

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32, 36, and 64

[CC Docket Nos. 00–199, 97–212, and 80–286; FCC 01–305]

2000 Biennial Regulatory Review—Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comment on fundamental changes to the accounting and reporting requirements and on whether these accounting and reporting requirements should sunset by a date certain, such as three or five years in the future. The Commission seeks comment on sunsetting the remaining Class A accounts by a date certain, whether ARMIS information (particularly infrastructure data) would be better captured through the Local Competition and Broadband Data Gathering Program rather than in ARMIS, eliminating the rules for continuing property records (CPR), eliminating affiliate transactions rules for price cap carriers, and conforming the separations rules to the changes to the chart of accounts in the Report and Order.

DATES: Comments (for all issues except the part 36 issue) are due April 8, 2002; reply comments are due May 7, 2002. For the part 36 issue, comments are due March 8, 2002, and replies are due March 25, 2002. Written comments by the public on the proposed information collections are due April 8, 2002. Written comments must be submitted by the Office of Management and Budget

(OMB) on the proposed information collection(s) on or before April 8, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, TW–A325, Washington, DC 20554. 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, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward C. Springer, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Room 10236, NEOB, Washington, DC 20503 or via the Internet to EdwardSpringer@eop.gov.

FOR FURTHER INFORMATION CONTACT: Tim Peterson, Deputy Division Chief, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–1575 or Mika Savir, Accounting Safeguards Division, Common Carrier Bureau, Legal Branch, at (202) 418–0384. For additional information concerning the information collections in this Report and Order, contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) adopted October 11, 2001 and released November 5, 2001. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com.

This FNPRM contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 10413. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act: This FNPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this FNPRM; OMB notification of action is due April 8, 2002. 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 form of information technology.

OMB Control Number: None.

Title: Phase 3—FNPRM in CC Dockets No. 00–199 and 97–212, 2000 Biennial Regulatory Review.

Form Nos.: FCC Form 477, FCC Report 43–07.

Type of Review: New Collection.

Respondents: Business or other for-profit.

ESTIMATED HOURS

Title	Number of respondents	Per response	Total annual burden
Part 32—Uniform Systems of Accounts	68	18,373	1,249,364
Local Competition in the Local Exchange Telecommunications Services Report	255	117.34	29,924
FCC Form 4777 ARMIS Infrastructure Report, FCC Report 43–07	0	0	0

* These are estimated hours if all the proposals are adopted in a Report and Order, with the exception of the FCC Report 4777. Estimates provided are current burden estimates.

Total Annual Burden: 1,279,288.

Cost to Respondents: \$0.

Needs and Uses: In CC Docket No. 00–199, the Commission seeks comment on sunsetting the remaining Class A accounts, whether ARMIS information (particularly infrastructure data should

be better captured through the Local Competition and Broadband Data Gathering Program rather than in ARMIS. The Commission also seeks comment on whether all filers in the Program should report information on hybrid fiber-copper interface locations,

number of customer serviced from these interface locations, xDSL customer terminations associated with non-hybrid loops, among other things. The information is needed so that the Commission can fulfill its statutory responsibilities and obligations.

Summary of the FNPRM

A. Phase 3 (CC Docket Nos. 00-199 and 99-301)

The Commission is committed to moving forward with Phase 3 of this comprehensive review proceeding. As competition continues to develop, the original justifications for the Commission's accounting and reporting requirements may no longer be valid. The Commission seeks to refresh the Phase 3 record. The Commission looks forward to working closely with the states, incumbent carriers, and other interested parties in this endeavor.

