is advised that this action will be effective on March 24, 1997.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 24, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: December 17, 1996.

Michelle D. Jordan,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(132) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(132) On January 8, 1996, Illinois submitted a site-specific revision to the State Implementation Plan establishing lubricant selection and temperature control requirements for the hot and cold aluminum operations at Reynolds Metals Company's McCook Sheet and Plate Plant in McCook, Illinois (in Cook County), as part of the Ozone Control Plan for the Chicago area.

(i) Incorporation by reference. September 21, 1995, Opinion and Order of the Illinois Pollution Control Board AS 91–8, effective September 21, 1995.

[FR Doc. 97–1331 Filed 1–17–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32 and 53

[CC Docket No. 96–150; FCC 96–490]

Accounting Safeguards Under the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On December 23, 1996, the Commission adopted a Report and Order (''Order'') establishing accounting safeguards necessary to satisfy the requirements of Sections 260 and 271 through 276 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (''1996 Act''). This Order prescribes the way incumbent local exchange carriers, including the Bell Operating Companies (''BOCs''), must account for transactions with affiliates involving, and allocate costs incurred in the provision of, both regulated telecommunications services and nonregulated services, including telemessaging, interLATA telecommunications, information, manufacturing, electronic publishing, alarm monitoring and payphone services, to ensure compliance with the 1996 Act.

EFFECTIVE DATE: The requirements and regulations established in this Order shall become effective upon approval by OMB of the new information collection requirements adopted herein, but no sooner than February 20, 1997. The Commission will publish a document at a later date establishing the effective date.

FOR FURTHER INFORMATION CONTACT: Mark Ehrlich, Attorney/Advisor, Accounting and Audits Division, Common Carrier Bureau, (202) 418–0385. For additional information concerning the information collections contained in this Report and Order contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This Report and Order contains new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget

(OMB) for review under the PRA. OMB, the general public, and other federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding. This is a summary of the Commission's Report and Order adopted December 23, 1996, and released December 24, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 239), 1919 M St., N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcript Service (202) 857–3800 1919 M Street, N.W., Suite 246, Washington, D.C. 20554.

Paperwork Reduction Analysis

This Report and Order contains either a new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Order, as required by the Paperwork Reduction At of 1995, Public Law No. 104–12. Written comments by the public on the information collections are due 30 days after date of publication in the Federal Register. OMB notification of action is due March 24, 1997. Comments should address: (1) Whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0734

Title: Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996.

Form No.: N/A.

Type of Review: Revision.

Respondents: Businesses or other for profit.

Section/title	No. of respondents	Est. time per Response (hrs.)	Total annual burden (hrs.)
Affiliate Company, Books, Records & Accounts, Section 272	20	6,056.25	121,125
Affiliate Company, Books, Records & Accounts, Section 274	7	6,056.25	42,383.75
Est. Fair Market, Value—Recordkeeping	20	24	480
Arms' Length Requirement	7	72	504
Biennial Federal/State Audit/Audit Planning/ Audit Analysis & Evaluation	7	250	1,750
Filing Written Contract	7	1	7
Compliance Audit	7	250	1,750
Report of Exceptions	7	80	560
10–K Requirement	7	1,711	11,977

Total Annual Burden: 180,536.75 Hours.

Estimated Costs Per Respondents: $632,500.

Needs and Uses: The information that subject carriers are required to submit under the Order will enable the Commission to ensure that the subscribers to regulated telecommunications services do not bear the costs of these new nonregulated services and that transactions between affiliates and carriers will be at prices that do not ultimately result in unfair rates being charged to ratepayers. If the information collections in this submission are not conducted, or conducted less frequently, the Commission would not be able to prevent cross-subsidization between these new nonregulated activities and the local exchange carriers' regulated operations and the Commission would not be in compliance with the 1996 Act. The Commission concludes that the burden on the BOCs and incumbent local exchange carriers to comply with these rules will be minimal.

Regulatory Flexibility Analysis

We have determined that Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. § 605(b), does not apply to these rules because they will not have a significant economic impact on a substantial number of small entities. 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 Small Business Administration. Entities directly subject to these rule changes are engaged in the provision of local exchange and exchange access telecommunications services. These entities are generally large corporations that are dominant in their fields of operations and thus, are not ''small entities'' as defined by the Act. While these companies may have fewer than 1,500 employees and thus fall within the SBA's definition of small telecommunications entity, we do not believe that such entities should be considered small entities within the meaning of the Regulatory Flexibility Act. Because the small incumbent local exchange carriers subject to these rules are either dominant in their field of operations or are not independently owned and operated, they should be excluded from the definition of ''small entity'' and ''small business concerns.'' Moreover, to the extent that small telephone companies will be affected by these rules, we hereby certify that these rules will not have a significant economic effect on a substantial number of ''small entities.'' Although we do not find that the Regulatory Flexibility Act is applicable to this proceeding, this Commission has an ongoing concern with the effect of its rules and regulation on small business and the customers of the regulated carriers as is evidenced by this proceeding.

Summary of Report and Order

I. Safeguards for Integrated Operations

The Order establishes accounting safeguards for telemessaging, certain interLATA telecommunications and information, alarm monitoring, and payphone services that the BOCs and other incumbent local exchange carriers may provide on an integrated basis in accordance with sections 260, 271, 275 and 276 of the 1996 Act. It concludes that our existing cost allocation rules satisfy the requirements of these sections that certain competitive telecommunications and information services not be subsidized by subscribers to regulated

telecommunications services. In general, our current cost allocation rules help ensure that interstate ratepayers do not bear the costs and risks of the telephone companies' nonregulated activities by prescribing how telecommunications carriers must separate the costs of certain regulated activities from the costs of nonregulated activities. Under these rules, incumbent local exchange carriers may not apportion the costs of nonregulated activities to regulated products and services. We discuss below the application of our cost allocation rules to services permitted under sections 260, 271, 275, and 276.

