Labor in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. 276a.

(f) *Nondiscrimination.* A sponsor or sponsor employee shall not discriminate against a RSVP volunteer on the basis of race, color, national origin, sex, age, religion, or political affiliation, or on the basis of disability, if the volunteer with a disability is qualified to serve.

(g) *Religious activities.* A RSVP volunteer or a member of the project staff funded by the Corporation shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of his/her duties.

(h) *Nepotism.* Persons selected for project staff positions shall not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is written concurrence from the Advisory Council or community group established by the sponsor under subpart B of this part, and with notification to the Corporation.

§ 2553.92 What legal coverage does the Corporation make available to RSVP volunteers?

It is within the Corporation's discretion to determine if Counsel is employed and counsel fees, court costs, bail and other expenses incidental to the defense of a RSVP volunteer are paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the volunteer's activities. The circumstances under which the Corporation may pay such expenses are specified in 45 CFR part 1220.

Dated: March 15, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–6632 Filed 3–23–99; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 51 and 64

[CC Docket No. 95–20; FCC 99–36]

Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Report and Order released March 10, 1999 streamlines the Commission's Comparably Efficient Interconnection (CEI) and network information disclosure rules. The Report and Order frees the Bell Operating Companies (BOCs) from the requirement that they obtain pre-approval of their CEI plans and plan amendments from the Commission before initiating or altering an intraLATA information service. This change to the CEI rules will result in new information services being available to the public sooner. The Report and Order clarifies the network information disclosure rules, and relieves the interexchange carriers (IXCs) and competitive local exchange carriers (Competitive LECs) from these reporting requirements. As a result, these carriers will no longer perform a task the Commission has found to be unnecessary.

DATES: Effective April 23, 1999, except for §§ 51.325, 64.702, and Subpart G of Part 64, which contain information collection requirements which have not been approved by the Office of Management and Budget (OMB) and which will be effective June 2, 1999. Written comments by the public on the modified information collections are due April 23, 1999. Written comments must be submitted by OMB on the modified information collections on or before May 24, 1999.

FOR FURTHER INFORMATION CONTACT: Jonathan Reel, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580 or via the Internet at jreel@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484. For additional information concerning the information collections contained in this Order 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 Report and Order adopted February 24, 1999, and released March 3, 1999. This Report and Order contains new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other federal agencies are invited to comment on the proposed information collections contained in this proceeding. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, N.W., Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9936.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Regulatory Flexibility Certification: As required by the Regulatory Flexibility Act, the Report and Order contains a Final Regulatory Flexibility Analysis which is set forth in the Report and Order. A brief description of the analysis follows. The Report and Order removes the network information disclosure requirements from interexchange carriers and competitive local exchange carriers. These carriers are thus relieved of the burden associated with the requirements, and for that reason the Commission continues to foresee no significant economic impact on a substantial number of small entities.

Paperwork Reduction Act: This Report and Order contains either a new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–12. Written comments by the public on the information collections are due 30 days after date of publication in the **Federal Register**. OMB notification of action is due May 24, 1999. Comments should address: (a) whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0817.

Title: Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, CC Docket No. 95–20.

Form No.: N/A.

Type of Review: Revised collection.

Information collection	No. of respondents (approx.)	Estimated time per response (house)	Total annual burden
Section 51.325	500	72	36,000

Total Annual Burden: 36,000 hours (no change in burden).

Respondents: Businesses or other for-profit.

Estimated costs per respondent: $0.

Needs and Uses: The Commission no longer requires Bell Operating Companies (BOCs) to file their Comparably Efficient Interconnection (CEI) plans with the Commission and to obtain pre-approval of CEI plans and amendments before initiating or altering an intraLATA information service. Instead, we require BOCs to post their CIE plans and plan amendments on their publicly accessible Internet sites linked to and searchable from the BOC's main Internet page, and to notify the Common Carrier Bureau of the posting. The Commission also extended the disclosure requirements in 47 CFR Section 51.325(a) to require incumbent LECs to provide public notice of any network changes that will affect the manner in which Customer Premises Equipment (CPE) is attached to the network. The requirements will be used to ensure that the affected carriers comply with Commission policies and regulations safeguarding against potential anticompetitive behavior in the provision of information services.