State regulators have articulated current regulatory needs to maintain certain Class A accounts and ARMIS filing requirements for various purposes, including assisting their work in promoting local competition, developing appropriate prices for unbundled network elements, and conducting local ratemaking proceedings. While the Commission also uses some of this information, there are certain accounts and requirements that appear no longer necessary for federal purposes: Account 5040, Private line revenue; Account 5060, Other basic area revenue; Account 1500, Other jurisdictional assets—net; Account 4370, Other jurisdictional liabilities and deferred credits—net; and Account 7910, Income effect of jurisdictional ratemaking differences—net. The Commission believes that, if it cannot identify a federal need for a regulation, it is not justified in maintaining such a requirement at the federal level. At the same time, however, the Commission recognizes that an immediate end to such requirements could cause severe problems for state regulators. The Commission would like to work with the states to arrange an orderly transition to a mechanism in which states undertake responsibility for collecting this information. The Commission tentatively concludes that these federal requirements should remain in place for a period of three years to enable states to develop alternative means of gathering this information, after which the federal requirements would terminate. The Commission seeks comment on this proposal. Commenters should address whether three years is a sufficient amount of time to transition from federal to state information gathering mechanisms. Commenters should also address whether it would be necessary for each state to set up its own mechanism or whether states might work collectively to set up a mechanism to collect information for multiple states. The Commission understands

that some states are required by state law to mirror federal accounting requirements. The Commission asks that those states identify themselves and describe the precise nature of their state statutory constraints. The Commission also seeks comment on whether, rather than sunseting these federal requirements, there are other means to reform federal requirements that serve only state regulatory needs.

For other accounting and reporting requirements, the Commission continues to have a federal need for this information, such as administering current support mechanisms for universal service and price cap regulation. The Commission believes that the benefits of continuing these federal requirements, at present, outweigh the potential burdens, the assessment of that calculation is likely to change as technological and market conditions continue to evolve. The Commission seeks comment on alternatives to the current accounting and reporting requirements.

The Commission also encourages the state colleagues to consider alternative sources of such information at the state level. There may well come a time in the relatively near future when the Commission concludes that there is no ongoing federal need to maintain these requirements at the federal level. The Commission seeks comment on these tentative views.

The Commission asks commenters to consider whether any of these accounting and reporting requirements should sunset by a date certain, such as three or five years in the future. In particular, should the Commission sunset the remaining Class A accounts by a date certain? Should the Commission maintain the practice of imposing different accounting requirements on classes of carriers based on their size? If so, and if the Commission allows Class A carriers to shift to Class B accounting, are there additional accounts that should be eliminated from the Class B system for small and mid-sized carriers by a date certain? Should the requirement to maintain either Class A or Class B accounts be replaced with a rule requiring adherence to generally accepted accounting principles (GAAP)? Should any or all of the Commission's ARMIS reporting requirements sunset by a date certain? The Commission encourages commenters to discuss the implications of any accounting reforms they recommend on the appropriate scope of ARMIS reporting obligations. To the extent commenters argue that certain part 32 or part 64 rules, or reporting requirements imposed

pursuant to 47 U.S.C. 43.21, should not sunset by a date certain, they should identify with specificity which rules should remain in place and provide a full analysis of the justification for that rule, on a rule-by-rule basis.

The Commission seeks comment on the advantages and disadvantages of adopting any of these sunset approaches, as opposed to concluding that requirements should be eliminated only upon the attainment of certain indices associated with the development of a competitive marketplace? For example, if the Commission were to eliminate Class A accounts or shift to a policy of relying on GAAP, could it develop accurate inputs for our universal service cost model by relying on specific, ad hoc data requests? Moreover, what impact would elimination by a date certain of accounting and reporting rules have on attainment of statutory goals, such as the preservation and advancement of universal service and ensuring that pole attachment rates are just and reasonable? Could the Commission satisfy other federal regulatory needs by making data requests on an ad hoc basis and relying on other existing data collection mechanisms, such as the Local Competition and Broadband Data Gathering Program? If the Commission ultimately decides not to sunset certain rules, but instead eliminate those rules only upon attainment of certain indices associated with competition, what costs would be imposed on both regulators and the industry by future administrative proceedings to determine whether those triggers have been met, particularly if proceedings were undertaken on a carrier-by-carrier basis?

