88.105–94, under the provisions of § 86.094–14, in addition to the vehicles certified under paragraph (e)(2) of this section.

* * * * *

(i) For light duty vehicles and light duty trucks, small volume engine families certified to LEV, ULEV, ILEV, or ZEV emissions standards in 40 CFR part 88 may be grouped into an engine family class, provided that:

(1) For original equipment manufacturers, the following criteria are met:

(i) Vehicles are all certified to the same emissions standards prescribed in 40 CFR 88.104–94.

(ii) The maximum range of engine displacement is less than or equal to 0.8 liters of the largest displacement in the class.

(iii) Same type of catalyst (e.g., beads or monolith).

(iv) Same precious metal composition of the catalyst by the type of principle active material(s) used (e.g., platinum based oxidation catalyst, palladium based oxidation catalyst, platinum and rhodium three-way catalyst, palladium and rhodium three-way catalyst).

(v) The ratios of [(catalysts volume/displacement) × (catalyst loading rate)] of all catalysts is within 25 percent or 0.2 g/liter of each other.

(2) For aftermarket conversions, the following criteria are met:

(i) Vehicles are all certified to the same emissions standards prescribed in 40 CFR 88.104–94.

(ii) The maximum range of engine displacement is less than or equal to 0.8 liters of the largest displacement in the class.

(iii) Same type of catalyst (e.g., beads or monolith).

(iv) All carlines or engine models were included on the certificate for the pre-conversion configuration.

(3) Vehicles certifying to more than one set of emission standards specified in this paragraph (i) may be grouped into a single engine family class, as provided in paragraphs (i)(1) and (i)(2) of this section. For example, a manufacturer may certify a vehicle to both ULEV and ILEV standards, or to both ZEV and ILEV standards.

(j) For heavy duty engines, small volume engine families certified to LEV, ULEV, or ZEV emissions standards in 40 CFR 88.105–94 may be grouped into an engine family class, provided that:

(1) For original equipment manufacturers, the following criteria are met:

(i) The engines meet the requirements of paragraphs (a)(2)(iv) through (a)(2)(x) of this section.

(ii) The maximum range of engine displacement is less than or equal to 0.8 liters of the largest displacement in the class.

(iii) Same type of catalyst (e.g., beads or monolith).

(iv) Same precious metal composition of the catalyst by the type of principle active material(s) used (e.g., platinum based oxidation catalyst, palladium based oxidation catalyst, platinum and rhodium three-way catalyst, palladium and rhodium three-way catalyst).

(v) The ratio of [(catalysts volume/displacement)] × [catalyst loading rate] of all combinations is within 25% or .2 g/liter.

(2) For aftermarket conversions, the following criteria are met:

(i) The maximum range of engine displacement is less than or equal to 0.8 liters of the largest displacement in the class.

(ii) Same type of catalyst (e.g., beads or monolith).

(iii) All carlines or engine models were included on the certificate for the pre-conversion configuration.

4. Section 86.099–2 is added to subpart A to read as follows:

§ 86.099–2 Definitions.

The definitions of § 86.098–2 continue to apply to 1998 and later model year vehicles. The definitions listed in this section apply beginning with the 1999 model year.

Engine Family Class means:

(1) A grouping of vehicles or engine families that meets the following criteria:

(i) Dedicated vehicles or engines that meet LEV, ILEV, ULEV, or ZEV emission standards in 40 CFR 88.104–94 or 88.105–94.

(ii) The maximum range of engine displacement is not more than 0.8L of the largest displacement tested in the class.

(iii) Same type of catalyst.

(iv) Same principle active precious metal.

(v) The ratios of [(catalysts volume/displacement) × (catalyst loading rate)] of all catalysts is within 25 percent or 0.2 g/liter of each other.

(vi) For aftermarket conversions, all carlines or engine models were included on the certificate for the pre-conversion configuration.

(2) This definition is applicable for model years 1999 through 2001.

5. Section 86.908–93 of Subpart J is amended by adding paragraph (d) to read as follows:

§ 86.908–93 Waivers and refunds.

* * * * *

(d)(1) For model years 1999 through 2001, the required fees under this subpart shall be waived for any light-duty vehicle, light-duty truck, or heavy-duty engine family that meets the following requirements:

(i) Is a dedicated vehicle or engine;

(ii) Is seeking certification to LEV, ILEV, ULEV, or ZEV emissions standards in 40 CFR part 88; and

(iii) Meets the small volume sales requirements of § 86.094–14(b) or § 86.094–24(e).

(2) If the manufacturer does not receive a certificate of conformity with the LEV, ILEV, ULEV, or ZEV emissions standards in 40 CFR part 88, the fee requirements of this section will apply. Before any certificate can be issued, the applicable fee must be paid.

[FR Doc. 98–18860 Filed 7–17–98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 98–77; FCC 98–101]

Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this *Notice of Proposed Rulemaking (NPRM)*, the Commission commences a proceeding to reform access charge rules applicable to incumbent local exchange carriers (LECs) subject to rate-of-return regulation. The *NPRM* seeks comment on proposals to establish a transition to access charges that more closely reflect economic costs, with a goal of making our system of interstate access charges compatible with a competitive paradigm. Specifically, the Commission seeks comment on proposals to revise the switched access rate structure for rate-of-return LECs. The Commission also solicits comments on some additional issues relating to the regulation of interstate access services of rate-of-return LECs.

DATES: Comments are due on or before August 17, 1998, and reply comments are due on or before September 17, 1998. Written comments and reply comments by the public on the proposed information collections are due August 17 and September 17, 1998, respectively.

ADDRESSES: Federal Communications Commission, Secretary, Room 222, 1919 M Street N.W., Washington, DC 20554. In addition to filing comments with the

Commission's Secretary, a copy of any comments on the proposed information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street N.W., Washington, DC 20503, or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Douglas L. Slotten, Common Carrier Bureau, Competitive Pricing Division, at (202) 418–1572. For additional information concerning information collections, contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *NPRM* in the matter of Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, CC Docket 98–77, adopted May 26, 1998, and released June 4, 1998. The complete text of this *NPRM* is available for inspection and copying during normal business hours in the Commission's Reference Center, Room 239, 1919 M Street N.W., Washington, DC. In addition, the *NPRM* is available through the Internet at http://www.fcc.gov/Bureaus/Common__Carrier/Notices/1998/fcc98101.wp. The complete text may be purchased from the Commission's duplicating contractor, International Transcription Service, Inc. (ITS, Inc.), at 1231 20th Street N.W., Washington, DC 20036 (202–857–3800).

