

bonuses, severance pay, supplemental unemployment and benefits, vacations and the opportunity to select work hours or location of employment.

(g) *Reemployment position.* (1) An individual certified by MARAD as being entitled to reemployment shall be promptly reemployed by the former employer, according to the order of priority specified in 38 U.S.C. 4313(a), after submitting an application for reemployment. The three categories of priority, in ascending order, are for a merchant seaman who:

(i) Served for 90 days or less;  
 (ii) Served for more than 90 days; or  
 (iii) Has a disability incurred in, or aggravated during, the performance of such merchant service.

(2) For a person with such service related disability, the employer shall make "reasonable efforts", as defined in 38 U.S.C. 4303(10), "to accommodate the disability" to allow that person to be employed in the position that would have been occupied had the employment with the employer been continuous, or in the position in which employed on the date service began as a merchant seaman, and if that person is "not qualified" for either position, in a substantially equivalent position, as specified in 38 U.S.C. 4313(a)(3) and (a)(4).

#### § 349.6 Enforcement.

MARAD shall provide administrative assistance to any individual certified to be entitled to reemployment rights and benefits pursuant to chapter 43 of title 38, United States Code, made applicable by 46 App. U.S.C. 1132(a) and these regulations, who alleges in writing to MARAD the failure, refusal, or imminent failure or refusal of an employer to grant such rights or other benefits. The complaint must be sent to MARAD at the address in § 349.3. Such complaint may be in any format and shall include the name and address of the employer against whom the complaint is filed and a summary of the allegations that form the basis for the complaint. MARAD will review, investigate and attempt to resolve the complaint by taking one or more of the following actions:

(a) *Consultation with claimant.* MARAD will communicate with the individual filing the complaint, in writing and/or by telephone or other means, to provide assistance in pursuing reemployment rights and benefits with the employer.

(b) *Employer contact.* MARAD may contact the employer and attempt to resolve the complaint to the mutual satisfaction of the complainant and the employer.

(c) *Consultation with Department of Labor.* If attempts by MARAD to resolve the complaint are unsuccessful, MARAD may seek advice on the matter from the U.S. Department of Labor.

(d) *Referral to Attorney General or Merit Systems Protection Board.* MARAD will notify the complainant of an unsuccessful effort to resolve a complaint. Pursuant to 38 U.S.C. 4323 and 4324, if the complainant so requests, MARAD will refer to the Attorney General a complaint relating to a private or State employer, or to the Merit Systems Protection Board, for litigation, a complaint relating to a Federal executive agency employer.

Dated: January 30, 1997.

By Order of the Maritime Administrator.  
 Joel C. Richard,  
 Secretary.

[FR Doc. 97-2746 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-81-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 43, 63, 64, and 65

[CC Docket No. 96-23, DA 96-1873]

#### Revision of Filing Requirements

**AGENCY:** Federal Communications Commission.

**ACTION:** Final Rule.

**SUMMARY:** On November 8, 1996, the Common Carrier Bureau adopted a *Report and Order*, "Revision of Filing Requirements," that eliminates or significantly reduces reporting requirements imposed on communications common carriers by the Commission's policies and rules. As a result of this action, thirteen reporting requirements have been eliminated, and the frequency of filing for four other reports has been reduced.

**EFFECTIVE DATE:** March 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Beers, Deputy Chief, Industry Analysis Division, Common Carrier Bureau, at (202) 418-0952, or Scott Bergmann, Industry Analysis Division, Common Carrier Bureau, at (202) 418-7102.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Common Carrier Bureau's *Report and Order*, "Revision of Filing Requirements," adopted November 8, 1996 and released November 13, 1996 (CC Docket No. 96-23, DA 96-1873). The full text of the *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference

Center, Room 239, 1919 M Street, Washington, DC 20554. The *Report and Order* has been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law 104-13, and has been approved in accordance with the provisions of that Act (OMB Control No. 3060-0701). The Office of Management and Budget (OMB) offered its strong support for the actions as proposed. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

**PAPERWORK REDUCTION ACT:** The actions taken regarding the collections of information contained in the *Report and Order* have been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law 104-13, and have been approved by the Office of Management and Budget (OMB) under OMB control number 3060-0701. OMB offered its strong support for the actions. In addition, OMB made three suggestions in addition to the proposals: (1) That the word "annual" be added to the revised language for § 65.600(b)<sup>1</sup> to make clear that the reports are required on an annual basis; (2) that the Commission conduct a rulemaking to address the filing requirements associated with the ARMIS and CAM reporting thresholds; and (3) that the Commission consider modifying the annual access tariff filing periods to coincide with the periods covered by the interstate rate of return monitoring reports.<sup>2</sup> First, we agree with OMB and ALLTEL that the revised language for § 65.600(b) should more clearly specify that reports are required on an annual basis. We believe that the revised language for § 65.600(b), adopted in the *Report and Order*, achieves that result. Second, as discussed at Part IV of the *Report and Order*, the Commission will address ARMIS and CAM filing requirements and carrier classification in another proceeding. Finally, we decline to alter the annual access tariff filing period because the present schedule allows the Commission to use the current years rate-of-return reports to evaluate and calculate annual access tariffs.

