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

DOCKET FILE COPY DUPLICATE

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Jurisdictional Separations and Referral to the Federal-State Joint Board | ) | CC Docket No. 80-286 |
| | ) | |
| | ) | |
| | ) | |

MAILED
MAY 20 2009
FCC MAIL ROOM

**REPORT AND ORDER**

**Adopted: May 15, 2009** **Released: May 15, 2009**

By the Commission:

## I. INTRODUCTION

1. In this report and order, the Commission extends the existing freeze of Part 36 category relationships and jurisdictional cost allocation factors until June 30, 2010.[1] Extending the freeze will provide stability for carriers that must comply with the Commission's separations rules while issues related to comprehensive, permanent reform are considered. We also refer to the Federal-State Joint Board on Separations (Joint Board) review of the Commission's jurisdictional separations rules to consider how the rules can be effectively reformed and ask the Joint Board to prepare a recommended decision.

## II. BACKGROUND

2. Jurisdictional separations is the process by which incumbent local exchange carriers (LECs) apportion regulated costs[2] between the intrastate and interstate jurisdictions.[3] Historically, one of the

[1] *See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Order and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5516, 5517, 5523, paras. 1, 16 (2006) (*2006 Separations Freeze Extension and Further Notice*) (extending for three years the initial separations freeze, which was scheduled to expire June 30, 2006); *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket 80-286, Notice of Proposed Rulemaking, FCC 09-24 (2009) (*2009 Separations Freeze Extension NPRM*); 47 C.F.R. §§ 36.1-.507.

[2] The Part 64 cost allocation rules are codified at 47 C.F.R. §§ 64.901-04. Non-regulated activities generally consist of activities that have never been subject to regulation under Title II; activities formerly subject to Title II regulation that the Commission has preemptively deregulated; and activities formerly subject to Title II regulation that have been deregulated at the interstate level, but not preemptively deregulated at the intrastate level, which the Commission decides should be classified as non-regulated activities for Title II accounting purposes. *See* 47 C.F.R. § 32.23(a); *Accounting Safeguards under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539, 17573 (1996), *recon. granted in part and denied in part*, Report and Order in CC Docket No. 98-81, First Order on Reconsideration in CC Docket No. 96-150, Fourth Memorandum Opinion and Order in AAD File No. 98-43, 14 FCC Rcd 11396 (1999) (granting petitions for reconsideration in part and adopting changes to section 274(f) reporting requirements), *recon. denied*, Second Order on Reconsideration in CC Docket No. 96-150, 15 FCC Rcd 1161 (2000) (rejecting petitions for reconsideration on the grounds that the petitions raised no new arguments). Similarly, state jurisdictions have the ability to remove the costs of state non-regulated activities so that those costs will not be recovered in regulated intrastate service rates.

[3] Unlike incumbent LECs, competitive LECs are not subject to the requirements of Part 36. *See* 47 C.F.R. §§ 36.1 *et*
(continued....)

primary purposes of the separations process has been to prevent incumbent LECs from recovering the same costs in both the interstate and intrastate jurisdictions.[4]

3. Incumbent LECs perform jurisdictional separations by apportioning the regulated costs in each category between the intrastate and interstate jurisdictions in accordance with the Commission's Part 36 separations rules.[5] After the costs are jurisdictionally separated, incumbent LECs apportion the interstate regulated costs among the interexchange services and rate elements that form the cost basis for the incumbent LECs' interstate access tariffs.[6] Incumbent LECs perform this interstate costs apportionment in accordance with Part 69 of the Commission's rules.[7] The intrastate costs that result from application of the Part 36 rules form the foundation for determining incumbent LECs' intrastate rate base, expenses, and taxes.

4. The jurisdictional separations process itself has two parts. In the first step, incumbent LECs assign regulated costs to various categories of plant and expenses. In certain instances, costs are further disaggregated among service categories.[8] In the second step, the costs in each category are apportioned between the intrastate and interstate jurisdictions. These jurisdictional apportionments of categorized costs are based upon either a relative use factor, a fixed allocator, or, when specifically allowed in the Part

---

(...continued from previous page)
*seq*. In addition, in April 2008, the Commission conditionally granted AT&T's and BellSouth's (collectively, AT&T) petitions for forbearance from the Part 36 jurisdictional separations rules. *See Petition of AT&T Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission's Cost Assignment Rules; Petition of BellSouth Telecommunications, Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission's Cost Assignment Rules*, WC Docket Nos. 07-21, 05-342, Memorandum Opinion and Order, 23 FCC Rcd 7302, 7307, para. 12 (2008), *pet. for review pending*, *NASUCA v. FCC*, Case No. 08-1226 (D.C. Cir. filed June 23, 2008). In September 2008, the Commission extended the same relief to Verizon and Qwest. *See Petition of Qwest Corporation for Forbearance from Enforcement of the Commission's ARMIS and 492A Reporting Requirements Pursuant to 47 U.S.C. § 160(c); Petition of Verizon for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's Recordkeeping and Reporting Requirements*, WC Docket Nos. 07-139, 07-273, Memorandum Opinion and Order, 23 FCC Rcd 13647, 13662-63, para. 27 (2008). The grants were expressly conditioned on, among other things, Wireline Competition Bureau (Bureau) approval of compliance plans to be filed by AT&T, Verizon, and Qwest. The compliance plans were approved, effective immediately, on December 31, 2008. *See Public Notice, Wireline Competition Bureau Approves Compliance Plans*, WC Docket Nos. 07-21, 07-204, 07-273, DA 08-2827 (Wireline Comp. Bur., rel. Dec. 31, 2008).

[4] As the Supreme Court has recognized, proeedures for the separation of intrastate and interstate property and expenses have been necessary for the appropriate recognition of authority between the interstate and intrastate jurisdictions. *Smith v. Illinois Bell Tel. Co.*, 282 U.S. 133, 148 (1930) (*Smith v. Illinois*). The Supreme Court added that "[w]hile the difficulty in making an exact apportionment of the property is apparent, and extreme nicety is not required, only reasonable measures being essential, it is quite another matter to ignore altogether the actual uses to which the property is put." *Id.* at 150-51 (citations omitted). *See also MCI Telecommunications Corp. v. FCC*, 750 F.2d 135, 137 (D.C. Cir. 1984) (stating that "'[j]urisdictional separation' is a procedure that determines what proportion of jointly used plant should be allocated to the interstate and intrastate jurisdictions for ratemaking purposes").

[5] 47 C.F.R. Part 36.

[6] Part 61 of the Commission's rules prescribes the procedures for filing and updating interstate tariffs. *See* 47 C.F.R. Part 61.

[7] 47 C.F.R. Part 69.