Paperwork Reduction Act

This *NPRM* contains either proposed or modified information collections. As part of our continuing effort to reduce paperwork burdens, we invite the general public and OMB to take this opportunity to comment on any additional information collections contained in this NPRM, not previously approved by OMB, as required by the Paperwork Reduction Act of 1995, Pubic Law 104–13. Public and agency comments and reply comments are due August 17 and September 17, 1998, respectively. Written comments by the Office of Management and Budget on the proposed information collections are due September 18, 1998. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control No.: None.

Title: Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation—CC Docket No. 98–77.

Form No.: N/A.

Respondents: Business or other for-profit entities.

Type of Review: New collection.

Proposed collection	Number of respondents	Estimated time per response (annual)	Total annual burden
Cost Study for Local Switching Port Costs	155	400 Hours	62,000 Hours.
Tariff Filing	51	200 Hours	10,200 Hours.
New Services Requirement	10	10 Hours	100 Hours.

Frequency of Response: One-time requirement, on occasion.

Total Annual Burden: 72,300 Hours.

Estimated Costs Per Respondent: $600 per respondent.

Needs and Uses: The Commission commences a proceeding to reform access charge rules applicable to incumbent local exchange carriers (LECs) subject to rate-of-return regulation. We propose to require rate-of-return LECs to conduct cost studies to determine the geographically-averaged portion of local switching costs that is attributable to the line-side ports and to dedicated trunk-side ports, to be filed with the tariffs implementing these changes. The Commission also proposes to allow rate-of-return carriers to file a petition for new services based on a public interest standard. The information will be used to determine whether the incumbent LECs should receive the regulatory relief proposed in the *NPRM*. The information collections are necessary to implement the Telecommunications Act of 1996.

Synopsis of Notice of Proposed Rulemaking

1. Access reform is one of a series of actions that collectively are intended to foster and accelerate the introduction of efficient competition in all telecommunications markets, pursuant to the mandate of the 1996 Telecommunications Act (1996 Act). In the *Access Charge Reform Order,* we set in motion the forces of competition and deregulation in local telecommunications markets served by incumbent LECs subject to price cap regulation. *Access Charge Reform*, CC Docket No. 96–262, First Report and Order, 12 FCC Rcd 15982 (1997), 62 FR 31868 (June 11, 1997) (*Access Charge Reform Order*); Order on Reconsideration, 12 FCC Rcd 10119 (1997), 62 FR 40460 (July 29, 1997); *appeal pending sub nom. Southwestern Bell Tel. Co.* v. *FCC,* No. 97–2618 (and consolidated cases) (8th Cir. argued Jan. 15, 1998); Second Order on Reconsideration, 12 FCC Rcd 16606 (1997), 62 FR 56121 (October 29, 1997) (*Second Reconsideration Order*). The 1996 Act, however, expressly provides that ''Consumers in all regions of the Nation . . . should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.'' 47 U.S.C. 254(b)(3). With this *NPRM,* we commence a further proceeding on access reform to mobilize the same forces to serve the interests of consumers located in those rural and suburban areas that are served by incumbent LECs subject to rate-of-return regulation. The first step in this reform process is to enable these rate-of-return LECs to assess interstate access charges that are more consistent with principles of cost-causation and economic efficiency.

2. With this *NPRM,* we continue the process of reforming the access charge rate structure for rate-of-return LECs that was begun in the *Access Charge Reform Order* with the modifications to the transport rate structure, the reallocation of costs in the transport interconnection charge (TIC), and the amendments reflecting the changes necessary to implement universal service reform. In doing so, we intend to build on the analysis of the access charge rate structure developed in the *Access Charge Reform Order.* While rate-of-return LEC costs generally may be higher than price cap LEC costs due to longer loops or lower economies of

scale, the two groups of carriers incur costs in the same manner, and similar economic principles should apply. Subject to receiving evidence showing that differences exist between price cap LECs and rate-of-return LECs that require different rules to achieve the goal of fostering an efficient, competitive marketplace, we propose to amend the access charge rules for rate-of-return LECs in a manner similar to that adopted for price cap LECs.

3. We recognize that differences in the circumstances of rate-of-return and price cap LECs may require different approaches to reform, including a different transition to more economically efficient, cost-based interstate access charges. We seek to ensure that, at the end of the transition, all Americans enjoy the benefits of competition. By varying the transitional mechanisms, we can ensure that the process of getting to those benefits is as smooth as possible.

In this *NPRM* we propose to reform the access charge rate structure of rate-of-return LECs. We address many of the most fundamental economic inefficiencies in the current structure and will lay a foundation on which to develop further initiatives for rate-of-return LECs, including the rural LECs, most of whom are subject to rate-of-return regulation. In a subsequent phase of this proceeding, we intend to address the very difficult question of when, and how much, additional pricing flexibility should be afforded to rate-of-return LECs. We also intend to address, in a future proceeding, alternative forms of regulation for LECs currently subject to rate-of-return regulation. Such alternative regulatory structures could offer incentives to rate-of-return LECs that are able to become more efficient.

5. The *Access Charge Reform Order*, including subsequent reconsideration and waiver orders, and the *Universal Service Order*, made the modifications necessary to implement the revisions to the universal service support mechanisms adopted in the *Universal Service Order. Federal-State Joint Board on Universal Service*, CC Docket No. 96–45, First Report and Order, 12 FCC Rcd 8776 (1997), 62 FR 32862 (June 17, 1997) (*Universal Service Order*). This *NPRM* is not intended to address contentions that some additional costs or services should receive universal service support; those matters will be resolved in the Universal Service proceeding. We note that the Commission has determined that there shall be no change in the existing high cost support mechanisms for rural LECs until January 1, 2001, at the earliest. This means that, in the interim, the amount of universal service support for rural LECs will be maintained initially at existing levels and should increase in accordance with specified factors, such as inflation, that have historically guided changes in such support.

6. *Common Line Costs.* Currently, rate-of-return LECs' subscriber line charges (SLCs) are limited to recovering the lesser of the actual cost of the interstate portion of the local loop, or $3.50 per month for residential and single line business customers, or $6.00 per month for multi-line business customers. Any remaining common line costs are recovered through carrier common line (CCL) charges, which are per-minute charges imposed on interexchange carriers (IXCs).

7. We tentatively conclude that we should adopt rate structure modifications for rate-of-return LECs that are similar to those that were adopted for price cap LECs in the *Access Charge Reform Order.* We seek comment on the applicability of the rate structure modifications adopted for price cap LECs to rate-of-return LECs. Specifically, the Commission proposes to permit rate-of-return LECs to adjust their SLC ceilings on non-primary residential and multi-line business lines to the level necessary to recover their average per-line interstate-allocated common line costs, subject to an inflation-adjusted $9.00 ceiling, while leaving the existing SLC ceiling of $3.50 for primary residential and single-line business lines at its current level.

