative to Undertake Comprehensive Review of Part 32 and ARMIS Requirements," *Public Notice*, DA 99-695 (rel. Apr. 12, 1999). The initial workshop to solicit ideas on streamlining accounting and reporting rules took place on April 21, 1999. See "Common Carrier Bureau Announces Agenda for Initial Workshop for Phase 1 of the Comprehensive Review of Accounting and Reporting Requirements and Treatment of Ex Parte Presentations in Related Proceedings," *Public Notice*, DA 99-758 (rel. Apr. 19, 1999).

become competitive. During this process, the Common Carrier Bureau will continue to work closely with the National Association of Regulatory Utility Commissioners (NARUC) and state commissioners so that, in addition to eliminating unnecessary reporting requirements, the Commission and states will focus on further steps necessary to eliminate unnecessary overlap of Federal and state reporting requirements.²

3. In this first phase of the comprehensive review, we seek comment on the following accounting issues: eliminating or revising the matrix used to classify expenses in the Uniform System of Accounts (USOA); reducing the audit burdens on incumbent local exchange carriers (ILECs); adopting a *de minimis* exception to our affiliate transactions rules; eliminating the 15-day prefiling for cost pool changes; eliminating the notifications and approvals required in sections 32.13(a)(3) and 32.25; and revising the accounting requirements for sections 32.2002 and 32.2003. In addition, we seek comment on streamlining the reporting requirements in the ARMIS 43-02 USOA Report. Specifically, we seek comment on eliminating certain corporate information collected in the "C" series tables and on consolidating certain information into one table. We also seek comment on eliminating certain information concerning balance sheet accounts reported in the "B" series tables and income statement accounts reported in the "I" series tables.³

II. BACKGROUND

4. On May 18, 1999, as part of our biennial review under section 11 of the Communications Act of 1934, as amended (the Act),⁴ we adopted our *Accounting Reductions Report*

² We note that a recent NARUC resolution recommends the use of standardized reports to improve the monitoring of telecommunications service quality. See NARUC Resolution Adopting NARUC State Staff Service Quality White Paper, Adopted in Convention, November 11, 1998. The resolution recommended that ILECs and competitive local exchange carriers (CLECs) collect service quality data on a monthly basis and report such data to Federal and state regulatory commissions on a quarterly basis. This would make the service quality information accessible to the states to facilitate comparisons between jurisdictions. NARUC also urged the Commission to ensure that its program imposes only reasonably necessary reporting obligations on industry participants in order to effectively monitor retail telecommunications service quality. We believe more initiatives like these would prove beneficial in reducing duplicative reporting requirements and would result in a more efficient and effective reporting process.

³ The "B" series tables contain data about the balance sheet accounts. The "I" series tables contain data about the income statements.

⁴ 47 U.S.C. § 161.

and Order,⁵ and our *ARMIS Reductions Report and Order*.⁶ In the *Accounting Reductions Report and Order*, we streamlined the accounting requirements as follows:

- reduced the accounting and cost allocation manual (CAM) requirements for mid-sized ILECs from Class A to Class B;⁷
- reduced the CAM audit requirements for mid-sized ILECs⁸ from a financial audit requiring a positive opinion every year to a less stringent attestation every two years;
- reduced accounting details required to be maintained by consolidating several accounts;
- eliminated the requirement in section 32.16 for filing projected future effects of an accounting change;
- eliminated the requirement in section 32.2000(b) that carriers obtain Commission approval of journal entries made to record certain plant acquisitions; and
- amended our rules to provide for recording all computer software in conformance with generally accepted accounting principles (GAAP).

5. In the *ARMIS Reductions Report and Order*, we streamlined the reporting requirements as follows:

⁵ 1998 Biennial Regulatory Review – Review of Accounting and Cost Allocation Requirements, *et. al.*, Report and Order in CC Docket No. 98-81, Order on Reconsideration in CC Docket No. 96-150, Fourth Memorandum Opinion and Order in AAD File No. 98-43, FCC 99-106 (rel. June 30, 1999) (*Accounting Reductions Report and Order*).

⁶ 1998 Biennial Regulatory Review – Review of ARMIS Reporting Requirements, Petition for Forbearance of the Independent Telephone and Telecommunicatinos Alliance, Report and Order in CC Docket No. 98-117, Fifth Memorandum Opinion and Order in AAD File No. 98-43, FCC 99-107 (rel. June 30, 1999) (*ARMIS Reductions Report and Order*)

⁷ Carriers with annual operating revenues from regulated telecommunications operations equal to or above a designated indexed revenue threshold, currently \$112 million, are classified as Class A; those with annual operating revenues below the threshold are considered Class B. Generally, Class A accounts provide more detailed records of investment, expense, and revenue than the Class B accounts. For instance, Class A carriers must record their transactions in 261 accounts while Class B carriers maintain 109 accounts. The difference in the number of accounts is due to the fact that many of the Class A accounts are aggregated into summary accounts under Class B.