*OMB Approval Number:* 3060-0701.  
*Title:* Revision of Filing Requirements, CC Docket 96-23, DA 96-1873.

*Form Number:* FCC 492.

<sup>1</sup> *Notice of Office of Management and Budget Action*, at 2 (OMB No. 3060-0701) (released May 30, 1996). OMB suggests a change to § 65.500(b). We assume this to be a typographical error. ALLTEL, whose suggestion OMB specifically supports, also suggests a change to § 65.600(b).

<sup>2</sup> *Notice of Office of Management and Budget Action*, at 2.

*Respondents:* Business or other for profit, including small businesses.

*Burden Estimate:*

Title	Respondents	Est. time per resp.	Frequency	Annual burden
1. Circuit Report .....	0	0 hours .....	0 per year .....	0 hours.
2. Record Carrier Letter .....	0	0 hours .....	0 per year .....	0 hours.
3. Report on Inside Wiring Services .....	0	0 hours .....	0 per year .....	0 hours.
4. FCC 492 Rate of Return .....	35	8 hours .....	1 per year .....	280 hours.
5. New Service Tracking Report .....	16	20 .....	.....	104 hours.
6. Report of Unsecured Credit to Political Candidates .....	13	8 .....	1 per year .....	104 hours.

*Total Annual Burden:* 488 total hours.  
*Estimated Costs Per Respondent:* \$0.00.

*Needs and Uses:* The Commission eliminated thirteen reporting requirements and reduced the frequency of four reporting requirements imposed on communications common carriers, including Regional Bell Operating Companies, other local telephone companies, record carriers, AT&T and Sprint. The information received will be used to assist the Federal Communications Commission in performing its public oversight duties. The actions taken regarding the collection of information subject to the PRA contained in this *Report and Order* have been approved by OMB under OMB control number 3060-0701. OMB Control number 3060-0701 expires 5/31/99.

Summary of the Report and Order

1. In this *Report and Order*, and pursuant to delegated authority, we adopt proposals set out in the Commission's Notice of Proposed Rulemaking (NPRM), *Revision of Reporting Requirements*, to eliminate thirteen information reporting requirements imposed on communications common carriers by the Commission's rules and policies.<sup>3</sup> We also reduce pursuant to the NPRM, the frequency of filing obligations for four other reporting requirements imposed pursuant to Commission orders.

2. The Commission in the NPRM proposed to eliminate thirteen, and reduce the frequency of filing for six, information collection requirements applied to communications common carriers.<sup>4</sup> Earlier, the Commission had

<sup>3</sup> Revision of Filing Requirements, *Notice of Proposed Rulemaking*, CC Docket No. 96-23, FCC 96-64, (released February 27, 1996), 61 FR 10522 (March 14, 1996). The Commission delegated to the Chief, Common Carrier Bureau, authority to determine whether to adopt any of the proposals set forth in that notice of proposed rulemaking and to issue any necessary reports or orders arising in that rulemaking. NPRM at para. 21.

<sup>4</sup> *Id.* at par. 2. While the Commission proposed modify six reports pursuant to the NPRM, the Commission's proposals concerning the Automated

ordered the Common Carrier Bureau (Bureau) to conduct a review of all reports filed with the Bureau, including those reports not subject to the Paperwork Reduction Act.<sup>5</sup> In fact, the NPRM that initiated this proceeding is but one instance of the Commission's on-going commitment to eliminate unnecessary and burdensome regulation, including reporting requirements.<sup>6</sup> Other deregulatory initiatives will follow upon the Commission's continuing review of its statutory mandate and its own practices and procedures.<sup>7</sup>

3. In this proceeding, commenters<sup>8</sup> generally support the Commission's proposals,<sup>9</sup> while several urge the

Reporting and Management Information System (ARMIS) quality of service reports and the Payphone Compensation reports have been mooted by the passage of the Telecommunications Act of 1996 and subsequent Commission actions. See 47 U.S. 272(b)(5), 276(b)(1)(A); Revision of Filing Requirements and Implementation of Section 402(b)(2)(B) of the Telecommunications Act of 1996: Annual ARMIS Reports, *Order*, CC Docket No. 96-23, DA 96-381 (released March 20, 1996), 61 FR 18143 (April 24, 1996) (*Annual ARMIS Reports Order*); Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, *Report and Order*, CC Docket 96-128, FCC 96-388 (released September 20, 1996), 61 FR 52307 (October 7, 1996) (*Payphone Compensation Order*). See also Part IV of the *Report and Order*.

<sup>5</sup> NPRM at para. 2.

<sup>6</sup> NPRM at para. 27.