Synopsis of Order

I. Introduction

1. In the Telecommunications Act of 1996 (1996 Act), Congress directed the Commission to examine its rules every two years and repeal or modify those found to be no longer in the public interest. Consistent with the directive of Congress, in 1998 the Commission undertook a comprehensive biennial review of the Commission's rules to promote ''meaningful deregulation and streamlining where competition or other considerations warrant such action.''

2.In this Report and Order (*Order*) the Commission evaluates the utility of two of the regulatory safeguards we employ to prevent carriers that control local exchange and exchange access facilities from using their market power for anticompetitive purposes in the provision of intraLATA information services. The first safeguard we review is the requirement that Bell Operating Companies (BOCs) file service-specific Comparably Efficient Interconnection (CEI) plans, and obtain the Commission's approval of those plans, prior to initiating or altering their intraLATA information services. The other safeguards we review are the Commission's network information disclosure requirements, which seek to prevent anticompetitive behavior by ensuring that Information Service Providers (ISPs) and others have timely access to information affecting interconnection to the BOCs'', AT&T's, and other carriers' networks.

3. Our consideration of these two issues is part of a larger proceeding to reexamine issues relating to the safeguards applied primarily to the provision of information services by the BOCs. In January 1998, the Commission released a Further Notice of Proposed Rulemaking (*Further NPRM*) in the *Computer III* proceeding to reevaluate structural and nonstructural safeguards in light of recent developments, among them a remand from the United States Court of Appeals for the Ninth Circuit (*California III*), and the enactment of the 1996 Act. We also intended to repeal or modify any safeguards that we determine to be ''no longer necessary in the public interest.'' In the *Further NPRM*, the Commission sought to strike a reasonable balance between the goal of reducing and eliminating those regulatory requirements it could, and the recognition that certain safeguards may still be necessary.

4. We conclude that although the BOCs must continue to comply with their CEI obligations, they should no longer be required to file or obtain pre-approval of CEI plans and plan amendments before initiating or altering an intraLATA information service. Instead, we will require the BOCs to post their CEI plans and plan amendments on their publicly accessible Internet sites, and to notify the Common Carrier Bureau upon such posting. We also conclude that the network information disclosure rules set forth in the *Computer II* and *Computer III* proceedings have been effectively superseded by the disclosure rules that the Commission adopted pursuant to the 1996 Act, and we therefore eliminate those rules. We retain the *Computer II* network disclosure requirement that incumbent local exchange carriers (LECs) must disclose network changes that could affect the manner in which customer premises equipment (CPE) is attached to the interstate network.

5. This modification of our CEI rules should reduce substantially the burden of compliance with these requirements by the BOCs. By eliminating the need to obtain pre-approval of the BOCs' CEI plans, we remove the delay that has sometimes hampered the BOCs in their introduction of new intraLATA information services. Requiring the BOCs to post CEI plans on their publicly accessible Internet sites should not delay the introduction of innovative information services, because posting and service initiation may occur simultaneously. Also, by limiting the notification aspect of the requirement to a single-page letter stating the Internet address and path to the relevant CEI plan, the new procedure minimizes the administrative burden associated with the plans. Removing the CEI plan pre-approval process allows BOCs to bring new services to consumers sooner. At the same time, by requiring BOCs to post their CEI plans on the Internet, we ensure that the information which the BOCs' competitors still need will continue to be widely and conveniently available.

6. By removing the *Computer II* and *Computer III* network disclosure regimes, we reduce from three to one the sources to which an incumbent LEC must look to ascertain its disclosure obligations. All of the Commission's network disclosure obligations now reside together in sections 51.325–335 of our rules, which clarifies and streamlines the network disclosure regulation that remains. In addition, by eliminating the *Computer II* ''all carrier'' rule, we remove entirely the regulatory burden of network information disclosure obligations from both IXCs and competitive LECs. Instead, we rely on market forces to ensure network disclosure by those sectors of the telecommunications industry that we find to be subject to competitive pressures, and in which no carrier enjoys the degree of market power that could make anti-competitive nondisclosure appealing. The measures we adopt in this *Order* thus carry out the Commission's obligation to review our rules to determine whether they are no longer necessary in the public interest as a result of meaningful economic competition.

