

| | Yes | No | N/A |
|--|-----|-----|-----|
| e. Salvage and Subrogation | | | |
| (1) Is salvage evaluated by salvors? | [] | [] | [] |
| (2) Is salvage disposed of promptly? | [] | [] | [] |
| (3) Are salvage returns adequate? | [] | [] | [] |
| (4) Is potential subrogation being promptly and properly investigated? | [] | [] | [] |
| (5) Are proper subrogation forms used? | [] | [] | [] |
| (6) Are subrogation and salvage files properly opened, diaried, and referred (if appropriate)? | [] | [] | [] |
| (7) Are recovery funds for subrogation and salvage being properly handled? | [] | [] | [] |
| f. Suits | | | |
| (1) Are suits properly identified? | [] | [] | [] |
| (2) Are suits being properly evaluated? | [] | [] | [] |
| (3) Are suits being referred to attorneys promptly? | [] | [] | [] |
| (4) Are attorneys being advised as to handling settlement or compromise? | [] | [] | [] |
| (5) Are suits being properly controlled? | [] | [] | [] |
| (6) Are suits files properly diaried? | [] | [] | [] |
| (7)-(8) [Reserved] | [] | [] | [] |
| g. Other | | | |
| (1) Was there other coverage by the WYO Company? | [] | [] | [] |
| (2) Were damages correctly apportioned? | [] | [] | [] |
| (3) Was a solo adjuster used? | [] | [] | [] |
| (4) Were there prior flood claims? | [] | [] | [] |
| (5) Were prior damages repaired? | [] | [] | [] |
| (6) Were prior claim files reviewed? | [] | [] | [] |
| (7) Was a congressional complaint letter in file? | [] | [] | [] |
| (8) Was it responded to promptly? | [] | [] | [] |
| (9) Is the statistical reporting correction file being properly managed? | [] | [] | [] |

E. State Insurance—Department Examination

1. It is expected that audits of WYO Companies by independent accountants and/or state insurance departments, aside from those conducted by the FIA or its designee, will include flood insurance activity. When such audits occur, a financial officer for the WYO Company will notify the FIA, identifying the auditing entity and providing a brief statement of the overall conclusions that relate to flood insurance and the insurer's financial condition, when available. In the case of an audit in progress, a brief statement on the scope of the audit should be provided to the FIA. A checklist will be utilized for this reporting and will be provided to WYO Companies by the FIA.

2. The WYO Companies will maintain on file the reports resulting from audits, subject to on-site inspection by the FIA or its designee. At the FIA's request, the WYO Company will submit a copy of the auditor's opinion, should one be available, summarizing the audit conclusion.

“(Approved by the Office of Management and Budget under OMB control number 3067-0169)”

Part 4—Reports Certifications

A. Certification Statement for Monthly Financial and Statistical Reconciliation Reports

I have reviewed the accompanying financial and statistical reconciliation reports of XYZ Company as of _____. All information included in these statements is the representation of the XYZ Company.

Based on my review (with the exception of the matter(s) described in the following paragraphs, if applicable), I certify that I am not aware of any material modifications that should be made to the accompanying reports.

Signed _____
(Responsible Financial Officer)
Date _____

B. Certification Statement for Monthly Statistical Transaction Report

I have reviewed the accompanying statistical transaction report control totals in conjunction with appropriate statistical reconciliation reports. All information included in these reports is the representation of the XYZ Company.

“(Approved by the Office of Management and Budget under OMB control number 3067-0169.)”

Signed _____
(Responsible Reporting Officer)

Date _____
(Catalog of Federal Domestic Assistance No. 83.100, “Flood Insurance”)

Dated: January 25, 1996.

Elaine A. McReynolds,
Administrator, Federal Insurance
Administration.

[FR Doc. 96-2089 Filed 1-31-96; 8:45 am]

BILLING CODE 6718-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20, 61, and 69

[CC Docket Nos. 95-185 and 94-54, FCC 95-505]

Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is issuing this Notice of Proposed Rulemaking

seeking comment on possible changes in the regulatory treatment of interconnection compensation arrangements between LECs and CMRS providers and related issues. The Notice tentatively concludes that in order to ensure the continued development of wireless services as a potential competitor to LEC services, the Commission should move expeditiously to adopt interim policies governing the rates charged for LEC-CMRS interconnection. The Notice further tentatively concludes that, at least for an interim period, interconnection rates for local switching facilities and connections to end users should be priced on a “bill and keep” basis (i.e., both the LEC and the CMRS provider charge a rate of zero for the termination of traffic), and that rates for dedicated transmission facilities connecting LEC and CMRS networks should be set based on existing access charges for similar transmission facilities. The Notice seeks comment on these tentative conclusions and on a number of alternative pricing options for LEC-CMRS interconnection arrangements. The Notice tentatively concludes that information about interconnection compensation arrangements should be made publicly available, and seeks comment on what method to use to achieve this objective, such as tariffing, public disclosure, or some other approach. The Notice seeks comment on how to implement both interim and permanent interconnection policies (i.e., a non-binding model, or mandatory general or specific federal requirements), and tentatively concludes that the Commission has authority to adopt these approaches.

The Notice also proposes compensation arrangements that should apply to interstate, interexchange traffic traversing interconnections between LECs and CMRS providers, which typically involve an interexchange carrier (IXC).

DATES: Comments are due on or before February 26, 1996 and Reply comments are due on or before March 12, 1996.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, DC 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, NW, Room 544, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, NW, Room 239, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David Sieradzki at (202) 418-1576 or Kathleen Franco at (202) 418-1932, Common Carrier Bureau, Policy and Program Planning Division.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted December 15, 1995 and released January 11, 1996 (FCC-95-505). The full text of this Notice of Proposed Rulemaking 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/CommonCarrier/Notices/fcc95505.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.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

A. Summary

1. In this Notice, the Commission continues its examination of whether our policies related to interconnection between commercial mobile radio service (CMRS) providers and local exchange carriers (LECs) are sufficient to advance the public interest. We currently require LECs to offer interconnection to CMRS providers on

reasonable terms and conditions, and to do so under the principle of mutual compensation. We have not, however, set specific limits on the price of such interconnection, nor have we required that interconnection agreements be filed with regulatory authorities or that interconnection be provided pursuant to tariff.

2. We are concerned that existing general interconnection policies may not do enough to encourage the development of CMRS, especially in competition with LEC-provided wireline service. LECs unquestionably still possess substantial market power in the provision of local telecommunications services. If commercial mobile radio services, such as broadband personal communications services (PCS), cellular telephone services, satellite telephony, and interconnected specialized mobile radio (SMR) services, are to begin to compete directly against LEC wireline services, it is important that the prices, terms, and conditions of interconnection arrangements not serve to buttress LEC market power against erosion by competition.

3. This Notice therefore considers the policy issues involved in establishing compensation arrangements for LEC-CMRS interconnection. We tentatively conclude that in order to ensure the continued development of wireless services as a potential competitor to LEC services, we should move expeditiously to adopt interim policies governing the rates charged for LEC-CMRS interconnection. We further tentatively conclude that, at least for an interim period, interconnection rates for local switching facilities and connections to end users should be priced on a "bill and keep" basis (*i.e.*, both the LEC and the CMRS provider charge a rate of zero for the termination of traffic), and that rates for dedicated transmission facilities connecting LEC and CMRS networks should be set based on existing access charges for similar transmission facilities. We seek comment on these tentative conclusions and on a number of alternative pricing options for LEC-CMRS interconnection arrangements. We also tentatively conclude that information about interconnection compensation arrangements should be made publicly available, and seek comment on what method to use to achieve this objective, such as tariffing, public disclosure, or some other approach. We also seek comment on how we should implement both interim and permanent interconnection policies (*i.e.*, a non-binding model, or mandatory general or specific federal requirements), and we

tentatively conclude that we have authority to adopt these approaches. In addition, we propose compensation arrangements that should apply to interstate, interexchange traffic traversing interconnections between LECs and CMRS providers, which typically involve an interexchange carrier (IXC).

B. Overview

1. *Goals.* 4. In developing policies regarding LEC-CMRS interconnection, our overriding goal is to maximize the benefits of telecommunications for the American consumer and for American society as a whole. As with other areas of common carrier policy, we adopt policies that are intended to create or replicate market-based incentives and prices for both suppliers and consumers. By relying on market-based incentives and prices, where possible, and replicating them, where necessary, our policies have sought to ensure the availability to consumers of goods and services at the lowest overall cost. With the most efficient firms producing goods and services at the lowest cost, consumers benefit from lower prices. With consumers receiving cost-based pricing signals, they purchase communications goods and services only when they receive value greater than or equal to the cost of producing them. In general, reasonable and non-discriminatory rates should give consumers incentives to purchase the combination of services that they most value. As a matter of long-term policy, functionally equivalent services—including services related to network interconnection—should be available to all classes of consumers at the same prices, unless there are cost differences or policy considerations that justify different rates. In addition, these policies, over time, should ensure an efficient level of innovation in terms of the development of new services and the deployment of new technology, as well as the efficient entry of new firms. Service providers should make optimal levels of investments in developing new technologies and new services, and consumers should receive the maximum benefit from their purchases of telecommunications services.