Section 260—Telemessaging Service

Section 260(a)(1) provides that each incumbent local exchange carrier providing telemessaging service ''shall not subsidize its telemessaging service directly or indirectly from its telephone exchange service or its exchange access.'' ''Telemessaging service'' includes voice mail and voice storage and retrieval services, and any live operator services used to record, transcribe, or relay messages. The Order concludes that our existing accounting safeguards will effectively prevent cross-subsidization of telemessaging services in accordance with section 260(a)(1). Our existing Part 64 cost allocation rules are designed to prevent cross-subsidization of nonregulated activities such as telemarketing by establishing a methodology for allocating joint and common costs between regulated and nonregulated activities. Under our cost allocation rules, carriers must assign costs directly, wherever possible, to regulated or nonregulated activities. If costs cannot be directly assigned, they are considered ''common costs'' and must be placed in homogenous cost pools. The carrier must then divide the costs in each pool between regulated and nonregulated activities using formulas or factors known as ''allocators.'' Whenever possible, common costs must be directly attributed based upon a direct analysis of the origins of those costs. Common costs that cannot be directly attributed must be indirectly attributed based on an indirect, but cost-causative, linkage to another cost pool or pools for which a direct assignment or attribution is possible. Only if direct or indirect attribution factors are not available may the carrier allocate a pool of common costs using what is known as a ''general allocator.''

Section 271—InterLATA Telecommunications Services

Section 254(k) prohibits telecommunications carriers from using ''services that are not competitive to subsidize services that are subject to competition.'' The Order concludes that section 254(k) bars all incumbent local exchange carriers, including BOCs, from subsidizing competitive interLATA telecommunications services, such as out-of-region services and certain types of incidental interLATA services, with revenues from exchange services and exchange access that are not subject to competition. Moreover, it concludes that our cost allocation rules, as outlined above, should apply to interLATA telecommunications services, including out-of-region services and certain types of incidental services, that may be provided by incumbent local exchange carriers on an integrated basis. However, in order to protect against improper cost allocations from one regulated activity to another regulated activity, we will now treat both out-of-region and certain types of incidental interLATA services that may be provided by incumbent local exchange carriers on an integrated basis like nonregulated activities.

Section 272(e)(3)—Imputation of Charges

Section 272(e)(3) requires that ''[a] Bell operating company * * * impute to itself (if using [exchange] access for its provision of its own services), an amount for access that is *no less than* the amount charged to any unaffiliated interexchange carriers for such service.'' The Order concludes that to record imputed exchange access charges required under section 272(e)(3), BOCs should debit the nonregulated operating revenue account by the amount of the imputed exchange access charges and credit the regulated revenue account by the amount of the imputed exchange access charges. By requiring BOCs to account for imputed exchange access charges in this manner, the accounting for this imputed revenue will be consistent with our current accounting rules for imputing revenues derived from services provided to nonregulated affiliates. Where a BOC charges different rates to different unaffiliated carriers for access to its telephone exchange service, the BOC must impute to its integrated operations the highest rate paid for such access by unaffiliated carriers. In determining the highest rate paid by unaffiliated carriers, the BOC may consider the comparability of the service provided. If, for example, rates charged unaffiliated carriers vary based on the volume purchased, the BOC may consider comparable volume in determining the highest rate to impute to its integrated operations. Accordingly, a BOC may take advantage of the same volume discount purchases offered to its interLATA affiliate and other unaffiliated carriers.

Section 275—Alarm Monitoring Services

Section 275(e) defines ''alarm monitoring service'' as ''a service that uses a device located at a residence, place of business, or other fixed premises (1) to receive signals from other devices located at or about such premises regarding a possible threat at such premises to life, safety, or property, from burglary, fire, vandalism, bodily injury, or other emergency, and (2) to transmit a signal regarding such threat by means of transmission facilities of a local exchange carrier or one of its affiliates to a remote monitoring center to alert a person'' about the emergency. Section 275(b)(2) specifies that an incumbent local exchange carrier engaged in the provision of alarm monitoring services ''not subsidize its alarm monitoring services either directly or indirectly from telephone exchange service operations.'' As with the prohibition against subsidizing telemessaging services, the Order concludes that our present Part 64 cost allocation rules will adequately safeguard against the subsidies prohibited by section 275(b)(2).

Section 276—Payphone Services

Section 276(a)(1) states that ''any Bell operating company that provides payphone service shall not subsidize its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations.'' To implement the prohibition, section 276(b)(1)(C) directs the Commission to prescribe nonstructural safeguards for BOC payphone service that, ''at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90–623) proceeding.'' In Computer III, we examined our regulatory regime for the provision of enhanced services and replaced our previous requirements with a series of nonstructural safeguards. These safeguards included the Part 64 cost allocation rules and the affiliate transactions rules. Our experience with accounting safeguards in Computer III has demonstrated that these safeguards can effectively guard against the subsidization of competitive activities by regulated ratepayers, which section 276 prohibits. Accordingly, the Order concludes that we should apply accounting safeguards identical to those adopted in Computer III to BOCs and incumbent local exchange carriers

providing payphone service on an integrated basis.

II. Safeguards for Separated Operations

Previously, we adopted rules to govern how carriers record costs when conducting business with nonregulated affiliates. These affiliate transactions rules were designed to protect ratepayers from subsidizing the competitive ventures of incumbent local exchange carriers' affiliates. The affiliate transactions rules do not require carriers or their affiliates to charge any particular price for assets transferred or services provided; rather, the rules require carriers to use certain specified valuation methods in determining the amounts to record in their Part 32 accounts, regardless of the prices charged. The Order concludes that, except where the 1996 Act imposes specific additional requirements, our current affiliate transactions rules generally satisfy the statute's requirement of safeguards to ensure that these services are not subsidized by subscribers to regulated telecommunications services. However, the Order adopts several modifications to our current affiliate transactions rules, as discussed more fully below. These modifications apply to all transactions between incumbent local exchange carriers currently subject to these rules and their affiliates, not just to transactions between BOCs and their affiliates required under the Act.