II. Comparably Efficient Interconnection Plan Requirements

A. Background

7. Since its *Computer I* proceeding, the Commission has adopted a variety of regulatory tools to prevent improper cost allocation and access discrimination against ESPs in the provision of enhanced services, both by the BOCs, and, before divestiture, by their predecessor in interest, AT&T. In the *Computer II* proceeding, the Commission required the then-integrated Bell System to establish structurally separate affiliates for the provision of enhanced services in order to address the concern over AT&T's incentive and ability to engage in anticompetitive activity. Following the divestiture of AT&T in 1984, the Commission extended the structural separation requirements of *Computer II* to the BOCs. In *Computer III,* the Commission determined that the costs of structural separation outweighed the benefits, and that nonstructural safeguards could protect competitive ESPs from improper cost allocation and discrimination by the BOCs while avoiding the inefficiencies associated with structural separation.

8. Under *Computer III* and our Open Network Architecture rules, the BOCs are permitted to provide enhanced services on an integrated basis through the regulated entity, subject to certain nonstructural safeguards. One of the safeguards the Commission instituted in the *Computer III* decision requires the BOCs to obtain Commission approval of, and to comply with, a service-specific Comparably Efficient Interconnection (CEI) plan in order to offer a new enhanced service. In these CEI plans, the BOC must explain how it would offer to competitive ESPs, on a non-discriminatory basis, all the underlying basic services that the BOC uses to provide its own enhanced service offering. The Commission indicated that such a CEI requirement, itself a form of interconnection making basic network facilities and services available to the public.

9. The Commission in 1998 released a *Further NPRM* to reexamine the issues of structural and nonstructural safeguards in light of further developments. We observed in the *Further NPRM* that the BOCs remain the dominant providers of local exchange and exchange access services in their in-region states, and thus continue to have the ability to engage in anticompetitive behavior against competitive ISPs. The Commission also acknowledged that Congress recognized, in passing the 1996 Act, that competition will not immediately supplant monopolies. In addition, we noted that Congress required the Commission to conduct a biennial review of regulations that apply to operations or activities of any provider of telecommunications service, and to repeal or modify any regulation we determine to be ''no longer necessary in the public interest.''

10. In the *Further NPRM,* the Commission tentatively concluded that we should eliminate the requirement that BOCs file CEI plans and obtain Commission approval for those plans prior to providing new intraLATA information services. Given the protection afforded by the Commission's ONA requirements and the 1996 Act, we tentatively concluded that the administrative costs associated with BOC preparation and agency review of CEI plans outweighed their utility as an additional safeguard against access discrimination, and that the preparation and review of CEI plans could delay the introduction of new information services by the BOCs, without commensurate regulatory benefits. Finding that the burden imposed by these requirements outweighed their benefit as additional safeguards against access discrimination, we tentatively concluded that we should eliminate the requirement that BOCs file CEI plans, and obtain Bureau approval for those plans, prior to providing new information services. We also tentatively concluded that lifting the CEI plan filing requirement would further our statutory obligation to review and eliminate regulations that are ''no longer necessary in the public interest.'' We sought comment on these tentative conclusions and our supporting analysis.

B. Discussion

1. Introduction

11. We believe that compliance with the Commission's CEI requirements remains conducive to the operation of a fair and competitive market for information services. Based on the record before us in this proceeding, and as we discuss below, we conclude that the BOCs' CEI plans have continuing importance in that they provide non-BOC ISPs with helpful information regarding their interconnection rights, options, and methods. These plans thus ensure that non-BOC ISPs have access to the underlying basic services that the BOCs use for their own information service offerings, access which enables those non-BOC ISPs to provide competitive offerings. We find that neither the protection afforded by ONA nor the effect of the 1996 Act has yet rendered the CEI plans superfluous as an effective means of making this information available and of promoting BOC compliance with their interconnection obligations. For these reasons, we do not at this time eliminate the requirement that BOCs publicly disclose in a written document how they will comply with the Commission's CEI parameters.

12. We further conclude, however, that, although the BOCs must continue to prepare CEI plans, we should no longer require BOCs to file their CEI plans with the Commission, or obtain the Commission's approval of these plans, before initiating a new or changing an existing intraLATA information service. We conclude that the chief burdens associated with the CEI requirements—the administrative burden associated with filing the plans, and the delay in the introduction of new services—can be eliminated without compromising the efficient dissemination of the information contained in the BOC CEI plans. We eliminate the requirement that BOCs file with the Commission and obtain from the Commission approval of their CEI plans. In its place, we require the BOCs to post on their publicly accessible Internet page, linked to and searchable from the BOC's main Internet page, their CEI plan for any new or altered intraLATA information service offering, and to notify the Common Carrier Bureau at the time of the posting.