5. Our policies also have sought to ensure and advance universal basic telephone service. For individual households, being connected to telecommunications networks—whether wireline LEC networks or wireless CMRS networks—facilitates access to emergency services, employment and educational opportunities, and social interaction. We recognize that not all the societal benefits accrue to the

individual being connected with the network. Thus, we have pursued our mandate under the Communications Act by adopting specific programs designed to advance universal service in areas and for individuals where special needs exist.

6. Our primary means for achieving these public interest goals has been competition. Competition drives prices toward cost: In a competitive market, rival service providers will have strong incentives to reduce their prices to attract customers until prices approach their costs. The cost-based prices achieved in competitive markets ensure optimal utilization of the network by consumers and give service providers accurate information regarding the benefits and costs of introducing new services and incentives for investing in technological innovations. In addition, competition gives producers strong incentives to stimulate demand and reduce costs. By forcing producers to minimize the per-unit costs of providing service, competition generally advances, rather than hinders, universal service. It increases the number of consumers willing and able to connect to the nation's telecommunications networks.

7. Of course, full competition does not exist in many areas of telecommunications, and, because of the general benefits society derives from universal service, even full competition by itself may not be sufficient to further our public interest goals. In those circumstances, policymakers may need to intervene. Regulatory policies should be capable of implementation in a timely manner, cost-effective to both regulators and industry, and enforceable.

2. *Need for Reform.* 8. The Communications Act provides that carriers shall offer interconnection when it is determined to be in the public interest. The ability to interconnect has become more important because today telecommunications is increasingly provided by a system of independent, interconnected networks, often referred to as a "network of networks." In this environment, the ability of communications to move seamlessly from one network to another is becoming increasingly vital. Uneconomic and unnecessary barriers to the flow of communications between the increasing number of diverse networks would seriously undermine the benefits of telecommunications to consumers and the American economy and would impede the development of competition between network providers.

9. Efficient interconnection with LEC networks, which reach, on a nationwide

basis, 93.8% of all households, benefits both subscribers and providers of services. First, interconnection enables new providers to compete with incumbent LECs on the basis of the services they offer the public and the prices, quality, and features of those services. In the complete absence of interconnection, prospective new entrants would have to attract enough capital to build and provide origination, transport, and termination services for an entire geographic area, such as a metropolitan area. Second, interconnection allows subscribers of one network to obtain access to subscribers of all other interconnected networks. In a market with multiple and possibly competing networks, it is unlikely that all people would subscribe to all networks. Thus, without interconnection, subscribers to one network may be unable to reach people who subscribe only to some other network.

10. The availability of interconnection cannot, however, be divorced from its price. Interconnection that is priced too high can be the marketplace equivalent of no interconnection. An interconnection obligation is undermined if the charges imposed for interconnection are excessive, and society will not enjoy the benefits described above. On the other hand, if interconnection is available at an unreasonably low price, service providers that otherwise may have built their own facilities to serve part of a LEC's service territory in competition with the LEC may decline to do so. Facilities-based competition can confer benefits on customers such as lower prices, accelerated innovation, and deployment of new technologies. Interconnection at efficient prices should lead to the highest and best use of the existing telecommunications infrastructure, as well as the expansion of this infrastructure, because proper pricing will send economically efficient signals to firms to decide whether the costs of interconnection in a particular case are less than or greater than the benefits of interconnection.

11. In the absence of market power or other distortions, efficient forms of interconnection may develop through private negotiation. For example, small interexchange carriers interconnect with one another, and purchase and resell one another's services, with little or no outside involvement. Similarly, Internet service providers have developed interconnection arrangements without intervention by outside parties.

12. LECs, however, unquestionably still possess substantial market power in the provision of local

telecommunications services. Thus, a LEC may have the incentive and the ability to prevent or reduce the demand for interconnection with a prospective local competitor, such as a CMRS provider, below the efficient level by denying interconnection or setting interconnection rates at excessive levels. Such abuse of market power could lead to at least two problems. First, a LEC may extract monopoly rents for interconnection. Excessive prices for termination of CMRS-originated traffic would lead to retail prices (charged to CMRS customers) that are above the efficient level and thus discourage CMRS customers from placing calls to wireline customers that would be made if LEC interconnection rates were set at efficient levels. Second, a LEC may attempt to restrict the entry of potential competitors. To the extent that certain CMRS providers are potential competitors to a LEC's local telephone service, or to the extent that a LEC may wish to provide certain wireless services, a LEC may have an incentive to withhold interconnection from some CMRS providers. Even where interconnection is mandated, a LEC still could potentially restrict entry either by setting the interconnection rates prohibitively high or by specifying technical requirements for interconnection that are disadvantageous for the connecting network.

13. Another potential problem is that a LEC and an interconnecting CMRS provider may have the incentive and the ability to engage in collusive behavior. If the CMRS provider constitutes a substitute for the LEC network, the two networks could negotiate a high per minute charge to terminate each other's traffic as a means of giving each incentives to charge customers supra-competitive rates for local exchange service. It may be particularly likely that such collusive behavior could occur in cases where the CMRS provider is an affiliate of the LEC. Negotiation of interconnection arrangements could be used as a vehicle to keep the retail price of their respective retail services uneconomically high at the expense of customers. Depending on market structure developments, intervention may be necessary to prevent such outcomes.

14. As set forth below, we have recognized LEC market power by requiring that LECs interconnect with CMRS providers. Under our rules, LECs must negotiate in good faith to provide the type of interconnection arrangement desired by CMRS providers under the principle of mutual compensation, and to furnish interconnection for interstate

traffic at reasonable and non-discriminatory rates. In response to an earlier Notice relating to CMRS interconnection issues, many commenters strongly argued, however, that our current policy can be and is being used by LECs to reduce competition. LECs typically terminate many more calls that originate from the cellular network than an interconnecting cellular network terminates LEC-originated calls. This is due, in part, to cellular customers' reluctance to give out their wireless telephone numbers (since they generally are charged for incoming calls), charges for cellular air time, or technical limitations on cellular telephones (e.g., limited battery life). Because of this imbalance, LECs clearly would benefit competitively from maintaining high, even if symmetrical, interconnection charges. With the growing significance of interconnection and competition in today's telecommunications environment, we believe that a reexamination of our policies addressing compensation arrangements for LEC-CMRS interconnection is essential.

II. Compensation for Interconnected Traffic Between LECS and CMRS Providers' Networks

A. Compensation Arrangements

1. Existing Compensation Arrangements. 15. According to the comments received in this proceeding, at present, cellular carriers typically pay LECs three types of usage-sensitive charges for local calls from cellular subscribers to LEC subscribers, regardless of the physical interconnection facility used: (1) Per-call charges for call set-up; (2) per-minute charges for usage; and (3) per-minute, per-mile charges for transport between the cellular carrier's mobile telephone switching office (MTSO) and the LEC's tandem or end-office switch. Some cellular carriers contend that, notwithstanding our mutual compensation requirement, they typically are forced to pay LECs these charges for calls originating from cellular customers and terminating to LEC wireline customers, as well as for calls originating from LEC customers and terminating to cellular customers. Commenters also submit that, typically, substantially more traffic flows from cellular carriers to LECs than *vice versa*. This may be due to cellular customers' reluctance to give out their wireless telephone numbers, because of charges for cellular air time, technical limitations on cellular telephones (e.g., limited battery life), or other factors. On

the other hand, for services such as paging, most (or all) of the interconnected traffic flows from LECs to CMRS providers, rather than *vice versa*, because most pager devices are incapable of originating calls.

16. We invite commenting parties to provide more detailed information about existing LEC-CMRS interconnection arrangements. Specifically, we are interested in data regarding the rate structures and price levels in those arrangements. We also request comment on what facilities and technical arrangements are used in providing LEC-CMRS interconnection, what rate elements are applicable to providing the services, and the functions that are associated with each rate element. To what extent are these arrangements filed in tariffs before state commissions, or are otherwise publicly disclosed? To what extent do these arrangements make use of provisions in FCC tariffs? We also seek comment on the extent of, and reasons for, the imbalance of traffic flowing between LECs and CMRS providers. Are traffic flows likely to be more balanced in the future for existing commercial mobile radio services or new services such as PCS? Do LECs' current charges/tariffs differ depending on the flow of traffic? We also invite parties to submit data on the extent to which existing LEC-CMRS interconnection arrangements involve both interstate and intrastate traffic. In particular, we seek empirical data and analysis on the extent to which significant levels of interstate wireless traffic are being carried under such arrangements. We also seek comment on the extent to which our mutual compensation requirement is not being observed in the marketplace.

2. General Pricing Principles. a. Rate Structure. 17. In general, we believe that costs should be recovered in a manner that reflects the way they are incurred. Network providers incur costs in providing two broad categories of facilities, dedicated and shared. Dedicated facilities are those that are used by a single party—either an end user or an interconnecting network. Shared facilities are those that are used by multiple parties. Shared facilities can be further divided into two sub-categories, those that need to be augmented to increase the network's capacity and those that need not. In the first such sub-category are facilities, such as switches and multiplexing electronics, for which incremental investments can increase the volume of traffic that the network can handle during peak periods. In the second such sub-category are facilities, such as telephone poles and buildings that

house equipment, whose capacity will not restrict the volume of traffic that the network can handle during peak periods.

