DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–300

[Docket No. OFCCP–2025–0002]

RIN 1250–AA19

Modifications to the Regulations Implementing the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as Amended; Extension of Comment Period

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On July 1, 2025, the U.S. Department of Labor (DOL) published a Notice of Proposed Rulemaking (NPRM) to revise the implementing regulations for the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended. The comment period for the NPRM was scheduled to close on September 2, 2025. With this notice document, DOL is extending the comment period to September 17, 2025. Commenters who have already submitted public comments do not need to resubmit their comments. DOL will consider all comments received from the date of publication of the NPRM through the close of the extended comment period. Any previous denial of a request to extend the comment period remains denied to the extent the request asked for more than a 15-day extension. Commentors are encouraged to submit all comments by September 17, 2025, as no further extension will be granted.

DATES: The comment period for the NPRM that was published on July 1, 2025, at 90 FR 28485, is extended. Comments should be received on or before September 17, 2025.

ADDRESSES: Comments must be submitted in one of the following two ways (please choose only one of the ways listed):

- Electronically at *https://www.regulations.gov.* Follow the ''Submit a comment'' instructions. If you are reading this document on *federalregister.gov,* you may use the green ''SUBMIT A PUBLIC COMMENT'' button beneath this rulemaking's title to submit a comment to the *regulations.gov* docket.
- *Via mail to the following address:* Catherine L. Eschbach, Director, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW, Washington, DC 20210. Mailed comments must be received by the close of the comment period.

Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously. Follow the search instructions on *https://www.regulations.gov* to view public comments.

FOR FURTHER INFORMATION CONTACT: Catherine L. Eschbach, Director, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: 202–693–0101. Email: *ofccp_guidance@dol.gov.*

SUPPLEMENTARY INFORMATION: On July 1, 2025, DOL issued an NPRM to revise its implementing regulations for the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended. The public comment period for the NPRM was scheduled to close on September 2, 2025. In response to public comments, DOL is extending the public comment period to September 17, 2025. DOL believes this 15-day extension is sufficient and balances the agency's need for stakeholder input with the Department's desire to proceed with the rulemaking in a timely manner. Any prior denial of an extension request remains in effect to the extent the request asked for more than a 15-day extension. No further extensions will be granted.

(Authority: 38 U.S.C. 4212)

Catherine Eschbach,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 2025–16921 Filed 9–2–25; 11:15 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 69

[WC Docket Nos. 21–17, 17–144; FCC 25–44; FR ID 309561]

Price Cap Business Data Services; Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on its proposed rules to eliminate rate regulation and tariffing obligations for business data services provided by incumbent local exchange carriers in light of technological and marketplace changes and recent Executive Orders and Commission initiatives. The Commission alternatively seeks comment on updates to its regulatory framework and competitive market tests to better align with current market conditions based on current data.

DATES: Comments are due on or before October 6, 2025, and reply comments are due on or before October 20, 2025.

ADDRESSES: Interested parties may file comments and reply comments on or before the dates indicated in this document in WC Docket Nos. 21–17 and 17–144 by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the Electronic Comment Filing System (ECFS): *https://www.fcc.gov/ecfs/filings/standard.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov,* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Christopher Koves, Associate Division Chief, Pricing Policy Division, Wireline Competition Bureau, (202) 418–8209, *Christopher.Koves@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking and Third Further Notice of Proposed Rulemaking (*NPRM and Third FNPRM*) in WC Docket Nos. 21–17, 17–144; FCC 25–44, adopted on August 4, 2025 and released on August 8, 2025. The full text of this document is available at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-25-44A1.pdf.*

Paperwork Reduction Act. This document does not contain proposed new or substantively modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any proposed new or substantively modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act of 2023, Public Law 118–9, a brief plain-language summary of this document will be published on: *https://www.fcc.gov/proposed-rulemakings.*

Synopsis

I. Introduction

1. Today, we continue to promote competition and economic growth by proposing to further streamline and eliminate outdated, unnecessary, burdensome regulations in the provision of legacy business data services (BDS) offered by telephone companies. The Commission has long recognized the importance of BDS to businesses, schools and libraries, non-profit organizations, and state and local governments. Because local telephone companies (incumbent local exchange carriers) held local monopolies on circuit-switched telephone service, historically the Commission relied on dominant carrier regulation under Title II of the Communications Act of 1934, as amended (the Act), to ensure that the rates, terms, and conditions of service were just and reasonable and not unreasonably discriminatory. In response to the growth of competition in the provision of BDS, the Commission has, in recent years, streamlined its regulation of these services to forbear from unnecessary regulatory burdens on legacy circuit-based services and to promote long-term innovation and investment in modern packet-based internet Protocol (IP) services.

2. In the *NPRM and Third FNPRM,* we build on the Commission's earlier efforts by seeking comment on further deregulating BDS in light of marketplace and technological changes and consistent with recent Executive Orders and other Commission efforts. We seek comment on eliminating ex ante pricing regulation and tariffing obligations for end user channel termination services provided by incumbent local exchange carriers (LECs or carriers). We also seek comment on deregulating and detariffing rates charged for transport services provided by rate-of-return carriers. In the alternative, we seek comment on updates to the Commission's regulatory framework and competitive market tests to better align those tests with current market conditions based on current data.

II. Background

A. Business Data Services

3. ''Business data services'' (BDS) refers to the dedicated point-to-point transmission of data at certain guaranteed speeds and service levels using high capacity connections to support applications that require symmetrical bandwidth, substantial reliability, security, and connected service to more than one location. Businesses, non-profit organizations, and government institutions rely on BDS to enable the secure and reliable transfer of data, for example, as a means of connecting to the internet or the cloud, and to create private or virtual private networks.

4. BDS fall into two technology categories: circuit-based and packet-based. Circuit-based BDS utilize the Time Division Multiplexing (TDM) protocol, which sends communications over a single circuit-switched channel by dividing the channel into dedicated time slots. TDM is considered a legacy technology, and TDM-based services consist primarily of DS1 and DS3 circuits with symmetrical capacities of 1.5 Mbps and 45 Mbps, respectively. Packet-based BDS, on the other hand, relies on the modern IP in which data are sent using packets, and can generally offer much higher capacities. The Commission generally has historically imposed dominant carrier regulation on carriers' legacy TDM-based BDS and abstained from regulating packet-based BDS.

5. The Commission has traditionally viewed legacy TDM-based BDS in two distinct segments: end user channel termination and dedicated transport. Channel termination refers to the last-mile, local loop, transmission links to end user locations, *i.e.,* laterals. Transport involves higher-capacity connections between network aggregation points, *i.e.,* middle-mile connections or feeder plant. In the BDS context, the Commission referred to ''transport'' as interoffice facilities and channel terminations between an incumbent LEC's serving wire center and an interexchange carrier.

B. The Commission's Regulation of Business Data Services

6. The Commission has traditionally relied on sections 201 and 202 of the Act, to impose BDS pricing regulation to ensure that ''charges, practices, classifications, and regulations'' for interstate communication service provided by common carriers are ''just and reasonable,'' and free of ''unjust or unreasonable discrimination.'' Under existing rules, incumbent LECs must therefore file tariff schedules specifying the rates, terms, and conditions governing their interstate service offerings. Section 204 prescribes procedures for filing streamlined tariffs with the Commission subject to Commission review and, if necessary, potential suspension and investigation should the LECs' rates be found to violate the requirements of sections 201 and 202. After full opportunity for hearing upon a complaint or an order for investigation and hearing, section 205 authorizes the Commission to determine and prescribe just and reasonable charges.