[8] For example, central office equipment (COE) Category 1 is Operator Systems Equipment, Account 2220. The Operator Systems Equipment account is further disaggregated or classified according to the following arrangements: (i) separate toll boards; (ii) separate local manual boards; (iii) combined local manual boards; (iv) combined toll and DSA boards; (v) separate DSA and DSB boards; (vi) service observing boards; (vii) auxiliary service boards; and (viii) traffic service positions. *See* 47 C.F.R. § 36.123.

36 rules, by direct assignment.[9] For example, loop costs are allocated by a fixed allocator, which allocates 25 percent of the loop costs to the interstate jurisdiction and 75 percent of the costs to the intrastate jurisdiction.[10]

5. The Commission undertakes rulemakings regarding jurisdictional separations in consultation with the Joint Board.[11] The Joint Board is comprised of four state commissioners and three federal commissioners.[12] As the U.S. Court of Appeals for the Fifth Circuit has stated, "any shift in the allocation of jurisdictional responsibility lies at the heart of § 410(c)'s consultation requirement."[13]

6. In 2001 the Commission adopted a Joint Board recommendation to impose an interim freeze of the Part 36 category relationships and jurisdictional cost allocation factors, pending comprehensive reform of the Part 36 separations rules.[14] The Commission concluded that a freeze would provide stability and regulatory certainty for incumbent LECs by minimizing any impacts on separations results that might occur as a result of circumstances not contemplated by the Commission's Part 36 rules, such as growth in local competition and new technologies.[15] Further, the Commission found that a freeze of the separations process would reduce regulatory burdens on incumbent LECs during the transition from a regulated monopoly to a deregulated, competitive environment in the local telecommunications marketplace.[16]

7. Accordingly, the Commission froze all Part 36 category relationships and allocation factors for price cap carriers and all allocation factors for rate-of-return carriers.[17] Under the freeze, price cap carriers calculate: 1) the relationships between categories of investment and expenses within Part 32 accounts; and 2) the jurisdictional allocation factors, as of a specific point in time, and then lock or "freeze" those category relationships and allocation factors. The carriers use the "frozen" category relationships and allocation factors for their calculations of separations results and therefore are not required to conduct separations studies for the duration of the freeze. Rate-of-return carriers were only required to freeze their allocation factors, but had the option to freeze their category relationships at the

[9] *See* 47 C.F.R. § 36.154(a).

[10] *See* 47 C.F.R. § 36.154(c).

[11] 47 U.S.C. § 410(c). *See also Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket No. 80-286, Notice of Proposed Rulemaking and Order Establishing a Joint Board, 78 FCC 2d 837 (1980).

[12] 47 U.S.C. § 410(c).

[13] *Texas Office of Public Utility Counsel, et al. v. FCC*, 183 F.3d 393, 416 (5th Cir. 1999).

[14] *See Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382, 11387-88, para. 9 (2001) (*2001 Separations Freeze Order*).

[15] *Id.* at 11389-90, para. 12.

[16] Although incumbent carriers were required under Part 36 rules to perform separations studies, competitive carriers had no similar requirements. The Commission found that a freeze would further the Commission's goal of achieving greater competitive neutrality during the transition to a competitive marketplace by simplifying the separations process for those carriers subject to Part 36. *Id.* at 11390, para. 13.

[17] "Category relationships" are the percentage relationships of each Part 36 category to the total amount recorded in that category's corresponding Part 32 account(s). *See* 47 C.F.R. Part 32, Part 36. "Jurisdictional allocation factors" are the percentage relationships that allocate costs assigned to Part 32 accounts for jointly used plant between the interstate (federal) and intrastate (state) jurisdictions. *See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Recommended Decision, 15 FCC Rcd 13160, 13172, para. 20 (Fed-State Jt. Bd. 2000). The frozen category relationships and allocation factors are based on data from the carriers' calendar-year 2000 separations studies. *2001 Separations Freeze Order*, 16 FCC Rcd at 11387-88, para. 9.

outset of the freeze.[18]

8. The Commission ordered that the freeze would be in effect for a five-year period beginning July 1, 2001, or until the Commission completed comprehensive separations reform, whichever came first.[19]

9. On May 16, 2006, concluding that more time was needed to implement comprehensive separations reform, the Commission extended the freeze for three years or until such comprehensive reform could be completed, whichever came first.[20]

10. The current separations freeze is set to expire on June 30, 2009.[21] On March 27, 2009, the Commission released a notice of proposed rulemaking seeking comment on an extension of the freeze of Part 36 category relationships and jurisdictional cost allocation factors until June 30, 2010.[22] Noting that incumbent LECs have not been required to use the programs and expertise necessary to prepare separations information since the inception of the freeze almost eight years ago, the Commission sought comment on whether incumbent LECs reasonably would be able to reinstitute their separations processes if the pre-freeze separations process were to be reinstated.[23] Comments on the proposal were due April 17, 2009, and reply comments were due April 24, 2009.[24] The overwhelming majority of commenters supported extension of the freeze.[25]

## III. EXTENSION OF THE FREEZE

11. In this report and order, we extend until June 30, 2010, the freeze on Part 36 category relationships and jurisdictional cost allocation factors that the Commission adopted in the *2001 Separations Freeze Order*. We conclude that extending the freeze will provide stability to carriers that must comply with the Commission's jurisdictional separations rules while the Commission and the Joint Board undertake reform of those rules.

12. As the Commission previously determined, allowing the separations process to revert to the pre-freeze rules would create undue instability and administrative burdens while the Commission is considering comprehensive separations reform.[26] If the Commission did not extend the separations freeze, and instead allowed the earlier separations rules to return to force, carriers would be required to

---

[18] *2001 Separations Freeze Order*, 16 FCC Rcd at 11388-89, para. 11.

[19] *See id.* at 11387-88, para. 9.

[20] *2006 Separations Freeze Extension and Further Notice*, 21 FCC Rcd at 5523, para 16.

[21] *Id.* at 5517, 5523, paras. 1, 16.

[22] *2009 Separations Freeze Extension NPRM*, FCC 09-24, para. 1.

[23] *Id.* at para 17.

[24] *Comment Cycle Established for Notice of Proposed Rulemaking Regarding Separations Freeze Extension*, CC Docket No. 80-286, Public Notice, DA 09-767 (Wireline Comp. Bur., Apr. 3, 2009). Appendix A lists the parties filing comments and reply comments in the proceeding.

[25] *See* USTA Comments at 1; NASUCA Comments at 2; Qwest Comments at 1-2; NECA *et al.* Comments at 1; Virginia SCCS Comments at 1; GRTI Comments at 1; TCA Comments at 1; New Jersey DRC Comments at 2; Alexicon Comments at 2; GVNW Comments at 2; TSTC Comments at 1; NARUC Comments at 1; JSI Comments at 1; Embarq Comments at 1; *see also* CESS Comments at 2 (the Coalition does not oppose an extension of the freeze of cost allocation factors but seeks modification of local switching support dial equipment minute rules).