8. To ameliorate possible adverse impacts of an immediate SLC adjustment for non-primary residential lines, the Commission proposes to adjust the SLC ceilings for these lines gradually. The Commission seeks comment on adjusting the monthly SLC ceiling initially to the LEC's average per-line interstate-allocated costs, but not exceeding $1.50 more than the current SLC ceiling. Annually thereafter, rate-of-return LECs could adjust the monthly SLC ceiling for these lines for inflation and could increase the ceiling by $1.00 per line, until the SLC ceiling for non-primary residential lines is equal to the SLC ceiling permitted for multi-line business lines.

9. To the extent that SLC ceilings prevent rate-of-return LECs from recovering their allowed common line revenues from end users, the Commission proposes to permit these LECs to recover the shortfall, subject to a maximum charge, through a presubscribed interexchange carrier charge (PICC), a flat, per-line charge assessed on the end-user's presubscribed interexchange carrier. For the first year, the proposed ceiling on the PICC will be $1.50 per month for non-primary residential lines and $2.75 per month for multi-line business lines. The Commission proposes adjusting the PICC for price cap non-primary residential and multi-line business lines annually for inflation and increasing the PICCs for non-primary residential and multi-line business lines by a maximum of $1.00 and $1.50 per year, respectively, until price cap LECs recover all their permitted common line revenues through a combination of flat-rated SLC and PICCs. The Commission also invites comment on whether the PICC for primary residential and single-line business lines should be capped at $0.53 per month for the first year, and adjusted annually thereafter for inflation, and increase by $0.50 per year, until it equals one twelfth of the sum of the annual per-line common line cost and residual interconnection charge cost permitted under our rate-of-return rules, divided by the projected average number of local exchange service subscriber lines in use during such annual period, less the maximum primary residential and single-line business lines SLC computed pursuant to our rules. If a customer does not designate a presubscribed interexchange carrier, the Commission proposes to permit rate-of-return LECs to collect directly from the customer the PICC that could otherwise be assessed against the presubscribed interexchange carrier.

10. To the extent that the SLC ceilings on all lines and the PICC ceilings on primary residential and single-line business lines prevent recovery of the full common line revenues permitted by the rate-of-return rules, the Commission proposes to permit rate-of-return LECs to recover the shortfall through a per-minute residual CCL charge. The Commission proposes that rate-of-return LECs should assess the residual CCL charge initially on originating minutes, subject to a rate cap, with any residual being collected through a per-minute terminating CCL charge. Rate-of-return LECs would, under the Commission's proposal, be allowed to assess an originating CCL charge that, when added to the sum of local switching charges, the per-minute residual TIC, and any per-minute charges related to marketing expenses, does not exceed the sum of local switching charges, the per-minute CCL charge, and TIC assessed on originating minutes on December 31, 1997. A per-minute residual TIC could also be assessed on IXCs by rate-of-return LECs to recover any TIC costs not recovered through facility-based charges. The originating residual TIC charge would be subject to the same

ceiling mechanism as the residual CCL charge.

11. Under the Commission's proposal, the per-minute residual CCL and residual TIC charges will be eliminated as the PICC ceilings increase. After the residual CCL and the residual TIC charges are eliminated, increases in the PICC for primary residential and single-line business lines will reduce the PICCs on non-primary residential and multi-line business lines by an amount that corresponds to the total increases in PICCs for primary residential and single-line business lines. Reductions will be targeted to the PICCs on multi-line business lines until the PICCs for those lines are equal to the PICCs for non-primary residential lines. Thereafter, reductions will be applied to both classes of customers equally until the combined SLCs and PICCs for primary residential and single-line business lines recover the full average per-line common line costs permitted under our rules, and the additional PICCs on non-primary residential and multi-line business lines no longer recover common line costs. Under the proposal, certain TIC costs and marketing expenses, in addition to common line costs, will be recovered through non-primary residential line and multi-line business PICCs, even though SLCs and PICCs for primary residential and single-line business lines only recover the average per-line common line costs permitted under our rules.

12. We conclude that modifications similar to those we made for price cap LECs are needed to remove implicit subsidies and ensure that charges more accurately reflect the manner in which the costs are incurred, thereby promoting competition. We acknowledge that certain rate-of-return LECs, especially those in rural and insular areas, face different market conditions and incur higher costs than do many price cap LECs due to the lack of economies of scale that result from low subscriber density and small exchanges that characterize rural areas. Smaller LECs serving more costly areas, however, will receive universal service support based on their embedded costs until the Commission, with the Universal Service Joint Board's assistance, develops an appropriate model to ensure that rural carriers receive support at a level that will enable them to provide supported services at affordable rates. Adopting the same rate structure approach for rate-of return LECs, therefore, most likely will not align rates with costs as quickly as it will for price cap LECs. For many rate-of-return companies, especially those located in rural and insular areas, longer loops and difficult terrain result in average loop costs that significantly exceed the average loop costs of price cap LECs. The cost recovery mechanism for price cap LECs contemplates that price cap LECs will be able to recover all of their interstate-allocated common line costs through a combination of SLCs and PICCs, reducing the CCL charge to zero in a relatively short amount of time.

13. If rate-of-return LECs were to implement the revised common line rate structure applied to price cap LECs, multi-line business PICCs and CCL charges would often go to their respective ceilings and remain higher than those of price cap LECs for the foreseeable future, because rate-of-return LEC common line costs are significantly higher than those of price cap LECs. If we direct rate-of-return LECs to recover certain switching, marketing, and residual TIC costs through the common line SLCs and PICCs, per-line common line costs will increase further. Under this scenario, the SLCs and/or PICCs for many rate-of-return LECs would have to be adjusted to a level that would be higher than the ceilings we adopted for price cap LECs if significant reductions in the CCL rate were desired. We solicit comment on this analysis.

14. We ask interested parties to discuss how we should determine appropriate SLC ceilings. Several entities have expressed concern that the immediate SLC increases to $9.00 for non-primary or multi-line business lines will create a large disparity between SLCs charged by rate-of-return LECs and neighboring price cap LECs, and that under the 1996 Act and applicable state laws, the lower-cost price cap carriers will be able to ''cherry pick'' the high volume business customers of the higher priced rate-of-return LECs. These entities urge the Commission to grant them pricing flexibility and propose that SLCs be set based on the national average or on the neighboring price cap LEC's average SLC.