18. The cost of a dedicated facility can be attributed directly to the party ordering the service that uses that facility. To the extent that the benefits of a dedicated facility accrue to the party to whom it is dedicated, it is efficient for that party to pay charges that recover the full cost of the facility. To ensure that the party pays the full fixed cost of the facility, the cost should be recovered on a non-traffic sensitive (NTS) basis (*i.e.*, without regard to actual usage). Charging a flat, cost-based rate ensures that a customer will pay the full fixed cost of the facility, and no more; this ensures that the customer will, for example, add additional lines if and only if the customer believes that the benefits of the additional lines will exceed their cost. An additional advantage of a flat fee is that it does not distort usage. The alternative, a usage-based charge, would cause parties with high traffic volumes to overpay (*i.e.*, pay more than the fixed cost of the facility), while parties with low traffic volumes would underpay (*i.e.*, pay less than the fixed cost of the facility). In addition, a usage-based charge would give all parties an uneconomic incentive to reduce their traffic volumes or to avoid connecting with networks that impose such charges. It would also give parties with low volumes of traffic, who face below-cost prices, an incentive to add lines that they valued below their cost.

19. The costs of shared facilities whose cost varies with capacity, such as network switching, should be recovered in a manner that efficiently apportions costs among users. Since the cost of capacity is a function of the volume of traffic the facilities are able to handle during peak load periods, we believe, as a matter of economic theory, that network capacity costs should primarily be recovered through traffic-sensitive (TS) rates charged for peak period traffic, with lower rates for non-peak usage. The peak load price should be designed to recover at least the cost of the incremental network capacity added to carry peak period traffic. Pricing traffic during peak periods based on the cost of the incremental capacity needed to handle additional traffic is economically efficient because additional traffic will be placed on the network if and only if the user or interconnecting network is willing to pay the cost of the incremental network capacity required to handle this additional traffic. Such pricing also ensures that a call made during the peak period generates enough revenue to

cover the cost of the facilities expansion it requires, and it thus gives carriers an incentive to expand and develop the network efficiently. In contrast, off-peak traffic imposes relatively little additional cost because it does not require any incremental capacity to be added, and consequently, the price for carrying off-peak traffic should be lower.

20. We recognize that there may be practical problems in implementing a peak sensitive pricing system. For example, different parts of a given provider's network may experience peak traffic volumes at different times (e.g., in LEC networks, business districts may experience their peak period between 10 and 11 a.m., while suburban areas may have their peak periods between 7 and 8 p.m.). Moreover, peak periods may change over time. For instance, charging different prices for calls made during different parts of the day may cause some customers to shift their calling to the less expensive time periods, which could potentially shift the peak or create new peaks. We seek comment on whether a system with a long peak period (e.g., 8 a.m. to 9 p.m.) and with peak and off-peak rates that reflect both the difference in costs across these periods and customers' propensity to substitute across time periods would improve the utilization rates of the network and would be administratively simple. We seek comment on this analysis, and on possible methods for implementing peak-load pricing or other schemes to recover shared network capacity costs. We also seek comment on possible administrative costs associated with peak-load pricing or other schemes to recover shared network capacity costs.

21. There are also certain shared facilities, such as land, buildings, and telephone poles, whose costs do not vary with capacity (or peak period traffic volumes). As we discuss in the following section on rate levels, there are theoretical and practical problems associated with recovering these shared costs and overheads. We seek comment on how these costs should be recovered and, in particular, on whether they should be recovered entirely through peak rate charges, or through off-peak rates as well. Finally, we note that a carrier may incur varying costs to provide a given service in different geographic areas. We seek comment on how this should be taken into account.

b. Rate Levels. (1) *Long Run Incremental Costs*. 22. The long run incremental cost (LRIC) of a service is the theoretical foundation for efficient pricing of interconnection and other network services. Economists generally

agree that prices based on LRIC reflect the true economic cost of a service and give appropriate signals to producers and consumers and ensure efficient entry and utilization of the telecommunications infrastructure. Since customers will buy a good only if the benefit to the customer exceeds the price, prices based on LRIC ensure that customers purchase a good only when the benefit exceeds the cost. Similarly, since firms will offer a service when the revenue exceeds the cost, prices based on LRIC ensure a firm has an incentive to offer a service when customers' willingness to pay for the service exceeds the cost of providing it.

23. Pricing at LRIC raises some difficulties, however. First, attempting to determine the LRIC of a specific service for a particular LEC is likely to raise significant practical and administrative problems. In addition, given that services are provided over shared facilities and there are economies of scale and scope, setting the price of each discrete service based on the LRIC of that service will not recover the total costs of the network. Similarly, where technological developments are reducing the costs of providing service, setting the price of discrete services equal to the forward-looking LRIC of each service is not likely to recover the historical, embedded costs of the network (or the interstate share of such costs assigned by our Part 36 separations rules). We seek comment on the empirical magnitude of these cost differentials.

(2) *Recovering Costs in Excess of Long Run Incremental Costs*. 24. The fact that pricing based on the LRIC of specific services may not cover all common costs raises difficult issues for pricing interconnection. In particular, this problem means that, if all costs are to be recovered, some services must be priced above LRIC, which will cause some distortions. It is therefore necessary to consider whether terminating carriers should be allowed to recover such costs in excess of LRIC, and if so, to address the method of recovering such costs that would minimize economic distortions and best advance our goals. We seek comment on how best to deal with this recovery issue and, in particular, on the following approaches.

25. One approach would be to allow carriers to set LEC-CMRS interconnection rates equal to the LRIC of the individual services associated with interconnection, and to recover common costs by having the rates for other services, such as vertical calling features (e.g., call waiting, call forwarding, or caller ID), exceed LRIC. This would clearly benefit those CMRS

and LEC networks that seek to interconnect with one another's network. We seek comment on whether, and on what basis, LEC-CMRS interconnection offerings should be treated differently from a carrier's other service offerings, which generally are priced to recover some portion of shared costs and overheads.

26. Another approach would be to allocate shared costs and overhead among services in an inverse relationship to the sensitivity of demand for each of the services. Under this "Ramsey rule," a higher percentage of shared costs and overheads would be allocated to services for which the quantity demanded declines less as the price increases, than to services for which demand is more sensitive to changes in price. In theory, this approach has the advantage that it efficiently minimizes reductions in the quantities of services demanded due to prices above LRIC. While demand sensitivity is clearly relevant to setting efficient prices, there is some concern about how Ramsey principles should be applied to markets subject to actual or potential competition. We recognize that Ramsey pricing principles were developed in the context of a regulated monopoly and not for markets subject to existing or potential competition. We seek comment on whether such an approach is desirable for markets in which competition is developing. We also seek comment on whether such a pricing rule is in the public interest, given that it may result in imposing the greatest burdens on those customers who have the fewest alternatives.

27. A third commonly employed alternative would be to allocate shared costs and overheads among all services based on some specified allocator. For example, shared costs and overheads could be allocated among services uniformly in proportion to each service's LRIC or direct costs, or could be apportioned based on some measure of usage. The advantages of these allocators are that they are relatively simple to administer and result in full recovery of all shared and overhead costs. A principal drawback of this approach, however, is that it may have undesirable effects on demand for particular services. More specifically, such allocators do not minimize the distortions in demand caused by divergences between price and LRIC, and may induce inefficient investment by incumbents and entrants. In addition, or in the alternative, we could limit the permissible overhead loading factor a LEC could collect from an interconnecting CMRS provider to the overhead loading factor that the LEC

uses for some comparable service or services that compete with CMRS offerings.

28. A fourth approach would be to allow incumbent carriers such as LECs to employ the "efficient component pricing rule" (ECPR) proposed by economist William Baumol and others. Under this approach, an incumbent carrier that sells an essential input service, such as interconnection, to a competing network would set the price of that input service equal to "the input's direct per-unit incremental cost plus the opportunity cost to the input supplier of the sale of a unit of input." The ECPR essentially guarantees that the incumbent will recover not only all of its overheads, but also any profits that it would otherwise forego due to the entry of the competitor. Proponents of the ECPR argue that the ECPR creates an incentive for services to be provided by the least-cost provider and that it makes the incumbent indifferent between selling an input service to a competitor or a final service to an end user. Critics, however, have shown that these properties only hold in special circumstances. On the other hand, some express concern that the ECPR may inhibit beneficial entry. In addition, because the ECPR would permit an incumbent carrier to recover its opportunity costs, including any monopoly profits in the sale of the final service, the use of this rule may prevent competitive entry from driving prices towards competitive levels. These arguments cast significant doubts on claims that the rule will yield efficient outcomes. Finally, as an administrative matter, it would be difficult for a regulatory agency to determine the actual level of a carrier's opportunity cost.

29. Finally, we might adopt an approach that permits a range of permissible rates (and implicitly of overhead allocations). We note, for example, that the Commission has repeatedly expressed concern about preventing cross-subsidies. Some economists have defined the following alternative tests for cross-subsidy: (1) The price of each individual service, and of any group of services, must be less than the stand-alone cost of that service (*i.e.*, the cost of providing that service alone but no other services); or (2) the revenue from each service and from all subsets of services must exceed the incremental cost of the service or the subset of services. According to these definitions, if either of the two tests is satisfied, there is no cross-subsidy. This test effectively requires that the revenues generated by any group of services that share a common facility

recover at least the incremental cost of that facility. We seek comment on this theory, and on whether it reduces the range of acceptable prices, and hence, implicitly, the range of acceptable allocation schemes.