⁸ We define mid-sized ILECs based on the aggregate revenues of the ILEC and any ILEC that it controls, is controlled by, or with which it is under common control. An ILEC is a mid-sized ILEC for purposes of our Part 32 accounting rules if the aggregate revenues of these affiliated ILECs are more than the indexed revenue threshold, currently \$112 million, and are less than \$7 billion. See *Accounting Reductions Report and Order* at ¶¶ 12-14; *ARMIS Reductions Report and Order* at ¶¶ 11-13.

- reduced ARMIS reporting for mid-sized ILECs from Class A to Class B level of accounting;
- eliminated 21 tables from the ARMIS 43-02 USOA Report for mid-sized carriers;
- eliminated for all carriers the reporting of data pertaining to inside wire and payphone investment, and most equal access information;
- eliminated an additional 48 rows of data from the ARMIS 43-01 Annual Summary Report and 43-04 Access Report; and
- eliminated paper filing and diskette filing requirements.⁹

6. As these modifications were made, we recognized that further streamlining to our accounting rules and reporting requirements may be warranted but that such changes should be carefully determined after the views of all parties affected by the changes have been considered.¹⁰ Consequently, we have initiated this comprehensive review, which will complement the Commission's 2000 biennial regulatory review. In this proceeding, our objective is to adjust our accounting rules and reporting requirements to promote the competitive goals of the Telecommunications Act of 1996. We believe that, in this phase, we can provide immediate regulatory relief by reducing the accounting and reporting burden on the largest ILECs while retaining sufficient information needed for the Commission and state commissions to meet their responsibilities.

III. DISCUSSION

A. Accounting Rules

1. Expense Matrix

7. Section 32.5999(f) of the Commission's rules requires carriers to maintain disaggregated financial data in subsidiary record categories to be reported in an expense matrix.¹¹ The Commission uses the detailed data contained in the carriers' expense subsidiary record categories in performing studies and trend analyses, and in its overall monitoring efforts. The additional information provided by the expense matrix helps the Commission analyze a carrier's expenses. In particular, the Commission has relied heavily upon the salaries and wages and rent data detailed in the expense matrix. For example, when the Financial Accounting Standards Board (FASB) promulgated new accounting standards for post-employment benefits and post-retirement benefits other than

⁹ This change will become effective as soon as the electronic and filing procedures and software are developed and implemented. See *ARMIS Reductions Report and Order* at ¶ 20.

¹⁰ See *Accounting Reductions Report and Order* at ¶ 6; *ARMIS Reductions Report and Order* at ¶ 5.

¹¹ 47 C.F.R. § 32.5999(f).

pensions, the Commission used the salaries and wages data in its analysis of the reasonableness of carrier projections related to implementation of the new accounting standards. The Commission also uses the salaries and wages data in calculating productivity factors used to adjust price cap indices. This expense data would be needed for future productivity studies if the price cap formula is revised. Expense matrix data is also used in tracking the salaries and wages and rents portion of maintenance expense in the analysis of service quality. Furthermore, carriers, competitors, and the Commission use the pole rents information detailed in the expense matrix in the formula to calculate carriers' pole attachment rates.

8. We tentatively conclude that we can eliminate the expense matrix or reduce it to the minimum amount necessary to meet other regulatory purposes. We believe that this information could be provided by the carriers on an as-needed basis even if the Commission did not prescribe it to be maintained. We seek comment on this tentative conclusion. Commenters should discuss whether it would be more burdensome to maintain and file the expense matrix or to keep such data, at the same level of disaggregation, for several years, to provide to the Commission if requested. We seek comment on whether, as an alternative, the reporting burden would be alleviated by reducing the expense matrix to two classifications: (1) salary and wages and (2) other. Commenters should specifically address whether this would affect the analysis of the price cap performance/productivity factor calculations. In addition, we seek comment on whether, and how, elimination of the expense matrix would affect the jurisdictional separations process, universal service support calculations, or service quality studies.

9. In the *Accounting Reductions Report and Order*, we required mid-sized ILECs to maintain subsidiary record categories to capture the pole attachment data currently provided in the Class A accounts.¹² We believe it is necessary to require subsidiary records for data needed in pole attachment formulas¹³ to assure that the data is publicly available, uniformly maintained among the carriers, and maintained in a manner that can be audited. We propose that, if the expense matrix is eliminated, carriers maintain subsidiary records to provide the data used in the pole attachment formulas and report in their ARMIS reports the information necessary for the Commission, carriers, and competitors to calculate pole attachment rates.¹⁴ We seek comment on this proposal.