15. We invite comment on establishing a ceiling that is based on the neighboring price cap LEC's average multi-line business SLC, or on the national average. In addition, in some cases, as the non-primary SLC cap increases, the disparity between the $3.50 SLC for primary residential lines and the SLC for non-primary residential lines will most likely be greater for rate-of-return carriers than it is for price cap companies. Would this disparity warrant a different approach for rate-of-return carriers' non-primary residential lines than we adopted for price cap LECs?

16. Interested parties should discuss whether the PICC is an effective cost recovery mechanism for rate-of-return LECs' common line costs and, if so, to what extent the PICCs and CCL charges for rate-of-return LECs should be comparable to those of price cap LECs. If commenters believe that the plan we adopted in the *Access Charge Reform Order* would not produce the expected economic benefits for rate-of-return LECs and their customers, interested parties should submit alternative plans. For example, should we prescribe higher ceilings for PICCs that would permit rate-of-return LECs to reduce their CCL rates to levels comparable to those of price cap LECs? Alternatively, should we prescribe a maximum CCL charge and eliminate the PICC ceiling to allow rate-of-return LECs to recover the shortfall through flat-rated charges? In addition, in light of the higher common line costs incurred by many rate-of-return LECs, and because, if adopted, other modifications proposed in this *NPRM* will require rate-of-return LECs to recover certain switching, marketing, and TIC costs through the common line recovery mechanism, we invite parties to discuss whether we should permit these carriers to recover relatively more of the common line revenue requirement through terminating minutes. Given that local switching per-minute rates will be reduced significantly by the inclusion of dial equipment minutes (DEM) weighing in universal service support, we ask interested parties to discuss whether a higher per-minute CCL charge in the short run is unsatisfactory.

17. Interested parties should also discuss the extent to which, for purposes of assessing SLCs and PICCs, residential and business lines should be treated differently. For example, should non-primary residential lines be assessed lower PICCs than multi-line business lines and phased in over time, as we did for price cap LECs, or should we permit the SLCs for non-primary residential lines to increase more rapidly for rate-of-return LECs than for price cap LECs, in order to allow carriers in high-cost areas to reduce their CCL charge more rapidly than would otherwise be possible with graduated increases in the SLC? Alternatively, should a uniform PICC be applied to all non-primary residential and business lines to spread the revenue requirement evenly across these classes of customers?

18. In the *Second Reconsideration Order* in the Access Charge Reform proceeding, we concluded that with

respect to the PICC, Centrex customers should be treated similarly to PBX customers, because the two arrangements are functionally equivalent. Accordingly, we determined that Centrex lines should be assessed PICCs using a 9:1 line-to-trunk equivalency ratio, except where the multi-line business SLC ceiling does not permit the recovery of all interstate-allocated loop costs from the end user. In those instances, a PICC that includes the difference between the per-line loop cost and the multi-line business SLC cap, subject to the multi-line business PICC ceiling, will be assessed on Centrex lines. We seek comment on the applicability of this approach and of the 9:1 ratio to rate-of-return LECs. Parties proposing different ratios should submit data supporting the ratio they propose.

19. We also seek comment on how the 1996 Act will affect the development of competition in areas served by small and rural rate-of-return LECs. While the entry of competitors in many rate-of-return LEC service areas may be delayed due to the provisions of 47 CFR 251(f), entry in these areas will likely occur in time. Specifically, section 251(f)(1) provides an exemption for certain rural telephone companies from the duties of local exchange carriers enumerated in section 251(c), including but not limited to the duties to interconnect, to provide access to network elements on an unbundled basis, and to resell telecommunications services. Section 251(f)(2) provides a mechanism by which local exchange carriers with fewer than two percent of the nation's subscriber lines may petition the state for suspension or modification of some of the duties imposed by the Act on local exchange carriers. We ask interested parties to discuss the impact of these statute sections and the development of competition as they relate to the rate structure and transition mechanism we are proposing in this *NPRM*.

20. We also seek comment on whether we should adopt one approach for all rate-of-return LECs or whether our approach should vary depending on size, population density, topography, or other factors that may vary among rate-of-return LECs. Are there concerns that are specific to National Exchange Carrier Association (NECA) pooling companies that warrant separate treatment? Interested parties should address the specific issues raised and submit proposals for modifications that are consistent with the goals of the 1996 Act. Interested parties should also propose a time frame for adopting modifications to the rate structure. Should modifications adopted become effective immediately or should they be phased in over time? Finally, parties should address the extent to which options proposed affect small business entities, including small incumbent LECs and new entrants.

21. *Assessment of SLCs and PICCs on Derived Channels.* We propose to adopt similar SLCs and PICCs for integrated services digital network (ISDN) service offered by rate-of-return LECs. Specifically, we propose to permit rate-of-return LECs to charge SLC and PICC rates for Primary Rate Interface (PRI) ISDN service equal to five times the rate-of-return LEC's multi-line business SLC and PICC, and SLC and PICC rates for Basic Rate Interface (BRI) ISDN service equal to the rate-of-return LEC's non-primary residential line SLC and PICC. We seek comment on these conclusions and invite parties to comment on the impact that assessing SLCs and PICCs on ISDN lines will have on rate-of-return carriers and their customers. Parties should address whether the cost relationship between ISDN and analog service provided by rate-of-return LECs is similar to that of price cap LECs; if they believe it is not, they should submit specific data supporting their position. We also invite parties to discuss the relationship between proposed modifications to the common line rate structure and our tentative conclusion to treat rate-of-return LECs' ISDN lines in the manner discussed above.

22. *Local Switching Dedicated Facilities.* The interstate portion of local switching costs is currently recovered through per-minute local switching charges levied on IXCs, even though a significant portion of local switching costs is associated with ports and appears to be driven by the number of lines or trunks connected to the switch, not by the number of minutes of traffic routed by the switch. We propose to require rate-of-return LECs to reassign all costs for line-side ports, including the line card, protector, and main distribution frame, from the local switching category to the common line category, for recovery through the common line rate structure. We seek comment on this proposal. We ask if there are any specific factors for rate-of-return LECs that would preclude our adoption of this rate structure change at this time.

23. We propose to require rate-of-return LECs to conduct cost studies to determine the geographically-averaged portion of local switching costs that is attributable to the line-side ports and to dedicated trunk-side ports, to be filed with the tariffs implementing these changes. We solicit comment on this cost study proposal. In the alternative, commenters are requested to suggest a substitute mechanism to identify and assign costs to line-side ports or to trunk-side ports.