<sup>7</sup> *Id.*

<sup>8</sup> Fifteen parties filed comments in this proceeding. Six of these parties and three additional parties filed reply comments. Appendix A of the *Report and Order* lists the commenters as well as the short names this *Report and Order* uses to refer to them. Additionally, on April 26, 1996, APCC filed a Request for leave to File Late Reply Comments, which it further identified as "Ex Parte or Late Filed," to reply to issues raised in comments filed by AT&T and Sprint. We grant APCC's petition to the extent that we accept its comments as informal comments pursuant to § 1.419(b) of the Commission's rules, 47 CFR 1.419(b).

<sup>9</sup> See, e.g., Pacific Bell Comments at 1-2; NYNEX Comments at 1; Bellsouth Comments at 1; ALLTEL Comments at 1; AT&T Comments at 1; GTE Comments at ii. Other parties directed their comments to certain proposals contained in the NPRM. See, e.g., CompTel Comments at 1, n.2 (addressing BOC-filed billing and collection contracts); NECA Comments at 1 (addressing FCC Form 492 and pooling reports); INS Comments at 1-2 (addressing, *inter alia*, semi-annual circuit reports, but generally "(applauding) the

Commission to go further and delete or modify reporting requirements other than those set out in the NPRM.<sup>10</sup> Although we in almost all cases deny these requests as going beyond the scope of this proceeding, we will take into account the commenters' suggestions during our continuing review.<sup>11</sup> Any further action will be undertaken only after affording opportunity for comment on discrete proposals in appropriate proceedings.

4. As a result of this action, the following reports have been eliminated: Equal Access Progress Report; Construction Budget Summary; National Security and Emergency Preparedness Effectiveness Report; AT&T Customer Premises Equipment and Installation Maintenance Report; AT&T Nondiscrimination Report for Enhanced Service Providers; AT&T Service Quality: Equipment Blockage and Failure Report; Bell Operating Company (BOC) Customer Premises Equipment Installation and Maintenance Report; BOC Customer Premises Equipment Affidavits for Nondiscriminatory Provision of Network Maintenance; BOC Sales Agency Program and Vendor Support Program Report; Billing and Collection Contracts Report; Circuit Report; Record Carrier Letter; and Report on Inside Wiring.

5. In addition, the filing frequency for the following reports has been significantly reduced: Form 492—Rate of Return Report (from quarterly to annual submissions); Joint Board Monitoring Program—Pooling Report (from monthly to quarterly submissions); New Service Tracking Report (from quarterly to annual submissions); and Report of Unsecured Credit to Political Candidates (from semi-annual annual submissions).

Commission's efforts to reduce unnecessary regulatory burdens on carriers' and the Commission's scarce resources").

<sup>10</sup> See e.g., GTE Comments at ii (endorsing NPRM proposals and generally urging Bureau to undertake more comprehensive review of reporting requirements).

<sup>11</sup> See Part IV of the *Report and Order*.

## Final Regulatory Flexibility Analysis

## A. Introduction

1. The Commission in the NPRM concluded that an Initial Regulatory Flexibility Analysis (IRFA) mandated in certain circumstances by the Regulatory Flexibility Act (RFA) was not required as there were no small entities affected by the proposals described in the NPRM.<sup>12</sup> After the NPRM was adopted, however, Congress amended the RFA in the Contract With America Advancement Act of 1996 (CWAAA), Public Law No. 104-121, 110 Stat. 847 (1996).<sup>13</sup> Pursuant to the amended requirements of the RFA and after further consideration of the potential economic impact on small entities, the *Report and Order* includes a Final Regulatory Flexibility Analysis (FRFA) as set out below.

## B. Need for and Objectives of the Rules and Actions Taken

2. In the *Report and Order*, the Common Carrier Bureau (Bureau), upon delegated authority from the Commission, eliminates thirteen reporting requirements and modifies four others so as to significantly reduce the frequency by which affected entities must file information with the Commission. The Bureau takes these actions in furtherance of the President's Regulatory Reform Initiative and the overall de-regulatory objectives of the Paperwork Reduction Act. This action is part of the Commission's and Bureau's continuing efforts to reduce the regulatory burden on the public by reducing the amount of information the public must provide to the Commission. In short, the results of the Bureau's actions in the *Report and Order* are entirely deregulatory and represent significant reductions of the burdens imposed on the public—including small entities. No additional or substitute burdens are imposed on the public to replace the reporting requirements that are eliminated.

## C. Summary of Significant Issues Raised by the Public in Response to the IRFA

3. As explained in paragraph one of the *Report and Order*, the Commission in the NPRM concluded that an IRFA was not required and, as a result, no comments were filed addressing such an analysis. In general, however, the commenters praised and supported the Commission's proposed deregulatory actions. In fact, no party opposed any of the deregulatory actions adopted in the

*Report and Order*. While not every partly discussed every action proposed in the NPRM, the overwhelming consensus was that the actions taken in the *Report and Order*—all of which serve either to eliminate or reduce filing burdens imposed by regulation—would serve the public interest. Some parties encouraged the Commission to make additional revisions to reporting requirements beyond those proposed in the NPRM.<sup>14</sup> Accordingly, we conclude that nothing in the record demonstrates that small entities will be adversely affected by implementation of the *Report and Order*. This conclusion is bolstered by the supportive comments of USTA, whose members include small and mid-size companies.<sup>15</sup>