30. We seek comment on the foregoing approaches to determining rate levels, how they might apply in the context of LEC-CMRS interconnection, the extent to which they are administratively feasible, and how they will affect rates for other services including intrastate services. We also seek comment on how these LEC-CMRS interconnection rate levels could affect telecommunications network subscribership and universal service. We also ask parties to address the extent to which these approaches could be implemented in the context of the specific pricing options discussed in the following section.

c. Practical Considerations Regarding Cost-Based Pricing. 31. LEC-CMRS interconnection rates could be based on a specific demonstration of the costs of providing service, much as we do for establishing rates for new services under our price cap rules. The new services test requires price cap LECs to demonstrate that the rates for a new service recover the direct costs of that service plus a reasonable share of overhead loadings. We seek comment on whether we should provide guidance with respect to such a cost showing similar to our interpretation of the new services test in *Telephone Company-Cable Television Cross Ownership Rules*, Memorandum Opinion and Order on Reconsideration, 59 FR 63909 (December 12, 1994) (*Video Dialtone Reconsideration Order*). In addition, we seek comment on how we should deal with overhead loadings and whether we should employ any of the alternative approaches discussed in the previous section. We also note that similar cost justification requirements could be enforced by state commissions.

32. The approaches described in the preceding paragraph have a number of advantages, in that they result, at least in theory, in cost-based rates for particular services. On the other hand, these approaches have the disadvantage, typically, of requiring contentious, and time-consuming administrative proceedings to resolve the complex issues raised by cost studies.

3. Pricing Options. a. Interim Approach. 33. Any significant delays in the resolution of issues related to LEC-CMRS interconnection compensation arrangements, combined with the possibility that LECs could use their market power to stymie the ability of CMRS providers to interconnect (and

may have incentives to do so), could adversely affect the public interest. We tentatively conclude that it will better serve the public interest to give providers some degree of certainty, within a short time, that reasonable interconnection arrangements will be available. Some of the alternatives described below may approximate the results of cost studies, and thus provide most of the advantages of the theoretical model described above, but avoid the main disadvantages—administrative costs and delays.

34. Accordingly, we tentatively conclude that an interim pricing approach should be adopted that could be implemented relatively quickly and with minimal administrative burdens on CMRS providers, LECs, and regulators. We plan to move forward expeditiously so as to have an interim pricing approach in place in the near term. Below, we discuss our tentative conclusion that a bill and keep approach (zero rate for termination of traffic) should apply with respect to local switching facilities and connections to end users, with the exception of dedicated transmission facilities linking the two networks. We also set out a number of alternative approaches. Our preferred approach or the alternative options could be adopted as interim solutions for some limited period of time. We seek comment on whether such an approach should apply for a prescribed time period, whether months or years, or until the occurrence of a specific triggering event. With respect to our preferred approach and each of the alternative options discussed below, we ask parties to address whether some combination of these options should be made available, and on the implementation costs for carriers, as well as the speed with which such options could be implemented. In particular, we seek comment on the extent to which modifications would be required in the network to implement such options (*e.g.*, to collect information necessary for billing and collection), the cost of such modifications, and who should bear such costs. We also solicit parties' analysis of the relevant administrative burdens on the Commission caused by the various options, and the ease with which these options can be enforced. Finally, we seek comment on any changes to our approaches that would be necessary or advisable if LECs and CMRS providers were to change current arrangements for recovering costs from end users.

(1) *Tentative Conclusions*. 35. *Bill and Keep*. We tentatively conclude that a "bill and keep" arrangement represents the best interim solution with respect to

terminating access from LEC end offices to LEC end-user subscribers, and with respect to terminating access from equivalent CMRS facilities to CMRS subscribers. Under bill and keep arrangements, neither of the interconnecting networks charges the other network for terminating the traffic that originated on the other network, and hence the terminating compensation rate on a usage basis is zero. Instead, each network recovers from its own end-users the cost of both originating traffic delivered to the other network and terminating traffic received from the other network. Bill and keep arrangements yield results that are equivalent to the networks charging one another incremental cost-based rates for shared network facilities if the incremental cost of using such facilities is equal to (or approximates) zero for both networks. We note that several states, including California, Connecticut, Texas and Pennsylvania, have implemented bill and keep arrangements, at least on an interim basis. We tentatively conclude that, as an interim solution, such bill and keep arrangements should cover both peak and off-peak time periods.

36. Bill and keep arrangements appear to have a number of advantages, especially as an interim solution. First, such arrangements are administratively simple and would require the development of no new billing or accounting systems. Second, the bill and keep approach prevents incumbent LECs that possess market power from charging excessively high interconnection rates. Third, according to proponents, a bill and keep approach is economically efficient if either of two conditions are met: (1) Traffic is balanced in each direction, or (2) actual interconnection costs are so low that there is little difference between a cost-based rate and a zero rate. Proponents of bill and keep submit that condition (2) is satisfied in the case of LEC-CMRS interconnection because they allege that the average incremental cost of local termination on LEC networks is approximately 0.2 cents per minute.

37. In view of these advantages, we tentatively conclude that, for terminating access between the end office (or equivalent CMRS facilities) and the end-user subscriber, a bill and keep arrangement applied to both peak and off-peak periods represents the best interim solution. We also tentatively conclude that a requirement that LECs and CMRS providers not charge one another for terminating traffic from the other network would not violate any party's legal rights. Specifically, we believe that a bill and keep requirement

would not deprive either LECs or CMRS providers of a reasonable opportunity to recover costs they incurred to terminate traffic from the other's network, because these costs could be recovered from their own subscribers. We seek comment on these tentative conclusions. We also seek comment on the effect that a bill and keep approach is likely to have on traffic flows between LEC and CMRS networks: is this approach likely to lead to more balanced traffic flows, or will it create incentives to perpetuate or exacerbate existing traffic imbalances between LEC and CMRS networks?

38. *Transport Costs between the CMRS and LEC Networks.* The analysis of bill and keep presented in comments by Dr. Gerald W. Brock, Director of the Graduate Telecommunications Program, George Washington University, appears not to consider the costs associated with the physical transmission circuits connecting CMRS MTSOs with LEC end offices. Transmitting calls between CMRS and LEC networks can be accomplished through the use of dedicated facilities between CMRS MTSOs and LEC end offices, or through dedicated facilities between CMRS MTSOs and LEC tandem switches. When tandem switches are used, additional tandem-switched transport, consisting of tandem switching and transmission over common transport facilities, is used to transmit traffic between LEC tandem switches and LEC end offices. These facilities are generally provided by LECs. With respect to dedicated transport facilities, cost-causation principles suggest that the costs of such facilities be recovered from the cost-causer through flat rates. With respect to shared facilities used to provide tandem-switched transport, cost-causation principles suggest traffic-sensitive cost recovery, at least during peak periods.

39. LECs' existing interstate access tariffs include flat rates for dedicated transport (entrance facilities and direct-trunked transport) that we have concluded, in general, are reasonably cost-based. Similar charges are included in many LEC intrastate access tariffs. These tariffed charges could be applied to CMRS providers relatively rapidly, with virtually no additional administrative proceedings. Moreover, we believe that the dedicated transport facilities used to connect LEC and IXC networks are similar or identical to the facilities connecting LEC and CMRS networks. Accordingly, we tentatively conclude that, when LECs provide the dedicated transmission facilities between CMRS MTSOs and LEC networks, they should be able to recover

the costs of those facilities from CMRS providers through appropriate dedicated transport rates found in their existing access tariffs. We seek comment on this tentative conclusion.

40. We also seek comment on whether and how LECs should recover from CMRS providers the costs of tandem switching and common transport between tandem switches and end offices, in cases where such LEC-provided facilities are used. The LECs' interstate access tariffs include usage-sensitive charges for tandem-switched transport, as do many state tariffs. Should these tandem-switched transport charges be applied to CMRS providers? Should such charges apply to all minutes, or only to traffic during peak periods?

(2) *Other Options.* 41. While we tentatively conclude that the proposals outlined above would lead to LEC-CMRS interconnection arrangements that best serve our public interest objectives during an interim period, we also seek comment on a number of alternative approaches. We seek comment on the relative costs and benefits of our proposals and these options. We also invite parties to suggest other alternatives or combinations of these options that would advance our public interest objectives and that could be implemented rapidly and with minimal administrative costs.