7. *Rate-of-Return and Price Cap Regulation.* The Commission traditionally has used two forms of rate regulation to ensure that the rates, charges, and practices of incumbent LECs in connection with the provision of BDS are ''just and reasonable'' under sections 201 and 202 of the Act: rate-of-return and price cap regulation. Under rate-of-return regulation, a carrier's rates are set at levels allowing recovery of operating costs plus an authorized rate of return (currently 9.75%) on the regulated rate base. Under price cap regulation, a carrier's rates are set at levels based on indices that are adjusted downward based on an industry-wide productivity factor ''intended to capture the amount by which incumbent LECs could be expected to outperform economy-wide productivity gains and to pass those gains on to consumers in the form of lower prices.'' Carriers' service areas are divided into study areas designated as price cap or rate-of-return, depending on the applicable form of rate regulation. Price cap study areas include urban areas and densely-

populated areas, while rate-of-return study areas are predominantly rural and less-densely populated than price cap study areas.

8. Currently, in all price cap study areas and a little over a third of rate-of-return study areas, there are no rate regulation and tariffing obligations on incumbent LECs' packet-based and higher-capacity (above DS3) TDM-based BDS (*i.e.,* end user channel termination service and transport service and other special access services). For lower-capacity end user channel termination services provided by price cap carriers and certain electing rate-of-return carriers, the Commission preserved rate regulation and tariffing obligations and adopted a competitive market test to identify areas with sufficient competition warranting deregulation and detariffing of those services. Lower-capacity TDM-based transport offered in rate-of-return study areas is also subject to rate regulation and tariffing requirements. In a little over two-thirds of rate-of-return study areas, rate regulation and tariffing obligations still apply to end user channel termination services and rate-of-return carriers may tariff certain packet-based BDS.

9. *Competitive Market Tests.* The competitive market tests are used to identify areas subject to potential or actual competition that warranted eliminating rate regulation and tariffing obligations. Results of the competitive market test are updated every three years to determine whether any additional regulated counties or study areas meet the competitive threshold. The Bureau released updated test results in 2020 and 2023, and the next update is due January 31, 2026.

10. *Forbearance.* An integral element of the ''pro-competitive, de-regulatory national policy framework'' adopted in the Telecommunications Act of 1996 (the 1996 Act) is the Commission's forbearance authority under section 10. Section 10 of the Act, as amended by the 1996 Act, requires the Commission to forbear from applying the Act or its rules to a telecommunications carrier or a telecommunications service if the Commission determines that: (1) enforcement ''is not necessary to ensure that the charges, practices, classifications, or regulations . . . are just and reasonable and are not unjustly or unreasonably discriminatory,'' (2) enforcement ''is not necessary for the protection of consumers,'' and (3) ''forbearance from applying such provision or regulation is consistent with the public interest.'' In making the public interest determination, the Commission must also consider, pursuant to section 10(b) of the Act, ''whether forbearance from enforcing the provision or regulation will promote competitive market conditions.'' Forbearance is required only if all three criteria are satisfied.

11. The Commission has a long history of granting price cap and rate-of-return carriers forbearance from section 203 tariffing requirements for various of their BDS offerings. More than a decade ago, the Commission granted forbearance from section 203 tariffing obligations to price cap carriers for their packet-switched and optical transmission BDS. In 2017 and 2018, the Commission granted price cap and electing rate-of-return carriers forbearance from section 203 tariffing obligations in the provision of packet-based and higher-capacity TDM-based BDS, and lower speed end user channel termination services in counties deemed competitive (82 FR 25660, June 2, 2017; 83 FR 67098, Dec. 28, 2018). In 2019, the Commission granted price cap carriers forbearance from section 203 tariffing obligations for TDM-based transport, 84 FR 38566 (Aug. 7, 2019).

12. *Current State.* To date, almost two-thirds of counties served by price cap carriers (1,970 out of 3,234) have been deemed competitive or were grandfathered and subject to mandatory deregulation and detariffing for their lower-capacity end user channel termination services. In total, 1,265 counties served by price cap carriers are subject to ex ante pricing regulation and tariffing for their lower-capacity TDM-based end user channel termination services. A little over one-third of active rate-of-return carriers elected incentive regulation (346 out of 1,107) and are thus subject to incentive regulation for their BDS offerings. Of these 346 study areas, 17 have been deemed competitive and subject to complete rate deregulation and detariffing for their BDS. In total, 761 rate-of-return carriers remain subject to ex ante pricing regulation and tariffing obligations for their lower- and higher-capacity TDM-based BDS as of 2024.

C. Broader Deregulatory Efforts

13. This year, the President issued a series of Executive Orders calling on administrative agencies to alleviate unnecessary regulatory burdens. Consistent with this direction, in March, the Commission's Office of General Counsel issued a *Public Notice* initiating a proceeding broadly seeking public comment on ''deregulatory initiatives that would facilitate and encourage American firms' investment in modernizing their networks, developing infrastructure, and offering innovative and advanced capabilities.'' The *Public Notice,* among other things, broadly sought comment on Commission rules for which the costs exceed the benefits and whether the rule produces the predicted benefits or is unnecessary or inappropriate, whether rules are unnecessary or inappropriate based on marketplace and technological changes, whether the rules pose a barrier to entry, whether the changes in the broader regulatory context render the rules unnecessary or inappropriate, and, finally, whether there are any other considerations relevant to identifying rules that are unnecessary or inappropriate.

14. Commenters identified part 61 tariff requirements and part 69 access charge rules as ripe for further deregulation and streamlining. The International Center for Law and Economics (ICLE), for example, argues that tariff requirements, ''thanks to competition . . . are now largely obsolete'' and ''[f]urther simplification would reduce administrative burdens and align with market-driven pricing.'' The Digital Progress Institute argues that the Commission should ''fully detariff all remaining TDM services, abolishing parts 61 and 69, and allow carriers to reflect their actual costs.'' In support, the Digital Progress Institute contends that ''arbitrary caps and tariffs stimulate artificial demand for'' legacy TDM-based services, the part 61 and 69 rules ''divert investment from new infrastructure towards reams of paperwork,'' and ''tariffing is unnecessary'' as ''[c]ompetition in the voice market is so replete.'' USTelecom—The Broadband Association identifies part 61 tariffing requirements to ''streamline or eliminate unnecessary or obsolete rules in order to simplify processes without making significant substantive changes.'' Commenters also identified part 65, which governs rate-of-return prescription, as ripe for deregulation. For example, ICLE argues that rate-of-return regulation is ''largely obsolete, as the FCC has transitioned most carriers to incentive-based frameworks (*e.g.,* price caps)'' and that ''[p]art 65 perpetuates inefficiencies by tying investment decisions to artificial returns, rather than market signals, thus discouraging modernization.''

III. Notice of Proposed Rulemaking and Third Further Notice of Proposed Rulemaking

15. The Commission has long expressed its preference to rely on competition rather than incentive-distorting regulation to ensure that rates, terms, and conditions of telecommunications service are ''just

and reasonable.'' Accordingly, we propose to end ex ante pricing regulation and tariffing obligations for end user channel termination services provided by price cap and rate-of-return carriers, and transport services provided by rate-of-return carriers. To effectuate deregulation, we propose to grant incumbent LECs forbearance, pursuant to section 10 of the Act, from section 203 tariffing and other requirements for these deregulated services. We believe that technological and marketplace developments have rendered ex ante regulation and tariffing requirements unnecessary and seek comment on these views. Finally, we alternatively seek comment on the efficacy and continued viability of the incentive regulation framework for rate-of-return carriers and the competitive market tests.