¹² See *Accounting Reductions Report and Order* at ¶ 15.

¹³ The Commission reviews complaints about pole attachment rates under section 224 of the Communications Act. 47 U.S.C. § 224. In reviewing the rates charged by ILEC owners of poles, ducts, conduit and rights-of-way, the Commission applies data taken from ARMIS reports. See Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles, CC Docket No. 86-212, *Report and Order*, 2 FCC Rcd 4387 (1987), *recon. denied*, 4 FCC Rcd 468 (1989); see also Letter from Kenneth P. Moran, Chief, Accounting and Audits Division, Common Carrier Bureau, to Paul Glist, Esq., Cole, Raywid & Braverman, 5 FCC Rcd 3898 (1990).

¹⁴ Pole and conduit maintenance and certain other operating expenses would be identified under this proposal. The Commission is currently considering issues regarding the pole attachment formulas. See Amendment of Rules and Policies Governing Pole Attachments, CS Docket No. 97-98, *Notice of Proposed Rulemaking*, 12 FCC Rcd 7449 (1997). When we issue a report and order in that proceeding, we will specify the subsidiary record categories carriers must maintain in order to provide

2. Audits

10. The Commission has established accounting safeguards governing the allocation of costs between the carriers' regulated and nonregulated activities.¹⁵ These safeguards are designed to promote fair cost allocations and to protect regulated ratepayers from absorbing the costs of nonregulated activities. One of the accounting safeguards, prescribed in section 64.904 of the Commission's rules, is that carriers obtain an independent audit of reported cost allocation data.¹⁶ Before adoption of the *Accounting Reductions Report and Order*, our rules required that the audit be performed annually for ILECs required to file cost allocation manuals, that it provide a positive opinion, that the reported data is presented fairly in all material respects, and that it be conducted in accordance with generally accepted auditing standards.

11. In the *Accounting Reductions Report and Order*, we revised the audit requirement for mid-sized ILECs.¹⁷ Under rules adopted in that Order, mid-sized ILECs are required to obtain a less stringent attestation every two years (covering the prior two year period) instead of an annual financial audit requiring a positive opinion. The financial audit requires that an ILEC's independent auditor provide assurance that the reported data are fairly reported. An attestation requires that the auditor provide assurance that specific management assertions are fairly stated.¹⁸ An attestation generally provides less assurance and is governed by less stringent standards of testing, reporting, and expression of opinion than the financial audits required by section 64.904 for large ILECs.

12. We tentatively conclude that, if properly implemented, a less stringent audit requirement for the large ILECs will provide the necessary assurance that the carriers' cost allocations are consistent with our rules and at the same time result in significant savings in both time and money for the carriers.¹⁹ We note that in other instances the Commission requires something less than a positive opinion audit. For example, we have new audit requirements specifically for section 272

data for the finalized pole attachment formulas.

¹⁵ 47 C.F.R. § 64.901 *et seq.*

¹⁶ 47 C.F.R. § 64.904(a). The Commission adopted this independent audit requirement in Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, CC Docket No. 90-623, *Report and Order*, 6 FCC Rcd 7571, 7581-83, ¶¶ 21-24 (1991). Prior to adoption of this rule, an attestation was required.

¹⁷ See *Accounting Reductions Report and Order* at ¶ 21.

¹⁸ See *Codification of Accounting Standards and Procedures*, Statement on Standards for Attestation Engagements No. 3, § 53-54 (American Inst. of Certified Pub. Accountants 1999).

¹⁹ Based on analysis prepared by the Common Carrier Bureau, when the Bell operating companies (BOCs) and GTE were first required to do a positive opinion engagement, rather than an attestation, audit fees increased on average almost 80 percent and the hours it took to conduct the engagement increased almost 75 percent.

affiliates.²⁰ Section 272 of the Act permits a BOC to manufacture equipment, originate in-region, interLATA telecommunications services, and provide interLATA information services only if it does so through one or more separate affiliates. The BOC and its affiliate(s) must, among other things, obtain a joint Federal/State audit every two years conducted by an independent auditor. Our rules require that the independent auditor perform an agreed-upon procedures engagement as specified by the regional Federal/State biennial oversight team.²¹

13. We tentatively conclude that we can reduce our audit requirements for the large ILECs -- the BOCs and GTE -- by extending the same audit requirements to the large ILECs that we adopted for mid-sized ILECs in the *Accounting Reductions Report and Order*, i.e., allowing carriers to obtain an attestation, instead of an annual financial audit requiring a positive opinion. We seek comment on this tentative conclusion. Furthermore, we seek comment on whether we should adopt an audit requirement similar to the section 272 biennial audit, an agreed-upon procedures engagement, for the large ILECs. Commenters should discuss whether these alternatives would provide the necessary assurance that the reported cost allocation data is an accurate reflection of the carrier's CAM and the Commission's rules. Commenters should also discuss any other alternatives to an annual financial audit requiring a positive opinion. In addition, commenters should address whether the new audit procedure should be an annual requirement.