24. We also propose to require rate-of-return LECs to recover dedicated trunk port costs through a flat-rated trunk port charge assessed on the purchaser of the dedicated trunk terminating at the port. Analog switches require a voice-grade interface on the trunk-side of the end office switch, thereby requiring DS1 transport trunks to be demultiplexed into individual voice-grade circuits before being switched at analog end office switches. DS1/voice-grade multiplexers perform this function. A digital switch port includes the DS1/voice-grade multiplexing function. In addition, we propose to establish a separate rate element through which rate-of-return LECs can recover on a flat-rated basis the additional costs of DS1/voice grade multiplexers required in conjunction with terminating dedicated trunks at analog switches that were reassigned from the TIC. We ask whether the benefits to be gained from a more efficient, cost-causative rate structure outweigh the burden on rate-of-return LECs of establishing these new rate elements. In addition, we solicit suggestions as to what specific modifications of the part 69 cost allocation rules we should make to implement any rate structure changes for dedicated local switching facilities.

25. Common line charges will recover the cost of a line port used to provide basic, analog service, even when the end user has another form of service. For some services, such as ISDN, the cost of a line port is significantly more than the cost of a line port associated with a basic, analog line. We propose to permit rate-of-return LECs to assess a separate, monthly, flat-rated charge directly on end users of such services, to recover the amount by which the cost of a line port for ISDN, or the cost of a line port associated with other services, exceeds the cost of a line port for basic, analog service. We request comment on this proposal.

26. *Local Switching Shared Facilities.* We seek comment on our tentative conclusion that rate-of-return LECs adhere to a per-minute rate structure for shared local switching facilities, including the central processing unit, switching matrix, and shared trunk ports. Under this approach, the shared trunk ports and any associated DS1/voice grade multiplexers required at analog local switches will be assessed on a per-minute basis, separate from the charge for the switch itself. We ask whether there are any factors inherent to

rate-of-return LECs that should lead us to change this tentative conclusion.

27. *Call Setup Charge.* We propose to permit, but not require, rate-of-return LECs to establish a charge for call setup, the process of establishing a transmission path over which a phone call will be routed. Costs for call setup using SS7 are incurred primarily on a per-call rather than a per-minute basis. Under this proposed revision to 47 CFR 69.106, a rate-of-return LEC could elect to establish a separate per-call setup charge assessed on IXCs for all originating interstate calls handed off to the IXC's point of presence (POP), and on all terminating interstate calls that are received from an IXC's POP, whether or not a call is completed. We invite comment on this proposal for an optional call setup charge, including specific language to modify our part 69 cost allocation rules to implement this rate structure change. Moreover, if a rate-of-return LEC elects to recover revenue requirements through a call setup charge, we tentatively conclude that this charge cannot overlap with any other local switching charges, with charges for dedicated SS7 facilities, or with other signalling charges. We request comment on our tentative conclusion prohibiting double recovery for call setup charges by rate-of-return LECs. Commenters also should suggest mechanisms that would prevent any double recovery for rate-of-return LECs.

28. It would be extremely difficult to segregate the costs of the switch central processing unit and other traffic-sensitive costs into per-message and per-minute portions and to verify that the allocation has been done properly. Therefore, we propose to limit the costs that a rate-of-return LEC may recover through call setup charges to those associated with signalling. We request comment on this proposal. We seek comment on how call setup costs are affected by whether multifrequency (MF) signalling or SS7 signalling is employed. We also request estimates of the percentage of the total costs of a typical call that are represented by call setup costs. To facilitate our comparison of the estimates submitted, we request that commenters use an average call duration of 3.86 minutes, which we used as the call duration in our analysis in the *Access Charge Reform Order.*

29. *Tandem-Switched Transport Issues.* We request comment on our analysis that we should require rate-of-return LECs to recover the costs of trunk ports used to terminate dedicated trunks on the serving wire center (SWC) side of the tandem switch through flat-rated charges assessed on the purchaser of the dedicated trunk terminated at the trunk port on the SWC side of the tandem switch. To ease the burdens of implementing this unbundling, we propose to permit rate-of-return LECs to use the dedicated trunk port rates at the local switch to establish this unbundled charge. We ask for comment on this proposal. With regard to shared facilities at the tandem switch, we solicit comment on our tentative conclusion that there is no need to create a separate charge for shared trunk ports on the end-office-side of the tandem switch because this trunk port cost is included in the charge for the tandem switch and there is no reason to charge separately for shared trunk ports in the tandem switching context.

30. We also propose to require rate-of-return LECs to establish separate rate elements to recover the costs of multiplexing equipment on each side of the tandem switch that were reassigned to tandem switching from the TIC in the *Access Charge Reform First Reconsideration Order.* The rates for multiplexers on the SWC side of the tandem switch would be flat rated because they are dedicated to a single IXC. The rates for the multiplexers on the end office side of the tandem switch would be per-minute charges because these multiplexers are shared among all users of common transport. To simplify the implementation process for rate-of-return LECs, we propose to permit them to use multiplexer rates already established in their special access tariff for similar multiplexers. We request comment on these proposals. These provisions cover DS1/voice grade multiplexers used with analog tandem switches, as well as other multiplexers that are not included in transport rates.

31. *Outstanding Transport Interconnection Charge Issues for Rate-of-Return LECs.* Although the Commission in the *Access Charge Reform Order* directed rate-of-return LECs to make specified cost reallocations from the TIC to other facilities-based rate elements, thereby reducing the amount in the TIC, the reallocation of costs from the TIC to other rate elements will not remove all of the costs from the TIC, leaving a residual TIC. We propose to incorporate the residual TIC in the common line pricing structure of rate-of-return LECs, just as we did for price cap LECs. This will put in place a mechanism that will, at different times for different rate-of-return LECs, begin the process of transferring TIC costs to other rate elements. We ask for comment on this analysis and on our proposal to adopt a similar rate structure to that we employed for price cap LECs.

32. The *Access Charge Reform Order* reduces the TIC for price cap LECs by targeting certain price cap index (PCI) reductions to reducing the TIC. Price cap LECs will target price cap productivity (X-factor) adjustments to the trunking basket's PCI, and therein to the TIC service band index (SBI), thus reducing the amounts recovered through the residual TIC and effectively spreading those residual TIC revenues among the universe of access services. We ask whether any comparable mechanism exists for rate-of-return LECs that would eliminate the residual TIC in a reasonable time. We ask commenters whether it would be practical to spread the residual TIC proportionately over the other access elements in a manner comparable to that of targeting price cap productivity reductions to the TIC. We seek comment on what would be a reasonable time in which to accomplish such a reallocation. We ask parties supporting such an approach to propose cost allocation rules to implement their approach. Parties presenting data to quantify amounts in the residual TIC should include sufficient detail to permit the Commission and interested parties to evaluate the procedures used and to adjust the results, if necessary, to address concerns raised by the record. We seek comment on how these approaches affect small business entities, including small incumbent LECs and new entrants.