A. Business Data Services Marketplace Developments

16. In this section, we seek comment on broader developments in the BDS marketplace, particularly on competitors' service deployment, competitive conditions, and technological advancements, that would support further deregulation.

17. The Commission has recognized the dramatic transformation of the communications marketplace since Congress passed the 1996 Act. At the time, incumbent LECs controlled 99.7% of the local telephone service market. Today, incumbent LECs' wireline voice subscriptions using switched access lines account for 19.5% (16.5 million connections) of all wireline voice retail subscriptions and 16.1% (8.4 million connections) of all wireline voice retail business connections. Between December 2019 and December 2023, residential connections to copper (including DSL) provided by telephone companies decreased by almost 40% from 17.6 million to 10.6 million. As of June 30, 2024, copper wire technology only accounted for 8.0% of the fixed connections used to deliver internet access service to end users.

18. When the Commission eliminated ex ante pricing regulation for certain BDS provided by price cap carriers in 2017, it recognized that higher bandwidth packet-based services, including Ethernet services, ''already ma[d]e up a large part of the business data services marketplace'' and circuit-based DS1s and DS3s were becoming obsolete. The Commission predicted that the shift from circuit-based to packet-based services would continue at a ''rapid pace.'' Factoring in intermodal competition, the Commission concluded that the enterprise market was subject to ''intense competition,'' finding that 95% of census blocks within Metropolitan Statistical Areas served by price cap carriers with BDS demand (constituting 99% of all businesses) had at least one competitive alternative to the incumbent LEC.

19. We seek updated information and data on the shift from circuit-based to packet-based BDS in the years since 2017. We invite commenters to submit or identify data that would justify further pricing deregulation and detariffing. Acknowledging that a large data collection could be burdensome and that our preference is to rely on data either already in the Commission's possession or relevant data provided by commenters, we seek comment on whether a data collection would ultimately be necessary or beneficial in supporting the actions we propose today. To what extent has the transition from TDM-based to IP-based BDS rendered ex ante rate regulation and tariffing of lower-capacity BDS and other regulated BDS unnecessary? To what extent does rate regulation of BDS distort market incentives? Commenters have previously suggested that ''as a result of more substitutes in the market, incumbent LECs face declining sales in TDM-based services, notably DS1s and DS3s, including customer loss to cable operators and other providers.'' Have sales of TDM-based BDS declined? If so, by how much? Do commenters attribute this decline to the availability of higher bandwidth services? Are TDM-based services declining in rate-of-return study areas at a rate similar to the decline in price cap areas? We urge commenters to be as specific and detailed as possible in describing trends in the BDS marketplace and the availability of substitute services for TDM-based BDS.

20. Why do some users continue to purchase TDM-based BDS? Do any industry standard practices or regulatory requirements encourage or mandate the purchase of TDM-based services? We seek specific comment on any regulations that require or encourage the purchase of TDM-based BDS. Commenters should identify the public interest purpose of those rules. In the absence of such a showing, we tentatively conclude that any such rules should be eliminated to accelerate the IP Transition.

21. We also seek comment on how the competitive landscape has changed given entry by cable operators. Prior reductions in ex ante pricing regulation were premised in part on the Commission's predictive judgment that dynamic and growing competition in the BDS market, driven increasingly by the emergence of cable competition, would allow reliance on competition rather than regulation to ensure just and reasonable rates for BDS. At the time, the Commission acknowledged that BDS provided by cable operators was growing at a rate of 20% annually over the past several years. Between December 2019 and 2023, residential connections to cable (DOCSIS 3.1) services increased from 67.1 million to 73.4 million, an increase of over 9%. As of December 31, 2023, residential cable broadband was deployed to approximately 86.7% of U.S. households and adopted in 66.4% of households. As of June 30, 2024, coaxial cable technology accounted for 59.0% of the fixed connections used to deliver internet access service to end users. How has market entry by cable providers changed in the years since 2017? Have cable operators continued to deploy into counties and study areas served by legacy TDM-based BDS? If so, can commenters quantify the scope of such entry in terms of market share, revenues, and other factors? In counties and study areas deemed competitive and deregulated under the Commission's competitive market tests, what impact has this deregulation had on end user channel termination services and transport services?

22. We also seek comment on the existence and effect of other market entrants regardless of the technology, including competing providers using fiber, fixed wireless, satellite, and other technologies to offer services that compete with incumbent LECs' TDM-based BDS. Between December 2019 and December 2023, residential connections to fiber increased 67.7% (from 16.7 to 28.0 million), to terrestrial fixed wireless broadband increased 453.3% (from 1.5 to 6.8 million), and to satellite increased 11.1% (from 1.8 to 2.0 million). Have the growth trends been similar for non-residential BDS? Have competing providers been using fixed wireless, satellite or other technologies to offer BDS? Has new entry for competing providers using any technology been greater in areas that have been deregulated under the competitive market test? What about other entrants such as non-cable competitive LECs? What other services compete with or serve as substitutes for TDM-based BDS? Do alternative suppliers put competitive pressure on end user channel termination and transport services? If so, how?

B. Deregulating End User Channel Termination and Transport Services in Remaining Regulated Counties and Study Areas

23. Subject to a transition period, we propose to eliminate ex ante pricing regulation and tariffing obligations for end user channel termination services in all price cap study areas and rate-of-return study areas and transport services offered in rate-of-return study areas. We propose to deregulate these services in rate-of-return study areas regardless of whether those carriers elected and are subject to incentive regulation. Alternatively, we seek comment on eliminating rate regulation and tariffing obligations for all price cap carriers' lower-capacity TDM-based end user channel termination services and only electing rate-of-return carriers' lower-capacity TDM-based end user channel termination and transport services.

24. Does the fact that nearly two-thirds of counties served by price cap carriers are no longer subject to ex ante pricing regulation or tariffing obligations suggest that competition is sufficiently ubiquitous in price cap areas to obviate the need to update the competitive market test results? As previously noted, there are 329 active electing rate-of-return study areas that still tariff lower-capacity end user channel termination services, and 761 active rate-of-return study areas that still tariff end user channel termination and transport services subject to rate-of-return regulation, and thus have obligations to prepare cost studies, and file tariffs with the Commission. What effect would deregulating the remaining regulated counties and study areas have? What data could be used to estimate the costs and benefits of deregulating the remaining counties and study areas?

25. *End User Channel Termination Services.* We propose to end ex ante pricing regulation and tariffing of end user channel termination services provided by price cap and rate-of-return carriers. We propose revisions to § 61.201 of the Commission's rules that would require price cap carriers to detariff lower-capacity end user channel termination services subject to a 24-month transition. We propose revisions to our part 61 rules that would require all rate-of-return carriers to detariff all end user channel termination services subject to a 24-month transition. We also propose revisions to § 61.50(k) of the Commission's rules that would require electing rate-of-return carriers to detariff their lower-capacity TDM-based end user channel termination services.

26. Is the market for the end user channel termination services provided by price cap and rate-of-return carriers likely to be sufficiently competitive going forward such that the harms of ex ante pricing regulation would be greater than the harms that might occur were we to not regulate? If the Commission eliminated regulations associated with the provision of end user channel termination services, lower-capacity TDM-based services in particular, what effect would this have on prices and service availability and competition? To what extent do differences in the price cap and rate-of-return marketplaces justify different regulatory treatment for end user channel termination services? If we deregulate rates charged by rate-of-return carriers that did not elect incentive regulation, what effect would this have on BDS prices and service availability and competition in those study areas?