The Commission also seeks comment from state commissions and all other interested parties on whether ARMIS information (particularly infrastructure data) would be better captured through the Local Competition and Broadband Data Gathering Program rather than in ARMIS. The Local Competition and Broadband Data Gathering Program seeks to develop the Commission's understanding of the deployment and availability of broadband services and the development of local telephone service competition in order to comply with section 706 of the 1996 Act. The Local Competition and Broadband Data Gathering Program was established for a five-year period, unless the Commission acts to extend it. The Commission seeks comment on the costs and benefits associated with collecting infrastructure information through the Local Competition and Broadband Data Gathering Program for all affected parties, including potential filers and

federal, state, and local regulators. In particular, the Commission seeks comment on whether information currently collected in ARMIS 43-07 should instead be collected through the Local Competition and Broadband Data Gathering Program, which imposes a reporting obligation on a larger universe of carriers. In addition, the Commission seeks comment on collecting such data through the Local Competition and Broadband Data Gathering Program, but requiring only the mandatory price cap companies to report. The Commission also seeks comment on whether all filers in the Local Competition and Broadband Data Gathering Program should report information on hybrid fiber-copper loop interface locations, number of customers served from these interface locations, xDSL customer terminations associated with hybrid fiber-copper loops, and xDSL customer terminations associated with non-hybrid loops. Lastly, the Commission seeks comment on whether to gather information on new technologies that indicate how carriers are upgrading the public switched network, e.g., information for switches capable of transmitting ATM protocol, and data on SMDS, internet routers, and frame relay service, through the Local Competition and Broadband Data Gathering Program.

In addition, the Commission seeks comment on eliminating the rules for continuing property records (CPR), specifically § 32.2000(e) and (f) of the Commission's rules, 47 CFR 32.2000(e) and (f). States assert that they have an ongoing need for this information in order to support state ratemaking proceedings. The Commission seeks comment on whether there are alternative avenues for states to gather whatever information pertaining to property records they need for state regulatory proceedings. Incumbent LECs are subject to a number of other regulatory constraints and appear to have ample incentives to maintain a detailed inventory of their property. Moreover, the record shows that detailed requirements, which include rigid rules for recording property, impose substantial burdens on incumbent LECs. In light of all these factors, the Commission tentatively concludes that the detailed CPR rules should be eliminated in three years. The Commission seeks comment on this proposal. Commenters should address whether there are any federal or state regulatory needs served by the CPR rules that cannot be met through alternative mechanisms. The Commission also seeks further comment on the costs and burdens of maintaining

these CPR rules. Additionally, commenters should address whether three years is too little or too much time for states that rely upon the existence of federal CPR rules to transition to alternative mechanisms. Commenters should include an analysis of the costs and benefits of maintaining the CPR rules for a different length of time.

The Commission also seeks comment on alternative approaches to streamline the CPR rules. In earlier comments in this proceeding, Verizon proposed that the Commission should eliminate most of the CPR requirements, but retain the requirement that property records be (1) Subject to internal accounting controls; (2) auditable; (3) equal in the aggregate to the total investment reflected in the financial accounts; and (4) maintained for the life of the property. Moreover, Verizon suggested that CPR rules should provide that (1) records be maintained by original cost where appropriate, and otherwise, be maintained using averages or estimates; (2) average costs may be used for plants consisting of a large number of similar units, and units of similar size and type within each specified account may be grouped; and (3) in cases where the actual original cost of property cannot be ascertained, such as pricing for inventory for the initial entry of a continuing property record or the pricing of an acquisition for which the continuing property record has not been maintained, the original cost may be estimated. In cases where estimates are used, any estimate shall be consistent with accounting practices in effect at the time the property was constructed. The Commission seeks comment on the advantages and disadvantages associated with Verizon's proposal.

Finally, the Commission seeks to refresh the record on the affiliate transactions rules. To what extent do these rules remain necessary for price cap carriers? Do price cap carriers that have obtained pricing flexibility, and have thus waived low-end formula adjustments, retain any incentive or ability to engage in improper cost-shifting or cross-subsidization? What impact, if any, would elimination of these rules for price cap carriers have on state ratemaking processes? What impact would there be on carriers if the Commission elects to retain these rules?