Section 272—Manufacturing and InterLATA Services

Section 272(b)(5) of the 1996 Act requires that transactions between a BOC and its affiliates engaged in the manufacturing activities, origination of interLATA telecommunications services, and offering of interLATA information services described in section 272(a)(2) be conducted on ''an arm's length basis.'' The Order concludes that our affiliate transactions rules will ensure compliance with the ''arm's length'' requirement of section 272(b)(5). Furthermore, in order to satisfy section 272(b)(5)'s requirement that transactions between section 272 affiliates and the BOC of which they are an affiliate be ''reduced to writing and available for public inspection,'' the Order requires the separate affiliate, at a minimum, to provide a detailed written description of the asset or service transferred and the terms and conditions of the transaction on the Internet within 10 days of the transaction through the company's home page. The description of the asset or service and the terms and conditions of the transaction should be sufficiently detailed to allow us to evaluate compliance with our accounting rules. This information must also be made available for public inspection at the principal place of business of the BOC, along with a certification statement described in the Order. While section 272(b)(5) requires BOCs to reduce their transactions to writing and make them ''available for public inspection,'' we will protect the confidential information of BOCs, as well as other incumbent local exchange carriers.

Changes to the Affiliate Transactions Rules

Prevailing Price

Under our current affiliate transactions rules, BOCs may use, under certain circumstances, the ''prevailing price'' method as a valuation method for recording affiliate transactions between themselves and their affiliates engaged in activities described in section 272(a)(2). The prevailing price describes the price at which a company offers an asset or service to the general public. Prevailing price currently represents just one component in the hierarchy of methods for valuing transactions between a carrier and its affiliate. A carrier subject to our current affiliate transactions rules currently uses one of the following methods to value asset transfers for regulated accounts: (1) Tariffed rates, (2) prevailing company prices, (3) net book cost, or (4) estimated fair market value. In comparison, carriers must record transactions involving services in their Part 32 accounts according to one of three valuation methods: (1) Tariffed rates, (2) prevailing company prices, or (3) fully distributed cost.

One of the difficulties we have identified with respect to prevailing price valuation has been determining when carriers should apply the prevailing price method to transfers of particular assets or services. The mere offering of an asset or service to unaffiliated entities is not sufficient to establish a prevailing price. A substantial quantity of business must be conducted with unaffiliated third parties in order to establish a true prevailing price. Specifically, if the percentage of third-party business is small, there can be no assurance that the price agreed upon by the carrier and its affiliate represents the true market price, thus raising legitimate questions as to whether the parties actually negotiated ''on an arm's length basis.'' In such situations, the use of prevailing prices to value transactions could permit an affiliate to charge inflated prices to its affiliated regulated carrier, possibly leading to higher prices for customers purchasing the regulated services. The Order solves these difficulties by modifying and clarifying the prevailing price valuation method.

Our previous rules did not clarify the meaning of a ''substantial'' amount of third-party business for the purpose of establishing a true prevailing price. The Order concludes that annual sales, as measured by quantity, of greater than 50 percent of a particular product or service to third parties must occur to satisfy the requirement that there be a ''substantial'' amount of outside business in order to produce a true prevailing price for that particular product or service. The Order also concludes that this 50 percent threshold must be applied on a product-by-product and service-by-service basis, rather than on a product-line or service-line basis, because applying the 50 percent threshold on a product-line or service-line basis would give carriers the incentive to define product lines and service lines as broadly as possible in order to be able to value as many transactions as possible at prevailing price. However, products and services subject to section 272 need not meet the 50 percent threshold in order for a BOC to record the transaction involving such products and services at prevailing price.

Valuation Methods for Assets and Services

Our Part 64 cost allocation rules direct subject carriers to use different methods to value transfers of assets and transfers of services. The Order directs carriers to now apply the valuation method currently prescribed for asset transfers to service transfers as well. We believe that requiring carriers to use the same valuation methods for both services and asset transfers will reduce the incentive for a carrier to record an affiliate transaction as a service transfer, rather than an asset transfer. Requiring a carrier to value transfers of services using the same valuation methods currently used for asset transfers will reduce the carrier's ability to value a transfer so that a carrier can pass on to their affiliates any financial advantages flowing from how they choose to characterize the transaction. We continue, however, to define the cost of asset transfers in terms of net book cost and the cost of service transfers in terms of fully distributed costs because the net book cost of an asset is comparable to the fully distributed cost of a service.

However, transactions where a carrier *purchases* from its affiliate services that are neither tariffed nor subject to prevailing company prices and such

affiliate exists *solely* to provide services to members of the carrier's corporate family will continue to be valued at fully distributed cost. This allows ratepayers to enjoy the benefits of economies of scale and scope that are created by an affiliate established to provide services solely to the carrier's corporate family. Requiring carriers to perform fair market valuations for such transactions would increase the cost to ratepayers while providing limited benefit.

Fair Market Value

The Order concludes that the procedures carriers use in estimating fair market value should vary with the circumstances of each transaction. For this reason, the Order does not specify the methodologies that carriers must follow to estimate fair market value where such a valuation method is required under the affiliate transactions rules. Allowing carriers to make good faith determinations of fair market value, rather than prescribing specific methodologies, will provide them with the flexibility to use a methodology appropriate for the circumstances of the transaction. This good faith requirement will help ensure that transactions involving a BOC and its section 272 affiliate satisfy the ''arm's length'' requirement of section 272. Furthermore, this good faith requirement is now imposed on all affiliate transactions between an incumbent local exchange carrier currently subject to our affiliate transactions rules and any of its affiliates, not just to affiliate transactions involving the activities described in section 272(a). When estimating the market value of transactions using independent valuation methods, carriers may use appraisals, catalogs listing similar items, competitive bids, replacement cost of an asset, and net realizable value of an asset. If sales to third parties of a product at a particular price generate large revenues then the sale price is strong evidence of a good faith estimate of fair market value. When situations arise involving transactions that are not easily valued by independent means, the Order requires carriers to maintain records sufficient to support their value determination. Specifically, the valuation method chosen by the carrier must succeed in capturing the available supporting information regarding the transaction and must utilize generally accepted techniques and principles regarding the particular type of transaction at issue.