42. *Bill and Keep for Off-Peak Usage Only.* Brock acknowledges that "[i]f interconnection charges are imposed, they should be assessed at the long run incremental cost of adding capacity." He also acknowledges that "the true cost for peak period usage is much greater than the cost for off peak usage * * * (which) may be near zero," and that the cost for peak period usage is much higher than the average incremental cost of local usage, which he estimates to be 0.2 cents (\$0.002) per minute. In light of Brock's comments, we seek comment on whether a bill and keep approach should be limited to off-peak traffic, with charges assessed for peak-period traffic. We seek comment on what charges should apply for peak period traffic under this approach. For instance, we seek comment on whether some subset of existing access charges should apply, or whether an incremental capacity cost for peak-period traffic should be developed. We also seek comment on the peak periods for both LEC and CMRS networks, and the appropriate period for a peak capacity charge. In addition, we seek comment on whether charging different prices for peak and off-peak traffic has any disadvantages and whether it is

likely to result in a shift in the peak period. In addition, we seek comment on the potential administrative costs and complexity involved in this approach.

43. *Subset of Access Charges.* To the extent that LEC-CMRS interconnection arrangements are similar to the interconnection arrangements between LECs and IXC's or other access customers, the rates for LEC-CMRS interconnection could be based on a subset of the LECs' existing interstate access charges (or comparable rates from their intrastate access tariffs). As noted above, LECs could charge existing local transport rates for the transmission facilities that they provide to link LEC and CMRS networks. Similarly, LECs could charge CMRS providers existing local switching rates for minutes of use originating on CMRS networks and terminating on LEC networks. We do not envision that the LECs would charge CMRS providers the carrier common line (CCL) charge. The CCL charge, in essence, represents a subsidy from LECs' interstate access customers to reduce the subscriber line charges (SLC) paid by end-user subscribers for loop facilities that are dedicated to their use. We do not believe that such a subsidy should be imposed on CMRS providers. Under this alternative, we are also inclined not to permit LECs to charge CMRS providers the transport interconnection charge (TIC), given that the extent to which the TIC recovers transport-related costs is unclear. We seek comment on what subset of access charges should apply if we select this option as an interim compensation mechanism. We also seek comment on whether per-minute access charges should be converted into peak-sensitive capacity charges (either per-peak minute or flat-rate) in the context of LEC-CMRS interconnection, and, if so, on how to do so. In addition, we seek comment on whether the LECs' access charges would be an appropriate framework for LEC-CMRS interconnection once our Access Reform proceeding is completed.

44. *Existing Interconnection Arrangements Between Neighboring LECs.* In the alternative, LEC-CMRS interconnection arrangements could be based on existing arrangements between neighboring LECs. We seek comment on whether LECs should be required to disclose publicly the terms of their interconnection arrangements with neighboring LECs and to offer CMRS providers comparable arrangements. This option could help ensure that CMRS providers receive interconnection on terms and conditions that are at least as favorable as neighboring LECs. Neighboring LECs generally are larger

and more established than CMRS providers and thus more likely to have been able to negotiate reasonable interconnection arrangements. We ask parties for comment on this option. In particular, we ask parties to describe existing arrangements between neighboring LECs and to comment on whether these arrangements would be workable in the context of other forms of LEC-CMRS interconnection.

45. *Existing Interconnection Arrangements Between LECs and Cellular Carriers.* Another possibility would be to apply the same rates, terms, and conditions in existing LEC-cellular interconnection arrangements to broadband PCS providers, or to other categories of CMRS providers. Like the previous option, this option could help ensure that CMRS providers would receive interconnection on terms and conditions that are at least as favorable as cellular carriers. We seek comment on whether cellular carriers, like neighboring LECs, are better established than broadband PCS providers and thus are more likely to have negotiated reasonable interconnection arrangements. We ask the parties to describe existing interconnection arrangements between LECs and cellular carriers and to comment on whether these arrangements could be extended to other forms of LEC-CMRS interconnection.

46. *Intrastate Interconnection Arrangements Between LECs and New Entrants.* In a few states, LECs have filed tariffs providing for interconnection arrangements with competing wireline providers of local exchange service. We invite parties to comment on the various state approaches, such as those in Illinois, Michigan, Maryland, and California, in particular on whether CMRS providers should be eligible for these offerings or whether there is any technical or economic basis for distinguishing CMRS from wireline interconnection. We also ask parties to provide us with other relevant information about state regulations in this area, and to comment on the extent to which state actions in wireline-wireless interconnection may serve as a model for LEC-CMRS interconnection. We note that, as part of broader initiatives to remove the statutory or regulatory barriers to entry into the local telephone market, several states have initiated proceedings, and in some cases adopted interim or permanent rules, governing interconnection arrangements between LECs and competing local carriers. We ask parties to comment on these state regulations and on the relative costs and benefits of various

approaches states have taken in this area.

47. *Measured Local Service Rates.* With respect to rates that recover the costs of shared facilities whose costs vary in proportion to capacity, we seek comment on whether interconnection rates should be set at some fixed percentage of the measured local service rates that LECs currently charge their local customers. For example, if a LEC currently charges its own measured local service customers 5 cents per minute, it could charge an interconnecting CMRS provider half that amount—2.5 cents per minute. This option essentially would assume that the existing measured service rates are cost-based, and that the LEC's cost in terminating a call placed by a CMRS customer is one-half (or some other percentage) of the cost of both originating and terminating a call placed by a LEC customer to another LEC customer. Under a variant of this option, if a LEC does not offer measured local service, or if few LEC customers select such service, an imputed per-minute rate could be derived by dividing the LEC's monthly local service rate by the average customer's number of local minutes originated per month. Both the basic option and the variant discussed here have the appeal of facilitating competition between CMRS providers and LECs, by ensuring that CMRS providers never pay more for interconnection than LECs charge for a complete call. A disadvantage of these options is that they would not necessarily result in cost-based interconnection rates.

48. *Uniform Rate.* We also seek comment on whether a presumptive uniform per-minute interconnection rate should be established for all LECs and CMRS providers. Such a rate could be developed from generic, forward-looking studies of LEC network costs. We invite parties to submit any such studies into the record of this proceeding. A second option would be to develop such a rate based on one or more (or an average) of the state policy decisions cited in the preceding paragraph. Interconnection rates that have been ordered or accepted by state commissions range between 0.5 cents to 2.4 cents per minute, with a median of around one cent per minute. A third possibility would be to set such a uniform rate based on the average level of LECs' interstate access charges. For example, the per minute rate for terminating traffic interconnected at an end-office (exclusive of flat-rate charges for circuits connecting LEC and CMRS networks and per-minute charges for tandem switched transport) could be set

based on the average level of LECs' interstate local switching charges, but not transport interconnection charges or carrier common line charges. We seek comment on the advantages and disadvantages of establishing a uniform interconnection rate level, whether establishing such a uniform rate would be lawful, the basis on which such a rate might be set, and the practical problems of implementing such a rate scheme. We also seek comment on whether such a rate, instead of being a presumptively lawful rate, should be a prescription, and on what showing a carrier would need to make to charge a different rate. In the alternative, we seek comment on whether carriers should apply different interconnection rate levels in different geographic areas that they serve.

49. *Bill and Keep Until a Satisfactory Rate Is Developed.* Finally, we seek comment on whether a bill and keep arrangement should be imposed on a LEC pending the negotiation of a satisfactory interconnection arrangement between the LEC and a CMRS provider or the approval of other cost based charges. If the negotiations were to break down, a reasonable basis for resolving the dispute might be the imposition of a rate equal to the lowest of: (1) Existing interconnection arrangements between the LEC and neighboring LECs; (2) intrastate interconnection arrangements between the LEC and new entrants; or (3) a subset of LEC interstate access charges for terminating traffic. A LEC would be allowed, however, to demonstrate that the lowest of the charges described above does not provide the LEC with a reasonable opportunity to recover all the costs incurred in terminating CMRS traffic on the local landline network, and some overhead costs. This approach would preserve the primary role of negotiations between the parties in reaching interconnection arrangements, but would limit the LEC's ability to exercise its market power, while simultaneously creating an incentive for it to negotiate a satisfactory rate expeditiously. We also seek comment on whether CMRS providers would have an incentive to negotiate under this approach.

b. *Long Term Approach.* 50. We seek comment on what the long-term approach to interconnection pricing should be, whether one of the interim options outlined above should be the permanent methodology, or whether interconnection rates should be based on a specific demonstration of the cost of providing service, much as we require for establishing rates for new services under our price cap rules. We believe that, in the long term, pro-

competitive LEC-CMRS interconnection arrangements should be developed that advance our public interest objectives. First, these arrangements should give efficient incentives regarding both consumption and investment in telecommunications services. To this end, prices should be reasonably cost-based. Cost-based prices could be derived through cost studies, or could be based on potentially reasonable proxies in lieu of developing rates based on complete cost justifications, possibly including one or more of the interim approaches described above. Moreover, over time, we believe that price cap regulation and increasing competition will force interconnection rates toward cost. Ultimately, markets may become sufficiently competitive that cost-based interconnection prices should result without any regulatory intervention.