[26] *2001 Separations Freeze Order*, 16 FCC Rcd at 11387-88, paras. 12, 13; *2006 Separations Freeze Extension and Further Notice*, 21 FCC Rcd at 5524, para 18.

reinstitute their separations processes.[27] Many carriers no longer have the necessary employees and systems in place to comply with the old jurisdictional separations process and likely would have to hire or reassign and train employees and redevelop systems for collecting and analyzing the data necessary to perform separations.[28] As set forth below, the Commission is referring to the Joint Board comprehensive separations reform, and depending upon the Joint Board's recommendations and reforms ultimately adopted by the Commission, comprehensive reform could render the pre-freeze separations rules obsolete. To require carriers to reinstitute their separations systems, including personnel and computing resources, "would be unduly burdensome...when there is a significant likelihood that there would be no lasting benefit to doing so."[29]

13. We find that extending the jurisdictional separations freeze until June 30, 2010, is a reasonable measure to take at this time. Some commenters have recommended that the Commission extend the freeze for longer than one year,[30] or maintain the freeze until the Commission has completed universal service and intercarrier compensation reform.[31] We find that a one-year extension, until June 30, 2010, is appropriate at this time. We have asked the Joint Board to examine whether action on comprehensive jurisdictional separations reform should be deferred pending universal service and intercarrier compensation reform, or whether it should coincide with such reform.[32] We also ask the Joint Board to examine the possibility of modifying the frozen category relationships and jurisdictional cost allocation factors if a separations freeze is to continue beyond June 30, 2010.[33]

14. Some commenters have proposed modifying the frozen category relationships for rate-of-return carriers.[34] We have referred this issue to the Joint Board, as discussed below. Given the relatively short extension we are adopting, we do not believe that the proposed modification, undertaken without a recommended decision from the Joint Board, is in the public interest. A number of commenters have proposed modifying the Commission's rules regarding dial equipment minute weighting factors.[35] The Coalition for Equity in Switching Support has filed a separate petition on this issue and we believe that issue is better addressed in the context of that proceeding than in this separations freeze proceeding and will incorporate those comments into that proceeding.[36]

---

[27] *See 2009 Separations Freeze Extension NPRM*, FCC 09-24 at para. 17; *2006 Separations Freeze Extension and Further Notice*, 21 FCC Rcd at 5525, para. 23.

[28] *See, e.g.*, Alexicon Comments at 2, TCA Comments at 4, ITTA Comments at 5.

[29] *2006 Separations Freeze Extension and Further Notice*, 21 FCC Rcd at 5525, para. 23.

[30] *See, e.g.*, Alexicon Comments at 2; Embarq Comments at 8.

[31] *See, e.g.*, USTA Comments at 6; Qwest Comments at 2; TCA Comments at 4; GVNW Comments at 3; NECA *et al.* Comments at 1.

[32] *See infra* Section IV.

[33] *Id.*

[34] *See, e.g.*, USTA Comments at 7; NECA *et al.* Comments at 2; TCA Comments at 5; Alexicon Comments at 5; GVNW Comments at 3; TSTC Comments at 2; GRTI Comments at 1.

[35] *See, e.g.*, NECA *et al.* Comments at 2; HickoryTech Comments at 1; JSI Comments at 1; CESS Comments at 2.

[36] *See* Coalition for Equity in Switching Support, Petition for Clarification, CC Docket Nos. 96-45, 80-286 (filed Jan. 8, 2009). Comments on the petition were due April 20, 2009, and reply comment were due May 5, 2009. *Comment Sought on the Petition of the Coalition for Equity in Switching Support for Clarification of Sections 36.125 and 54.301 of the Commission's Rules Concerning Local Switching Universal Service Support*, WC Docket No. 05-337, Public Notice, DA 09-634 (Wireline Comp. Bur., Mar. 19, 2009).

## IV. REFERRAL TO THE JOINT BOARD

15. We are committed to working with the Joint Board to develop an efficient system for the jurisdictional separation of regulated costs in light of the dynamic nature of the telecommunications market place and the dramatic changes to the telecommunications industry since the separations freeze was first adopted in 2001. We ask the Joint Board to consider comprehensive jurisdictional separations reform, as well as an interim adjustment of the current jurisdictional separations freeze. We request that the Joint Board prepare a recommended decision regarding whether, how, and when the Commission's jurisdictional separations rules should be modified. We ask the Joint Board to consider the effects of any proposed separations reform on broadband deployment.

16. Pursuant to section 410(c) of the Communications Act of 1934, as amended (the Act), we refer to the Joint Board the issue of examining jurisdictional separations rules that most efficiently serve the goals of the Act and provide a reasonable allocation of costs.[37] We ask the Joint Board to consider whether, in lieu of Part 36 usage studies, there should be a limited number of fixed jurisdictional cost allocation factors,[38] or a single fixed factor.[39] Qwest stated that separations "can easily be accomplished through the use of simple fixed allocation factors rather than studies, as the separations freeze has demonstrated."[40] The Iowa Utilities Board stated, "[m]uch of the overhead cost of separations arises from usage studies. One possible simplification would be to move all usage-based factors to a single fixed factor for all companies."[41]

17. In responding to the *2006 Separations Freeze Extension and Further Notice*, almost all commenters supported an end to separations at some point for non-rate-of-return carriers, via forbearance or outright elimination of separations, but there was significant disagreement regarding when and how to do so.[42] We ask the Joint Board to consider the circumstances under which carriers should no longer be

[37] 47 U.S.C. §410(c).

[38] *See, e.g.*, Iowa Utilities Board 2006 Comments at 6; Wisconsin PSC 2006 Comments at 7; Qwest 2006 Comments at 11. *But see* Alexicon 2006 Comments at 8; JSI 2006 Comments at 2 (use of fixed factors would create winners and losers, and would not be revenue-neutral); NASUCA 2006 Comments, Affidavit of Susan Baldwin at 21 (use of fixed factors "would not seem to remedy the severe imbalance. . . regarding cost accounting for common local loop that supports DSL and other unregulated lines of ILECs' business").

[39] *See, e.g.*, Idaho PUC 2006 Comments at 11; Wisconsin PSC 2006 Comments at 7.

[40] Qwest 2006 Comments at 11.

[41] *See* Iowa Utilities Board 2006 Comments at 6.