Tariffed-Based Valuation

Under section 252, incumbent local exchange carriers may submit agreements adopted by negotiations or arbitration to State commissions for approval or rejection without filing a tariff. Alternatively, they may file statements of generally available terms pursuant to section 252(f) that state terms on which these incumbent local exchange carriers would provide services to all customers who desire them. The Order amends our affiliate transactions rules to allow incumbent local exchange carriers to use charges appearing in publicly-filed agreements submitted to a State commission pursuant to section 252(e) or statements of generally available terms pursuant to section 252(f) in the place of tariffed rates when tariffed rates are not available.

Return Component for Allowable Costs

Previously, the Commission determined that fully distributed costs should include a return on investment, but no ''profit'' in excess of the return then prescribed for the carrier's interstate regulated activities. Consequently, carriers that utilize fully distributed cost to value affiliate transactions include in their cost computations a component for rate of return. The Commission has prescribed a unitary, overall rate of return of 11.25 percent for those incumbent local exchange carriers still subject to rate-of-return regulation to use in computing interstate revenue requirements, unless a carrier can show that such use would be confiscatory. The Order concludes that incumbent local exchange carriers should use the rate of return on interstate services, as amended periodically by the Commission, to determine the fully distributed costs associated with affiliate transactions. The prescribed interstate rate of return is consistent with the return on investment that an incumbent local exchange carrier could anticipate if it were to use its investment to provide services to third parties. The Order also concludes that for all affiliate transactions, incumbent local exchange carriers bear the burden of demonstrating with specificity that the business risks that they face in providing services to their affiliates would justify a risk-based adjustment to the cost of capital that would result in a rate of return different than 11.25%.

Accounting Requirements of Sections 272(b)(2) and (c)(2)

Section 272(b)(2) requires the separate affiliates prescribed under section 272(a)(2) to ''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 [BOC] of which it is an affiliate.'' The Order concludes that separate affiliates prescribed under section 272(a)(2) must maintain their books, records, and accounts in accordance with GAAP, which will result in a uniform audit trail at minimal cost. Moreover, a requirement of GAAP for separate affiliates required under section 272(a)(2) imposes some degree of uniformity upon these affiliates. We find no reason to impose the additional burden of requiring separate affiliates required under Section 272(a)(2) to maintain their books, records, and accounts in accordance with the Part 32 Uniform System of Accounts.

Application to InterLATA Telecommunications Affiliates

Section 272(b)(5) requires BOC affiliates established under section 272(a), such as an affiliate providing in-region services, to ''conduct all transactions with the Bell operating company of which it is an affiliate on an arm's length basis.'' The Order concludes that the current affiliate transactions rules satisfy section 272(b)(5)'s ''arm's length'' requirement by treating interLATA telecommunications services like a nonregulated activity strictly for accounting purposes, and applying our affiliate transactions rules to transactions between each BOC and any interLATA telecommunications affiliate it establishes under section 272(a), such as an affiliate providing in-region services. However, when a BOC affiliate provides both regulated Title II services permitted under sections 271 and 272, such as interLATA telecommunications services, and nonregulated activities, such as interLATA information services, the Order concludes that we need not apply our cost allocation rules to prevent subsidization of nonregulated activities by subscribers to these interLATA telecommunications services because market forces leave BOC affiliates with little ability to subsidize nonregulated activities by interLATA telecommunications services.

Application to Sharing of Services

BOCs are permitted to share in-house services other than operating, installation, and maintenance services with their section 272 affiliates if the agreement to share in-house services complies with the requirements of section 272, including section 272(b)(1)'s ''operate independently''

requirement, section 272(b)(3)'s ''separate officers, directors, and employees'' requirement, section 272(b)(5)'s ''arm's length'' requirement, and section 272(c)(1)'s nondiscrimination requirements. Earlier in this Order, we determined that our affiliate transactions rules should apply to transactions between BOCs and their section 272 affiliates in order to satisfy section 272(b)(5)'s ''arm's length'' requirement. The Order concludes, therefore, that our affiliate transactions rules apply to transactions between BOCs and their section 272 affiliates for the sharing of in-house services, including joint marketing services. Moreover, the sharing of in-house services by a BOC and its section 272 affiliate constitutes a ''transaction'' under section 272(b)(5) that must be ''reduced to writing and available for public inspection.''

Audit Requirements

Section 272(d) requires that a company required to operate a separate subsidiary under section 272 ''shall obtain and pay for a joint federal/State audit every two years conducted by an independent auditor to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under [section 272(b)].'' The purpose of the required audits is to determine whether the BOCs and their separate subsidiaries are complying with the accounting and structural safeguards required by section 272 and to report the audit results to the Commission and the state regulatory agencies. Because of the critical nature of accounting safeguards in promoting competition in the telecommunication marketplace and the critical role the biennial audit will play in ensuring that the safeguards are working, the Order concludes that the Commission and the States need to oversee the scope, terms and conditions of the biennial audit.

Under the rules adopted in the Order, the Chief, Common Carrier Bureau has the authority to form a federal/State joint audit team with the States having jurisdiction over a BOC's local exchange service. This joint audit team will review the conduct of the audit and direct the independent auditor to take such action as the team finds necessary to ensure compliance with the audit requirements. The structural and transactional requirements and the nondiscrimination safeguards set forth in sections 272(b) 272(c) and 272(e) will be subject to audits. The BOCs cannot hire independent auditors who have participated during the two years preceding the biennial audit in designing any of the systems under review in the audit.