27. *Transport Services.* We also propose to end ex ante pricing regulation for rate-of-return carriers' transport services. We propose revisions to our part 61 rules that would require rate-of-return carriers that are not subject to incentive regulation to detariff lower- and higher-capacity TDM-based transport services subject to a 24-month transition. We also propose revisions to § 61.50(k) of the Commission's rules that would require electing rate-of-return carriers to detariff their lower-capacity TDM-based transport services.

28. Do the costs and burdens of continuing to regulate transport services offered by rate-of-return carriers outweigh the benefits? Why or why not? Should the Commission treat TDM-based transport provided by rate-of-return carriers that continue to receive cost-based legacy universal service support differently? Why or why not? Do the costs and burdens of continuing to regulate lower-capacity TDM-based transport provided by electing rate-of-return carriers outweigh the benefits? Why or why not? Does the analysis support treating price cap carriers' transport services and rate-of-return carriers' transport services equally?

29. *Market Efficiencies.* What benefits have commenters observed resulting from deregulation of end user channel termination and transport services? What benefits have commenters observed resulting from deregulation in areas deemed competitive under the competitive market tests? Are there any harms commenters have observed in deregulated areas? Some commenters have suggested that there has been an increase in prices for DS1s and DS3s and/or discontinuance of those services without offering alternatives such as IP-based services. To the extent these claims are valid, are the markets for these services sufficiently competitive such that the harms of ex ante pricing regulation outweigh the harms from deregulation and detariffing these services?

30. Are these markets sufficiently competitive to maintain just and reasonable rates, terms, and conditions for BDS? If the Commission deregulated, what effect would this have on prices, service availability, and competition? If we detariff and remove ex ante pricing regulation of end-user channel termination and transport services nationwide, would sections 201, 202, and 208 of the Act be sufficient to protect consumers from unjust and unreasonable rates, charges, and practices? Commenters are encouraged to provide evidence and data to support their arguments.

31. *Electing Rate-of-Return Carriers.* As an alternative to the removal of ex ante pricing regulation for all rate-of-return carriers' BDS, should the Commission instead consider whether to subject electing rate-of-return carriers' lower-capacity TDM-based end-user channel termination and transport services to a competitive market test? If so, should the Commission mirror the structure of the competitive market tests it adopted previously? Should the same test be used for both end-user channel termination services and transport services? Some commenters have argued that a competitive market test for TDM-based transport services ''should be structured in a manner that is characterized by lower thresholds for electing rate-of-return carriers to demonstrate transport competition than the competitive market test the Commission adopted for end user channel termination services.'' Do commenters agree? Why or why not? Should the Commission simply deregulate and detariff electing rate-of-return carriers' lower-capacity TDM-based BDS?

32. *Rate-of-Return Carriers Not Subject to Incentive Regulation.* As part of the Commission's deregulatory approach, we propose to eliminate ex ante rate regulation and tariffing obligations for rate-of-return carriers that are not subject to incentive regulation, including carriers receiving legacy cost-based universal service support. What are the costs and benefits of this approach? Do the costs of rate regulation and tariffing BDS offered by rate-of-return carriers receiving legacy universal service support outweigh the benefits? If the Commission deregulates BDS provided by rate-of-return carriers nationwide, does this obviate the need

to have a voluntary incentive regulation framework under § 61.50 of the Commission's rules? Does eliminating ex ante rate regulation and tariffing obligations for rate-of-return carriers receiving legacy universal service support raise cost-shifting concerns? Are there measures the Commission could take to avoid any potential system-gaming opportunities if we deregulate and detariff BDS offerings provided by rate-of-return carriers receiving legacy universal service support? Are there other deregulatory approaches the Commission should consider with respect to end user channel termination and transport services offered by rate-of-return carriers receiving legacy universal service support? What are the costs and benefits of any proposed approaches? Are there BDS offerings provided by rate-of-return carriers beyond TDM-based end user channel termination and transport that the Commission should consider deregulating and detariffing and what are the costs and benefits of any proposals?

33. *Eliminating the Competitive Market Tests.* Our proposal above to deregulate and detariff BDS nationwide would obviate the need to conduct the competitive market tests, accordingly, we propose to eliminate the competitive market tests in §§ 61.50(j) and 69.803 of the Commission's rules and seek comment on this approach. Is competition sufficiently pervasive and ubiquitous in price cap and rate-of-return study areas that it obviates the need for the competitive market tests? Do the costs of running the tests outweigh the benefits?

34. In 2017, the Commission concluded that price cap ''incumbent LEC market power has been in many cases largely eliminated, and elsewhere is declining thanks to increased competition in business data services markets.'' One of the Commission's rationales for proposing a competitive market test was to determine whether incumbent LEC market power continued to exist. Does the competitive market test effectively measure market power? Is there evidence that suggests incumbent LECs exercise market power (*i.e.,* the power to control price) in the provision of end user channel termination services, particularly lower-capacity services? Is there evidence that significant network deployment of BDS, particularly lower-capacity BDS at or below the level of a DS3, to end users is being leveraged in ways that prevent abuses by incumbent LECs of market power?

35. When the Commission adopted the competitive market test for electing rate-of-return carriers, it recognized that ''a relatively small percentage of electing carriers' study areas will be deemed competitive,'' which was ''consistent with the rural nature and ascent deployment of cable in many eligible carriers' study areas.'' Is this still true today in rate-of-return study areas nationwide? There are 28 total rate-of-return study areas (out of 1,107 study areas) that were deemed competitive under the competitive market test. Is the relatively low number of competitive rate-of-return study areas indicative of a lack of competition in those study areas? Why or why not? Or does the low number suggest that the competitive market test has not functioned as the Commission anticipated? In regulated rate-of-return study areas, is there evidence that ex ante pricing regulation and tariffing distorts market incentives and causes harms? For instance, has the maintenance of regulation on TDM-based BDS inhibited the deployment of more advanced IP-based services?

C. Implementation

1. Forbearance

36. To effectuate these proposed deregulatory actions, we propose to grant forbearance under section 10 of the Act from the application of section 203 tariffing requirements for price cap and rate-of-return carriers in their provision of end user channel termination services nationwide and for rate-of-return carriers in their provision of transport services nationwide. We seek comment on this proposal.

37. Specifically, we propose to detariff price cap carriers' TDM-based lower-capacity (DS1 and DS3) end user channel termination services in the remaining regulated counties by granting forbearance from section 203 tariffing obligations. We propose to detariff electing rate-of-return carriers' TDM-based lower-capacity (DS1 and DS3) end user channel termination and transport services by granting forbearance from section 203 tariffing obligations. We also propose to grant rate-of-return carriers forbearance from section 203 tariffing requirements in the provision of end user channel termination services and transport services and other BDS on a nationwide basis. Our proposed forbearance applies to rate-of-return carriers that did not elect, or were ineligible to elect, incentive regulation, including rate-of-return carriers receiving legacy universal service support. We seek comment on this proposal. The Commission granted electing rate-of-return carriers forbearance from tariffing obligations with respect to packet-based and higher-capacity TDM BDS and lower-capacity TDM-based end user channel termination services in study areas deemed competitive. The Commission also granted forbearance from parts 32, 63, 64, 65, and 69 cost assignment rules, part 36 separations rules, and § 54.1305 reporting requirements for electing rate-of-return carriers' TDM-based end user channel termination and transport services. We similarly propose to grant forbearance from these rules to rate-of-return carriers receiving model-based or fixed universal service support for their TDM-based end user channel termination and transport services and other BDS nationwide and we seek comment on this proposal.