[42] *See, e.g.*, Verizon 2006 Comments at 11 ("The Commission should establish a glide path toward discontinuing separations requirements in jurisdictions that no longer utilize separations and adopt a mechanism now that permits carriers to eliminate separations in those jurisdictions that no longer rely on separated costs."); Wisconsin PSC 2006 Comments at 5-6 ("[T]he industry is nearing a point where the separations process could be eliminated for some companies, especially larger companies, whose rates are fully market-based or price regulated, and are no longer subject to cost-based regulation."); Iowa Utilities Board 2006 Comments at 2 ("As a state that has little regulatory authority over the rates of LECs, Iowa supports the establishment of an 'exit ramp' option for incumbent carriers to substantially reduce, or even terminate their separations obligations."); JSI 2006 Comments at 5 ("[L]arge price cap carriers...would all be granted...forbearance.... All other carriers...would remain under the separations freeze."); USTA 2006 Comments at 3 ("[T]he Commission should eliminate jurisdictional separations in those jurisdictions that no longer rely on separations."); Idaho PUC 2006 Comments at 6 ("If separations are not relevant for any regulatory purpose, no carrier should bear the cost of conducting separations studies and reporting separations data."); Vermont and Nebraska 2006 Comments at 6 ("If separations results are not relevant for any regulatory purpose, no carrier should bear the cost of conducting separations studies and reporting separations data."); AT&T 2006 Comments at 6 ("Continued application of the separations process to price-cap carriers not only is unnecessary, but also contrary to the public interest because it distorts competition."); BellSouth 2006 Comments at 2 ("Reform, thus, should embrace relief that not only stabilizes and simplifies the jurisdictional separations process

(continued....)

subject to jurisdictional separations.

18. The Commission has recently considered a variety of measures regarding intercarrier compensation and universal service reform.[43] Many commenters have suggested that it may be prudent to defer comprehensive reform of the jurisdictional separations rules until the Commission adopts reform in these areas.[44] We ask the Joint Board to consider whether such a deferral is in the public interest. If the Joint Board recommends deferring comprehensive jurisdictional separations reform, we ask the Joint Board to consider a modification of the existing freeze, under which carriers could, for example, be required to modify category relationships and/or jurisdictional cost allocation factors, which would then be refrozen pending the outcome of the other proceedings. We ask the Joint Board to consider the criteria that would be used for the recalculation of category relationships and jurisdictional cost allocation factors. For example, would usage studies be required, or would it be reasonable to determine category relationships based upon an analysis of revenue?

19. In the *2001 Separations Freeze Order*, which was originally intended to last for five years, rate-of-return carriers were given the choice of freezing or leaving unfrozen their category relationships.[45] Companies that were not anticipating new investments, which could significantly change their category relationships, may have opted to freeze category relationships for administrative convenience, expecting that when they were ready to undertake new investment after the end of the five-year freeze, they would be allowed to allocate the investment to the appropriate categories. Companies that chose not to freeze categories, for example because they anticipated significant investments in the five-year period of the initial freeze, may now be at a point where they would benefit from the administrative efficiency of a category freeze.[46] We ask the Joint Board to consider whether allowing carriers a one-time opportunity to freeze or unfreeze category relationships is warranted under the circumstances.

20. Pursuant to section 36.154(c) of the Commission's rules, 25 percent of cable and wire facilities Category 1 costs for subscriber or common lines that are jointly used for local exchange service and exchange access for state and interstate interexchange services are assigned to the interstate

---

(...continued from previous page)
but also eliminates the process under the appropriate circumstances."); ITTA *et al.* 2006 Comments at 6 ("For carriers subject to price cap regulation on both the federal and state level, it is questionable whether separations rules remain necessary at all."); Qwest 2006 Comments at 23. *But cf* Alexicon 2006 Comments at 4 (explicitly supporting separations for rate-of-return carriers, but not commenting with regard to price-cap carriers.); Qwest 2006 Comments at 32-33 (eliminating separations is an appealing option "for earriers subject to price cap regulation in both federal and state jurisdictions [but] separations cannot be eliminated in its entirety until ILECs are adequately relieved from common carrier regulation in both jurisdictions."); NASUCA *et al.* 2006 Comments, Affidavit of Susan Baldwin at 22 ("Unless and until effective competition disciplines ILECs' market power," separations must continue.").

[43] *See, e.g.*, *High Cost Universal Service Reform; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Contribution Methodology; Numbering Resource Optimization; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Developing a Unified Intercarrier Compensation Regime; Intercarrier Compensation for ISP-Bound Traffic; IP-Enabled Services*, CC Docket Nos. 96-45, 99-200, 96-98, 01-92, 99-68, WC Docket Nos. 05-337, 03-109, 06-122, 04-36, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, FCC 08-262 (rel. Nov. 5, 2008) (*Comprehensive Reform Order and FNPRM*).

[44] *See, e.g.*, USTA Comments at 6, Qwest Comments at 2, TCA Comments at 4, GVNW Comments at 3, NECA *et al.* Comments at 1.

[45] *2001 Separations Freeze Order*, 16 FCC Rcd at 11394, para. 21.

[46] *See, e.g.*, USTA Comments at 7; NECA *et al.* Comments at 2; TCA Comments at 5; Alexicon Comments at 5; GVNW Comments at 3; TSTC Comments at 2; GRTI Comments at 1.

jurisdiction, with the remaining 75 percent assigned to the intrastate jurisdiction.[47] In its comments on the *2006 Separations Freeze Extension and Further Notice,* the Idaho Public Utilities Commission asserted that this factor accounts for "the majority of investment and expense . . . [and has] essentially been frozen since it was announced in 1984."[48] Given changes in the telecommunications industry, we ask the Joint Board to consider whether this allocation factor is reasonable. If the Joint Board concludes that it is not, we ask it to consider what a more reasonable allocation factor would be.

## V. PROCEDURAL MATTERS

### A. Final Regulatory Flexibility Certification

21. The Regulatory Flexibility Act of 1980, as amended (RFA),[49] requires that a 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."[50] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[51] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[52] A "small business concern" is one that: 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).[53]

22. In 2001 the Commission adopted a Joint Board recommendation to impose an interim freeze of the Part 36 category relationships and jurisdictional cost allocation factors, pending comprehensive reform of the Part 36 separations rules.[54] The Commission concluded that a freeze would provide stability and regulatory certainty for incumbent LECs by minimizing any impacts on separations results that might occur as a result of circumstances not contemplated by the Commission's Part 36 rules, such as growth in local competition and new technologies.[55] Further, the Commission found that a freeze of the separations process would reduce regulatory burdens on incumbent LECs during the transition from a regulated monopoly to a deregulated, competitive environment in the local telecommunications marketplace.[56] The Commission ordered that the freeze would be in effect for a five-year period

[47] 47 C.F.R. §36.154(c).

[48] Idaho PUC 2006 Comments at 14.

[49] *See* 5 U.S.C. § 604. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[50] 5 U.S.C. § 605(b).

[51] 5 U.S.C. § 601(6).

[52] 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."

[53] 15 U.S.C. § 632.

[54] *See Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382, 11387-88, para. 9 (2001) (*2001 Separations Freeze Order*).

[55] *Id.* at 11389-90, para. 12.