The rules adopted in the Order set an orderly schedule for conducting the audit and for submitting the audit report to the Commission and the States as well as to interested parties for comment. The rules call for participation and agreement by the BOC and by the federal/State joint audit team in defining the scope and purpose of the audit prior to its commencement. The federal/State joint audit team may review and, if necessary, direct modifications to the design of the independent auditor's audit program.

The final audit report must include: (1) The findings and conclusions of the independent auditor; (2) exceptions of the federal/State joint audit team to the auditor's findings and conclusions; (3) response of the BOC to the auditor's findings and conclusions, and (4) reply of the independent auditor to both the exceptions of the federal/State joint audit team and the response of the BOC. The independent auditor's section of the audit report must include a discussion of: (1) The scope of the work conducted, with a description of how the affiliate's or joint venture's books were examined and the extent of the examination; (2) the auditor's findings and conclusions on whether examination of the books, records and operations has revealed compliance or non-compliance with section 272 and with the affiliate transactions rules and any applicable nondiscrimination requirements; and (3) a description of any limitations imposed on the auditor in the course of its review by the affiliate or joint venture or other circumstances that might affect the auditor's opinion. However, the Order does not require a statement by the auditor that the carrier's cost allocation methodologies conform to the Act. The first audit will begin at the close of the first full year of operations. The next audit will begin two years later and will cover the operations of the previous two years. Each BOC must obtain one audit that covers all affiliates engaged in services specified in section 272(a)(2), including resale, rather than requiring individual audits for each of these services.

Workpapers related to the biennial audits, including material obtained from the examined entities, will receive confidential treatment consistent with section 220(f) and the Commission's policy for Part 64 audits. Any State commission having access to the audit workpapers should have provisions in place to ensure the protection of proprietary information as required by section 272(d)(3)(C). Without such provisions in place, a State commission could neither be represented on the federal/State joint audit team nor participate in the biennial audit. To the extent the biennial audit and the cost allocation manual audit under Part 64 overlap, we will permit the biennial audit to meet the requirement of the section 64.904 annual audit. For a biennial audit to satisfy any part of a cost allocation manual audit, we will require a statement by the auditor that the carrier's cost allocation methodologies conform to the Act. We also note that, unlike the biennial audits, the cost allocation manual audits under Part 64 do not involve State participation. Thus, by relying on the biennial audit, we will allow State participation in the overlapping areas of the audits. In their cost allocation manual audit workpapers, the independent auditors should include copies of the audit work performed under the biennial audit.

Section 273—Manufacturing by Certifying Entities

Section 273(d) requires entities that certify telecommunications or customer premises equipment to maintain separate affiliates in order to engage in certain types of manufacturing activities. Under section 273(d)(3), when such an entity certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity, the certifying entity ''shall only manufacture a particular class of telecommunications equipment or customer premises equipment for which it is undertaking or has undertaken, during the previous eighteen months, certification activity * * * through a separate affiliate.'' ''[N]otwithstanding [section 273(d)(3)],'' section 273(d)(1)(B) prohibits ''Bell Communications Research, Inc., or any successor entity or affiliate'' from ''engag[ing] in manufacturing telecommunications equipment or customer premises equipment as long as it is an affiliate of more than 1 otherwise unaffiliated [BOC] or successor or assign of any such company.'' Section 273(d)(3)(B) requires the separate affiliate to ''maintain books, records, and accounts separate from those of the entity that certifies such equipment, consistent with generally acceptable accounting principles[,]'' and to ''have segregated facilities and separate employees'' from the certifying entity. Section 273(g) permits ''[t]he Commission [to] prescribe such additional rules and regulations as the Commission determines necessary to carry out the provisions of this section,

and otherwise to prevent discrimination and cross-subsidization in a [BOC's] dealings with its affiliates and with third parties.''

The Order concludes that our affiliate transactions rules, as modified here, satisfy section 273(g)'s requirement that we ''prescribe such additional rules and regulations as [we] determine are necessary to * * * prevent * * * cross-subsidization in a [BOC's] dealings with its affiliate.'' Elsewhere in this Order, we concluded that BOCs are subject to the modified affiliate transactions rules in their dealings with their affiliates engaged in activities permitted under section 272(a), including manufacturing affiliates, in order to assure compliance with the ''arm's length'' requirement of section 272(b)(5). Accordingly, BOCs that perform certification activities are already subject to the affiliate transactions rules in dealings with their manufacturing affiliates under section 272(b)(5) and current conditions do not warrant additional rules to satisfy section 273(g). In addition, as long as a certifying entity, such as Bellcore, remains affiliated with a regulated BOC, our affiliate transactions rules apply to any transactions between that certifying entity and its section 273 separated, nonregulated manufacturing affiliate that ultimately result in an asset or service being provided to the BOC.

Section 274—Electronic Publishing

Section 274 prescribes the terms under which a BOC may offer electronic publishing. Section 274(a) permits a BOC or its affiliate to provide electronic publishing over its own or its affiliate's basic telephone service only through a ''separated affiliate'' or an ''electronic publishing joint venture.'' The Order concludes that in order to satisfy sections 274(b) and 254(k), we must apply our affiliate transactions rules, as modified in this Order, to transactions between BOCs and their ''separated'' electronic publishing affiliates or joint ventures. This will serve as a safeguard against the misallocation of costs from a BOC's nonregulated services, such as electronic publishing services, to regulated telecommunication services. Our affiliate transactions rules, as modified in this Order, prevent the BOCs' ratepayers from bearing the costs of competitive services provided by BOC affiliates and are, therefore, sufficient to implement section 254(k)'s requirement that carriers not ''use services that are not competitive to subsidize services that are subject to competition.''

Section 274(b)(8) requires that a BOC and its electronic publishing ''separated'' affiliate or joint venture each perform an annual compliance review conducted by ''an independent entity'' to determine compliance with section 274. The Order concludes that we need not adopt any rules regarding the compliance review beyond the plain language of section 274(b)(8)(A). Because of the differences between a compliance review under section 274 and an audit, it further concludes that a carrier may not use the electronic publishing compliance review to satisfy any portion of the annual cost allocation manual audit required by section 64.904 of the Commission's rules.