51. Second, functionally equivalent forms of network interconnection arguably should be available to all types of networks at the same prices, unless there are cost differences or other policy considerations that justify different rates. Thus, in the long run, if LECs provide essentially similar interconnection services to CMRS providers and to IXCs, then it may well be in the public interest for the rates in LEC-CMRS interconnection arrangements not to differ from the rates for LEC-IXC interconnection—*i.e.*, access charges. We acknowledge, however, that there may be significant reasons, including our interest in facilitating the competitive development of CMRS and considerations relating to the Part 36 jurisdictional separations rules, that may necessitate differences in regulatory regimes. We also recognize that current interstate access charges are problematic, and in the near future we intend to initiate a comprehensive proceeding to reform the access charge regime. We also seek comment on the impact of each of the pricing options on universal service considerations. Finally, we note that substantially different prices for similar forms of interconnection raise the possibility that parties could seek to deflect traffic from a more costly form of interconnection to a less costly form. We invite comment on the implications of this possibility, including methods to prevent such traffic deflection.

c. *Symmetrical Compensation Arrangements.* 52. We tentatively conclude that LEC-CMRS interconnection rates should be symmetrical—that is, LECs should pay CMRS providers the same rates as CMRS providers pay LECs. Most existing interconnection arrangements between LECs and competing wireline

providers of local exchange service require that interconnection rates be symmetrical.

53. We recognize that symmetrical interconnection rates have certain disadvantages. Asymmetrical, cost-based rates have the benefit of providing each of the carriers (and, if passed through to them, their customers) incentives to use resources such as interconnection commensurate with the actual cost of those resources. LEC networks and CMRS networks use different technologies that may have different costs. If interconnection rates were fully cost-based, then a LEC might pay a CMRS provider different interconnection rates than the CMRS provider would pay the LEC.

54. On the other hand, symmetrical compensation rates would be administratively easier to derive and manage than asymmetrical rates based on the costs of each of the respective networks. Moreover, symmetrical rates could reduce LECs' ability to use their bargaining strength to negotiate an excessively high termination charge that CMRS providers would pay LECs and an excessively low termination rate that LECs pay CMRS providers. Setting asymmetric, cost-based rates might require evaluating the cost structure of non-dominant carriers, which would be complex and intrusive. Accordingly, we tentatively conclude that interconnection arrangements should include symmetrical compensation rates, at least during an interim period. We seek comments on the foregoing analysis. Commenters should discuss any other reasons why symmetrical or asymmetrical compensation rates would be in the public interest and the relative merits of these approaches. We also seek comment on whether we should revisit our existing policy of forbearing from regulating CMRS providers' rates in order to enforce our interim policies with respect to the rates CMRS providers charge to LECs.

55. In addition, we note that, according to a number of parties, many LECs do not now pay any compensation to CMRS providers for LEC-originated traffic that terminates on their networks, and that some LECs even impose charges on CMRS providers for such traffic. Such conduct would appear to violate our existing mutual compensation requirement. We seek comment on whether such violations are occurring and what methods could and should be used to enforce this requirement. In *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, Second Report and Order, 59 FR 18493 (April

19, 1994), we stated that CMRS providers may file complaints, under section 208 of the Act, if a LEC violates the requirement that they charge the same rates to CMRS providers for interstate interconnection as they charge other mobile service providers. Is this avenue for obtaining remedies sufficient, or should we institute some other procedure or other mechanism to ensure that LECs comply with our existing rules? For example, should we require LECs to report to us on the amounts of compensation they are paying to CMRS providers for traffic that originates on LEC networks and terminates on CMRS networks? Are alternative dispute resolution procedures necessary?

C. Implementation of Compensation Arrangements

1. Negotiations and Tariffing. 56. As discussed above, we believe that some involvement in the formation and administration of interconnection arrangements between LECs and CMRS providers would help to counter possible abuses of market power and would help ensure that these arrangements are efficient and advance the public interest. We also have addressed the types of compensation arrangements that we believe would best serve the public interest. We seek more detailed comment on the type of involvement that would be optimal in light of our views on the compensation arrangements. In particular, we ask parties to comment on the interrelationship of the procedural issues addressed in this section to the substantive policy options regarding compensation arrangements discussed above. Some of the substantive options discussed above might make some procedural approaches infeasible, or could make certain protections unnecessary.

57. In considering how to implement our policies regarding interconnection arrangements, we seek to promote arrangements that foster competition and advance economic efficiency and our other goals. We also desire to enable LECs and CMRS carriers to respond rapidly and flexibly to changing interconnection needs. We seek comment on whether an open process in which a LEC and a CMRS provider freely discuss and negotiate a wide variety of interconnection options is preferable to a process whereby the LEC presents the CMRS provider with a limited choice of preset interconnection options. There may be a useful purpose in some level of intervention to prevent abuse of market power or unreasonable discrimination. This may be particularly

critical in cases in which the parties are unable to negotiate a satisfactory agreement, but may also be valuable as a "backstop" measure even when parties can reach agreement, to prevent unreasonable discrimination against other parties or anticompetitive collusion that might disadvantage consumers.

58. If LECs and CMRS providers were to negotiate interconnection arrangements consistent with the compensation framework discussed above, the public interest would be served while avoiding the need for intervention. As discussed above, however, we believe that optimal compensation arrangements are unlikely to result from purely private negotiations. At least for the near future, there is likely to be an imbalance in negotiating power between the incumbent LECs, which currently possess monopoly power in local exchange markets, and new CMRS providers seeking to enter such markets. The LECs may seek to impose unduly high interconnection rates or other unreasonable conditions that could reduce CMRS entry. Moreover, there is a significant risk that LECs may not offer new CMRS carriers interconnection agreements that are as financially advantageous as those that large and incumbent CMRS providers have already secured. Finally, in cases where LECs and CMRS providers compete directly against one another, there is a significant risk that LECs and CMRS providers could engage in collusive behavior and voluntarily agree to arrangements that would not advance the public interest. Thus, participation in the process by regulators may be warranted for some period of time.

59. An alternative would be a requirement that voluntarily-negotiated interconnection contracts be filed publicly. Such public filing—either at the Commission (pursuant to section 211) or at state commissions—could reduce the LECs' ability to engage in unreasonable discrimination among CMRS providers, although we recognize that such a procedure would not necessarily ensure that arrangements will comply with the substantive standards discussed above. We also seek further comment on possible ways to minimize the burden of such disclosure and protect the confidentiality of LECs' and CMRS providers' proprietary data, while still obtaining disclosure of enough information to advise new entrants about rates, terms, and conditions. Finally, we seek comment on whether filing at a regulatory agency is necessary if the carriers themselves were required to make publicly

available relevant, specified information about the agreement upon request.

60. As noted above, even public disclosure of negotiated agreements may not be sufficient to prevent anticompetitive behavior by LECs possessing market power and to ensure that interconnection compensation arrangements are structured in an optimal manner. A more forceful approach would be to require that interconnection arrangements be filed as tariffs. The tariff process is a well-established mechanism for regulatory commissions to protect the public interest by rejecting unreasonable provisions in carriers' offerings. On the other hand, tariffing requirements could entail administrative costs. We tentatively disagree with the position taken by some of the commenting parties that any tariffing requirement would automatically preclude flexible interconnection arrangements. We note that, even in a contractual environment, one party might inflexibly present a limited number of options and refuse to negotiate alternatives; by contrast, even under a tariffing requirement, parties can cooperatively negotiate provisions in a flexible manner. Such provisions can later be incorporated as tariffed options. Thus, tariffed interconnection arrangements need not be "one size fits all."

61. The major difference we see between non-tariffed arrangements and arrangements subject to a contract tariff process is that, in the latter case, the regulator has additional mechanisms to protect against terms that may be unreasonable or unreasonably discriminatory, such as issuing an order for investigation pursuant to section 205 of the Act. We seek comment on the costs and benefits of amending our rules to permit the use of contract tariffs to implement LEC-CMRS interconnection arrangements. We also seek comment on whether a different form of contract tariffing for LEC-CMRS interconnection would better serve the public interest. For instance, should a special notice period apply to LEC-CMRS interconnection contracts? Should some level of cost showing be required for LEC-CMRS interconnection contracts, unlike contract tariffs generally?

62. In sum, we tentatively conclude that information about interconnection compensation arrangements should be made publicly available in order to foster competition and to advance the public interest. As to what form this information should take—tariff, public disclosure or other approach—we seek comment from parties as to the costs and benefits of each option, keeping in mind the goals of promoting economic

efficiency through competition and negotiating flexibility.

2. *Jurisdictional Issues.* 63. We seek comment on three alternative approaches to implementing the interconnection policies discussed above. We recognize that states share our goals of stimulating economic growth by promoting the development of CMRS, which would upgrade the nation's telecommunications infrastructure and would help make available broader access to communications networks. We also recognize that, as detailed above, some state public utility commissions have begun to develop their own policies governing interconnection arrangements. We intend to continue to work cooperatively with state regulators to formulate interconnection policies that advance our common public interest goals.

64. One approach to implementing these goals would be to adopt a federal interconnection policy framework that would directly govern LEC-CMRS two-carrier interconnection with respect to interstate services and that would serve as a model for state commissions considering these issues with respect to intrastate services. Essentially, we would recommend that states voluntarily follow our guidelines, rather than making them mandatory requirements. Under this informal model, we would give guidance to the states while not directing state regulators in interconnection matters. For example, if we were to affirm our tentative conclusions discussed above regarding bill and keep compensation, we could require LECs and CMRS providers to use that approach with respect to terminating interstate traffic originating on the other's network, and encourage states to adopt the same approach with respect to intrastate traffic. On the other hand, there would be no guarantee that states would adopt our proposed model. We seek comment on this option and whether there might be some way to supplement it to better achieve the goals discussed above. For example, would it be beneficial to have an industry group develop specific standards to govern the terms and conditions for interconnection arrangements, based on our informal model? If so, should we set a date certain by which such an industry group should develop these standards?