2. Benefits of Public Disclosure of CEI Compliance

13. From the nine parameters of a BOC's CEI plan, an ISP can obtain detailed information regarding the following: Interface Functionality; Unbundling of Basic Services; Resale; Technical Characteristics; Installation, Maintenance, and Repair; End User Access; CEI Availability; Minimization of Transport Costs; Availability to All Interested ISPs.

14. We agree with non-BOC ISPs and other commenters that CEI plans provide useful information that is either not available, or not available in as much detail, from other sources. Moreover, we conclude that the BOCs' CEI plans present this information in a more usable form than is otherwise available to ISPs. The nine parameters of a CEI plan unite in a single document the disparate pieces of information that a BOC makes available to its competitors through other avenues. Such a collection of information in a single CEI plan is significantly useful to competitive ISPs. In addition, CEI plans describe the availability of comparable interconnection to *services,* as distinct

from the building-block *elements* of services described in ONA filings, and so provide competitive ISPs with a different and frequently more appropriate level of access to the public switched network.

15. Also, based on these circumstances, we do not believe that our progress in implementing the 1996 Act has reduced the threat of discrimination sufficiently to warrant removal of these additional safeguards at this time.

16. Posting CEI plans on their publicly accessible Internet sites should not hamper the BOCs in their introduction of innovative information services, because posting and service initiation may occur simultaneously. The substance of notification to the Bureau may be limited to the Internet address and path to the relevant CEI plan or amended plan; the form may consist of a letter to the Secretary with a copy to the Bureau.

3. Elimination of Filing and Pre-approval of CEI Plans

17. Based on the record before us, we conclude that the CEI plan filing and pre-approval process has significant disadvantages without commensurate advancement of our regulatory goal of ensuring fair and equal interconnection.

4. CEI Plans for Telemessaging, Alarm Monitoring, and Payphone Services

a. Section 260 Telemessaging and Section 275 Alarm Monitoring Services

18. In the *Telemessaging and Electronic Publishing Order,* 62 FR 7690, February 20, 1997, and the *Alarm Monitoring Order,* 62 FR 16093, April 4, 1997, respectively, the Commission concluded that the *Computer II, Computer III,* and ONA requirements continue to govern the BOCs' provision of intraLATA telemessaging services and alarm monitoring services.

19. For the same reasons we lift the CEI filing and pre-approval requirement for other intraLATA information services provided by the BOCs on an integrated basis, we also lift the requirement for section 260 telemessaging and section 275 alarm monitoring services. We also require the BOCs to post on their Internet sites CEI plans for new or modified telemessaging or alarm monitoring services, and to notify the Bureau of the posting. As with other BOC intraLATA information services, we believe this approach minimizes a BOC's administrative burden, and eliminates regulatory delay; provides competitive ISPs with essential information; promotes the Commission's ability to monitor and enforce BOC access and interconnection obligations; and appropriately acknowledges the degree that competitive providers of telemessaging and alarm monitoring services must still depend on the basic services of the incumbent LEC—usually a BOC—for access to their customers.

b. Section 276 Payphone Services

20. In the *Further NPRM,* we noted that section 276 directs the Commission to prescribe a set of nonstructural safeguards for BOC provision of payphone services that must include, at a minimum, ''nonstructural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90–623) proceeding.'' In implementing section 276, the Commission required the BOCs, among other things, to file CEI plans describing how they would comply with various nonstructural safeguards. The Bureau approved the BOCs' CEI plans to provide payphone service on April 15, 1997. In the *Further NPRM,* we sought comment regarding whether to relieve the BOCs from the requirement of filing amendments to their CEI plans for payphone services, and how such a step would comport with the statutory requirement in section 276.

21. We now conclude that the BOCs should not be required to file or obtain approval of CEI plans for new payphone services or for amendments to their existing payphone plans. As with other applications of CEI, we find that the benefits of CEI plans may be largely preserved by instead requiring the BOCs to post on their Internet pages CEI plans for new or amended payphone services. Consistent with our application of CEI to intraLATA information services that BOCs provide on an integrated basis, we believe that, under current market conditions, such posting disseminates valuable interconnection information, and facilitates our enforcement of BOC interconnection responsibilities, at minimum cost to the BOCs.