Section 274(b)(9) requires the BOC and its electronic publishing ''separated'' affiliate or joint venture to file a report with the Commission of any exceptions and corrective action resulting from the compliance review. Section 274(b)(9) further requires the Commission to ''allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under [section 274].'' The Order found that these requirements of section 274(b)(9) are self-effectuating and, therefore, we need not adopt any rules regarding this requirement beyond the plain language of section 274(b)(9). The same treatment will be given to confidential information in such reports as is applied to confidential information contained in other Commission filings.

Section 274(f)'s Reporting Requirement

Section 274(f) requires any ''separated'' affiliate under section 274 to file annual reports with the Commission ''in a form substantially equivalent to the Form 10–K required by regulations of the Securities and Exchange Commission.'' To minimize burdens on the filing companies, the Order concludes that when an electronic publishing ''separated'' affiliate already files a Form 10–K with the SEC, the ''separated'' affiliate may file the same Form 10–K with the Common Carrier Bureau within 90 days after the end of the ''separated'' affiliate's fiscal year in satisfaction of section 274(f)'s requirements. For each ''separated'' affiliate not subject to the SEC's Form 10–K requirement, however, the Order concludes that the ''separated'' affiliate need not file an actual SEC Form 10–K with the Commission. Instead, such affiliates must file with the Commission a report containing the same information as is required in the SEC's Form 10–K. In accordance with section 274(f), the report must be organized ''in a form substantially equivalent to the Form 10–K required by regulations of the [SEC].''

Section 274 Transactional Requirements

Section 274(b)(1) requires the ''separated'' affiliate or joint venture and the BOC with which it is affiliated to ''maintain separate books, records, and accounts and prepare separate financial statements.'' Section 274(b) requires the ''separated'' affiliate or joint venture to ''be operated independently from the [BOC].'' Pursuant to section 274(b)(3), the ''separated'' affiliate or joint venture and the BOC with which it is affiliated must ''carry out transactions (A) in a manner consistent with such independence, (B) pursuant to written contracts or tariffs that are filed with the Commission and made publicly available, and (C) in a manner that is auditable in accordance with generally accepted auditing standards.'' Section 274(b)(4) requires the ''separated'' affiliate or joint venture to ''value any assets that are transferred directly or indirectly from the [BOC] to a separated affiliate or joint venture, and record any transactions by which such assets are transferred, in accordance with such regulations as may be prescribed by the Commission or a State commission to prevent improper cross subsidies.'' The Order concludes that section 274(b)(1)'s requirement of separate books, records, accounts, and financial statements is self-effectuating and, therefore, does not adopt any rules regarding this requirement beyond the plain language of section 274(b)(1). Furthermore, section 274(b)(3)(A)'s requirement that transactions be carried out ''in a manner consistent with such independence'' requires that transactions between a ''separated'' electronic publishing affiliate or joint venture and its affiliated BOC occur on an arm's length basis, as the transaction would occur between unrelated parties. The phrase ''such independence'' in section 274(b)(3)(A) refers to section 274(b)'s requirement that a ''separated'' electronic publishing affiliate or joint venture ''be operated independently from the [BOC].''

However, we find the language of section 274(b)(3)(B) to be ambiguous. Pursuant to this section, a BOC and its separated affiliate shall carry out transactions ''pursuant to written contracts or tariffs that are filed with the Commission and made publicly available.'' From this language it is unclear whether written contracts must be filed with the Commission or whether only tariffs are required to be filed with the Commission. It is also unclear whether written contracts must be made publicly available or whether only tariffs are required to be made

publicly available. We therefore intend to seek further comment on the meaning of section 274(b)(3)(B) in CC Docket No. 96–152.

Section 274 ''separated'' electronic publishing affiliates or joint ventures must maintain their books, records, and accounts in accordance with GAAP in order to satisfy section 274(b)(3)(C)'s requirement that transactions be ''auditable in accordance with generally accepted auditing standards.''

Moreover, the Order concludes that we should conform our valuation methods governing the provision of services between an electronic publishing ''separated'' affiliate or joint venture and the BOC with which it is affiliated to those governing asset transfers. We therefore will require all non-tariffed affiliate transactions to be recorded at prevailing price if such price exists, and otherwise at the higher of cost and estimated fair market value when the carrier is the seller or transferor, and at the lower of cost and estimated fair market value when the carrier is the buyer or transferee. We will continue to define the applicable cost benchmarks as net book cost for asset transfers and fully distributed costs for service transfers. Although section 274(b)(4) only refers to asset transfers, we read section 274's requirement that the ''separated'' affiliate or joint venture and the BOC with which it is affiliated ''carry out transactions * * * in a manner consistent with such independence'' to prohibit the ''separated'' affiliate or joint venture and the BOC with which it is affiliated from subsidizing electronic publishing services from regulated telecommunications services. We designed our affiliate transactions rules to prevent such cross-subsidization. We therefore conclude that the affiliate transactions rules, as we modify them in this Order, should apply to all transactions—both asset transfers and the provision of services—between a BOC and its ''separated'' affiliate or joint venture engaged in electronic publishing activities permitted under section 274.

Finally, our modified affiliate transactions rules apply whenever a BOC under common ownership or control with an electronic publishing ''separated'' affiliate or joint venture provides network access and interconnections for basic telephone service to such ''separated'' affiliates or joint venture.