65. A second approach would be to adopt a mandatory federal policy framework or set of general parameters to govern interconnection arrangements between LECs and CMRS providers with respect to interstate and intrastate services, but allow state commissions a

wide range of choices with respect to implementing specific elements of these arrangements. Thus, although compliance with these policy parameters would be mandatory, state commissions would have substantial latitude in developing specific arrangements that would comply with these parameters. One example of a general policy parameter is our existing mutual compensation requirement—which generally requires that there be mutual compensation between LECs and CMRS providers for the reasonable costs of terminating each other's traffic—without precluding the states from setting the actual interconnection rates that LECs and CMRS providers charge. We could also adopt more specific policy parameters, while still preserving a degree of discretion for state commissions. For example, we could require the use of bill and keep compensation, as discussed above, for all off-peak traffic, but allow states to decide whether to use bill and keep or some alternative option with respect to compensation for intrastate traffic during peak periods. The possible benefit of this approach is that it would provide some greater national uniformity, while still preserving the state commissions' flexibility to develop specific arrangements that meet their needs. We seek comment on this option and on whether it would most effectively achieve our goals. If parties do support the use of mandatory federal policy parameters, we ask that they comment on what level of detail we should adopt in such parameters—that is, whether we should adopt broad, general parameters on what the appropriate interconnection rates should be or whether we should adopt a more detailed set of parameters.

66. As a third alternative, we seek comment on our promulgating specific federal requirements for interstate and intrastate LEC-CMRS interconnection arrangements. This approach would place more specific parameters on state action regarding interconnection rates. For example, if we were to affirm our tentative conclusions discussed above regarding bill and keep compensation, we could require LECs and CMRS providers to adopt such an approach with respect to all traffic.

67. We tentatively conclude that the Commission has sufficient authority to implement these options, including our proposal that interconnection compensation on a bill and keep basis be adopted on an interim basis. As a preliminary matter, 47 U.S.C. 332 explicitly preempts state regulation in this area to the extent that such regulation precludes (or effectively

precludes) entry of CMRS providers. In addition, to the extent state regulation in this area precludes reasonable interconnection, it would be inconsistent with the federal right to interconnection established by Section 332 and our prior decision to preempt state regulation that prevents the physical interconnection of LEC and CMRS networks. We also believe, contrary to our conclusion in earlier orders, that preemption under *Louisiana Public Service Commission v. FCC*, 476 U.S. 355 (1986), may well be warranted here on the basis of inseverability, particularly in light of the strong federal policy underlying Section 332 favoring a nationwide wireless network. Indeed, in this regard, we note that several entities have argued that section 332 itself gives the Commission exclusive jurisdiction in this area.

68. We seek comment on this analysis and also ask parties to submit relevant factual information on this issue. We seek comment, first, on the inseverability of interconnection rate regulation. We note that much of the LEC-CMRS traffic that may appear to be intrastate may actually be interstate, because CMRS service areas often cross state lines, and CMRS customers are mobile. For example, if a cellular customer from Richmond travels to Baltimore and then places a call to Alexandria, the call might appear to be an intrastate call, placed from a Virginia telephone number to another Virginia number, but would in fact be interstate because the call originates in Maryland and terminates in Virginia. Service areas defined as "local" in wireless providers' rate structure do not coincide with LEC "exchanges" defined by section 221(b) as subject to state authority, and often cross state lines. This is true of many existing cellular providers, and is even more likely to be true with respect to PCS licensees in major trading areas (MTAs). We request that commenting parties submit empirical data and analysis on the extent to which existing LEC-CMRS interconnection arrangements involve both interstate and intrastate traffic, the extent to which significant levels of interstate wireless traffic are being carried under such arrangements, and, most importantly, the extent to which interstate and intrastate traffic can be severed for regulatory pricing purposes. We seek comment on whether either the CMRS or the LEC networks have the technical capability to distinguish whether a wireless call interconnecting with its network is an interstate or intrastate call. We also seek comment on whether we should reconsider our

recent conclusion, cited by BellSouth, that section 332 does not circumscribe state regulation of the interconnection rates that LECs charge CMRS providers.

69. We also ask parties to identify what types of state rate regulation, if any, preclude (or effectively preclude) entry of CMRS providers. We seek specific information on the types of regulations that are either in effect or have been proposed by state regulators in the area of LEC-CMRS interconnection, and seek comment on what impact such state action has had on interconnection arrangements and on the ability of CMRS providers to compete in the market. We also request comment on the meaning and relevance of section 332(c)(1)(B) to our jurisdictional analysis.

70. In determining what the Commission's role should be with respect to implementation of LEC-CMRS interconnection policies, we again emphasize our recognition of the states' legitimate interest in interconnection issues and our intention to work in coordination with state regulators in this regard. In addition, although we have identified three possible options to implement our interconnection compensation proposals, and we seek comment on these options, we also encourage parties to suggest other options, or variations of our options, regarding implementation. Our goal is to achieve implementation of our interconnection proposals in the most efficient and effective manner to the collective benefit of all the parties involved.

III. Interconnection for the Origination and Termination of Interstate Interexchange Traffic

71. We held in 1984 that radio common carriers and cellular carriers are not IXC and therefore are not required to pay LECs interstate access charges. We have never addressed, however, whether LECs or IXCs should remit any interstate access charges to CMRS providers when the LEC and the CMRS provider jointly provide access service. For example, when a cellular customer places a long-distance call, the cellular carrier typically transmits the call to the LEC, which connects the call to the IXC. Similarly, when long-distance calls are placed to cellular customers, the IXC handling the call typically transmits the call to a LEC, which, in turn, hands it to the cellular carrier for termination to the called party. We have not previously established specific rules or guidelines applicable to the joint provision of interstate access service by a LEC and a CMRS provider. Until CMRS providers

generate sufficient traffic to warrant direct connections to IXC points of presence, we believe that most CMRS providers are likely to depend on LECs for interconnection of interexchange traffic to IXCs. Thus, we tentatively conclude that it will be necessary to apply certain protections to such interconnection arrangements, at least in the foreseeable future. We seek comment on this analysis and on our tentative conclusion. We also invite CMRS providers and LECs to describe existing arrangements under which CMRS providers are compensated for originating and terminating interstate interexchange traffic that transits a LEC's network.

72. In the context of the existing access charge regime, we tentatively conclude that CMRS providers should be entitled to recover access charges from IXCs, as the LECs do when interstate interexchange traffic passes from CMRS customers to IXCs (or vice versa) via LEC networks. We propose to require that CMRS providers be treated no less favorably than neighboring LECs or CAPs with respect to recovery of access charges from IXCs and LECs for interstate interexchange traffic. We tentatively conclude that any less favorable treatment of CMRS providers would be unreasonably discriminatory, and would interfere with our statutory objective and ongoing commitment to foster the development of new wireless services such as CMRS. We seek comment on how to implement this non-discrimination requirement. For example, should we require that contracts between neighboring LECs establishing joint arrangements for providing interstate access, as well as comparable contracts between LECs and CMRS providers, be publicly filed pursuant to section 211 of the Act in order to protect against such discrimination? Should such arrangements be included in LEC interstate access tariffs?

73. We also seek comment on the basis for CMRS providers' access charges, which under our proposal would be collected directly or indirectly from IXCs. Should CMRS providers impose interstate access charges that mirror those of the LECs with which they connect? Or should they impose their own access charges, as do many independent LECs? If the latter, should we retain our existing policy of forbearing from regulating CMRS providers' interstate access charges? In the alternative, should we find that, even though CMRS providers may lack market power with respect to end users, they may have some market power over IXCs that need to terminate calls to a

particular CMRS provider's customer, or to originate calls (in an equal access context) from such a customer? If we were to adopt such a conclusion, should we adopt guidelines or some other form of pricing regulation to govern CMRS providers' interstate access charges? Should we address the billing arrangements that would apply in this context? Parties are invited to comment on the issues and proposals discussed herein, and to address the costs and benefits of these and possible alternative approaches.

IV. Application of These Proposals

74. We invite comment on whether the proposals and options considered in this Notice of Proposed Rulemaking should apply to interconnection arrangements between LECs and: (1) Broadband PCS providers only; (2) broadband PCS, cellular telephone, SMR, satellite telephony, and other CMRS providers that offer two-way, point-to-point voice communications, which could compete with LEC landline telecommunications services; or (3) all CMRS providers. We solicit comments and analysis on the relative costs and benefits of broader and narrower approaches, and on any technical or economic similarities or differences among CMRS services that would warrant similar or different treatment. (We note that, as a matter of convenience, we refer elsewhere in this notice generically to "CMRS providers;" this usage is not intended to exclude the possibility of applying our policies more narrowly.)

75. There may be benefits to focusing primarily on broadband PCS or some other limited group of CMRS services. First, it might be desirable to limit our focus to broadband PCS because it is a new service. We have assigned the initial broadband PCS licenses relatively recently and will soon assign more. Fewer issues arise in applying policy changes to a new service, such as broadband PCS, than to existing services: For example, it is less likely that we would need to consider problems of displacement, interference with existing contracts, or transitions from existing interconnection arrangements to new arrangements.