The Commission seeks comment on whether it should maintain affiliate transactions rules, or adopt revised rules, to govern transactions that are subject to section 272 of the Communications Act, 47 U.S.C. 272? Section 272(b)(2) requires that the affiliate required by that section maintain "books, records, and accounts

in the manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the Bell operating company of which it is an affiliate." Section 272(b)(5) requires that the separate affiliate conduct all transactions with the Bell operating company "on an arm's length basis." The nondiscrimination requirement found in section 272(c) requires the BOC to "account for all transactions with an affiliate * * * in accordance with accounting principles designed by or approved by the Commission." Section 272(e)(4) specifies that the BOC may provide interLATA facilities or services to its interLATA affiliate if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions, and so long as the costs are appropriately allocated." The Commission seeks comment on the advantages or disadvantages of applying one set of rules to transactions between BOCs and their section 272 affiliates and another set of rules (or no rules) to other transactions between incumbent LECs and other types of affiliates? How would this be implemented in situations where an affiliate engages in some activities that are subject to section 272 and other activities that are not?

The Commission seeks comment on the proposal of USTA and BellSouth to modify the centralized service exception to the affiliate transactions rules. That rule states that all services received by a carrier from an affiliate that exists solely to provide services to members of the carrier's corporate family shall be recorded at cost. For these types of affiliates, no fair market valuations are required. USTA and BellSouth have argued that this rule is too restrictive, imposes large costs on carriers to comply, and can cause an affiliate to lose its overall exemption from fair market valuation of all of its services if one service is provided outside of the corporate family. USTA and BellSouth argue that, rather than applying the exception on an affiliate-by-affiliate basis, the exception should be applied on a service-by-service basis. This would allow carriers to record services provided solely within the corporate family at fully distributed cost without fair market valuation, whether or not the affiliate also provided other services outside the corporate family.

The Commission seeks comment on a possible de minimis exception that would mitigate some of the consequences of the current rules. The Commission asks commenters to address whether the Commission should adopt a threshold of \$500,000 for

services provided by an affiliate outside the corporate family. If the Commission adopted such a threshold, an affiliate could provide up to \$500,000 in services outside the corporate family without causing other services it provides solely to the corporate family to undergo fair market valuation. The Commission also asks if there is a different appropriate dollar value threshold. Alternatively, the Commission seeks comment on whether the exception should be based on a percentage of transactional volume of the service. For example, if a service is provided outside the corporate family and the transactional volume amounts to only five or ten percent of all of the affiliate's services volume, should transactions within the corporate family remain exempt from the fair market valuation requirement? If the Commission adopts a percentage threshold, should that threshold be five percent, ten percent, or some other percentage?

B. Conforming Amendments to Part 36 Separations Rules (CC Docket No. 80-286)

Most of the part 32 revisions adopted in the *Phase 2 Report and Order* (published elsewhere in this issue) consolidate Class A accounts to the Class B level. The Commission tentatively concludes that the elimination of Class A summary accounts will require clarifying revisions to part 36. For example, the elimination of Account 6110, Network support expense, from Class A accounting will require §§ 36.310 and 36.311 of the Commission's rules to be revised to reflect Network support expenses as the sum of accounts 6112, 6113, and 6114. In contrast, Class B accounting will retain Account 6110. Therefore §§ 36.310 and 36.311 will remain intact for Class B carriers, but must be revised to clarify that the use of Account 6110 is for Class B carriers only.

The Commission also tentatively concludes that other changes to part 36 are required as a result of the elimination of Accounts 2215, 3500, 3600, 5000, 5080, 5084, and 6710 from both Class A and Class B accounting. The part 36 sections referencing these accounts will require revisions to reflect the respective accounts now utilized. The Commission proposes to revise, wherever necessary, those part 36 sections affected by the revisions adopted in the *Phase 2 Report and Order*. The Commission seeks comment on these proposed conforming amendments.

In the *Phase 2 Report and Order*, the Commission adopted subaccounts for five existing accounts: 2212, Digital electronic switching; 2232, Circuit equipment; 6212, Digital electronic switching expense; 6232, Circuit equipment expense; and 6620, Services. For now, these accounts will continue to be separated in accordance with current part 36 rules, including the requirements of Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, CC Docket No. 80-286, *Report and Order*, 66 FR 33202 (6-21-2001) (*Separations Freeze Order*), and are subject to the conforming part 36 amendments proposed in the preceding paragraph. The Commission seeks comment on whether the creation of subaccounts warrants any modification to the separations treatment of these accounts.

Commenters should also suggest any additional particular part 36 rules that should be revised, how they should be revised, and which part 32 modification in the *Phase 2 Report and Order* forms the basis for each suggested revision. The Commission also seeks comment on interplay of the recent *Separations Freeze Order* with any suggested revisions.