Separated Operations Under Sections 260 and 271 Through 276

Even when sections 260 and 271 through 276 do not require BOCs or other incumbent local exchange carriers to offer services through a separate affiliate, an incumbent LEC might choose to perform these activities through an affiliate. Under such circumstances, the Order concludes that our affiliate transactions rules should apply to transactions between an incumbent local exchange carrier and any of its affiliates engaged in activities of the types permitted by these sections 260 and 271 through 276, regardless of whether the Act requires those activities to be conducted through a separate affiliate. In order to protect against the subsidies prohibited by these sections, we conclude that we must apply our affiliate transactions rules to all transactions between non-BOC incumbent local exchange carriers and their affiliates engaged in telemessaging activities, incidental interLATA services, alarm monitoring activities, and payphone services. We also conclude we must apply our affiliate transactions rules to all transactions between incumbent local exchange carriers and their affiliates providing any of the competitive services of the types permitted under sections 260 and 271 through 276.

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to sections 4(i), 4(j), 201–205, 218, 220, 260, 271–76, 303(r), 403 of the Communications Act of 1934, as amended by the 1996 Act, 47 U.S.C. §§ 154(i), 154(j), 201–205, 218, 220, 260, 271–176, 303(r), 403, the rules, requirements and policies discussed in this order are *adopted* and sections 32.27, 53.209, 53.211, and 53.213 of the Commission's rules, 47 CFR §§ 32.27, 53.209, 53.211, and 53.213 *are amended* as set forth below.

It is further ordered that the requirements and regulations established in this decision shall become effective upon approval by OMB of the new information collection requirements adopted herein, but no sooner than February 20, 1997.

List of Subjects

47 CFR Part 32

Communications common carriers, Reporting and recordkeeping requirements, Separate affiliate safeguards, Telephone, Uniform System of Accounts.

47 CFR Part 53

Bell Operating Companies, Communications common carriers, InterLATA services, Separate affiliate safeguards, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Parts 32 and 53 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 32—UNIFORM SYSTEM OF ACCOUNTS FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for Part 32 continues to read as follows:

Authority: Secs. 4(i), 4(j) and 220 as amended; 47 U.S.C. 154(i), 154(j) and 220; Telecommunications Act of 1996, Public Law No. 104–104, sec. 402(c), 110 Stat 56 (1996) unless otherwise noted.

2. Section 32.27 is amended by revising paragraphs (b), (c) and (d) to read as follows:

§ 32.27 Transactions with affiliates.

* * * * *

(b) Assets sold or transferred between a carrier and its affiliate pursuant to a tariff, including a tariff filed with a state commission, shall be recorded in the appropriate revenue accounts at the tariffed rate. Non-tariffed assets sold or transferred between a carrier and its affiliate that qualify for prevailing price valuation, as defined in paragraph (d) of this section, shall be recorded at the prevailing price. For all other assets sold by or transferred from a carrier to its affiliate, the assets shall be recorded at the higher of fair market value and net book cost. For all other assets purchased by or transferred to a carrier from its affiliate, the assets shall be recorded at the lower of fair market value and net book cost. For purposes of this section carriers are required to make a good faith determination of fair market value.

(c) Services provided between a carrier and its affiliate pursuant to a tariff, including a tariff filed with a state commission, shall be recorded in the appropriate revenue accounts at the tariffed rate. Non-tariffed services provided between a carrier and its affiliate pursuant to publicly-filed agreements submitted to a state commission pursuant to section 252(e) of the Communications Act of 1934 or statements of generally available terms pursuant to section 252(f) shall be recorded using the charges appearing in such publicly-filed agreements or statements. Non-tariffed services provided between a carrier and its affiliate that qualify for prevailing price valuation, as defined in paragraph (d) of this section, shall be recorded at the prevailing price. For all other services provided by a carrier to its affiliate, the

services shall be recorded at the higher of fair market value and fully distributed cost. For all other services received by a carrier from its affiliate, the service shall be recorded at the lower of fair market value and fully distributed cost, except that services received by a carrier from its affiliate that exists solely to provide services to members of the carrier's corporate family shall be recorded at fully distributed cost. For purposes of this section carriers are required to make a good faith determination of fair market value.

(d) In order to qualify for prevailing price valuation in paragraphs (b) and (c) of this section, sales of a particular asset or service to third parties must encompass greater than 50 percent of the total quantity of such product or service sold by an entity. Carriers shall apply this 50 percent threshold on a asset-by-asset and service-by-service basis, rather than on a product line or service line basis. In the case of transactions for assets and services subject to section 272, a BOC may record such transactions at prevailing price regardless of whether the 50 percent threshold has been satisfied.

* * * * *

PART 53—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

1. The authority citation for Part 53 continues to read as follows:

Authority: Sections 1–5, 7, 201–05, 218, 251, 253, 271–75, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 218, 251, 253, 271–75, unless otherwise noted.

2. Section 53.209 is added to subpart C to read as follows:

§ 53.209 Biennial audit.

(a) A Bell operating company required to operate a separate affiliate under section 272 of the Act shall obtain and pay for a Federal/State joint audit every two years conducted by an independent auditor to determine whether the Bell operating company has complied with the rules promulgated under section 272 and particularly the audit requirements listed in paragraph (b) of this section.

(b) The independent audit shall determine:

(1) Whether the separate affiliate required under section 272 of the Act has:

(i) Operated independently of the Bell operating company;

(ii) Maintained books, records, and accounts in the manner prescribed by the Commission that are separate from the books, records and accounts maintained by the Bell operating company;

(iii) Officers, directors and employees that are separate from those of the Bell operating company;

(iv) Not obtained credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company; and

(v) Conducted all transactions with the Bell operating company on an arm's length basis with the transactions reduced to writing and available for public inspection.

(2) Whether or not the Bell operating company has:

(i) Discriminated between the separate affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or the establishment of standards;

(ii) Accounted for all transactions with the separate affiliate in accordance with the accounting principles and rules approved by the Commission.

(3) Whether or not the Bell operating company and an affiliate subject to section 251(c) of the Act:

(i) Have fulfilled requests from unaffiliated entities for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or its affiliates;

(ii) Have made available facilities, services, or information concerning its provision of exchange access to other providers of interLATA services on the same terms and conditions as it has to its affiliate required under section 272 that operates in the same market;

(iii) Have charged its separate affiliate under section 272, or imputed to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service; and

(iv) Have provided any interLATA or intraLATA facilities or services to its interLATA affiliate and made available such services or facilities to all carriers at the same rates and on the same terms and conditions, and allocated the associated costs appropriately.