33. We ask parties to address whether there are additional causes of costs remaining in the residual TIC for rate-of-return LECs that have not been identified previously that would justify further reallocations of costs from the TIC. Parties identifying such costs should indicate the other element(s) to which these additional costs should be reallocated. We invite parties to comment on whether any public policy reasons would support retaining some costs of rate-of-return LECs in the residual TIC indefinitely. We ask parties to address the competitive implications of waiting for completion of a Joint Board review of separations procedures to determine which, if any, of the costs in the TIC reflect the higher cost of providing transport services in less densely populated areas, as compared with the costs underlying transport rates that were derived from special access rates. *See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board,* CC Docket No. 80–286, Notice of Proposed Rulemaking, 12 FCC Rcd 22120 (1997), 62 FR 59842 (November 5, 1997).

34. *Signalling System Seven (SS7).* SS7 is the international standard

network protocol currently used to establish and close transmission paths over which telephone calls are carried. Once the reallocation of SS7 costs included in the TIC is completed, most, if not all, of SS7 costs presumably will be recovered through the local switching charge. We invite comment on our proposal to continue the existing rate structure for SS7 cost recovery by rate-of-return LECs, and to permit these LECs to adopt the rate structure for SS7 services that we approved in *Ameritech Operating Companies Petition for Waiver of Part 69 of the Commission's Rules to Establish Unbundled Rate Elements for SS7 Signalling*, Order, 11 FCC Rcd 3839, 3841 (Com. Car. Bur. 1996). The rate structure established by Ameritech pursuant to that waiver recovers costs through four unbundled charges for the various functions performed by SS7 networks: (1) Signal link; (2) STP port termination; (3) signal transport; and (4) signal switching. We also solicit additional, alternative SS7 rate structure proposals for rate-of-return LECs. Any comments on this issue should include an assessment of the expense of requiring rate-of-return LECs to install equipment in their networks for metering SS7 traffic. Would the streamlined waiver petition procedure we propose pursuant to section 69.4(g) be preferable as a means to address alternative SS7 rate structures proposed by rate-of-return LECs?

35. We recognize that some call setup is still performed using in-band, MF signalling, rather than out-of-band signalling systems such as SS7. SS7 signalling may be less prevalent for rate-of-return LECs than for price cap LECs. Any determination we make concerning a SS7 rate structure for rate-of-return LECs could be affected by the extent that rate-of-return LEC networks use SS7. We also ask parties to comment on the need for revisions to the cost allocation rules in part 69 to accommodate the provision of SS7 signalling in accordance with the provisions of the Ameritech SS7 waiver.

36. *General Support Facilities Costs.* To the extent that rate-of-return LECs' costs are underallocated to the billing and collection category, rate-of-return LECs' regulated services are recovering costs associated with unregulated services through interstate access charges. We solicit comment on our tentative conclusion that we should modify 47 CFR 69.307 for rate-of-return LECs to allocate general support facilities (GSF) costs related to billing and collection services to the billing and collection category. For rate-of-return LECs that maintain accounts below the summary account level, we propose the use of a general expense allocator to apportion the interstate share of Accounts 2111 (Land), 2121 (Buildings), 2123 (Office Equipment), and 2124 (General Purpose Computers) between: (1) The billing and collection category and (2) all other elements and categories. To determine the amount to be assigned to the billing and collection category, we propose to apply a modified ''Big Three Expense Factor'' allocator to the interstate investment recorded in these four accounts. The interstate portion of Account 6120 (General Support Expenses) will continue to be apportioned among all elements and categories, including billing and collection, based upon the allocation rules contained in 47 CFR 69.401(a)(2). *Access Charge Reform*, Third Report and Order, CC Docket No. 96–262, 12 FCC Rcd 22430 (1997) (*Third Report and Order*), 62 FR 65619 (December 15, 1997). Because certain small rate-of-return LECs do not maintain accounts below the summary account level, we seek comment on what adjustments, if any, we should make to the allocation procedures to reflect this difference. It would be helpful if parties would comment on how many rate-of-return LECs use general purpose computers to provide billing and collection services. We also invite parties to identify any changes that should be made to other access elements as a result of any changes we may make to the GSF allocation procedures. Finally, parties should also address the extent to which these approaches affect large and small rate-of-return LECs differently and how small business entities, including small incumbent LECs and new entrants, will be affected.

37. *Marketing Expenses.* The Commission concluded in the *Access Charge Reform Order* that price cap LECs' marketing costs that are not related to the sale or advertising of interstate switched access services are not appropriately recovered from IXCs through per-minute interstate switched access charges. We seek comment on our tentative conclusion that rate-of-return LECs' marketing expenses allocated to the interstate jurisdiction should be recovered through the common line recovery mechanism from end users on a per-line basis. Specifically, we propose that rate-of-return LECs recover the revenues related to the Account 6610 marketing expenses by increasing the SLCs for multi-line business and non-primary residential lines, subject to the SLC ceilings. To the extent the SLC ceilings prevent full recovery of these amounts, rate-of-return LECs would be required to recover marketing costs through equal increases on the PICCs for non-primary residential and multi-line business lines, subject to the PICC ceilings. In the event the PICC ceilings prevent full recovery of these expenses, any residual marketing expenses may be recovered through per-minute charges on originating access service, subject to the ceiling placed on originating minutes. If rate-of-return LECs cannot recover their remaining marketing expenses through per-minute charges on originating access, any residual may be recovered through per-minute charges on terminating access service. To the extent marketing expenses will be recovered through the SLC, they shall not be included in the base factor portion or considered common line revenues.

38. We also ask parties to propose a mechanism comparable to the separate basket created for price cap LECs that will remove marketing expenses from access charges assessed by rate-of-return LECs. We invite parties to provide language for the amendment of our part 69 cost allocation rules that affect the recovery of these marketing expenses through the common line cost recovery mechanism.

39. *Special Access.* In light of the most recent changes to the charges incurred by multi-line businesses, including the higher SLC and the new multi-line business PICC, it may be cost effective for some multi-line businesses to substitute the purchase of special access lines for the use of switched access. We have already tentatively concluded that we should permit price cap LECs to assess a PICC on special access lines to recover revenues for the common line basket. *Access Charge Reform*, CC Docket No. 96–262, Further Notice of Proposed Rulemaking, 12 FCC Rcd 15982, 16154 ¶ 401 (1997), 62 FR 31868 (June 11, 1997) (*Further Notice*). The special access PICC would be no higher than the PICC that a price cap LEC could charge for a multi-line business line, would not recover TIC or marketing expenses, and would be gradually eliminated as the single-line PICC is gradually implemented for price cap LECs. We tentatively concluded that allowing price cap LECs to impose such special access PICCs would be necessary to facilitate the transition from current per minute CCL charges to the flat-rate PICC.