76. Second, we could consider addressing interconnection between LECs and all types of commercial mobile radio services that support voice telecommunications and could compete with the local telephone services provided by the LECs. The interconnection arrangements between this group of CMRS providers and LECs could have a critical effect on whether these carriers can develop into effective

competitors for providing the local links required for interstate communications. Focusing narrowly either on broadband PCS alone or on this subset of CMRS would allow us to tailor our policies more carefully to the particular subset of carriers or services involved.

77. Third, there are arguments for applying our proposals more broadly to interconnection between LECs and all CMRS providers because this would enable us to make improvements in as large a part of the local telephone and CMRS markets as possible. Moreover, pursuant to Congressional intent, we have taken a number of actions to apply similar regulatory treatment to different types of CMRS providers. Differential treatment among CMRS providers in the critical area of interconnection could be interpreted as inconsistent with our overall policies with respect to CMRS. On the other hand, some of the proposals in this Notice might not be in the public interest if applied to CMRS providers that do not compete with LEC services.

V. Procedural Issues

A. Ex Parte Presentations

78. This is a non-restricted notice-and-comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, 1.1206.

B. Initial Regulatory Flexibility Analysis

79. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, the Commission's Initial Regulatory Flexibility Analysis with respect to the *Notice of Proposed Rulemaking* is as follows:

80. *Reason for Action:* The Commission is issuing this *Notice of Proposed Rulemaking* seeking comment on possible changes in the regulatory treatment of interconnection compensation arrangements between LECs and CMRS providers and related issues.

81. *Objectives:* The objective of the *Notice of Proposed Rulemaking* is to provide an opportunity for public comment and to provide a record for a Commission decision on the issues stated above.

82. *Legal basis:* The *Notice of Proposed Rulemaking* is adopted pursuant to sections 1, 2, 4, 201-205, 215, 218, 220, 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201-205, 215, 218, 220, 303(r) and 332;

83. *Description, potential impact, and number of small entities affected:* Any

rule changes that might occur as a result of this proceeding could impact entities which are small business entities, as defined in section 601(3) of the Regulatory Flexibility Act. After evaluating the comments in this proceeding, the Commission will further examine the impact of any rule changes on small entities and set forth findings in the Final Regulatory Flexibility Analysis. The Secretary shall send a copy of this *Notice of Proposed Rulemaking* to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601, *et seq.* (1981).

84. *Reporting, recordkeeping and other compliance requirement:* None.

85. *Federal rules which overlap, duplicate or conflict with the Commission's proposal:* None.

86. *Any significant alternatives minimizing impact on small entities and consistent with stated objectives:* The *Notice of Proposed Rulemaking* solicits comments on a variety of alternatives.

87. *Comments are solicited:* Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this *Notice of Proposed Rulemaking* but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

C. Comment Filing Procedures

88. Comments and reply comments should be captioned in CC Docket No. 95-185 only. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before February 26, 1996, and reply comments on or before March 12, 1996. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, NW., Room 544, Washington, DC 20554. Parties should

also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, NW., Room 239, Washington, DC 20554.

89. In order to facilitate review of comments and reply comments, both by parties and by Commission staff, we request that such comments be organized in a uniform format. Specifically, we ask the parties to organize their comments and reply comments according to the following outline:

- I. General Comments
- II. Compensation for Interconnected Traffic between LECs and CMRS Providers' Networks
 - A. Compensation Arrangements
 1. Existing Compensation Arrangements
 2. General Pricing Principles
 3. Pricing Proposals (Interim, Long Term, Symmetrical)
 - B. Implementation of Compensation Arrangements
 1. Negotiations and Tariffing
 2. Jurisdictional Issues
- III. Interconnection for the Origination and Termination of Interstate Interexchange Traffic
- IV. Application of These Proposals
- V. Responses to Initial Regulatory Flexibility Analysis
- VI. Other

Each new section should begin on a new page, and should be labeled with the name of the filing party, identification of whether the document is an initial comment or a reply comment, the docket number, filing date, and number and name of the outline section addressed (although formal legal headers are unnecessary for section headings). No pages need be submitted for issues that a party chooses not to address. Arguments that conceptualize issues in a manner that does not fit into the segments listed above may be included in the "Other" section.

D. Ordering Clauses

90. Accordingly, it is ordered that, pursuant to sections 1, 4, 201-205, 215, 218, 220, 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201-205, 215, 218, 220, 303(r) and 332, a notice of proposed rulemaking is hereby adopted.

91. It is further ordered that, the Secretary shall send a copy of this

notice of proposed rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects

47 CFR Part 20

Radio.

47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-1974 Filed 1-31-96; 8:45 am]

BILLING CODE 6712-01-U

47 CFR Part 76

[CS Docket No. 95-184; FCC 95-504]

Telecommunications Inside Wiring, Customer Premises Equipment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comments on whether certain telephone and cable inside wiring rules should be harmonized or otherwise changed in light of the evolving and converging telecommunications marketplaces. This item will assist the Commission in creating a record necessary to its ultimate design of rules in this area.

DATES: Comments are due on or before March 18, 1996 and reply comments are due on or before April 17, 1996.

FOR FURTHER INFORMATION CONTACT: Larry Walke, (202) 416-0847, or Rick Chessen, (202) 416-1166.

SUPPLEMENTARY INFORMATION: The text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Washington DC 20037.

Notice of Proposed Rulemaking

I. Introduction

1. The Commission issues this *Notice of Proposed Rulemaking* ("NPRM") to consider changes in our telephone and cable inside wiring rules and policies in light of today's evolving and converging telecommunications marketplace. Because this proceeding will consider the issue of parity between our telephone and cable inside wiring rules, we are granting a petition for rulemaking (RM 8380) filed jointly by the Media Access Project, the United States Telephone Association and Citizens for a Sound Economy Foundation (collectively, "MAP"), to the extent that MAP urges the Commission to establish a proceeding to consider making cable home wiring rules the same as those governing telephone inside wiring. We also note that, concurrently with the adoption of this NPRM, we issue a *First Order on Reconsideration and Further Notice of Proposed Rulemaking* in MM Docket No. 92-260 regarding our cable home wiring rules under Section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), Pub. L. No. 102-385, 106 Stat. 1460 (1992), 47 U.S.C. 521, *et seq.* We incorporate the record in MM Docket No. 92-260 herein by reference.

2. We expect that at least some consumers may soon have a choice of two or more telecommunications service companies providing telephony, data, video programming and other services. Through this NPRM, we seek comment on whether and how we should revise our current telephone and cable inside wiring rules to reflect these new realities and promote competition, by ensuring that the Commission's inside wiring rules continue to facilitate the development of new and diverse services for the American public. In particular, and as described more fully below, we seek comment on whether it is technically and competitively desirable to create a uniform set of inside wiring rules that would apply to telephone companies and cable operators alike, or, in the alternative, that would apply according to the technical characteristics of the service—e.g., broadband or narrowband—or the type of wiring used—e.g., fiber optics, coaxial cable or twisted-pair wiring.

II. Inside Wiring Issues

A. Demarcation Point

1. *Background.* 3. Section 16(d) of the 1992 Cable Act directs the Commission to "prescribe rules concerning the disposition, after a subscriber to a cable

system terminates service, of any cable installed by the cable operator within the premises of such subscriber." The Commission's regulations implementing Section 16(d) provide that, when a customer voluntarily terminates service, the cable operator must give that subscriber the opportunity to acquire the wiring before the operator removes it. The subscriber may purchase the wiring inside his or her premises up to the demarcation point. The cable wiring demarcation point serves such multiple purposes as defining (1) the location at which the subscriber may control the internal home wiring if he or she owns it; (2) the point at which an alternative multichannel video programming service provider would attach its wiring to the subscriber's wiring in order to provide service; and (3) the point from which the customer has the right to purchase cable home wiring upon termination of service. The demarcation point for cable home wiring in single unit installations is set at (or about) 12 inches outside of where the cable wire enters the subscriber's premises. The demarcation point for multiple dwelling units is set at (or about) 12 inches outside of where the cable wire enters the subscriber's individual dwelling unit.

4. In multiple dwelling unit buildings, cable wiring configurations fall into two categories: loop-through and non-loop-through. In a loop-through cable wiring system, a single cable provides service to multiple subscribers such that every subscriber on the loop must receive the same cable service. Generally, in a non-loop-through configuration, each subscriber has a dedicated line (a "drop") running to his or her premises from a common "feeder line." Only the wiring extending from the demarcation point to inside the subscriber's premises constitutes home wiring; thus, the drop wiring from the demarcation point out to the feeder line does not constitute home wiring. The feeder line is the source of video programming signals for everyone in the multiple dwelling unit building. A "tap" or "multi-tap" is a passive device, installed where the drop meets the feeder, that extracts portions of the signal strength in the feeder and distributes individual portions to subscribers. The strength of the signals within the feeder decreases each time the signals encounter a tap. In addition, the cable's electrical characteristics cause the strength of the signals to diminish as the signals pass through the coaxial cable. As a result of the signal strength lost through taps and its passage through coaxial cable, periodic amplification is often required within