38. Would forbearance for these services meet the statutory criteria set y section 10 of the Act? Why or why not? Would forbearance promote competitive market conditions? Would detariffing reduce compliance costs, increase regulatory flexibility, increase incentives to invest in innovative products and services, or otherwise be in the public interest? Why or why not? Are the tariffing requirements no longer necessary to ensure just and reasonable BDS rates? Are tariffing requirements no longer necessary to protect consumers in the BDS market? Are there other rules for which the Commission must or should grant forbearance in connection with our deregulatory proposals here? In the alternative, we seek comment on granting forbearance from tariffing obligations to electing rate-of-return carriers' lower-capacity TDM-based end user channel termination and transport services, or solely to lower-capacity TDM-based transport services.

39. Most rate-of-return carriers establish rates for BDS by participating in the National Exchange Carrier Association, Inc. (NECA) traffic-sensitive tariff and traffic-sensitive pool. NECA sets BDS rates based on aggregate costs projected to earn the authorized rate-of-return. In the *Rate-of-Return BDS Order,* the Commission required electing rate-of-return carriers participating in the NECA traffic-sensitive tariff pool for their BDS to remove these services from the pool since those services will be subject to incentive regulation. We similarly propose to require these rate-of-return carriers participating in the NECA traffic-sensitive tariff pool to remove their BDS from the pool since they will no longer tariff these services. Consistent with the *Rate-of-Return BDS Order,* we propose to allow rate-of-return carriers exiting the NECA traffic-sensitive tariff pool to participate in

NECA tariffs for services other than BDS. We seek comment on the costs and benefits of this approach.

2. Transition Mechanism and Timing

40. We propose mandatory detariffing of remaining regulated end user channel termination and transport services after a 24-month transition, during which we will allow permissive tariffing. This is a shorter period than the Commission provided in the *Price Cap BDS Order* (82 FR 25660, June 2, 2017) and *Rate-of-Return BDS Order* (83 FR 67098, Dec. 28, 2018), but we anticipate that it will provide incumbent LECs sufficient time to adapt their BDS operations to a detariffed regime, particularly since incumbent LECs have already undertaken some BDS detariffing. We seek comment on this proposal. Under our proposal, during the transition period, the Commission would accept new tariffs and revisions to existing tariffs for affected services. And, apart from the rate freeze discussed below, carriers would no longer be required to comply with ex ante pricing regulation for the affected services. At the conclusion of the transition period, no price cap carrier or rate-of-return carrier may file or maintain any interstate tariffs for the affected BDS. We seek comment on these proposals.

41. We seek comment on whether 24 months is an appropriate length for the transition period. In the *Price Cap BDS Order,* the Commission established a 36-month transition period that began on the effective date of the order (60 days after **Federal Register** publication). And in the *Rate-of-Return BDS Order,* the Commission established a 36-month transition that began on the date incentive regulation became effective for electing rate-of-return carriers, either July 1, 2019 or July 1, 2020 or after accepting future offers of A–CAM or other fixed support. In that order, the Commission also established a 36-month transition for detariffing lower-capacity end user channel termination services in study areas that are newly deemed competitive. The Commission also required price cap and rate-of-return carriers to freeze tariffed rates for BDS subject to detariffing for six months after the effective date of the *Price Cap BDS Order* and six months after the date the incentive regulation becomes effective, respectively. The Commission structured the transition in this way ''in light of the need for an adequate transition to ensure that small businesses will have time to adjust to the new regulatory conditions.''

42. For the same reasons, we propose to adopt a similar 6-month rate freeze and seek comment on this proposal. Because a significant number of carriers already have detariffed most of their BDS, we propose a slightly abbreviated transition period of 24-months instead of 36-months and seek comment on this approach. Should the Commission adopt a longer transition for rate-of-return carriers and, if so, how long would be an appropriate transition? Should we adopt a 24-month transition for rate-of-return carriers to exit the NECA traffic-sensitive pool for their BDS? Why or why not? Should we continue a staged transition for rate-of-return carriers that need to exit the NECA traffic-sensitive pool for their BDS, such as requiring them to exit the pool within 12 months, subject to permissive detariffing, and mandatory detariffing after 24 months? What are the costs and benefits of this approach?

43. During this transition, should the Commission permit or require rate-f-return carriers receiving legacy universal service support to transition from rate-of-return to incentive regulation for their BDS under § 61.50 of the Commission's rules? What are the costs and benefits of these approaches? Are these approaches feasible in light of the fact that those carriers still calculate universal service support based on costs? Are there potential cost-shifting concerns under this approach that would inflate legacy universal service support without network investments? Are there measures the Commission could take to avoid these cost-shifting concerns?

D. Necessary Rule Changes

44. In Appendix A, we propose rules that would effectuate the deregulation of price cap carriers' and rate-of-return carriers' end user channel termination services and rate-of-return carriers' transport services proposed above. We seek comment on these proposed rules. We also seek comment on any other specific rule changes or new rules necessitated by the deregulation proposed today after consideration of the record. Any comments proposing new or amended rules should include, as part of the commenter's submission, a draft rule or markup of an existing rule.

E. Retaining Voluntary Incentive Regulation for Rate-of-Return Carriers

45. Alternatively, we seek comment on the continuing role of the Commission's voluntary incentive regulation framework for electing rate-of-return carriers. Incentive regulation is intended to replicate the beneficial incentives of competition, encouraging carriers to be more efficient by lowering costs to realize higher profits. Rate-of-return regulation, by contrast, incentivizes carriers to inflate their costs and rate base and make inefficiently high use of capital inputs and imposes regulatory burdens on carriers requiring them to prepare cost studies accounting for their costs. Over the last three decades, the Commission has provided incentives to encourage incumbent LECs to move from inefficient rate-of-return regulation to more efficient incentive regulation.

46. Should we maintain the Commission's incentive regulation framework? Should we require carriers receiving model-based or fixed universal service support to adopt incentive regulation for their BDS, particularly during a transition period to deregulation? Should we require carriers that receive legacy universal service support and do not participate in the NECA traffic-sensitive pool to adopt incentive regulation for their BDS? Or should we require all rate-of-return carriers to exit the NECA traffic-sensitive pool and adopt incentive regulation for their BDS? Should we continue to make the election of incentive regulation voluntary as the Commission did in 2018 and allow additional opportunities for rate-of-return carriers receiving model-based or fixed universal service support to elect incentive regulation? We seek comment on the timing of such elections. For example, should we provide an annual opportunity or only at fixed times during the transition period? What are the costs and benefits of the different approaches? Are there measures the Commission could take that would appropriately incentivize carriers and avoid the risk of system-gaming?

F. Retaining the Competitive Market Tests

47. In the alternative, we propose to update the competitive market tests to rely on Broadband Data Collection (BDC) program data if we determine, based on the record, that limited regulation of BDS remains necessary. In addition to seeking comment on the data transition, we seek comment on how to make the competitive market tests more effective in measuring competition.

48. *Measuring Competition.* Staff analysis in Appendix B suggests that the competitive market tests may be underreporting competition. Based on a cable-only measure used in the current tests, approximately 7.6% (96 counties) of the remaining 1,264 regulated price cap counties and 1.5% (5 study areas) of the remaining 329 regulated study areas meet the competitive thresholds. When the competitive market tests are

expanded to include competition from cable, fiber, and DSL technologies, approximately 63.2% (800 counties) of regulated price cap counties and 40.2% (131 study areas) of regulated rate-of-return study areas meet the 75% competitive thresholds to be deemed competitive under the existing tests. This analysis indicates the competitive market tests may not sufficiently capture the extent of competition in a county or study area. Do commenters agree? Why or why not?