[56] Although incumbent carriers were required under Part 36 rules to perform separations studies, competitive carriers had no similar requirements. The Commission found that a freeze would further the Commission's goal of achieving greater competitive neutrality during the transition to a competitive marketplace by simplifying the separations process for those carriers subject to Part 36. *Id.* at 11390, para. 13.

beginning July 1, 2001, or until the Commission completed comprehensive separations reform, whichever came first.[57] On May 16, 2006, concluding that more time was needed to implement comprehensive separations reform, the Commission extended the freeze for three years or until such comprehensive reform could be completed, whichever came first.[58] The current separations freeze is set to expire on June 30, 2009.[59]

23. The purpose of the current extension of the freeze is to ensure that the Commission's separations rules meet the objectives of the Communications Act of 1934, as amended (the Act), and to allow the Commission and the Joint Board additional time to consider changes that may need to be made to the separations process in light of changes in the law, technology, and market structure of the telecommunications industry without creating the undue instability and administrative burdens that would occur were the Commission to allow the separations process to revert to pre-freeze rules.[60]

24. Implementation of the freeze extension will ease the administrative burden of regulatory compliance for LECs, including small incumbent LECs. The freeze has eliminated the need for all incumbent LECs, including incumbent LECs with 1500 employees or fewer, to complete certain annual studies formerly required by the Commission's rules. The effect of the freeze extension is to reduce a regulatory compliance burden for small incumbent LECs, by abating the aforementioned separations studies and providing these carriers with greater regulatory certainty. Therefore, we certify that the requirement of the report and order will not have a significant economic impact on a substantial number of small entities.

25. The Commission will send a copy of the report and order, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.[61] In addition, the report and order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the Federal Register.[62]

### B. Paperwork Reduction Act Analysis

26. This report and order does not contain new, modified, or proposed information collections subject to the Paperwork Reduction Act of 1995.[63] In addition, therefore, it does not contain any new, modified, or proposed "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002.[64]

### C. Congressional Review Act

27. The Commission will send a copy of this report and order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.[65]

---

[57] *See id.* at 11387-88, para. 9.

[58] *2006 Separations Freeze Extension and Further Notice*, 21 FCC Rcd at 5523, para 16.

[59] *Id.* at 5517, 5523, paras. 1, 16.

[60] *See Report and Order, supra* para. 11.

[61] *See* 5 U.S.C. § 801(a)(1)(A).

[62] *See* 5 U.S.C. § 605(b).

[63] Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163 (1995).

[64] Small Business Paperwork Relief Act of 2002, Pub. L. No. 107-198, 116 Stat. 729 (2002); 44 U.S.C. § 3506(c)(4).

[65] *See* 5 U.S.C. § 801(a)(1)(A).

## VI. ORDERING CLAUSES

28. Accordingly, IT IS ORDERED that, pursuant to sections 1, 4(i) and (j), 214(e), 254, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 214(e), 254, and 410, this report and order is ADOPTED.

29. IT IS FURTHER ORDERED that, pursuant to section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c), the issues set forth in this report and order are hereby referred to the Federal-State Joint Board on Separations for preparation of a recommended decision.

30. 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 Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

31. IT IS FURTHER ORDERED that this report and order shall be effective thirty days after the date of publication of the text of a summary thereof in the Federal Register, pursuant to section 1.427(a) of the Commission's rules, 47 C.F.R. § 1.427(a).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

## APPENDIX A

**Parties Filing Comments in Response to the *2006 Freeze Extension and Further Notice***

Alexicon Telecommunications Consulting (Alexicon)
AT&T Inc. (AT&T)
BellSouth Corporation (BellSouth)
Idaho Public Utilities Commission (Idaho PUC)
Independent Telephone and Telecommunications Alliance, National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, and Eastern Rural Telecom Association (ITTA *et al.*)
Iowa Utilities Board
John Staurulakis, Inc. (JSI)
National Association of State Utility Consumer Advocates, New Jersey Division of Rate Counsel, Maine Office of the Public Advocate (NASUCA *et al.*)
Pennsylvania Public Utility Commission (Pennsylvania PUC)
Public Service Commission of Wisconsin (Wisconsin PSC)
Qwest Corporation (Qwest)
United States Telecom Association (USTA)
Verizon
Vermont Department of Public Service, Vermont Public Service Board and Nebraska Public Service Commission (Vermont and Nebraska)
Washington Utilities and Transportation Commission (Washington PSB)
Western Telecommunications Alliance (WTA)

**Parties Filing Reply Comments in Response to the *2006 Freeze Extension and Further Notice***

Ad Hoc Telecommunications Users Committee (Ad Hoc)
AT&T Inc. (AT&T)
California Public Utilities Commission (California PUC)
Granite State Telephone, Inc. (Granite State)
GVNW Consulting, Inc. (GVNW)
Independent Telephone and Telecommunications Alliance, National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, and Eastern Rural Telecom Association (ITTA *et al.*)
National Association of State Utility Consumer Advocates, New Jersey Division of Rate Counsel, Maine Office of the Public Advocate (NASUCA *et al.*)
Public Utilities Commission of Ohio (Ohio PUC)
Qwest Corporation (Qwest)
Rock Hill Telephone Company d/b/a Comporium Communications, Lancaster Telephone Company d/b/a/ Comporium Communications, and Fort Mill Telephone Company d/b/a/ Comporium Communications (Rock Hill)
United States Telecom Association (USTA)
Verizon
Washington Utilities and Transportation Commission (Washington PSB)

**Parties Filing Comments in Response to the *2009 Separations Freeze Extension NPRM***

Alexicon Telecommunications Consulting (Alexicon)
Coalition for Equity in Switching Support (CESS)
Gila River Telecommunications, Inc. (GRTI)

GVNW Consulting, Inc. (GVNW)
National Association of Regulatory Utility Commissioners (NARUC)
National Association of State Utility Consumer Advocates (NASUCA)
National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion of Advancement of Small Telecommunications Companies, Eastern Rural Telecom Association, Western Telecommunications Alliance (NECA *et al.*)
New Jersey Division of Rate Counsel (New Jersey DRC)
Mid-Communications, Inc. d/b/a/ HickoryTech (HickoryTech)
Qwest Corporation (Qwest)
South Carolina Public Service Commission (South Carolina PSC)
Texas Statewide Telephone Cooperative, Inc. (TSTC)
TCA
United States Telecom Association (USTA)
Virginia State Corporate Commission Staff (Virginia SCCS)

**Parties Filing Reply Comments in Response to the *2009 Separations Freeze Extension NPRM***

Independent Telephone and Telecommunications Alliance (ITTA)
National Association of State Utility Consumer Advocates (NASUCA)

## APPENDIX B

### Final Rules

The only substantive change in the attached rules from the existing Part 36 rules is the end date of the separations freeze, which has changed to June 30, 2010. There is no change between these final rules and the proposed rules included in Appendix A of the *2009 Separations Freeze Extension NPRM.*

## 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 continues to read as follows:

AUTHORITY: 47 U.S.C. Secs. 151, 154(i) and (j), 205, 221(c), 254, 403, and 410.