Finally, the Commission welcomes input from the Federal-State Joint Board on Separations on these issues.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking (FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this FNPRM, which are set out in paragraphs 226-230 of the Report and Order and Further Notice of Proposed Rulemaking. The Commission will send a copy of this *FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, this FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Action: The Commission has initiated this FNPRM to seek comment on whether we should sunset our accounting and reporting rules; whether ARMIS information, particularly infrastructure data, would be better captured in the Local Competition and Broadband Data Gathering Program

instead of through ARMIS; eliminating or streamlining our rules for continuing property records and our affiliate transactions rules; and what, if any, conforming amendments the Commission should make to its part 36 rules to reflect the revisions to the part 32 rules set forth in the *Phase 2 Report and Order*. The first issue, which discusses in general terms sunsetting the Commission's accounting rules, would not increase the reporting or recordkeeping requirements for small entities. The third and fourth issues, regarding streamlining or eliminating our continuing property records rules and our affiliate transactions rules, would probably not significantly affect small entities. Our proposals in these two areas would, if adopted, result in decreasing recordkeeping requirements and reducing the number of fair market value estimations. The fifth issue merely seeks to conform part 36 to the rule changes adopted in the *Phase 2 Report and Order*. The second issue, however, would probably impact small entities. The second issue addresses the means by which the Commission collects ARMIS data, particularly infrastructure data. The Commission seeks comment on whether such collection should be implemented through the Local Competition and Broadband Data Gathering Program instead of through ARMIS. Under the Local Competition and Broadband Data Gathering Program, facilities-based service providers with at least 250 full or one-way broadband lines or wireless channels in a given state complete applicable portions of the Form 477 for that state and local exchange carriers with 10,000 or more local telephone service lines, or fixed wireless channels, in a state must complete the applicable portions of the Form 477 for each state in which they serve 10,000 or more subscribers. This is a larger group of service providers than the 30 mandatory price cap LECs that file infrastructure reporting requirements. The objective for this proposed action—to collect this data from smaller companies, in addition to the Bell Operating Companies—would be to give the Commission more information about the infrastructure of these companies.

Legal Basis. The legal basis for the action as proposed for this rulemaking is contained in sections 1-5, 10, 11, 201-205, 215, 218-220, 251-271, 303(r), 332, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151-155, 160, 161, 201-205, 215, 218-220, 251-271, 303(r), 332, 403, 502, and 503.

Description and Estimate of the Number of Small Entities to which the

Proposed Action May Apply. The Commission seeks comment on whether it should revise its rules so that data collection in ARMIS, particularly infrastructure data, should be collected pursuant to the Local Competition and Broadband Data Gathering Program. Under the Local Competition and Broadband Data Gathering Program, facilities-based service providers with at least 250 full or one-way broadband lines or wireless channels in a given state complete applicable portions of the Form 477 for that state. In addition, local exchange carriers with 10,000 or more local telephone service lines, or fixed wireless channels, in a state must complete the applicable portions of the Form 477 for each state in which they serve 10,000 or more subscribers. Currently, 30 mandatory price cap LECs file infrastructure reporting requirements. Fifty-two LECs file the financial ARMIS reports. Additional LECs are subject to service quality reporting requirements. Thus, if ARMIS information were captured pursuant to the Local Competition and Broadband Data Gathering Program, the data would be collected from more entities than from which the ARMIS data are collected today. The Commission sets out below a description of the types of entities that could possibly be required to comply with the proposed reporting

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. To estimate the number of small entities that may be affected by the proposed rules, we first consider the statutory definition of "small entity" under the RFA. The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA. Recently, the SBA has defined a small business for "wired telecommunications carriers," "paging," "cellular and other wireless telecommunications," and "telecommunications resellers" to be small entities when they have no more than 1,500 employees.