49. We seek comment on updates or other modifications to the competitive market tests if the Commission continues to use the tests. Have the Commission's competitive market tests advanced the Commission's policy objectives as originally intended? Why or why not? In light of marketplace and technological changes since the tests were adopted, what changes to the tests would commenters propose and why? Specifically, given the significant growth in broadband availability and services, should the Commission reevaluate the competitive thresholds adopted for the competitive market tests or revise the tests to measure competitive effects from additional providers (*e.g.,* fiber-to-the-premises, copper, and terrestrial fixed wireless providers)? What are the costs and benefits of such changes? Are there other updates to the competitive market tests the Commission should consider to modernize and improve the tests to ensure that the tests result in deregulation in areas where competition is likely to constrain rates to just and reasonable levels?

50. We also seek comment on ultimately pausing or waiving the competitive market test altogether. If, at the conclusion of this proceeding, after careful consideration of the record, the Commission decides to completely deregulate and detariff BDS then would it be necessary to permanently pause or waive the competitive market tests?

51. *Data Transition.* In the event the Commission retains the competitive market tests, it will be necessary to transition those tests to the use of the BDC data given the sunset of the Form 477 data. We seek comment on how to facilitate that transition. In particular, we seek comment on revising §§ 61.50(j)(2) (for rate-of-return carriers) and 69.803(c)(1) (for price cap carriers) of the Commission's rules to incorporate the use of BDC data in the competitive market tests.

52. BDC data provide geographic locations within the Broadband Serviceable Location Fabric (Fabric) where fixed broadband service is or can be installed, specifying the technology and the maximum download and upload speeds. We seek comment on conducting the triennial update to the competitive market tests using BDC broadband availability data on wireline or fixed wireless service. The Commission focused the competitive market tests on the competitive presence from cable operators offering broadband service regardless of the technology. Are there other broadband services and/or competing providers that we should consider when updating the results to the competitive market tests? BDC data measure fiber-to-the-premises (FTTP), copper (DSL), and terrestrial fixed wireless. Should we deem census blocks competitive if they are served by providers offering FTTP, copper, terrestrial fixed wireless, or other broadband services?

53. We next seek comment on the appropriate speed capacity for the price cap competitive market test. While the Commission adopted a 10/1 Mbps capacity threshold for the competitive market test for areas served by electing rate-of-return carriers, it did not specify a similar threshold for the price cap competitive market test. If we maintain the competitive market test, we would propose to revise § 69.803(c)(1) to adopt a 10/1 Mbps download/upload capacity threshold for the price cap competitive market test consistent with the rate-of-return competitive market test. We seek comment on this approach.

54. We also seek comment on whether to continue to treat as competitive census blocks that report business or residential BDC broadband availability. In the current tests, any cable presence, regardless of whether the cable operator was shown to be serving business or residential customers, is treated as competitive, given the high sunk costs of broadband network investment. The BDC data show whether a particular service is residential-only, business-only, and mixed-use customers. We seek comment on continuing to treat census blocks as competitive if BDC data indicate broadband availability from cable operators or other providers, regardless of customer type.

55. Should we continue to measure presence of a competitive provider based on census blocks rather than locations even though BDC data capture locations? Consistent with the existing approach, in areas served by price cap carriers, a county will be deemed competitive if BDC data demonstrate that 75% of the census blocks within the county have broadband service by a competing provider in at least one location, and in areas served by electing rate-of-return carriers, a study area will be deemed competitive if BDC data show that 75% of the census blocks within the study area have broadband service by a competing provider in at least one location. We also seek comment on excluding from the denominator of these calculations any census blocks without broadband serviceable locations because otherwise unpopulated areas without demand would distort the results and undercount competition.

56. Alternatively, should we update the competitive market tests based on location-level calculations? Should we treat a county or study area as competitive if a set threshold percentage of locations report BDC broadband connection availability offered by a competing provider? Or should we consider adopting a competitive threshold based on locations within a half-mile of BDS demand? If so, should we apply the current 75% competitive threshold or another threshold?

G. Cost-Benefit Analysis

57. We seek comment on the benefits and costs of ending ex ante pricing regulation and tariffing obligations for BDS. How will the deregulation of rates charged for legacy TDM-based BDS in counties and study areas currently deemed non-competitive affect market prices for these services? Are there potential costs to deregulating legacy TDM-based BDS in these markets? We seek comment on whether ex ante pricing regulation remains effective or necessary to discipline provider prices in markets deemed non-competitive. Absent rate regulation, would incumbent LECs still wield market power such that deregulating these areas would lead to higher prices?

58. We also seek comment on the likely benefits of eliminating pricing regulation and tariffing obligations for incumbent LECs in currently non-competitive areas. What regulatory costs will incumbent LECs avoid as a result of such deregulation? For example, what are the likely savings in labor hours resulting from not having to file tariffs or comply with price regulation? Our preliminary analysis indicates that annual cost savings from reduced compliance and filings costs associated with detariffing will amount to approximately $1 million. We seek comment on this analysis and result.

59. In addition, what are the likely benefits to competition of relaxing these regulations for incumbent LECs? To what extent will incumbent LECs be better able to respond to competitive initiatives by cable companies and competing providers of BDS, and to what extent will consumers benefit as a result? Relatedly, to what extent might

deregulation reduce possible price coordination facilitated by the incumbent LEC's tariffing obligations among broadband competitors in areas still subject to pricing and tariffing regulation?

60. We also seek comment on whether, and to what extent, the competitive market tests accurately measure the extent of competition in these markets. As discussed above, if our tests understate the extent of competition for both price cap and rate-of-return carriers, what are the relative costs and benefits of deregulation if the areas that are deregulated are effectively competitive already?

61. *Market for Legacy TDM-Based Services.* Appendix B reports the results of an initial staff analysis of BDS competition in currently non-competitive areas using BDC data as of June 30, 2024. The inclusion of competing cable, fiber, and DSL technologies increases the number of counties that would be deemed competitive. Based on the inclusion of these additional technologies, an additional approximate 63% (800 counties) of the remaining 1,264 regulated price cap counties and 40% (131 study areas) of the remaining 329 regulated study areas meet the competitive thresholds for deregulation. The additional competitive pressure from providers utilizing these technologies suggests that prices would not be impacted significantly by deregulation in a large share of areas currently deemed non-competitive based on the previous iteration of the competitive market test. The few remaining non-competitive areas would still experience pricing pressure from fixed wireless and satellite, limiting any potential price increases from deregulation. We seek comment on this analysis and this tentative conclusion. Do the original competitive market tests understate true competition such that our updated analysis is a necessary step to inform needed deregulatory action? As in our discussion above, we seek comment on any other necessary improvements or modifications to this analysis to measure competition for BDS.

62. We seek comment on the change in demand for legacy TDM-based BDS in recent years. How quickly, and to what extent, is demand for these legacy services shrinking relative to demand for packet-based services? For price cap and rate-of-return carriers currently under ex ante pricing regulation, how have these revenues changed vis-à-vis revenues for packet-based services over the past five years? We encourage commenters to submit any data and reports on the size of this market segment. Specifically, are there recent estimates of annual nationwide revenues for legacy TDM-based services? Are there data that capture the revenues of only the regulated services in areas where ex ante price regulation is still in effect? Do pricing dynamics differ between end user channel termination and transport services? That is, would we need separate approaches to understand the impact of deregulation on each service? If these services have become largely obsolete, would the economic impact of deregulation, even in areas where incumbent LECs exhibit market power, be limited?

63. *Additional Considerations.* In the absence of rate regulation and tariffing obligations, we seek comment on what proportion of legacy TDM-based BDS arrangements would likely shift to alternative commercial services offered by incumbent LECs or other competitors, and at what prices. If commenters expect that prices for commercial alternatives to lower capacity TDM-based BDS will be higher or lower than the current rates, we seek comment on why that would be so.