5. IntraLATA Information Services Provided Through 272 and 274 Affiliates

a. Background

22. In the *Further NPRM,* we observed that, under our current rules, a BOC may provide an intraLATA information service either on an integrated basis pursuant to an approved CEI plan, or on a structurally separate basis pursuant to the Commission's *Computer II* rules. We noted that, in addition to the factors cited by the Commission in the *Computer III Phase I Order,* 51 FR 24350, July 3, 1986, the advent of the 1996 Act may affect our analysis of the relative costs and benefits of structural and nonstructural safeguards. In this context, we noted that the Act's local competition provisions should in time provide for alternate sources of access to basic services, thereby diminishing the BOCs' ability to engage in anticompetitive behavior against competitive ISPs.

23. *Section 272 Separate Affiliates.* In the *Non-Accounting Safeguards Order,* 62 FR 2927, January 21, 1997, the Commission noted that section 272 of the Act imposes specific separate affiliate and nondiscrimination requirements on BOC provision of interLATA information services, but that section 272 does not address BOC provision of intraLATA information services. We concluded that, pending the conclusion of the *Computer III Further Remand* proceeding, BOCs may continue to provide intraLATA information services on an integrated basis, in compliance with the Commission's nonstructural safeguards—including CEI—established in the Computer III and ONA proceedings. In the *Further NPRM,* however, we tentatively concluded that the BOCs should not have to file CEI plans for any information services they offer through section 272 separate affiliates, notwithstanding that section 272's requirements are not identical to the Commission's *Computer II* requirements. We also reasoned that our concern regarding access discrimination would be sufficiently addressed by requirements set forth in section 272 and the Commission's orders implementing that section.

24. *Section 274 Electronic Publishing.* In the *Telemessaging and Electronic Publishing Order,* the Commission concluded that our *Computer II, Computer III,* and ONA requirements continue to govern the BOCs' provision of intraLATA electronic publishing services.

25. In the *Further NPRM,* we tentatively concluded that, just as BOCs should not be required to file CEI plans for intraLATA information services they provide through a section 272 affiliate, so too the requirement should be lifted for electronic publishing services or other information services that BOCs provide through a section 274 affiliate.

b. Discussion

26. In this *Order,* we adopt our tentative conclusion that BOCs should not be required either to file or to obtain pre-approval of CEI plans for information services that are offered through section 272 or section 274 separate affiliates. The reasons that persuade us to eliminate the CEI filing

and approval process in the context of intraLATA information services that a BOC offers on an integrated basis —reduction of administrative burden and elimination of delay—apply with at least equal force to the intraLATA services that a BOC chooses to offer through a section 272 or section 274 separate affiliate. The requirements Congress set forth in sections 272 and 274 substantially reduce our concern regarding access discrimination, so there is even less reason to delay the introduction of an intraLATA information service pending our review of a CEI plan. That the pre-approval process might also delay the introduction of combined intra-and interLATA integrated information services is a further reason to eliminate the requirement.

27. Moreover, Congress has instructed us to repeal or modify any regulation we determine to be ''no longer necessary in the public interest.'' That Congress itself has addressed in sections 272 and 274 concerns over discriminatory interconnection and misallocation of funds makes pre-Act regulation by the Commission targeted to the same concerns the object of our special scrutiny. Because we believe that structural separation protects against discriminatory interconnection better than do nonstructural safeguards such as CEI, we see no reason at this time to impose on the BOCs even the relatively light burden of posting CEI plans on the Internet for intraLATA information services they provide through a separate subsidiary. Accordingly, we will no longer require the BOCs to formulate CEI plans before initiating or altering any intraLATA information service offered through a section 272 or 274 affiliate.

6. Pending CEI Matters

a. Background

28. In the *Further NPRM,* we sought comment on whether, if we adopted our tentative conclusion to eliminate the CEI plan filing requirement for the BOCs, we should also dismiss as moot all pending CEI matters, including approval of pending CEI plans, pending CEI plan amendments, and requests for CEI plan waivers, on the condition that the BOCs must comply with any new or modified rules that we might establish.

b. Discussion

29. We now believe that the Commission's section 208 enforcement process is far better suited than the CEI plan pre-approval process to addressing the complex and highly fact-specific issues that arise in certain CEI plans. In certain instances these issues fall outside the scope of the nine CEI parameters. The section 208, formal complaint process is set up to conduct the fact-finding, arbitration, and adjudication necessary to resolve CEI-related disputes. Moreover, through use of the Commission's Accelerated Docket or revised complaint procedures, parties would have swifter resolution and closure of their CEI-related disputes. For these reasons, we are confident that all parties, BOCs and non-BOCs, will be better served by the information-and enforcement-based system we adopt today, and we dismiss all pending requests for approval of CEI plans and CEI plan amendments.