**Subpart A – General**

2. Amend Section 36.3 by revising paragraphs (a), (b), (c), (d) and (e) to read as follows:

**§ 36.3 Freezing of jurisdictional separations category relationships and/or allocation factors**

(a) Effective July 1, 2001, through June 30, 2010, all local exchange carriers subject to Part 36 rules shall apportion costs to the jurisdictions using their study area and/or exchange specific jurisdictional allocation factors calculated during the twelve month period ending December 31, 2000, for each of the categories/sub-categories as specified herein. Direct assignment of private line service costs between jurisdictions shall be updated annually. Other direct assignment of investment, expenses, revenues or taxes between jurisdictions shall be updated annually. Local exchange carriers that invest in telecommunications plant categories during the period July 1, 2001, through June 30, 2010, for which it had no separations allocation factors for the twelve month period ending December 31, 2000, shall apportion that investment among the jurisdictions in accordance with the separations procedures in effect as of December 31, 2000 for the duration of the freeze.

(b) Effective July 1, 2001, through June 30, 2010, local exchange carriers subject to price cap regulation, pursuant to § 61.41, shall assign costs from the Part 32 accounts to the separations categories/sub-categories, as specified herein, based on the percentage relationships of the categorized/sub-categorized costs to their associated Part 32 accounts for the twelve month period ending December 31, 2000. If a Part 32 account for separations purposes is categorized into more than one category, the percentage relationship among the categories shall be utilized as well. Local exchange carriers that invest in types of telecommunications plant during the period July 1, 2001, through June 30, 2010, for which it had no separations category investment for the twelve month period ending December 31, 2000, shall assign such investment to separations categories in accordance with the separations procedures in effect as of December 31, 2000. Local exchange carriers not subject to price cap regulation, pursuant to § 61.41 of this chapter, may elect to be subject to the provisions of § 36.3(b). Such election must be made prior to July 1, 2001. Local exchange carriers electing to become subject to § 36.3(b) shall not be eligible to withdraw from such regulation for the duration of the freeze. Local exchange carriers participating in Association tariffs, pursuant to § 69.601 et seq., shall notify the Association prior to July 1, 2001, of such intent to be subject to the provisions of § 36.3(b). Local exchange carriers not participating in Association tariffs shall notify the Commission prior to July 1, 2001, of such intent to be subject to the provisions of § 36.3(b).

(c) Effective July 1, 2001, through June 30, 2010, any local exchange carrier that sells or otherwise transfers exchanges, or parts thereof, to another carrier's study area shall continue to utilize the factors and, if applicable, category relationships as specified in §§ 36.3(a) and (b).

(d) Effective July 1, 2001, through June 30, 2010, any local exchange carrier that buys or otherwise acquires exchanges or part thereof, shall calculate new, composite factors and, if applicable, category relationships based on a weighted average of both the seller's and purchaser's factors and category relationships calculated pursuant to §§ 36.3(a) and (b). This weighted average should be based on the number of access lines currently being served by the acquiring carrier and the number of access lines in the acquired exchanges.

* * * * *

(e) Any local exchange carrier study area converting from average schedule company status, as defined in § 69.605(c), to cost company status during the period July 1, 2001, through June 30, 2010, shall, for the first twelve months subsequent to conversion categorize the telecommunications plant and expenses and develop separations allocation factors in accordance with the separations procedures in effect as of December 31, 2000. Effective July 1, 2001 through June 30, 2010, such companies shall utilize the separations allocation factors and account categorization subject to the requirements of §§ 36.3(a) and (b) based on the category relationships and allocation factors for the twelve months subsequent to the conversion to cost company status.

* * * * *

**Subpart B - Telecommunications Property**
**Central Office Equipment**

3. Amend Section 36.123 by revising paragraphs (a)(5) and (a)(6) to read as follows:

**§ 36.123 Operator systems equipment - Category 1.**

(a) * * *

(5) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the average balance of Account 2220, Operator Systems, to the categories/subcategories, as specified in § 36.123(a)(1), based on the relative percentage assignment of the average balance of Account 2220 to these categories/subcategories during the twelve month period ending December 31, 2000.

(6) Effective July 1, 2001 through June 30, 2010, all study areas shall apportion the costs assigned to the categories/subcategories, as specified in § 36.123(a)(1), among the jurisdictions using the relative use measurements for the twelve month period ending December 31, 2000 for each of the categories/subcategories specified in §§ 36.123 (b) through 36.123(e).

* * * * *

4. Amend Section 36.124 by revising paragraphs (c) and (d) to read as follows:

**§ 36.124 Tandem switching equipment - Category 2.**

* * * * *

(c) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the average balances of Accounts 2210, 2211, and 2212 to Category 2, Tandem Switching Equipment based on the relative percentage assignment of the average balances of Account 2210, 2211, 2212, and 2215 to Category 2, Tandem Switching Equipment during the twelve month period ending December 31, 2000.

(d) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion costs in Category 2, Tandem Switching Equipment, among the jurisdictions using the relative number of study area minutes of use, as specified in § 36.124(b), for the twelve month period ending December 31, 2000. Direct assignment of any subcategory of Category 2 Tandem Switching Equipment between jurisdictions shall be updated annually.

* * * * *

5. Amend Section 36.125 by revising paragraphs (h), (i), and (j) to read as follows:

**§ 36.125 Local switching equipment - Category 3.**

* * * * *

(h) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the average balances of Accounts 2210, 2211, and 2212 to Category 3, Local Switching Equipment, based on the relative percentage assignment of the average balances of Account 2210, 2211, 2212 and 2215 to Category 3, during the twelve month period ending December 31, 2000.

(i) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion costs in Category 3, Local Switching Equipment, among the jurisdictions using relative dial equipment minutes of use for the twelve month period ending December 31, 2000.

(j) If during the period from January 1, 1997, through June 30, 2010, the number of a study area's access lines increased or will increase such that, under § 36.125(f) the weighting factor would be reduced, that lower weighting factor shall be applied to the study area's 1996 unweighted interstate DEM factor to derive a new local switching support factor. The study area will restate its Category 3, Local Switching Equipment factor under § 36.125(f) and use that factor for the duration of the freeze period.

* * * * *

6. Amend Section 36.126 by revising paragraphs (b)(5), (c)(4), (e)(4), and (f)(2) to read as follows:

**§ 36.126 Circuit equipment - Category 4.**

* * * * *

(b) * * *

(5) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41, shall assign the average balances of Accounts 2230 through 2232 to the categories/subcategories as specified in §§ 36.126(b)(1) through (b)(4) based on the relative percentage assignment of the average balances of Accounts 2230 through 2232 costs to these categories/subcategories during the twelve month period ending December 31, 2000.