64. What are the expected impacts to investment of each proposal discussed above? If incumbent LECs increase their investment in fiber or next-generation services as a result of any relief, how should we account for such increased investment in any updated cost-benefit analysis? To the extent that the elimination of certain lower capacity TDM-based BDS would have economic effects on end users, we seek comment as to the magnitude of these effects and how we should quantify them. For example, how can we quantify the benefits of migrating users to next-generation services or higher speed networks? Should we confine our analysis to consumers that currently rely on lower capacity TDM-based BDS or take into account the network effects that migrations to new networks could have on all consumers?

65. We also seek comment on any other benefits and costs of our proposed actions. More generally, for each proposal discussed above, we seek comment on the respective costs and benefits of particular alternative rules or approaches as compared to retaining the current rate regulation and tariffing requirements.

IV. Procedural Matters

66. *Ex Parte Requirements.* This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

67. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential rule and policy changes contained in this *NPRM and Third FNPRM.* The IRFA is set forth in Appendix C. The Commission invites the general public, particularly small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the *NPRM and Third FNPRM* indicated on the first

page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

V. Initial Regulatory Flexibility Analysis

68. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *NPRM and Third FNPRM* assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *NPRM and Third FNPRM.* The Commission will send a copy of the *NPRM and Third FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM and Third FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

69. In response to the growth of competition for business data services (BDS), the Commission has, in recent years, streamlined its regulation of these services to promote long-term innovation and investment in response to the growth of competition for these services. In 2017, the Commission reduced ex ante pricing regulation for some BDS provided by price cap incumbent local exchange carriers (LECs or carriers), concluding that reducing government intervention and allowing market forces to continue working would spur entry, innovation, and competition in the markets served by price cap carriers. In 2018, the Commission took similar deregulatory actions to relieve some BDS provided by rate-of-return carriers receiving Alternative Connect America Cost Model (A–CAM) support or other forms of fixed universal service fund support (electing rate-of-return carriers) fixed high-cost universal service support from ex ante pricing regulation. In both cases, the Commission adopted a regulatory framework governing BDS that would apply ex ante pricing regulation only where competition is expected to materially fail to ensure just and reasonable rates measured by competitive market tests.

70. In today's *NPRM and Third FNPRM,* the Commission continues its efforts to streamline its regulation of BDS to promote investment and competition. Specifically, we propose to end ex ante pricing regulation and tariffing for end user channel termination services and transport services provided by incumbent local exchange carriers. Alternatively, we propose to end ex ante pricing regulation for Time Division Multiplexing (TDM)-based DS1 and DS3 end user channel termination services provided by price cap and electing rate-of-return carriers in areas that, to date, have not yet been deemed competitive under the competitive market tests. We also propose to take the same actions with regard to TDM-based DS1 and DS3 transport services provided by electing rate-of-return carriers. In doing so, we seek comment on the efficacy of the competitive market tests in measuring competition. As an alternative to removing ex ante regulation, we seek comment on possible changes to the competitive market tests to better align those tests with current market conditions and on transitioning the competitive market tests from using Form 477 data to using Broadband Data Collection (BDC) data to update the results of the competitive market tests as required by §§ 61.50 and 69.803 of the Commission's rules resulting from the sunsetting of the collection of broadband deployment data through Form 477 in December 2022.

B. Legal Basis

71. The proposed action is authorized pursuant to sections 1, 4(i) and (j), 10, 201(b), 202(a), 214, 303(r), 403, of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i) and (j), 160, 201(b), 202(a), 214, 303(r), 1302.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

72. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

73. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

74. The rules proposed in the *NPRM and Third FNPRM* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System codes and corresponding SBA size standard.

Regulated industry	NAICS code	SBA size standard	Total firms	Small firms	% Small firms in industry
All Other Telecommunications	517810	$40 million	1,079	1,039	96.29
Telecommunications Resellers	517121	1,500 employees	1,386	1,375	99.21
Wired Telecommunications Carriers	517111	1,500 employees	3,054	2,964	97.05
Wireless Telecommunications Carriers (except Satellite).	517112	1,500 employees	2,893	2,837	98.06

75. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the adopted rules will impact a substantial number of small entities. Where available, we provide additional information regarding the number of potentially affected entities in the above identified industries, and information for other affected entities, as follows.

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1,500 Employees)		
Affected entity	Total # FCC form 499A filers	Small firms	% Small entities
Competitive Local Exchange Carriers (CLECs)	3,729	3,576	95.90
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	917	78.04
Interexchange Carriers (IXCs)	113	95	84.07
Local Exchange Carriers (LECs)	4,904	4,493	91.62
Local Resellers	222	217	97.75
Other Toll Carriers	74	71	95.95
Toll Resellers	411	398	96.84
Telecommunications Resellers	633	615	97.16
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13
Wireless Telephony	326	247	75.77

76. *Wired Broadband Internet Access Service Providers (Wired ISPs).* According to Commission data on internet access services as of June 30, 2024, nationwide there were approximately 2,204 providers of connections over 200 kbps in at least one direction using various wireline technologies.

77. *Wireless Broadband Internet Access Service Providers (Wireless ISPs or WISPs).* According to Commission data on internet access services as of June 30, 2024, nationwide there were approximately 1,157 fixed wireless and 52 mobile wireless providers of connections over 200 kbps in at least one direction.

78. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standard for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Based on industry data, there are about 420 cable companies in the U.S. Of these, only seven have more than 400,000 subscribers. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Based on industry data, there are about 4,139 cable systems (headends) in the U.S. Of these, about 639 have more than 15,000 subscribers. Accordingly, the Commission estimates that the majority of cable companies and cable systems are small under this size standard.

79. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, contains a size standard for a ''small cable operator,'' which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 498,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator. Based on industry data, only six cable system operators have more than 498,000 subscribers. Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard.

D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

80. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

81. In the *NPRM and Third FNPRM,* the Commission seeks comment on proposals to reduce its regulation of BDS. In particular, the Commission seeks comment on ending ex ante pricing regulation for end user channel termination services provided by price cap and rate-of-return carriers. We also propose to take the same actions with regard to transport services provided by rate-of-return carriers. To effectuate these proposals, the Commission proposes to grant forbearance from tariffing and other requirements, and require mandatory detariffing of the affected BDS following a transition. As an alternative, we seek comment on modernizing the competitive market tests and transitioning those tests to using BDC data. The *NPRM and Third FNPRM* proposes mandatory detariffing of remaining end user channel termination and transport services after a 24-month transition to allow incumbent LECs sufficient time to adapt their BDS operations to a detariffing regime. This would be similar to previous detariffing actions, however with less time to comply because many carriers have already detariffed their BDS. In proposing these reforms, the Commission seeks comment on any costs and burdens on small entities associated with the proposed rules, including data quantifying the extent of those costs or burdens. Because we propose to streamline our regulation of BDS, the Commission estimates that any compliance costs for small entities will be minimal.

82. It is possible that compliance with mandatory detariffing, if adopted, may impact some small entities and may include new or reduced administrative processes, which the Commission does not expect will require small entities to hire professionals to comply. For small carriers that may be affected, obligations may include changes to existing tariffs during the transition and eventual removal of tariffs for the affected BDS. However, these impacts may be mitigated by the deregulatory nature of the proposed reforms, which would relieve affected small carriers from having to tariff their BDS. We seek comment on potential costs and benefits associated with the Commission's

proposals, including information that will allow the Commission to further quantify the costs of compliance for small entities to determine whether it will be necessary for small entities to hire professionals to comply with the proposed rules, if adopted.