3. Affiliate Transactions Rules

14. In the *Accounting Safeguards Order*,²² the Commission amended the affiliate transactions rules for services provided by a carrier to its affiliate and services received by a carrier from its affiliate that are not subject to: (1) an existing tariff rate, (2) a publicly-filed agreement or statement, or (3) a qualified prevailing price valuation. Services provided by a carrier to its affiliate must be recorded at the higher of fair market value or fully distributed cost. Services received by a carrier from its affiliate must be recorded at the lower of fair market value or fully distributed cost. The Commission further required carriers to make a good faith determination of fair market value in those instances when a fair market value was not readily available so that the carrier could assign the appropriate value to the service when recording its value under the affiliate transactions rules.

15. Based on our experience enforcing these requirements over the past two years, we tentatively conclude that when the total annual value of transactions for that service is *de minimis*, the

²⁰ See 47 U.S.C. § 272(d).

²¹ The Commission adopted specific audit procedures for the biennial audits that the BOC and the Federal/State biennial oversight team must follow. These procedures require the BOC to submit preliminary audit requirements, including the proposed audit scope and the extent of testing, to the Federal/State biennial oversight team. The team reviews the preliminary requirements to determine if they meet the audit objectives. After the audit requirements have been approved, the BOC engages an independent auditor to conduct the biennial audit. The independent auditor develops an audit program, which is also reviewed and approved by the Federal/State biennial oversight team.

²² Accounting Safeguards under the Telecommunications Act of 1996, CC Docket No. 96-150, *Report and Order*, 12 FCC Rcd 2993 (1996) (*Accounting Safeguards Order*).

regulatory benefits of requiring carriers to make a good faith determination of the fair market value of a service are outweighed by the administrative cost and effort of making such a determination. We tentatively conclude that such a *de minimis* exception will not lessen the effectiveness of the Commission's affiliate transactions rules, and at the same time, will reduce the burden associated with the requirement that carriers make a good faith determination of fair market value. We, therefore, propose to eliminate the requirement that carriers make a good faith determination of fair market value for each service in which the total annual value of transactions for that service is less than \$250,000. We propose that in such cases the service should be recorded at fully distributed cost, and carriers should continue to report such transactions in their cost allocation manuals and ARMIS reports.

16. We seek comment on our proposals and tentative conclusions. We also seek comment on whether a different threshold should serve to delineate the *de minimis* treatment. Commenters proposing a different threshold should explain why their proposed threshold should be higher or lower than \$250,000. In addition, commenters should address whether affiliate transaction services conducted pursuant to sections 260, and 271-276 of the Act should be included in the services eligible for the *de minimis* exception.

4. Elimination of 15-Day Prefiling for Cost Pool Changes

17. Section 64.903 of the Commission's rules requires that carriers update their CAMs at least annually except that changes to the cost apportionment table and time-reporting procedures must be filed at least 15 days before the carrier plans to implement changes.²³ Once a CAM change has been filed, the Chief, Common Carrier Bureau may suspend any such changes for a period not to exceed 180 days, and may thereafter allow the change to become effective. BellSouth claims that the 15-day special filing requirement for changes in cost pools discloses sensitive competitive service information.²⁴ We tentatively conclude that we should eliminate the 15-day pre-filing requirement in order to eliminate any disclosure of sensitive data in advance of implementation of a service. If we adopt this proposal, carriers would file the necessary CAM changes contemporaneous with the implementation of the change. We seek comment on this tentative conclusion.

5. Revision to Section 32.13, Accounts--general

18. Section 32.13(a)(3) of the Commission's rules permits carriers to establish temporary or experimental accounts provided they notify the Commission of the nature and purpose of the accounts within 30 days of establishing them.²⁵ This requirement was adopted to allow the Commission to review the nature of the proposed temporary or experimental accounts prior to the effective date. Carriers use these temporary accounts as clearing accounts, which are closed each financial period and do not alter the Part 32 accounting structure. We tentatively conclude that this 30-day notification is not necessary because other accounting safeguards, such as ARMIS reporting

²³ 47 C.F.R. § 64.903.

²⁴ See June 4, 1999 letter from Mary L. Henze, BellSouth, to Magalie Roman Salas, Secretary, FCC.

²⁵ 47 C.F.R. § 32.13(a)(3).

and our audit program, together with our ability to obtain additional information as necessary, are sufficient for our regulatory oversight. Accordingly, we propose to modify section 32.13(a)(3) by eliminating the notification requirement. We seek comment on our tentative conclusion and proposal.