## D. Description and Estimate of Number of Small Businesses to Which Rules and Actions Will Apply

4. For purposes of this analysis, we examined the relevant definition of "small entity" or "small business" and applied this definition to examine those entities that are subject to the reporting requirements in question. The RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.<sup>16</sup> 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 (SBA).<sup>17</sup> Moreover, SBA has defined a small business for Standard Industrial Classification (SIC) category 481 (Telephone Communications) to be small entities when they have fewer than 1,500 employees.<sup>18</sup>

5. As an initial matter we note that, as demonstrated by the following list, the entities affected by the vast majority of the deregulatory actions taken by the Bureau in the *Report and Order* are

among the largest communications companies, namely, AT&T, Sprint, the Regional (Bell) Holding Companies (RHCs), and the Bell Operating Companies (BOCs):

- (1) *Equal Access Progress Report*: submitted by AT&T and RHCs;
- (2) *Construction Budget Summary*: submitted by AT&T and RHCs;
- (3) *National Security and Emergency Preparedness Effectiveness Report (NSEP Report)*: submitted annually by AT&T and Bellcore;
- (4) *AT&T Customer Premises Equipment (CPE) Installation & Maintenance Report*;
- (5) *AT&T Service Quality: Equipment Blockage and Failure Report*;
- (6) *AT&T Nondiscrimination Report for Enhanced Service Providers*;
- (7) *BOC Customer Premises Equipment (CPE) Affidavits for Non-Discrimination Provision of Network Maintenance*;
- (8) *BOC Customer Premises Equipment (CPE) Installation & Maintenance Report*;
- (9) *BOC Sales Agency Program and Vendor Support Program Report*;
- (10) *Billing and Collection Contracts*: submitted by incumbent local exchange carriers (ILECs).
- (11) *Circuit Report*: filed by 36 nondominant carriers.
- (12) *Record Carrier Letter*: filed by record carriers with operating revenues over \$75 million.
- (13) *Report on Inside Wiring Service*: filed by ILECs with operating revenues over \$100 million;
- (14) *Form 492 Rate of Return Report*: filed by ILECs not subject to price cap regulation and the National Exchange Carrier Association (NECA);
- (15) *Joint Board Monitoring Program: Pooling*: submitted by NECA;
- (16) *New Service Tracking Report*: submitted by ILECs subject to price-cap regulation;
- (17) *Report of Unsecured Credit to Political Candidates*: submitted by all carriers having revenue in excess of \$1 million.

6. Setting aside the ten actions that are addressed exclusively to some of the largest communications entities, only the adopted actions addressing the following reports would appear to possibly implicate some small entities: (3) NSEP Report; (10) Billing and Collection; (11) Circuit Report; (12) Record Carrier Letter; (14) Form 492 Rate of Return Report; (15) Joint Board Monitoring Program; and (17) Report of Unsecured Credit to Political Candidates. Moreover, it is easy to quantify the number of all entities (*i.e.*, including a putative smaller number of small entities) affected by four of the

<sup>12</sup> NPRM at para. 22.

<sup>13</sup> Subtitle II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. 601 *et seq.*

<sup>14</sup> See generally Part IV of the *Report and Order*, (discussing proposals to revise reports not discussed in the NPRM); see also Part III of the *Report and Order*, (discussing commenters' proposals to eliminate reports that the Commission proposed for modification). See, e.g., BellSouth Comments at 5-6 (urging the Commission to eliminate ARMIS Reports 43-01, 43-02, and 43-03).

<sup>15</sup> See USTA Comments at 1-3; USTA Reply Comments at 1.

<sup>16</sup> See 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C.

<sup>17</sup> 15 U.S.C. 632. See, e.g., *Brown Transport Truckload, Inc. v. Southern Wipers, Inc.*, 176 B.R. 82, 89 (N.D. Ga. 1994).

<sup>18</sup> 13 CFR 121.201.

seven actions not addressed exclusively to the largest entities. Thus, action (3), NSEP Report, affects only one entity other than AT&T (Bellcore); action (11), Circuit Report, affects only 36 entities; action (12), Record Carrier Letter, affects only two entities; and action (15), Joint Board Monitoring Program, affects only one entity (NECA). Assuming, *arguendo*, that some of these affected entities are "small business" or "small entities," the subset of such putative small businesses or entities could only, by definition, equal and not exceed the forty (40) members that, at a maximum, constitute the affected entity set for these four actions. Furthermore, the regulatory actions adopted in the *Report and Order*, in every case, effect reductions in regulatory burdens: as a result of the *Report and Order*, fewer regulatory burdens are imposed on all affected entities, large and small alike.

7. Thus, only three of the report-related actions adopted in the *Report and Order* are addressed to entity groups for which small business or entity subsets, per SBA definition, are difficult to identify and quantify: (10) Billing and Collection (submitted by all ILECs); (14) Form 492 Rate of Return Report (filed by NECA and all ILECs not subject to price cap regulation); and (17) Report of Unsecured Credit to Political Candidates (submitted by all carriers having revenue in excess of \$1 million). We proceed to consider these entity groups.