(c) * * *

(4) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion costs in the categories/subcategories, as specified in §§ 36.126(b)(1) through (b)(4), among the jurisdictions using the relative use measurements or factors, as specified in §§ 36.126(c)(1) through (c)(3) for the twelve month period ending December 31, 2000. Direct assignment of any subcategory of Category 4.1 Exchange Circuit Equipment to the jurisdictions shall be updated annually.

* * * * *

(e) * * *

(4) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion costs in the categories/subcategories specified in §§ 36.126(e)(1) through (e)(3) among the jurisdictions using relative use measurements or factors, as specified in §§ 36.126(e)(1) through (e)(3) for the twelve month period ending December 31, 2000. Direct assignment of any subcategory of Category 4.2 Interexchange Circuit Equipment to the jurisdictions shall be updated annually.

(f) * * *

(2) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion costs in the subcategory specified in § 36.126(f)(1) among the jurisdictions using the allocation factor, as specified in § 36.126(f)(1)(i), for this subcategory for the twelve month period ending December 31, 2000. Direct assignment of any Category 4.3 Host/Remote Message Circuit Equipment to the jurisdictions shall be updated annually.

* * * * *

**Information Origination/Termination Expenses**

7. Amend Section 36.141 by revising paragraph (c) to read as follows:

**§ 36.141 General.**

* * * * *

(c) Effective July 1, 2001, through June 30, 2010, local exchange carriers subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the average balance of Account 2310 to the categories, as specified in § 36.141(b), based on the relative percentage assignment of the average balance of Account 2310 to these categories during the twelve month period ending December 31, 2000.

* * * * *

8. Amend Section 36.142 by revising paragraph (c) to read as follows:

**§ 36.142 Categories and apportionment procedures.**

* * * * *

(c) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion costs in the categories, as specified in § 36.141(b), among the jurisdictions using the relative use measurements or factors, as specified in § 36.142(a), for the twelve month period ending December 31, 2000. Direct assignment of

any category of Information Origination/Termination Equipment to the jurisdictions shall be updated annually.

* * * * *

**Cable and Wire Facilities**

9. Amend Section 36.152 by revising paragraph (d) to read as follows:

**§ 36.152 Categories of Cable and Wire Facilities (C&WF).**

* * * * *

(d) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41, shall assign the average balance of Account 2410 to the categories/subcategories, as specified in §§ 36.152(a) through (c), based on the relative percentage assignment of the average balance of Account 2410 to these categories/subcategories during the twelve month period ending December 31, 2000.

* * * * *

10. Amend Section 36.154 by revising paragraph (g) to read as follows:

**§ 36.154 Exchange Line Cable and Wire Facilities (C&WF) - Category 1 – apportionment procedures.**

* * * * *

(g) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Subcategory 1.3 Exchange Line C&WF among the jurisdictions as specified in § 36.154(c). Direct assignment of subcategory Categories 1.1 and 1.2 Exchange Line C&WF to the jurisdictions shall be updated annually as specified in § 36.154(b).

* * * * *

11. Amend Section 36.155 by revising paragraph (b) to read as follows:

**§ 36.155 Wideband and exchange trunk (C&WF) - Category 2 - apportionment procedures.**

* * * * *

(b) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Category 2 Wideband and exchange trunk C&WF among the jurisdictions using the relative number of minutes of use, as specified in § 36.155(a), for the twelve-month period ending December 31, 2000. Direct assignment of any Category 2 equipment to the jurisdictions shall be updated annually.

* * * * *

12. Amend Section 36.156 by revising paragraph (c) to read as follows:

**§ 36.156 Interexchange Cable and Wire Facilities (C&WF) - Category 3 - apportionment procedures.**

* * * * *

(c) Effective July 1, 2001, through June 30, 2010, all study areas shall directly assign Category 3 Interexchange Cable and Wire Facilities C&WF where feasible. All study areas shall apportion the non-directly assigned costs in Category 3 equipment to the jurisdictions using the relative use measurements, as specified in § 36.156(b), during the twelve-month period ending December 31, 2000.

* * * * *

13. Amend Section 36.157 by revising paragraph (b) to read as follows:

**§ 36.157 Host/remote message Cable and Wire Facilities (C&WF) - Category 4 - apportionment procedures.**

* * * * *

(b) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Category 4 Host/Remote message Cable and Wire Facilities C&WF among the jurisdictions using the relative number of study area minutes-of-use kilometers applicable to such facilities, as specified in § 36.157(a)(1), for the twelve month period ending December 31, 2000. Direct assignment of any Category 4 equipment to the jurisdictions shall be updated annually.

* * * * *

**Equal Access Equipment**

14. Amend Section 36.191 by revising paragraph (d) to read as follows:

**§ 36.191 Equal access equipment.**

* * * * *

(d) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Equal Access Equipment, as specified in § 36.191(a), among the jurisdictions using the relative state and interstate equal access traffic, as specified in § 36.191(c), for the twelve month period ending December 31, 2000.

* * * * *

**Subpart C - Operating Revenues and Certain Income Accounts**
**Operating Revenues**

15. Amend Section 36.212 by revising paragraph (c) to read as follows:

**§ 36.212 Basic local services revenue—Account 5000 (Class B telephone companies); Basic area revenue—Account 5001 (Class A telephone companies).**

* * * * *

(c) Wideband Message Service revenues from monthly and miscellaneous charges, service connections, move and change charges, are apportioned between state and interstate operations on the basis of the relative number of minutes-of-use in the study area. Effective July 1, 2001, through June 30, 2010, all

study areas shall apportion Wideband Message Service revenues among the jurisdictions using the relative number of minutes of use for the twelve-month period ending December 31, 2000.

* * * * *

16. Amend Section 36.214 by revising paragraph (a) to read as follows:

**§ 36.214 Long distance message revenue - Account 5100.**

(a) Wideband message service revenues from monthly and miscellaneous charges, service connections, move and change charges, are apportioned between state and interstate operations on the basis of the relative number of minutes-of-use in the study area. Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Wideband Message Service revenues among the jurisdictions using the relative number of minutes of use for the twelve-month period ending December 31, 2000.

* * * * *

**Subpart D - Operating Expenses and Taxes**
**Customer Operations Expenses**

17. Amend Section 36.372 by revising to read as follows:

**§ 36.372 Marketing—Account 6610 (Class B telephone companies); Accounts 6611 and 6613 (Class A telephone companies).**

The expenses in this account are apportioned among the operations on the basis of an analysis of current billing for a representative period, excluding current billing on behalf of others and billing in connection with intercompany settlements. Effective July 1, 2001, through June 30, 2010, all study areas shall apportion expenses in this account among the jurisdictions using the analysis, as specified in § 36.372(a), during the twelve-month period ending December 31, 2000.

* * * * *

18. Amend Section 36.374 by revising paragraphs (b) and (d) to read as follows:

**§ 36.374 Telephone Operator Services.**

* * * * *

(b) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the Telephone operator expense classification based on the relative percentage assignment of the balance of Account 6620 to this classification during the twelve month period ending December 31, 2000.