6. Revision to Section 32.25, Unusual items and contingent liabilities

19. Section 32.25 of the Commission's rules requires carriers to submit journal entries detailing extraordinary items, contingent liabilities, and material prior period adjustments for Commission approval before recording them in their books of account.²⁶ This requirement was established as a safeguard to prevent carriers from inflating their rate base through the use of accounting adjustments. We tentatively conclude that prior Commission review of journal entries is not necessary for the Commission's regulatory oversight, and that other accounting safeguards, such as the ARMIS reporting and our audit program, together with our ability to obtain additional information as necessary, are sufficient to assure that carriers will comply with our accounting requirements. We tentatively conclude, therefore, that it is no longer necessary to require the routine filing of these journal entries. Accordingly, we propose to eliminate the section 32.25 filing requirement. We seek comment on our tentative conclusion and proposal.

7. Revision to Section 32.2002, Property held for future telecommunications use

20. Section 32.2002 of the Commission's rules requires that carriers record to Account 2002 the costs of property held for no longer than two years under a definite plan for use in telecommunications service.²⁷ After two years, section 32.2002 requires that the carrier reclassify the cost of the property to Account 2006, Nonoperating plant. BellSouth states that this reclassification is burdensome and that the property could remain recorded in Account 2002, but be removed from the ratebase in a less burdensome manner.²⁸ We tentatively conclude that we should allow carriers to maintain the costs in Account 2002 but we should require carriers to exclude the cost of such property, and the associated depreciation reserve, from the ratebase. The depreciation expense associated with such property should also be excluded from ratemaking considerations. These amounts would be reported in the ARMIS 43-01, column (e) All Other Adjustments and ARMIS 43-03, column (I) Other Adjustments. We believe that adoption of this tentative conclusion will provide the same protection for ratepayers while alleviating the burden on carriers to reclassify these costs to Account 2006. We seek comment on this tentative conclusion.

8. Revisions to Section 32.2003, Telecommunications plant under construction

21. Section 32.2003 of the Commission's rules requires that carriers record to Account 2003 the original cost of construction projects including all related direct and indirect costs as

²⁶ 47 C.F.R. § 32.25.

²⁷ 47 C.F.R. § 32.2002.

²⁸ See June 4, 1999 letter from Kathleen B. Levitz, BellSouth, to Magalie Roman Salas, Secretary, FCC.

provided under section 32.2000(c).²⁹ If the construction project has been suspended for six months or more, the cost of the project must be reclassified to Account 2006, Nonoperating plant. If the project is eventually abandoned, these costs must be charged to Account 7370, Special charges. BellSouth states that this reclassification is burdensome and that the property could remain recorded in Account 2003 but be excluded from the ratebase in a less burdensome manner.³⁰ We tentatively conclude that carriers be permitted to maintain the costs in Account 2003 and that carriers be required to remove the cost of suspended projects after six months from the ratebase. Additionally, carriers would be required to discontinue capitalization of allowance for funds used during construction under section 32.2000(c)(2)(x) until construction is resumed. These amounts would be reported in the ARMIS 43-01, column (e) All Other Adjustments and ARMIS 43-03, column (l) Other Adjustments. Carriers would still charge Account 7370 if the project were abandoned. We believe that adoption of this tentative conclusion will provide the same protection for ratepayers while alleviating the burden on carriers to reclassifying these costs to Account 2006. We seek comment on this tentative conclusion.

B. ARMIS Reporting Requirements

1. Reductions to ARMIS 43-02 USOA Report

22. In the ARMIS 43-02 USOA Report, carriers report their annual operating results for every account in the USOA.³¹ The USOA contains both balance sheet and income statement accounts which report the results of operational and financial events.³² Information provided by these accounts is used to review the overall investment and expense levels, affiliate transactions, property valuation, and depreciation rates of regulated carriers. The ARMIS 43-02 USOA Report contains a total of 27 tables, and is one of the most voluminous reporting requirements in ARMIS. The tables are set out in three series: (1) the "C" series, which includes 5 tables that provide corporate information; (2) the "B" series, which includes 15 tables that provide information about the balance sheet accounts of the carrier; and (3) the "I" series, which includes 7 tables that provide information about the carriers' income and expenses.

23. In light of the objectives we seek to achieve in Phase 1 of our comprehensive review, we are proposing significant reductions in reporting requirements in the ARMIS 43-02 USOA Report for the largest ILECs.³³ For the reasons discussed below, we tentatively conclude that the filing

²⁹ 47 C.F.R. § 32.2003.

³⁰ See June 4, 1999 letter from Kathleen B. Levitz, BellSouth, to Magalie Roman Salas, Secretary, FCC.