40. We invite parties to comment on whether, if we apply a PICC to special access services offered by price cap LECs, we should apply a PICC to special access services offered by rate-of-return LECs. Parties should comment on the

impact of PICCs on special access lines if the PICCs on rate-of-return LECs' multi-line business lines remain in place for a considerably longer time than they do for price cap LECs. To the extent parties advocate assessing PICCs on special access lines, we seek comment on how special access connections should be counted for purposes of assessing a ''per line'' PICC. Parties should also address the extent to which our proposal affects large and small LECs differently and how small business entities, including small incumbent LECs and new entrants, will be affected.

41. *Part 69 Cost Allocation Rules.* Under the Commission's separations rules at 47 CFR part 36, certain costs of the incumbent LEC network are assigned to the interstate jurisdiction. For rate-of-return LECs, the Commission's cost allocation rules at 47 CFR part 69 allocate these interstate costs among the various access and interexchange services. In addition to the comment requested previously in this NPRM on the need for changes to our cost allocation rules in conjunction with specific proposals to revise certain rate structure provisions of the part 69 rules, we ask whether we should make any other modifications at this time to our cost allocation rules for rate-of-return LECs to accommodate any of those changes, or to update the rules in other respects. Parties making such suggestions should be specific about the reasons the change is needed and include proposed language for revising the cost allocation rules.

42. *Modification of New Services Requirement.* Rate-of-return LECs currently must file a petition pursuant to 47 CFR 1.3 to request a part 69 waiver for the establishment of one or more new switched access rate elements to accommodate a new service offering to switched access customers. In order to streamline the part 69 waiver process for a rate-of-return LEC wishing to offer a new service, we request comment on our proposal to adopt for rate-of-return LECs the streamlined petition provisions of section 69.4(g), which currently requires a price cap LEC in similar circumstances to file a petition that demonstrates one of two criteria: (1) That another LEC has previously obtained approval to establish identical rate elements and that the original petition did not rely upon a competitive showing as part of its public interest justification, or (2) that the new rate elements would serve the public interest. In addition, we request suggestions as to any manner in which the procedures or standards of section 69.4(g) should be modified for rate-of-return LECs. Parties should comment, for instance, on whether a showing of prior approval should be limited to petitions granted to other rate-of-return LECs.

Ex Parte Presentations

43. This Notice of Proposed Rulemaking is a permit-but-disclose proceeding and is subject to the permit-but-disclose requirements under 47 CFR 1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b), as well.

Regulatory Flexibility Analysis

44. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the proposals suggested in this *NPRM. See* 5 U.S.C. 603. The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

45. Written public comments are requested on the IRFA. Comments and reply comments must be identified by a separate and distinct heading as responses to the IRFA and must be filed on or before August 17 or September 17, 1998 respectively. Parties should address the extent to which our proposals affect large and small incumbent rate-of-return local exchange carriers (LECs) differently and how small business entities, including small incumbent LECs and new entrants, will be affected. The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with 5 USC 603(a). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register.**

46. Need for, and Objectives of, the Proposed Rules. The Commission's access charge rules for rate-of-return LECs were adopted at a time when interstate access and local exchange services were offered on a monopoly basis. We seek to revise the Commission's access charge rules for local exchange carriers (LECs) subject to rate-of-return regulation to make the rules consistent with the pro-competitive, deregulatory policies contemplated by the Telecommunications Act of 1996. In the 1997 *Access Charge Reform Order,* we focused on setting in motion the forces of competition and deregulation in local markets served by incumbent local exchange carriers subject to price cap regulation. In this *NPRM,* we propose to modify our rate structure requirements, to the extent possible, to permit rate-of-return LECs to recover costs in a manner that more accurately reflects the way those costs are incurred, identify implicit subsidies, and reduce subsidies by recovering more costs from the cost causer, thereby sending more accurate pricing signals to both consumers and competitors, and facilitating the transformation from a regulated to a competitive marketplace. Specifically, we propose to reduce usage-sensitive interstate access charges by diminishing local loop and other non-traffic sensitive costs and directing rate-of-return LECs to recover those non-traffic sensitive costs through more economically efficient, flat-rated charges.

47. Legal Basis. The proposed action is authorized by sections 1–4, 201–205, 251, 254, 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 251, 254, 303(r) and 403.

48. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply. The Regulatory Flexibility Act directs agencies to provide a description of and an estimate, where feasible, of the number of small entities that may be affected by proposed rules, if adopted. 5 U.S.C. 603(b)(3). The Regulatory Flexibility Act generally defines the term ''small entity'' as having the same meaning as the term ''small business.'' 5 U.S.C. 601(6). The term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. *See* 5 U.S.C. 601(3). Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). 15 USC 632. *See, e.g., Brown Transport Truckload, Inc.* v. *Southern Wipers, Inc.,* 176 B.R. 82 (N.D. Ga. 1994).

49. Because the small rate-of-return LECs that would be subject to these rules are either dominant in their field of operations or are not independently owned and operated, consistent with

our prior practice, they are excluded from the definition of ''small entity'' and ''small business concerns.'' *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* CC Docket No. 96–98, First Report and Order, 11 FCC Rcd 15499, 16144–45 ¶¶ 1327–30 (1996) (*Local Competition Order*), 61 FR 45476 (August 29, 1996), *Order on Reconsideration,* 11 FCC Rcd 13042 (1996), 61 FR 52706 (October 8, 1996), *vacated in part sub nom. Iowa Utils. Bd.* v. *FCC,* 120 F.3d 753 (8th Cir. 1997), *cert. granted sub nom. AT&T Corp.* v. *Iowa Utils. Bd.,* 118 S.Ct. 879 (1998). Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small rate-of-return LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will consider small rate-of-return LECs within this analysis and use the term ''small incumbent rate-of-return LECs'' to refer to any rate-of-return LECs that arguably might be defined by SBA as ''small business concerns,'' including consideration of any adverse impact of the rules we adopt and consideration of alternatives that may reduce adverse impacts on such entities. Since the time of the Commission's 1996 decision in the *Local Competition Order,* 11 FCC Rcd at 16144–45, 61 FR 45476 (August 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on incumbent LECs. *See* 13 CFR 121.210 (SIC 4813). *See also* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987).