8. First, addressing the groups "all ILECs" and "all ILECs not subject to price cap regulations," we note that only one action, (10), Billing and Collection, affects ILECs generally, while a second, (14) Rate of Return Report, affects one readily identifiable entity (NECA) and a subset of "all ILECs" that excludes the largest ILECs (*i.e.*, "all ILECs not subject to price cap regulation"). Furthermore, we note that the Commission has found ILECs to be "dominant in their field of operation" since the early 1980's, and consistently has certified under the RFA<sup>19</sup> that ILECs are not subject to regulatory flexibility analyses because they are not small businesses.<sup>20</sup> The Commission has made similar determinations in other areas.<sup>21</sup> We firmly believe that the Commission's consistent and long-

standing definitional treatment of all ILECs as dominant (and hence exempt from treatment as small businesses under prong (2) of the SBA test set out *supra*) should not be altered here. We will, however, out of an abundance of caution and prudence, include small ILECs, as defined in relation to SBA SIC 481, in this FRFA to remove any possible issue of RFA compliance.

9. Neither the Commission nor SBA has developed a definition of small providers of local exchange services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of ILECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services.<sup>22</sup> Although it seems certain that some of these carriers are not independently owned and operated (prong 1 of the SBA definition of small business concerns), or have more than 1,500 employees (prong 3), we are unable at this time to estimate with greater precision the number of ILECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small ILECs that may be affected by the actions adopted in the *Report and Order*. Again, in every case, these actions either eliminate or reduce the regulatory burdens imposed on any such small ILECs.

10. The final deregulatory action adopted by the *Report and Order* poses the most difficulty in identifying affected small business concerns. Number (17), Report of Unsecured Credit to Political Candidates, must be submitted by all carriers having revenue in excess of \$1 million. The relevant set of small business concerns affected by this report obviously includes the set of ILECs identified above ("fewer than 1,347 small ILECs") to the extent that any earn more than \$1 million in annual revenues, but also must include small business concern from all other carrier groups, including both wireline and wireless (radiotelephone) carriers.<sup>23</sup> We

first discuss non-LEC wireline carriers, including interexchange carriers (IXCs), competitive access providers (CAPs), Operator Service Providers (OSPs), Pay Telephone Operators, and resellers.

11. Neither the Commission nor SBA has developed definitions for small entities specifically applicable to these wireline service types. The closest applicable definition under SBA rules for all these service types is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs, CAPs, OSPs, Pay Telephone Operators, and resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data: 97 companies reported that they are engaged in the provision of interexchange services; 30 companies reported that they are engaged in the provision of competitive access services; 29 companies reported that they are engaged in the provision of operator services; 197 companies reported that they are engaged in the provision of pay telephone services; and 206 companies reported that they are engaged in the resale of telephone services.<sup>24</sup> Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, and, further, that within the potential set of small entities not all would earn annual revenues in excess of \$1 million, we are unable at this time to estimate with greater precision the number of IXCs, CAPs, OSPs, Pay Telephone Operators, and resellers that would both qualify as small business concerns under SBA's definition and be subject to the Report's \$1 million annual revenue requirement. Consequently, we estimate that there are fewer than 97 small entity IXCs; 30 small entity CAPs; 29 small entity OSPs; 197 small entity pay telephone service providers; and 206 small entity providers of resale telephone service that might be affected by the actions and rules adopted in the *Report and Order*. Again, in every case, these actions and rules either eliminate or reduce the regulatory burdens imposed on any such small entities.

12. We now discuss non-wireline carriers, including: Wireless (Radiotelephone) Carriers; Cellular Service Carriers; and Mobile Service Carriers.

communications from SIC 4813 small entities providing telephone communications except radiotelephone.

<sup>24</sup> TRS Worksheet, at Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier).

<sup>19</sup> See 5 U.S.C. 605(b).

<sup>20</sup> See, e.g., Expanded Interconnection with Local Telephone Company Facilities, *Supplemental Notice of Proposed Rulemaking*, 6 FCC Rcd 5809 (1991), 56 FR 52496 (October 21, 1991).

<sup>21</sup> See, e.g., Implementation of Sections of the Cable Television Consumer Protection Act of 1992: Rate Regulation, *Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393, 7418 (1995), 60 FR 35854 (July 12, 1995).

<sup>22</sup> Federal Communications Commission, CCB, Industry Analysis Division, "Telecommunications Industry Revenue: TRS Fund Worksheet Data", Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier) (February 1996) (*TRS Worksheet*).

<sup>23</sup> SBA has established SIC 4812 to distinguish small entities providing radiotelephone

13. SBA has developed a definition of small entities for Wireless (Radiotelephone) Carriers. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.<sup>25</sup> According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons.<sup>26</sup> The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, and, further, that within the set of potential small entities not all such entities would earn annual revenues in excess of \$1 million, we are unable to estimate with greater precision the number of radiotelephone carriers and service providers that would both qualify as small business concerns under SBA's definition and be subject to the Report's \$1 million annual revenue requirement. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that might be affected by the actions and rules adopted in the *Report and Order*. Again, in every case, these actions and rules either eliminate or reduce the regulatory burdens imposed on any such small entities.

14. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to Cellular Service Carriers and to Mobile Service Carriers. The closest applicable definition under SBA rules for both services is for telephone companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of Cellular Service Carriers and Mobile Service Carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 789 companies reported that they are engaged in the provision of cellular services and 117 companies reported that they are engaged in the provision of mobile services.<sup>27</sup> Although it seems

certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, and, further, that within the potential set of small entities not all would earn annual revenues in excess of \$1 million, we are unable at this time to estimate with greater precision the number of Cellular Service Carriers and Mobile Service Carriers that would qualify as small business concerns under SBA's definition and be subject to the Report's \$1 million annual revenue requirement. Consequently, we estimate that there are fewer than 789 small entity Cellular Service Carriers and fewer than 117 small entity Mobile Service Carriers that might be affected by the actions and rules adopted in the *Report and Order*. Again, in every case, these actions and rules either eliminate or reduce the regulatory burdens imposed on any such small entities.

#### E. Description of Projected Reporting, Record Keeping and Other Compliance Requirements of the Rules

15. As detailed in the body of the *Report and Order*, these rules will significantly reduce the amount of reporting, record keeping, and compliance requirements which was previously placed on the regulated entities—including the small entities identified above. In our efforts to quantify the economic impact of this *Report and Order* on small businesses, we refer to the Office of Management and Budget (OMB) and its analyses of administrative burdens imposed by agency rules and policies.<sup>28</sup> OMB has approved Bureau estimates of "burden hours" for the following reports which our analysis has shown to affect small entities: (11) Circuit Report, (12) Record Carrier Letter, (14) Form 492 Rate of Return Report, and (17) Report of Unsecured Credit to Political Candidates.<sup>29</sup>

16. With respect to those four reports affecting small entities that are eliminated by this *Report and Order*, the Bureau has prepared and OMB has approved estimates of the benefits for two of these reports: (10) Circuit Report and (12) Record Carrier Letter.<sup>30</sup> According to these Bureau and OMB estimates, the Bureau's action to eliminate the Circuit Report will result in a savings of 500 hours per year, *in*

*toto*, to the nondominant carriers formerly required to file that report.<sup>31</sup> For those record carriers formerly required to file the Record Carrier Report, it is estimated that this *Report and Order* will save approximately 20 hours per year, *in toto*, by eliminating this report.<sup>32</sup> While OMB does not maintain estimates for the other two reports eliminated, (1) NSEP Report and (10) Billing and Collection Report, it is clear that, as a result of the Bureau's actions, the small businesses previously subject to these reports will see reduced expenses for associated accounting, legal, and administrative activities.

17. As set out in Section D of the *Report and Order*, the Bureau modified three reports that might potentially affect small entities: (14) Form 492 Rate of Return Report, (15) Joint Board Monitoring Program, and (17) Report of Unsecured Credit to Political Candidates. According to OMB analysis of report (14), the Form 492 Rate of Return Report, the Bureau's action in this *Report and Order* will reduce the total burden on all businesses, both small and otherwise, by 840 hours per year.<sup>33</sup> OMB estimates for report (17), Report of Unsecured Credit to Political Candidates, indicate that as a result of the Bureau's action in this *Report and Order*, carriers—small entities and otherwise—will spend 104 hours less per year, *in toto*, to comply with the reporting requirements.<sup>34</sup> With respect to (15) the Joint Board Monitoring Program, no OMB estimates are available to calculate the precise economic benefit to NECA—the only entity subject to this reporting requirement; however, it is clear that by reducing the frequency of filing from monthly to quarterly reports, NECA will bear a relatively smaller burden than it did under the prior schedule.

#### F. Steps Taken to Minimize Impact on Small Entities Consistent With Stated Objectives

18. As discussed in detail in Section E of the *Report and Order*, to the extent that if affects small entities, the impact of this *Report and Order* is only beneficial. The primary thrust of this *Report and Order* is to reduce administrative burdens wherever possible. It does not impose any new

<sup>25</sup> United States Department of Commerce, Bureau of the Census, "1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size," at Firm Size 1-123 (1995) (1992 Census).

<sup>26</sup> 13 CFR 121.201, Standard Industrial Classification (SIC Code 4812).

<sup>27</sup> *TRS Worksheet*, at Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier).

<sup>28</sup> Paperwork Reduction Act of 1995, Public Law 104-13 (1995).

<sup>29</sup> NPRM.

<sup>30</sup> See Section D of this Final Regulatory Flexibility Analysis (concluding that four reports eliminated by this *Report and Order* might potentially affect small entities: (1) NSEP Report, (10) Billing and Collection Report, (11) Circuit Report, and (12) Record Carrier Letter).