³¹ 47 C.F.R. Part 32. Carriers file the ARMIS 43-02 Report on an operating company level basis.

³² 47 C.F.R. § 32.1.

³³ In the *ARMIS Reductions Report and Order*, the Commission determined that continued regular collection of some ARMIS 43-02 USOA Report data for mid-sized ILECs was no longer necessary. Pursuant to that *Report and Order*, mid-sized ILECs are no longer required to file balance sheet data contained in tables B-3 and B-5 through B-15, nor the income statement account data contained in

burden imposed on the largest ILECs by ARMIS 43-02 USOA Report should be reduced by eliminating the requirement to file 14 of 27 tables, adding one short-form table, and changing the threshold level of reporting required in 3 of the remaining 13 tables. We propose eliminating or modifying the reporting requirements for the following tables: C-1 (Identity of Respondent); C-2 (Control Over Respondent); C-3 (Board of Directors and General Officers); C-4 (Stockholders); C-5 (Important Changes During the Year); B-8 (Capital Leases); B-9 (Deferred Charges); B-11 (Long-Term Debt); B-12 (Net Deferred Income Taxes); B-13 (Other Deferred Credits); B-14 (Capital Stock); and B-15 (Capital Stock and Funded Debt Reacquired or Retired During the Year); I-3 (Pension Costs); I-4 (Operating Other Taxes); I-5 (Prepaid Taxes and Accruals); I-6 (Special Charges); and I-7 (Donations or Payments for Services Rendered by Persons Other Than Employees).

24. We seek comment generally on our tentative proposal to streamline the ARMIS 43-02 USOA Report for the largest ILECs.³⁴ Specifically, we seek comment on whether alternative sources of information would provide sufficient protection against the potentially anti-competitive practices we identified in the *ARMIS Reductions Report and Order*.³⁵ For instance, we believe that much of the information contained in the series "C" tables can be obtained from the carrier's Form 10-K Annual Report filed with the Securities and Exchange Commission (SEC), as well as in other publicly available reports. We also believe that, to a large extent, balance sheet and income statement information reported in the series "B" and "I" tables may be obtained from underlying source data and can be readily provided by the carrier upon request. Although we continue to believe that access to information is crucial for our processes as well as for the state commissions, we believe access to this information may be more efficiently obtained through other sources. We also believe that the need for obtaining certain data on a regular basis may not be so vital to regulatory mandates as to outweigh the burden imposed on the ILECs in reporting this information. We seek comment on these overall tentative conclusions.

2. ARMIS 43-02 USOA Report: Table C Reductions

tables I-3 through I-7. Also, the requirement to file data contained in tables C-1, C-2, C-4 and C-5 has been eliminated for these carriers. See *ARMIS Reductions Report and Order* at ¶ 12.

³⁴ In the *ARMIS Reductions Report and Order*, the Commission retained the ARMIS 43-02 reporting requirements at the Class A level of accounts for the largest ILECs. Generally, we found that Class A level of detail was needed to protect against the potential for cross-subsidization and discrimination. *Id.* at ¶ 28. We also noted the Commission's continuing needs for ARMIS data in a variety of Commission proceedings, as well as the reliance on ARMIS by a large number of state commissions. *Id.* at ¶¶ 24-25. We also determined this reporting should continue on an annual basis, and not on an as-needed or on-demand basis. *Id.* at ¶ 33.

³⁵ The Commission stated that, for the largest ILECs, the Class A level of detail specified in the Part 32 accounting rules provided information that would allow identification of potential cost misallocations beyond those revealed by the Class B system of accounts. The Commission was concerned that there may be greater potential for cross-subsidization of nonregulated services with the revenues earned from the provision of regulated services for the largest ILECs. *Id.* at ¶ 28.

25. The "C" series tables of the ARMIS 43-02 USOA Report include five tables containing carrier and stockholder information. We believe we could reduce the burdens imposed on the carriers by modifying these tables. We believe that most of the data contained in C-1 (Identity of Respondent), C-2 (Control Over Respondent), and C-4 (Stockholders), are available in public filings. Our experience suggests that routine filing of information contained in C-3 (Board of Directors and General Officers) may not be needed if the information is made available upon request. We tentatively conclude that because carriers must publicly file most of the information in these tables with the SEC in their Form 10-K Annual Reports, which are available on the Internet, and because we may request and obtain this information as necessary, streamlining these reporting requirements will not impair our ability to perform necessary oversight functions but will reduce the filing burden on large ILECs. Certain basic information contained in these reports, however, may be needed for purposes of efficiency in administering and managing the database. Thus, we tentatively propose to consolidate all basic information into one table, which would generally provide information on the carrier's name, carrier's address, operating states, and executive officers. We seek comment on these proposals and tentative conclusions.