The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data derived from filings made in connection with the Telecommunications Reporting Worksheet (FCC Form 477). According to data in the most recent report, there are 4,822 interstate service providers. These providers include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

The Commission has included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission, therefore, has included small incumbent LECs in this RFA analysis, although this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

Total Number of Telephone Companies Affected: The Commission's Industry Analysis Division of the Common Carrier Bureau compiles a report, Trends in Telephone Service, based on data from various sources, including the FCC Form 499-A worksheets filed by telecommunications carriers. According to Trends in Telephone Service, there were 4,822 service providers filing the FCC Form 499-A on April 1, 2000. Of these carriers, 3,875 had, in combination with affiliates, 1,500 or fewer employees and 947 had, in combination with affiliates, more than 1,500 employees. These numbers contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communications service (PCS) providers, covered specialized mobile radio (SMR) providers, and resellers. It seems certain that some of those telephone service firms may not qualify as small entities or small incumbent

LECs because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,875 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules proposed in the FNPRM.

Wireline carriers (incumbent LECs). According to Trends in Telephone Service, there were 1,335 incumbent local exchange carriers filing the FCC Form 499-A on April 1, 2000. Of these carriers, 1,037 had, in combination with affiliates, 1,500 or fewer employees and 298 had, in combination with affiliates, more than 1,500 employees. Some of these carriers may not be independently owned or operated, but we are unable at this time to estimate with greater precision the number of wireline carriers that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 1,037 wireline small entities that may be affected by the decisions and rules proposed in the FNPRM.

Other wireline carriers (other than incumbent LECs). According to Trends in Telephone Service, there were 496 fixed local service providers, other than incumbent LECs, filing the FCC Form 499-A on April 1, 2000. Of these carriers, 439 had, in combination with affiliates, 1,500 or fewer employees and 57 had, in combination with affiliates, more than 1,500 employees. These companies include competitive access providers, competitive local exchange providers, resellers, and other local exchange carriers. Some of these carriers may not be independently owned or operated, but we are unable at this time to estimate with greater precision the number of wireline carriers (other than incumbent LECs) that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 439 wireline small entities (other than incumbent LECs) that may be affected by the decisions and rules proposed in the FNPRM.

Wireless telecommunications service providers. According to Trends in Telephone Service, there were 1,495 wireless service providers filing the FCC Form 499-A on April 1, 2000. Of these carriers, 989 had, in combination with affiliates, 1,500 or fewer employees and 506 had, in combination with affiliates, more than 1,500 employees. The wireless service providers include

cellular, PCS, SMR, paging and messaging service, SMR dispatch, wireless data service providers, and other mobile service providers. Some of these carriers may not be independently owned and operated; however, the Commission is unable at this time to estimate with greater precision the number of wireless carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 989 small entity "cellular and other wireless telecommunications" providers that may be affected by the rules proposed in the FNPRM.

Payphone service providers. According to Trends in Telephone Service, there were 758 payphone service providers filing the FCC Form 499-A on April 1, 2000. Of these carriers, 755 had, in combination with affiliates, 1,500 or fewer employees and 3 had, in combination with affiliates, more than 1,500 employees. Some of these companies may not be independently owned and operated; however, the Commission is unable at this time to estimate with greater precision the number of payphone service providers that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 755 small entity payphone service providers that may be affected by the rules proposed in the FNPRM.

Toll service providers. According to Trends in Telephone Service, there were 738 toll service providers filing the FCC Form 499-A on April 1, 2000. Of these carriers, 656 had, in combination with affiliates, 1,500 or fewer employees and 82 had, in combination with affiliates, more than 1,500 employees. The toll service providers include interexchange carriers, operator service providers, prepaid calling card providers, satellite service providers, toll resellers, and other toll carriers. Some of these carriers may not be independently owned and operated; however, the Commission is unable at this time to estimate with greater precision the number of toll service providers that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 656 small entity toll service providers that may be affected by the rules proposed in the FNPRM.

Description of Proposed Reporting, Recordkeeping, and Other Compliance Requirements: The FNPRM seeks comment on whether ARMIS information, particularly infrastructure data, would be better captured in the Commission's Local Competition and

Broadband Data Gathering Program. Pursuant to the current Local Competition and Broadband Data Gathering Program, certain providers of broadband services and of local telephone services must complete FCC Form 477, which collects data on their deployment of those services. Specifically, under the Local Competition and Broadband Data Gathering Program, facilities-based service providers with at least 250 full or one-way broadband lines or wireless channels in a given state complete applicable portions of the FCC Form 477 for that state. In addition, local exchange carriers with 10,000 or more local telephone service lines, or fixed wireless channels, in a state must complete the applicable portions of the Form 477 for each state in which they serve 10,000 or more subscribers. These reporting entities may include more companies than the incumbent LECs currently reporting in ARMIS.