* * * * *

(d) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Telephone operator expenses among the jurisdictions using the relative number of weighted standard work seconds, as specified in § 36.374(c), during the twelve-month period ending December 31, 2000.

* * * * *

19. Amend Section 36.375 by revising paragraphs (b)(4) and (b)(5) to read as follows:

**§ 36.375 Published directory listing.**

* * * * *

(b) * * *

(4) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41, shall assign the balance of Account 6620-Services to the classifications, as specified in §§ 36.375(b)(1) through 36.375(b)(4), based on the relative percentage assignment of the balance of Account 6620 to these classifications during the twelve month period ending December 31, 2000.

(5) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Published directory listing expenses using the underlying relative use measurements, as specified in §§ 36.375(b)(1) through 36.375(b)(4), during the twelve-month period ending December 31, 2000. Direct assignment of any Publishing directory listing expense to the jurisdictions shall be updated annually.

* * * * *

20. Amend Section 36.377 by revising paragraphs (a), (a)(1)(ix), (a)(2)(vii), (a)(3)(vii), (a)(4)(vii), (a)(5)(vii), and (a)(6)(vii) to read as follows:

**§ 36.377 Category 1 - Local business office expense.**

(a) The expense in this category for the area under study is first segregated on the basis of an analysis of job functions into the following subcategories: End user service order processing; end user payment and collection; end user billing inquiry; interexchange carrier service order processing; interexchange carrier payment and collection; interexchange carrier billing inquiry; and coin collection and administration. Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the subcategories, as specified in § 36.377(a), based on the relative percentage assignment of the balance of Account 6620 to these categories/subcategories during the twelve month period ending December 31, 2000.

(1) * * *

(ix) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the categories/subcategories, as specified in §§ 36.377(a)(1)(i) through 36.377(a)(1)(viii), based on the relative percentage assignment of the balance of Account 6620 to these categories/subcategories during the twelve month period ending December 31, 2000. Effective July 1, 2001, through June 30, 2010, all study areas shall apportion TWX service order processing expense, as specified in § 36.377(a)(1)(viii) among the jurisdictions using relative billed TWX revenues for the twelve-month period ending December 31, 2000. All other subcategories of End-user service order processing expense, as specified in §§ 36.377(a)(1)(i) through 36.377(a)(1)(viii), shall be directly assigned.

(2) * * *

(vii) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620- Services to the subcategories, as specified in §§ 36.377(a)(2)(i) through 36.377(a)(2)(vi), based on the relative percentage assignment of the balance of Account 6620 to these categories/subcategories during the twelve month period ending

December 31, 2000. All other subcategories of End User payment and collection expense, as specified in §§ 36.377(a)(2)(i) through 36.377(a)(2)(v), shall be directly assigned.

(3) * * *

(vii) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the subcategories, as specified in §§ 36.377(a)(3)(i) through 36.377(a)(3)(vi), based on the relative percentage assignment of the balance of Account 6620 to these subcategories during the twelve month period ending December 31, 2000. All other subcategories of End user billing inquiry expense, as specified in §§ 36.377(a)(3)(i) through 36.377(a)(3)(vi) shall be directly assigned.

(4) * * *

(vii) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the subcategories, as specified in §§ 36.377(a)(4)(i) through 36.377(a)(4)(vi), based on the relative percentage assignment of the balance of Account 6620 to these subcategories during the twelve month period ending December 31, 2000. All subcategories of Interexchange carrier service order processing expense, as specified in §§ 36.377(a)(4)(i) through 36.377(a)(4)(vi), shall be directly assigned.

(5) * * *

(vii) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the subcategories, as specified in §§ 36.377(a)(5)(i) through 36.377(a)(5)(vi), based on the relative percentage assignment of the balance of Account 6620 to these subcategories during the twelve month period ending December 31, 2000. All subcategories of Interexchange carrier payment expense, as specified in §§ 36.377(a)(5)(i) through 36.377(a)(5)(vi), shall be directly assigned.

(6) * * *

(vii) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the subcategories, as specified in §§ 36.377(a)(6)(i) through 36.377(a)(6)(vi), based on the relative percentage assignment of the balance of Account 6620 to these subcategories during the twelve month period ending December 31, 2000. All subcategories of Interexchange carrier billing inquiry expense, as specified in §§ 36.377(a)(6)(i) through 36.377(a)(6)(vi), shall be directly assigned.

* * * * *

21. Amend Section 36.378 by revising paragraph (b)(1) to read as follows:

**§ 36.378 Category 2 - Customer services (revenue accounting).**

* * * * *

(b) * * *

(1) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the classifications, as

specified in § 36.378(b), based on the relative percentage assignment of the balance of Account 6620 to those classifications during the twelve month period ending December 31, 2000.

* * * * *

22. Amend Section 36.379 by revising paragraphs (b)(1) and (b)(2) to read as follows:

**§ 36.379 Message processing expense.**

* * ** *

(b) * * *

(1) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the subcategories, as specified in § 36.379(b), based on the relative percentage assignment of the balance of Account 6620 to those subcategories during the twelve month period ending December 31, 2000.

(2) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Toll Ticketing Processing Expense among the jurisdictions using the relative number of toll messages for the twelve-month period ending December 31, 2000. Local Message Process Expense is assigned to the state jurisdiction.

* * * * *

23. Amend Section 36.380 by revising paragraphs (d) and (e) to read as follows:

**§ 36.380 Other billing and collecting expense.**

* * * * *

(d) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the Other billing and collecting expense classification based on the relative percentage assignment of the balance of Account 6620 to those subcategory during the twelve month period ending December 31, 2000.

(e) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Other billing and collecting expense among the jurisdictions using the allocation factor utilized, pursuant to §§ 36.380(b) or (c), for the twelve month period ending December 31, 2000.

* * * * *

24. Amend Section 36.381 by revising paragraphs (c) and (d) to read as follows:

**§ 36.381 Carrier access charge billing and collecting expense.**

* * * * *

(c) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to the Carrier access charge billing and collecting expense classification based on the relative percentage assignment of the balance of Account 6620 to that classification during the twelve month period ending December 31, 2000.

(d) Effective July 1, 2001, through June 30, 2010, all study areas shall apportion Carrier access charge billing and collecting expense among the jurisdictions using the allocation factor, pursuant to § 36.381(b), for the twelve-month period ending December 31, 2000.

* * * * *

25. Amend Section 36.382 by revising paragraph (a) to read as follows:

**§ 36.382 Category 3 - All other customer services expense.**

(a) Effective July 1, 2001, through June 30, 2010, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the balance of Account 6620-Services to this category based on the relative percentage assignment of the balance of Account 6620 to this category during the twelve month period ending December 31, 2000.

* * * * *