50. The SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be small telecommunications entities when they have no more than 1,500 employees at the holding company level. 13 CFR 121.201. We invite interested parties to discuss the number of telecommunications providers, if any, that can be considered ''small entities'' within the meaning of the Regulatory Flexibility Act, and whether there is any reason to establish different requirements for small telecommunication providers. Below, we discuss the total estimated number of telephone companies falling within these categories and the number of small businesses in each category, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

51. The most reliable source of information regarding the total numbers of certain common carriers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). FCC, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier) (Nov. 1997) (*Telecommunications Industry Revenue*). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers. *See* 13 CFR 121.201, SIC code 4813.

52. *Telephone Companies Affected.* The United States Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone service, as defined therein, for at least one year. United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities, Establishment and Firm Size,* at Firm Size 1–123 (1995) (*1992 Census*). This number contains a variety of different categories of carriers, including incumbent LECs, interexchange carriers (IXCs), competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communication service (PCS) providers, covered specialized mobile radio (SMR) providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small rate-of-return incumbent LECs because they are not independently owned or operated. *See generally* 15 U.S.C. 632(a)(1). For example, a PCS provider that is affiliated with an IXC having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent rate-of-return LECs because some of them are not independently owned or operated.

53. *Wireline Carriers and Service Providers Affected.* The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. 13 CFR 121.201, SIC Code 4812. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. *1992 Census, supra,* at Firm Size 1–123. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small rate-of-return LECs. We do not have data on the number of carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 2,295 small telephone communications companies other than radiotelephone companies that may be affected by the proposed rules, if adopted.

54. *Incumbent Local Exchange Carriers Affected.* Neither the Commission nor the SBA has developed a definition of small providers of local exchange service. The closest applicable definition under SBA rules is for telephone telecommunications companies other than radiotelephone (wireless) companies. Standard Industrial Classification (SIC) Code 4813. The most reliable source of information regarding the number of incumbent LECs nationwide appears to be the report that we compiled from the 1997 Telecommunications Relay Service (TRS) Fund worksheets and the Universal Service Fund (USF) worksheets of September, 1997. According to our most recent data, 1,376 companies that provided interstate telecommunications service as of June 30, 1997 reported that they were engaged in the provision of local exchange service. Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, *Carrier Locator: Interstate Service Providers,* Figure 1 (Nov. 1997). Although it seems certain that some of these carriers are not independently owned or operated, have more than 1,500 employees, or are subject to price cap regulation, we are unable at this time to estimate with greater precision the number of rate-of-return LECs that would qualify as small business

concerns under the SBA's definition. Consequently, we estimate that there are fewer than 1,376 small rate-of-return LECs that may be affected by the proposals in this NPRM, if adopted. We seek comment on this estimate.

55. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. 13 CFR 121.201, SIC code 4813. According to the most recent *Telecommunications Industry Revenue* data, 143 carriers reported that they were engaged in the provision of interexchange services. *Telecommunications Industry Revenue,* Figure 2. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of interexchange carriers (IXCs) that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 143 small entity IXCs that may be affected by the proposed rules, if adopted.

56. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* It is not clear whether, on balance, proposals in this NPRM would increase or decrease incumbent rate-of-return LECs' administrative burdens. With respect to rate-of-return LECs, we believe that the rate structure reforms that we propose in Sections II and III would require at least one, and possibly several, additional filings, and may reduce some administrative burdens. For example, if we adopt the streamlined petition provisions of 47 CFR 69.4(g) for introduction of new services by rate-of-return LECs, we expect that this would decrease some administrative burdens of rate-of-return LECs.

57. If the rule revisions we propose are adopted, we estimate that these rate-of-return LECs would make one tariff filing to bring their access charges into compliance with the revised rules. We are unable to estimate how extensive each tariff filing would be, on average. We estimate that, on average, it would take approximately two hours per page for the rate-of-return LEC to prepare each tariff filing, at a cost of $35 per hour in professional level and support staff salaries. If we decide to require the filing of a cost study for determining local switching costs attributable to line-side ports and to trunk-side ports, these rate-of-return LECs would file one cost study. We estimate that, on average, it would take approximately 400 hours for the rate-of-return LEC to prepare a cost study, at a cost of $30 per hour in professional level and support staff salaries. Compliance with these tariff and cost study requirements may compel the use of engineering, technical, operational, accounting, billing, and legal skills.

58. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. In Sections II and III, for the subscriber line charge, the carrier common line charge, non-traffic sensitive switching costs, the transport interconnection charge, a special access PICC, and general purpose computer costs, we have sought comment on how a number of proposals would affect small entities. These proposals could have varying positive or negative impacts on small entities, including small rate-of-return LECs and new entrants. We seek comment on these proposals and urge that parties support their comments with specific evidence and analysis.

59. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules. None.

Additional NPRM Filing Procedures

60. Pursuant to applicable procedures set forth in 47 CFR 1.399 and 1.411 *et seq.*, interested parties may file comments with the Secretary, Federal Communications Commission, Washington D.C. 20554, no later than August 17, 1998. Interested parties may file replies no later than September 17, 1998. To file formally in this proceeding, participants must file an original and twelve copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus 16 copies must be filed. In addition, parties must file two copies of any such pleading with the Competitive Pricing Division, Common Carrier Bureau, Room 518, 1919 M Street, N.W., Washington, D.C. 20554.

61. Parties submitting diskettes should submit them along with their formal filings to the Commission's Office of the Secretary. Submissions should be on a 3.5 inch diskette formatted in an DOS PC compatible form. The document should be saved into WordPerfect 5.1 for Windows format. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comment), docket number, and date of submission.

62. Parties may also file informal comments electronically via e-mail <rateofreturn@fcc.gov>. Only one copy of electronically-filed comments must be submitted. The docket number of this proceeding must appear in the subject line, CC Docket No. 98–77. The subject line must also disclose whether an electronic submission is an exact copy of formal comments. Your full name and U.S. Postal Service mailing address must be included in your submission.

63. Comments and replies must comply with 47 CFR 1.49 and all other applicable sections of the Commission's Rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and replies. Comments and replies must also clearly identify the specific portion of the NPRM to which a particular comment or set of comments is responsive. If a portion of a party's comments does not fall under a particular topic listed in the Table of Contents of this NPRM, such comments must be included in a clearly labelled section at the beginning or end of the submission.

Ordering Clauses

64. Accordingly, it is ordered, pursuant to sections 1–4, 201–205, 251, 254, 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 251, 254, 303(r) and 403, that notice is hereby given of the rulemaking described above and that comment is sought on these issues.

65. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 69

Access charges, Communications common carriers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–19266 Filed 7–17–98; 8:45 am]

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