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

83. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

84. The *NPRM and Third FNPRM* seeks comment from all interested parties on the proposals and what potential burdens would be imposed by ending ex ante regulation for end user channel termination services and transport services. As an alternative to ending ex ante pricing regulation, the *NPRM and Third FNPRM* seeks comment on how the Commission can modernize the competitive market tests to make them more accurate based on current data in light of technological and marketplace developments. This includes comments on whether BDC data, which currently rely on broadband availability data submitted by cable operators, is sufficient to capture competition in an area, or whether alternatively the tests should be revised to measure competitive effects from additional competitive providers, such as providers of fiber-to-the-premises, copper, and terrestrial fixed wireless. As another alternative, the Commission seeks comment on encouraging more small and other incumbent local exchange carriers subject to rate-of-return regulation for their BDS to transition these services to the Commission's incentive regulation framework with pricing flexibility and regulatory relief. The *NPRM and Third FNPRM* also proposes a 24-month transition period to allow small and other incumbent LECs time to adapt their business data services operations to a detariffing regime, and seeks comment on whether an alternative timeline of 36-months, similar to previous detariffing orders, would be more appropriate for carriers.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

85. None.

VI. Ordering Clauses

86. Accordingly, *it is ordered,* pursuant to sections 1, 4(i)–(j), 10, 201(b), 202(a), 214, 303(r), 403, of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i) and (j), 160, 201(b), 202(a), 214, 303(r), 403, 1302, this Notice of Proposed Rulemaking and Third Further Notice of Proposed Rulemaking *is adopted*.

87. *It is further ordered* that, 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 the Notice of Proposed Rulemaking and Third Further Notice of Proposed Rulemaking on or before 30 days after publication in the **Federal Register**, and reply comments on or before 45 days after publication in the **Federal Register**.

88. *It is further ordered* that, pursuant to section 220(i) of the Communications Act of 1934, as amended, 47 U.S.C. 220(i), that notice be given to each state commission of the above rulemaking proceeding, and that the Wireline Competition Bureau shall serve a copy of this Notice of Proposed Rulemaking and Third Further Notice of Proposed Rulemaking on each state commission.

89. *It is further ordered* that the Commission's Office of the Secretary, *shall send* a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 61

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

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 61 and 69 as follows:

PART 61—TARIFFS

■ 1. The authority citation for part 61 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 201–205, 403, unless otherwise noted.

Subpart E—General Rules for Dominant Carriers

■ 2. Amend § 61.50 by removing and reserving paragraph (j), removing and reserving paragraph (k)(3)(ii), and adding paragraphs (k)(3)(iii) and (k)(4) to read as follows:

§ 61.50 Regulation of business data services offered by rate-of-return carriers electing incentive regulation.

* * * * *

(j) [Removed and Reserved]

(k) * * *

(3) * * *

(ii) [Removed and Reserved]

(iii) All time division multiplexed end user channel termination business data services at or below a DS3 bandwidth and time division multiplexed transport business data services at or below a DS3 bandwidth within twenty-four months after September 4, 2025.

(4) Time division multiplexed end user channel termination business data services at or below a DS3 bandwidth and time division multiplexed transport business data services at or below a DS3 bandwidth detariffed in accordance with paragraph (k)(3)(iii) of this section shall not be subject to ex ante pricing regulation.

* * * * *

Subpart K—Detariffing of Business Data Services

■ 3. Amend § 61.201 by adding paragraph (a)(6) and revising paragraph (b) to read as follows:

§ 61.201 Detariffing of price cap local exchange carriers.

* * * * *

(a) * * *

(6) All tariffed DS1 and DS3 end user channel terminations not yet deemed competitive as defined in § 69.801 of this chapter.

(b) The detariffing referenced in paragraph (a)(6) of this section must be completed twenty-four months after

September 4, 2025, but detariffing can take place at any time before the twenty-four months is completed.

■ 4. Add § 61.205 to read as follows:

§ 61.205 Detariffing of rate-of-return local exchange carriers.

* * * * *

(a) Rate-of-return local exchange carriers shall remove from their interstate tariffs:

(1) End user channel terminations, and all other tariffed special access services; and

(2) Any transport services as defined in § 69.801(j) of this chapter.

(b) Rate-of-return local exchange carriers shall remove their business data services from the NECA Traffic Sensitive Pool but may continue to participate in the NECA Traffic Sensitive Pool for access services other than business data services.

(c) The detariffing must be completed twenty-four months after September 4, 2025, but detariffing can take place at any time before the twenty-four months is completed.

PART 69—ACCESS CHARGES

■ 5. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 204, 218, 220, 254, 403.

Subpart I—Business Data Services

■ 6. Amend § 69.801 by removing and reserving paragraphs (b), (f), and (g) and revising paragraph (e) to read as follows:

69.801 Definitions.

* * * * *

(b) [Removed and Reserved]

* * * * *

(e) Grandfathered *market.* A county for which a price cap local exchange carrier obtained Phase II relief pursuant to § 69.711(c).

(f) [Removed and Reserved]

(g) [Removed and Reserved]

* * * * *

§ 69.803 [Removed and Reserved].

■ 7. Remove and reserve § 69.803.

§ 69.805 [Removed and Reserved].

■ 8. Remove and reserve § 69.805.

■ 9. Amend § 69.807 by removing and reserving paragraph (c) and revising paragraph (b) to read as follows:

§ 69.807 Regulatory Relief.

* * * * *

(b) Price cap local exchange carrier end user channel terminations subject to detariffing in § 61.201(a)(6) and (c) of this chapter are granted the following regulatory relief:

(1) Elimination of the rate structure requirements in subpart B of this part;

(2) Elimination of price cap regulation; and

(3) Elimination of tariffing requirements as specified in § 61.201 of this chapter.

(c) [Removed and Reserved]

[FR Doc. 2025–16981 Filed 9–3–25; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FXES1111090FEDR–256–FF09E21000]

Endangered and Threatened Wildlife and Plants; Five Species Not Warranted for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of findings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce findings that five species are not warranted for listing as endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After a thorough review of the best available scientific and commercial data available, we find that it is not warranted at this time to list the Jackson Prairie crayfish (*Procambarus barbiger*), Ozark shiner (*Notropis ozarcanus*), speckled burrowing crayfish (*Creaserinus danielae*), spiny scale crayfish (*Cambarus jezerinaci*), and spotted turtle (*Clemmys guttata*). However, we ask the public to submit to us at any time any new information relevant to the status of any of the species mentioned above or their habitats.

DATES: The findings in this document were made on September 4, 2025.

ADDRESSES: Detailed descriptions of the bases for these findings are available on the internet at *https://www.regulations.gov* under the following docket numbers:

Species	Docket No.
Jackson Prairie crayfish	FWS–R4–ES–2025–0341
Ozark shiner	FWS–R4–ES–2025–0342
Speckled burrowing crayfish	FWS–R4–ES–2025–0343
Spiny scale crayfish	FWS–R5–ES–2025–0344
Spotted turtle	FWS–R5–ES–2024–0108

Those descriptions are also available by contacting the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**. Please submit any new information, materials, comments, or questions concerning these findings to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT:

Species	Contact information
Jackson Prairie crayfish & speckled burrowing crayfish.	James Austin, Field Office Supervisor, Mississippi Ecological Services Field Office, 601–540–2576, *james_austin@fws.gov.*
Ozark shiner	Jason Hight, Field Supervisor, Arkansas Ecological Services Field Office, 501–513–4473, *jason_hight@fws.gov.*
Spiny scale crayfish	Troy Andersen, Field Office Supervisor, Virginia Ecological Services Field Office, 804–728–0695, *troy_andersen@fws.gov.*