26. Table C-5 (Important Changes During the Year) provides information on significant events, such as extensions of systems, substantial portions of property sold, changes in direct and indirect control of the carrier, important contracts or agreements entered into, and important changes in service and rate schedules. We believe the reporting requirements for table C-5 could be streamlined by eliminating the requirement to report certain information. For instance, we believe that the data reported on changes in direct and indirect control may no longer be needed on a recurring basis. We believe this information may be available in the carrier's Form 10-K Annual Reports or in the carrier's cost allocation manuals, and where necessary, could be obtained from the carrier upon request. Thus, we tentatively conclude that the reporting requirements concerning changes in direct and indirect control of the carrier be eliminated. We seek comment on this tentative conclusion and proposal to modify table C-5 in this manner. We also believe that the information collected in table C-5 could be reduced further by collecting information only where the change involves a significant or material change. Thus, we seek comment on whether we should adopt a threshold amount for items reported in table C-5 (such as important contracts or agreements entered into, or important changes in service and rate schedules), and if so, what an appropriate threshold level would be. We seek comment on the above proposals for streamlining table C-5 reporting requirements.

3. ARMIS 43-02 USOA Report: Table B Reductions

27. The "B" series tables contain data about the balance sheet accounts. Table B-1 (Balance Sheet) and Table B-2 (Statement of Cash Flows) are basic financial statements that are essential to our analysis of a carrier's financial condition. Several other supporting tables are important in our analysis of investment in and transactions with affiliates and in evaluating carrier depreciation reserves. We are not proposing changes in these tables. We believe, however, that several other tables in the "B" series need not be routinely reported as long as we have continued access to the underlying data and source documents supporting these tables. Further, we believe that the carrier's own accounting practices, which are governed by standard accounting practices and procedures and subject to internal and external audits, should assure that these accounts are properly maintained. Thus, we propose to eliminate the following "B" tables: B-8: (Capital Leases); B-9 (Deferred Charges); B-11 (Long-Term Debt); B-12 (Net Deferred Income Taxes); B-13 (Other Deferred Credits); B-14

(Capital Stock); and B-15 (Capital Stock and Funded Debt Reacquired or Retired During the Year). We seek comment on these tentative conclusions and proposals. We are concerned that we not eliminate information that may be needed to carry out our responsibilities. We ask parties to address this concern and whether information concerning these accounts are readily available from other sources, such as in the carrier's Annual 10-K Report or through other internal records. We also ask parties to identify specific needs for this information and whether alternative sources of information provide sufficient level of detail to meet these needs.

4. ARMIS 43-02 USOA Report: Table I Reductions

28. We have also examined the continuing need for routine reporting of information contained in the "I" series tables, specifically I-3 (Pension Costs); I-4 (Operating Other Taxes); and I-5 (Prepaid Taxes and Accruals). For the reasons stated above with respect to the accounts reported in the "B" series, we tentatively conclude that carriers should no longer be required to report the information required in tables I-3, I-4, and I-5 annually to the Commission. We believe that as long as we have continued access to underlying data and source documents supporting these tables, this information can be obtained from the ILECs on an as-needed basis. We seek comment on these tentative conclusions and proposals.

29. Our review of table I-6 (Special Charges) finds that the information reported in this table continues to be essential. Data reported in this table are below-the-line amounts, *i.e.*, are not an allowable expense to be charged against regulated revenues. Special Charges reported on this table include lobbying expenses, membership fees and dues, abandoned construction projects amounting to \$100,000 or more, penalties and fines amounting to \$100,000 or more, and charitable, social, or other community welfare expenses. We find it necessary to maintain routine reporting of these items to ensure that these expenses, especially if material, are properly recorded on the ILECs' books. The \$100,000 reporting threshold, however, for reporting abandoned construction projects, penalties and fines may be relatively immaterial in light of the strong revenue growth since the outset of ARMIS in 1989. We seek comment, therefore, on whether the reporting threshold should be raised to a higher amount and, if so, what amount to establish as the reporting threshold.

30. Similarly, our review finds that information reported in table I-7 (Donations or Payments for Services by Persons Other than Employees) continues to be essential for regulatory monitoring purposes to ensure that material costs claimed against regulated revenues are appropriate. The information reported in table I-7 requires that carriers report all amounts paid to academia; amounts exceeding \$250,000 paid for advertising and information services, clerical and office services, computer and data processing services, personnel services, printing and design services, and security services; amounts exceeding \$25,000 paid for audit and accounting services, consulting and research services, financial services, and legal services; and amounts exceeding \$10,000 for membership fees and dues. Again, in light of the tremendous growth in ILEC revenues, the reporting thresholds may now be too low. We seek comment, therefore, on whether the reporting thresholds for each of the above mentioned payments to outside vendors should be raised to a higher amount and, if so, what amounts to establish as the reporting thresholds.