Currently, 30 mandatory price cap LECs, the operating companies of Verizon, BellSouth, SBC, and Qwest, file infrastructure reporting requirements. The financial ARMIS reports are filed by 52 local exchange carriers. Additional LECs are subject to service quality reporting requirements; however, service quality reporting issues are not addressed in this proceeding. Thus, if ARMIS information were captured pursuant to the Local Competition and Broadband Data Gathering Program, the data may be collected from more entities than from which the ARMIS data is collected today. The FNPRM also seeks comment on whether the data discussed in the Phase 3 Report and Order should be captured in the Local Competition and Broadband Data Gathering Program, instead of ARMIS.

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

The FNPRM seeks comment on whether the Commission should sunset

the accounting and reporting rules; whether ARMIS information, particularly infrastructure data, would be better captured in the Local Competition and Broadband Data Gathering Program instead of through ARMIS; and what, if any, conforming amendments the Commission should make to its part 36 rules to reflect the revisions to the part 32 rules set forth in the *Phase 2 Report and Order*. The first, third, and fourth issues, which seek comment on reducing accounting and reporting requirements in the future and discusses sunset accounting rules and reporting requirements, would not increase reporting or recordkeeping requirements for small entities. The fifth issue merely seeks to conform part 36 to the rule changes adopted in the *Phase 2 Report and Order*. This is needed due to the consolidation of several Class B accounts that are also used in part 36. The alternative to conforming our part 36 rules would be not to streamline the part 32 rules. Without the part 32 rule changes, there would be no need to conform the part 36 rules. The part 32 rule changes in the *Phase 2 Report and Order*, however, represent a significant reduction in both Class A and Class B accounts. Therefore, conforming amendments to the part 36 jurisdictional separations rules would be a result of the consolidation of part 32 accounts and should not be a significant economic impact on small entities.

The data collection issue, however, would probably have a reporting and recordkeeping requirement impact on some small entities. This issue addresses the means in which the Commission collects ARMIS data, particularly infrastructure data. The Commission seeks comment on whether such collection should be implemented through the Local Competition and Broadband Data Gathering Program instead of through ARMIS. Currently, the Local Competition and Broadband Data Gathering Program does not collect infrastructure data, and any rule change adopted to expand that program in order to collect data currently collected in ARMIS may involve information collection from more entities, including small entities. With respect to minimizing the significant economic impact on small entities, the Commission could reduce the data requested from the rows currently reported in the relevant ARMIS reports. Any such reporting on the part of small entities would, however, be an increase over the current reporting requirement, as these entities do not currently report ARMIS infrastructure data at all. With

respect to significant alternatives, the Commission could continue to collect such information in ARMIS. Currently, the infrastructure data in ARMIS 43–07 are collected from 30 mandatory price cap carriers (operating companies of Verizon, SBC, BellSouth, and Qwest.) The Commission does not collect this information from other, smaller entities. If the Commission does not adopt such a rule change, small entities will not be affected. Alternatively, the Commission could adopt the rule change but specify that the data collection applies only to the mandatory price cap companies. The Commission seeks comment on these options.

Federal Rules that may Duplicate, Overlap, or Conflict With the Proposed Rules. None.

Report to Congress: the Consumer Information Bureau, Reference Information Center, shall provide a copy

of this IRFA to the Chief Counsel for Advocacy of the SBA, and include it in the report to Congress pursuant to the SBREFA.

Ordering Clauses

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. sections 154(i), 154(j), 161, 201(b), 303(r), and 403, this Further Notice of Proposed Rulemaking in CC Docket Nos. 80–286, 99–301, and 00–199 is adopted.

The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Report and Order and Further Notice of Proposed Rulemaking, including the two Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 32

Communications Common Carriers, Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts.

47 CFR Part 36

Communications Common Carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 64

Communications Common Carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02–1213 Filed 2–5–02; 8:45 am]

BILLING CODE 6712–01–P