<sup>31</sup> NPRM. See OMB No. 3060-0149. The per-hour reduction was calculated by comparing the OMB hourly estimates provided in the NPRM (showing the burden on entities after the *Report and Order*) with the OMB control number listing (showing the approved burdens for the respective reporting requirements as existing before this *Report and Order*).

<sup>32</sup> NPRM. See OMB No. 3060-0515.

<sup>33</sup> NPRM. See OMB No. 3060-0355.

<sup>34</sup> NPRM. See OMB No. 3060-0147.

requirements. Because this action does not include changes in format reports or additional reporting requirements, there are no steps necessary to minimize any impact on small entities. Small entities and large entities alike should be able to benefit immediately from the Bureau's actions to eliminate or reduce requirements pursuant to this *Report and Order*.

#### G. Significant Alternatives Considered and Rejected

19. Again, the action does not impose additional burdens on small entities and will in fact have a positive impact by reducing administrative burdens on a wide variety of entities. Nonetheless, we did consider a number of alternatives to the *Report and Order* as issued.

20. Where we merely modified the filing frequency, we received comments from a number of parties recommending that we instead eliminate the subject reporting requirements.<sup>35</sup> We carefully considered these options in light of our own experience and in light of reply comments from other parties. As discussed in detail in Part III, we are persuaded that these reports still serve important interests and should be retained.<sup>36</sup> We conclude that this *Report and Order* achieves the proper balance between reducing burdens and fulfilling important monitoring objectives.

21. Another alternative considered was offered by CompTel, an association of telecommunications providers including interexchange carriers. CompTel suggested imposing a new requirement to replace the Billing and Collections Report. While specifically supporting our proposed elimination of the Billing and Collections Report, CompTel argued that copies of all such contracts should be filed with the Commission. We rejected CompTel's proposal because it would impose significant administrative burdens on ILECs, both large and small, to monitor a market which the vast majority of the parties concluded to be fully competitive.

22. We received several proposals to eliminate or alter reports which were not addressed in the NPRM. For example, Cincinnati Bell Telephone, a self-described mid-size local exchange carrier, proposes that the Commission increase the revenue threshold for filing for various reports including Cost

Allocation Manuals (CAMS).<sup>37</sup> While we recognize that such changes might exempt smaller ILECs from some of these filing requirements, we choose not to follow such suggestions without giving other parties an opportunity to comment. We believe that this and other such proposals would be more appropriately considered in a separate proceeding and are outside the scope of our delegated authority. To that extent, we reaffirm that this *Report and Order* is a reflection of our continuing commitment to minimizing the adverse impact of the Commission's rules.

#### H. Report to Congress

23. The Bureau shall send a copy of this Final Regulatory Flexibility Analysis, along with the *Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

#### Ordering Clauses

24. Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 4(j), 201–205, 218, 226, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 226, 303(r), and §§ 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291, that the Commission's rules and policies *are amended* as set forth below, effective March 6, 1997.

25. *It is further ordered*, pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291, that the proposal in Revision of Filing Requirements that Payphone Compensation reports be filed semiannually is rescinded.

#### List of Subjects In

##### 47 CFR Part 43

Communications common carriers, Reporting and recordkeeping requirements, Telegraph, Telephone.

##### 47 CFR Part 63

Communications common carriers, Reporting and recordkeeping requirements, Telegraph, Telephone.

##### 47 CFR Part 64

Civil defense, Communications common carriers, Credits, Political candidates, Reporting and recordkeeping requirements, Telegraph, Telephone.

##### 47 CFR Part 65

Communications common carriers, Credits, Political candidates, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission, Peyton Wynns, Chief, Industry Analysis Division.

#### Rule Changes

Parts 43, 63, 64, and 65 of Title 47 of the Code of Federal Regulations are amended as follows:

### PART 43—REPORTS OF COMMUNICATIONS COMMON CARRIERS AND CERTAIN AFFILIATES

1. The authority citation for part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104–104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) unless otherwise noted. Interpret or apply secs. 211, 219, 220, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Paragraph (d) of § 43.21 is revised to read as follows:

#### § 43.21 Annual reports of carriers and certain affiliates.

\* \* \* \* \*

(d) Each miscellaneous common carrier (as defined by § 21.2 of this chapter) with operating revenues for a calendar year in excess of the indexed revenue threshold shall file with the Common Carrier Bureau Chief a letter showing its operating revenues for that year and the value of its total communications plant at the end of that year. This letter must be filed by March 31 of the following year.

\* \* \* \* \*

#### § 43.41 [Removed and Reserved]

3. Section 43.41 is removed and reserved.

### PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIER; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

4. The authority citation for part 63 continues to read as follows:

Authority: Secs. 1, 4(i), 201–205, 218, and 403 of the Communications Act of 1934, as amended, and sec. 613 of the Cable Communications Policy Act of 1984, 47 USC 151, 154(i) 15(j), 201–205, 218, 403, and 533 unless otherwise noted.