(c) An independent audit shall be performed on the first full year of operations of the separate affiliate required under section 272 of the Act, and biennially thereafter.

(d) The Chief, Common Carrier Bureau, shall work with the regulatory agencies in the states having jurisdiction over the Bell operating company's local telephone services, to attempt to form a Federal/State joint audit team with the responsibility for overseeing the planning of the audit as specified in § 53.211 and the analysis and evaluation of the audit as specified in § 53.213. The Federal/State joint audit team may direct the independent auditor to take any actions necessary to ensure compliance with the audit requirements listed in paragraph (b) of this section. If the state regulatory agencies having jurisdiction choose not to participate in the Federal/State joint audit team, the Chief, Common Carrier Bureau, shall establish an FCC audit team to oversee and direct the independent auditor to take any actions necessary to ensure compliance with the audit requirements in paragraph (b) of this section.

3. Section 53.211 is added to subpart (C) to read as follows:

§ 53.211 Audit planning.

(a) Before selecting a independent auditor, the Bell operating company shall submit preliminary audit requirements, including the proposed scope of the audit and the extent of compliance and substantive testing, to the Federal/State joint audit team organized pursuant to § 53.209(d);

(b) The Federal/State joint audit team shall review the preliminary audit requirements to determine whether it is adequate to meet the audit requirements in § 53.209 (b). The Federal/State joint audit shall have 30 days to review the audit requirements and determine any modifications that shall be incorporated into the final audit requirements.

(c) After the audit requirements have been approved by the Federal/State joint audit team, the Bell operating company shall engage within 30 days an independent auditor to conduct the biennial audit. In making its selection, the Bell operating company shall not engage any independent auditor who has been instrumental during the past two years in designing any of the accounting or reporting systems under review in the biennial audit.

(d) The independent auditor selected by the Bell operating company to conduct the audit shall develop a detailed audit program based on the final audit requirements and submit it to the Federal/State joint audit team. The Federal/State joint audit team shall have 30 days to review the audit program and determine any modifications that shall be incorporated into the final audit program.

(e) During the course of the biennial audit, the independent auditor, among other things, shall:

(1) Inform the Federal/State joint audit team of any revisions to the final

audit program or to the scope of the audit.

(2) Notify the Federal/State joint audit team of any meetings with the Bell operating company or its separate affiliate in which audit findings are discussed.

(3) Submit to the Chief, Common Carrier Bureau, any accounting or rule interpretations necessary to complete the audit.

4. Section 53.213 is added to subpart (C) to read as follows:

§ 53.213 Audit analysis and evaluation.

(a) Within 60 dates after the end of the audit period, but prior to discussing the audit findings with the Bell operating company or the separate affiliate, the independent auditor shall submit a draft of the audit report to the Federal/State joint audit team.

(1) The Federal/State joint audit team shall have 45 days to review the audit findings and audit workpapers, and offer its recommendations concerning the conduct of the audit or the audit findings to the independent auditor. Exceptions of the Federal/State joint audit team to the finding and conclusions of the independent auditor that remain unresolved shall be included in the final audit report.

(2) Within 15 days after receiving the Federal/State joint audit team's recommendations and making appropriate revisions to the audit report, the independent auditor shall submit the audit report to the Bell operating company for its response to the audit findings and send a copy to the Federal/State joint audit team. The independent auditor may request additional time to perform additional audit work as recommended by the Federal/State joint audit team.

(b) Within 30 days after receiving the audit report, the Bell operating company will respond to the audit findings and send a copy of its response to the Federal/State joint audit team. The Bell operating company's response shall be included as part of the final audit report along with any reply that the independent auditor wishes to make to the response.

(c) Within 10 days after receiving the response of the Bell operating company, the independent auditor shall make available for public inspection the final audit report by filing it with the Commission and the state regulatory agencies participating on the joint audit team.

(d) Interested parties may file comments with the Commission within 60 days after the audit report is made available for public inspection.

[FR Doc. 97–1388 Filed 1–17–97; 8:45 am]
BILLING CODE 6712–01–P

47 CFR Part 53

[CC Docket No. 96–149; FCC 96–489]

Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The First Report and Order (Order) released December 24, 1996 clarifies certain provisions of sections 271 and 272 of the Communications Act of 1934, as amended, and promulgates regulations to implement other provisions. The intended effect of this Order is to further the Commission's goal of fostering competition in the telecommunications market.

EFFECTIVE DATE: February 20, 1997. The collections of information contained within sections 53.203(b) and (e) of these Rules are contingent upon approval by the Office of Management and Budget. The Commission will publish a document at a later date establishing the effective date.

FOR FURTHER INFORMATION CONTACT: Radhika Karmarkar, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580. For additional information concerning the information collections contained in this Report and Order contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order adopted December 23, 1996, and released December 24, 1996. This Order contains new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding. This is a synopsis, the full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc96489.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M St., NW., Suite 140, Washington, DC 20037.

Regulatory Flexibility Analysis

We determined that section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), does not apply to the rules adopted in this Order because they do not have a significant economic impact on a substantial number of small entities, as defined by section 301(3) of the Regulatory Flexibility Act.

Paperwork Reduction Act

Some of the rules adopted in this Order impose information collection requirements that are explained in a companion order, entitled *Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96–150, FCC 96–490. The paperwork reduction estimates associated with these rules are contained in this section. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–12. Written comments by the public on the information collections are due 30 days after date of publication in the Federal Register. OMB notification of action is due (60 days from date of publication in the Federal Register.) Comments should address: (a) whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0734.

Title: Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996.

Form No.: N/A.

Type of review: Revision.

Respondents: Businesses or other for profit.