IV. PROCEDURAL ISSUES

A. Ex Parte Presentations

31. This is a permit but disclose rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206.

B. Regulatory Flexibility Analysis

32. The Regulatory Flexibility Act (RFA)³⁶ requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."³⁷ The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."³⁸ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.³⁹ 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).⁴⁰

33. This Notice of Proposed Rulemaking proposes to eliminate or revise the matrix used to classify expenses in the Uniform System of Accounts (USOA); reduce the audit burdens on incumbent local exchange carriers (ILECs); adopt a *de minimis* exception to the Commission's affiliate transactions rules; eliminate the 15-day prefiling for cost pool changes; eliminate the notifications and approvals required in sections 32.13(a)(3) and 32.25; and revise the accounting requirements for sections 32.2002 and 32.2003. In addition, with respect to ARMIS reporting requirements, the Notice of Proposed Rulemaking seeks comment on eliminating certain corporate information collected in the "C" series tables and on consolidating certain information into one table. The Notice of Proposed Rulemaking also seeks comment on eliminating certain information concerning balance sheet accounts reported in the "B" series tables and income statement accounts reported in the "I" series tables.

³⁶ The RFA, see 5 U.S.C. § 601 *et. seq.*, 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).

³⁷ 5 U.S.C. § 605(b).

³⁸ 5 U.S.C. § 601(6).

³⁹ 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 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."

⁴⁰ Small Business Act, 15 U.S.C. § 632.

34. Neither the Commission nor SBA has developed a definition of "small entity" specifically applicable to LECs. The closest definition under SBA rules is that for establishments providing "Telephone Communications, Except Radiotelephone," which is Standard Industrial Classification (SIC) code 4813. Under this definition, a small entity is one that, including affiliates of the entity, employs no more than 1,500 persons.⁴¹

35. We certify that the proposals in this Notice of Proposed Rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. Pursuant to long-standing rules, ILECs with annual operating revenues equal to or exceeding the indexed revenue threshold must comply with the Commission's record keeping rules and CAM audit requirements. The Commission proposes to reduce certain of these CAM and record retention requirements. These changes should be easy and inexpensive for ILECs to implement and will not require costly or burdensome procedures. We therefore expect that the potential impact of the proposal rules, if such are adopted, is beneficial and does not amount to a possible significant economic impact on affected entities. If commenters believe that the proposals discussed in the Notice require additional RFA analysis, they should include a discussion of these issues in their comments.

36. The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this Notice of Proposed Rulemaking, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration.⁴² A copy will also be published in the Federal Register.

C. Paperwork Reduction Act

37. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on information collections contained in this Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due at the same time as other comments on this Notice of Proposed Rulemaking. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

D. Comment Filing Procedures

38. 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 on or before August 23, 1999, and reply comments on or

⁴¹ 13 C.F.R. § 121.201, SIC code 4813.

⁴² 5 U.S.C. § 605(b).

before September 9, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.⁴³

39. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address.>" A sample form and directions will be sent in reply.

40. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

41. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Ernestine Creech, Accounting Safeguards Division, 445 12th Street, S.W., Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 99-253, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

42. Written comments by the public on the proposed and/or modified information collections are due on or before thirty days after the date of publication in the Federal Register. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, S.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

⁴³ See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

V. ORDERING CLAUSES

43. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 11, 201(b), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 161, 201(b), 303(r), and 403, this Notice of Proposed Rulemaking IS ADOPTED.

44. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, 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, 5 U.S.C. § 605(b).

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Magalie Roman Salas *WZC*
Secretary

STATEMENT OF COMMISSIONER HAROLD FURCHTGOTT-ROTH

Re: Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers (CC Docket No. 99-253)

I support today's Order initiating "Phase 1" of a comprehensive review of the Commission's accounting and reporting requirements. While I believe that today's Order is a step in the right direction, it is, to my regret, a very small step down a very long road. I write separately because I continue to be concerned about the Commission's micro-management of all telecommunications carriers, including LECs.

In today's increasingly competitive telecommunications marketplace, the Commission should be focusing its efforts on transitioning to this more competitive environment. The amount of detailed information and regulatory scrutiny required under our current accounting and ARMIS rules is inordinate and should be reduced. I am becoming increasingly convinced that the current regulatory mechanisms -- and certainly the level of detail -- are no longer necessary in today's increasingly competitive marketplace. I believe the Commission must consider even further deregulation as these cumbersome regulations become unnecessary.

I wait anxiously for the commencement of Phase 2 of this review, which I hope follows today's small step with huge strides toward true regulatory reform.