#### § 63.07 [Amended]

5. Section 63.07 is amended by removing paragraph (b) and

<sup>35</sup> See Part III of the *Report and Order* (discussing alternative proposals submitted by commenters for the Form 492 Rate of Return Report, at para. 37–38, Joint Board Monitoring Program, at para. 40–41, New Service Tracking Report, at para. 43–46, Report of Unsecured Credit to Political Candidates, at para. 48–49).

<sup>36</sup> *Id.*

<sup>37</sup> Cincinnati Bell Telephone Comments at 1–2.

redesignating paragraph (c) as paragraph (b).

**PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

6. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, Telecommunications Act of 1996, Pub. L. 104-104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228 unless otherwise noted.

7. Section 64.804 is amended by revising the first sentence of the introductory text of paragraph (g) to read as follows:

**§ 64.804 Rules governing the extension of unsecured credit to candidates or persons on behalf of such candidates for Federal office for interstate and foreign common carrier communication services.**

\* \* \* \* \*

(g) On or before January 31, 1973, and on corresponding dates of each year thereafter, each carrier which had operating revenues in the preceding year in excess of \$1 million shall file with the Commission a report by account of any amount due and unpaid, as of the end of the month prior to the reporting date, for interstate and foreign communications services to a candidate or person on behalf of such candidate when such amount results from the extension of unsecured credit. \* \* \*

**PART 65—INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND METHODOLOGIES**

8. The authority citation for Part 65 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat., 1066, 1072, 1077, 1094, as amended, 47 U.S.C. 151, 154, 201, 202, 203, 204, 205, 218, 219, 220, 403.

9. Section 65.600 is amended by revising paragraph (b) to read as follows:

**§ 65.600 Rate of return reports**

\* \* \* \* \*

(b) Each local exchange carrier or group of affiliated carriers which is not subject to §§ 61.41 through 61.49 of this chapter and which has filed individual access tariffs during the preceding enforcement period shall file with the Commission within three (3) months after the end of each calendar year, an annual rate of return monitoring report which shall be the enforcement period report. Reports shall be filed on the appropriate report form prescribed by the Commission (see s 1.795 of this chapter) and shall provide full and

specific answers to all questions propounded and information requested in the currently effective report form. The number of copies to be filed shall be specified in the applicable report form. At least one copy of the report shall be signed on the signature page by the responsible officer. A copy of each report shall be retained in the principal office of the respondent and shall be filed in such a manner as to be readily available for reference and inspection. Final adjustments to the enforcement period report shall be made by September 30 of the year following the enforcement period to ensure that any refunds can be properly reflected in an annual access filing.

\* \* \* \* \*

[FR Doc. 97-2703 Filed 2-3-97; 8:45 am] BILLING CODE 6712-01-M

**GENERAL SERVICES ADMINISTRATION**

**48 CFR Part 570**

[APD 2800.12A, CHGE 74]

RIN 3090-AF92

**General Services Administration Acquisition Regulation; Acquisition of Leasehold Interests in Real Property**

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Interim rule adopted as final.

**SUMMARY:** The General Services Administration Acquisition Regulation (GSAR) interim rule published at 61 FR 2470, May 16, 1996, is converted to a final rule with changes. The interim rule is amended to revise section 570.106 to reflect changes made as a result of public comments. Section 570.303 of the interim rule is adopted as final without change. The interim rule published at 61 FR 2470, May 16, 1996, authorized the use of design-build select procedures in Section 303M of the Federal Property and Administrative Services Act of 1949, as amended by Public Law 104-106, February 10, 1996, for lease construction projects.

**EFFECTIVE DATE:** February 10, 1997.

**FOR FURTHER INFORMATION CONTACT:** Tom Wisnowski, GSA Acquisition Policy Division, (202) 501-1224.

**SUPPLEMENTARY INFORMATION:**

**A. Public Comments**

Comments on the interim rule published on May 16, 1996, (61 FR 24720) were submitted by the Council on Federal Procurement of Architectural and Engineering Services (COFPAES).

COFPAES recommended revision of section 570.106(c) to more closely reflect statutory language, including circumstances for use of two-phase design-build procedures and specification of all criteria to be considered by the contracting officer. This revision has been incorporated in the final rule.

**B. Executive Order 12866**

This rule is not a significant rule as defined in Executive Order 12866.

**C. Regulatory Flexibility Act**

The GSA certifies that this final rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule will apply to a very small number of leases per year (less than 25) and the rule simplifies procedures and reduces the cost of competing in the initial phases of a procurement.

**D. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

**E. Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule under 5 U.S.C. 804. This rule was submitted to Congress and GAO under 5 U.S.C. 804.

**List of Subjects in 48 CFR Part 570**

Government procurement.

Accordingly, the interim rule amending 48 CFR Part 570 which was published at 61 FR 24720 on May 16, 1996, is adopted as a final rule with the following changes:

**PART 570—ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY**

1. The authority citation for 48 CFR 570-continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 570.106 is amended by revising paragraphs (c), (c)(1), (c)(2), and (c)(3) to read as follows:

**570.106 Methods of contracting**

\* \* \* \* \*

(c) Unless another acquisition procedure authorized by law is used, the design-build selection procedures in section 303M of the Federal Property