30. We also dismiss without prejudice any pending petitions for reconsideration or applications for review of orders approving CEI plans. We believe that these complicated, fact-specific issues may be more appropriately and more quickly resolved in the enforcement setting than in the context of a CEI plan. Accordingly, parties affected by such ancillary issues may file section 208 formal complaints with the Commission. Should they file such a complaint, those parties with previously pending challenges to CEI plans may, as appropriate, rely on their already existing record, rather than developing a factual record through the procedures normally applicable to formal complaints.

III. Network Information Disclosure Requirements

A. Background

31. In the *Further NPRM,* we addressed the Commission's network information disclosure rules. These rules seek to prevent anticompetitive behavior by ensuring that ISPs and others have timely access to information affecting interconnection to the BOCs', AT&T's, and other carriers' networks. Prior to the 1996 Act, the rules established in the Commission's *Computer II* and *Computer III* proceedings governed the disclosure of network information. Section 251(c)(5) of the Act requires incumbent LECs to ''provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities or networks.'' In the *Local Competition Second Report and Order,* 61 FR 47284, September 6, 1996, the Commission adopted network information disclosure requirements to implement section 251(c)(5). Although we discussed our existing network information disclosure requirements in conjunction with the requirements of section 251(c)(5) in the *Local Competition Second Report and Order,* we did not address in that proceeding whether our *Computer II* and *Computer III* network information disclosure requirements should continue to apply independent of our section 251(c)(5) network information disclosure requirements. In the *Further NPRM,* we sought comment on the extent to which the Commission should retain the network information disclosure rules established in the *Computer II* and *Computer III* proceedings in light of the disclosure requirements stemming from section 251(c)(5) of the 1996 Act.

1. *Computer II* Network Disclosure Rules

32. The *Computer II* network information disclosure rules consist of two requirements: one, termed ''the separate subsidiary rule,'' that depends on the existence of a *Computer II* separate subsidiary; and another, termed ''the all carrier rule,'' that applies to all carriers owning basic transmission facilities, independent of whether the carrier has a separate subsidiary. The separate subsidiary network disclosure requirement obligates the BOCs to disclose ''at a minimum, * * * any network information which is necessary to enable all [information] service * * * vendors to gain access to and utilize and to interact effectively with [the BOCs'] network services or capabilities, to the same extent that [the BOCs' *Computer II* separate affiliate] is able to use and interact with those network services or capabilities.'' In addition to technical information, the information required includes marketing information, such as ''commitments of the carrier with respect to the timing of introduction, pricing, and geographic availability of new network services or capabilities.'' The other component of the *Computer II* network disclosure rules, the all carrier rule, encompasses ''all information relating to network design * * * which would affect either intercarrier interconnection or the manner in which customer premises equipment is attached to the interstate network. * * *''

33. In the *Further NPRM,* we tentatively concluded that both *Computer II* network disclosure requirements should continue to apply—specifically, that the separate affiliate disclosure rule should continue to apply to BOCs that operate a Computer II subsidiary, and that the all carrier rule should continue to apply to

all carriers owning basic transmission facilities. We reasoned that the *Computer II* separate subsidiary disclosure rule should continue to apply to the BOCs because the rule encompasses some information, such as marketing information, which falls outside the scope of section 251(c)(5), and because the rule requires disclosure under a more stringent timetable than that required under section 251(c)(5). We based our tentative conclusion that the all carrier rule should be retained on two factors: first, that the rule requires carriers to disclose network changes that affect CPE, whereas our section 251(c)(5) rules require carriers to disclose only information that affects competitive service providers; and second, that the rule applies to all carriers, whereas section 251(c)(5) applies only to incumbent LECs.

2. Computer III Network Disclosure

34. The *Computer III* network information disclosure rules initially were imposed on AT&T and the BOCs in the *Phase I Order* and *Phase II Order,* 52 FR 20714, June 3, 1987. The Commission later extended the *Computer III* network information disclosure rules and other nondiscrimination safeguards to GTE in the *GTE ONA Order.* Under *Computer III,* the scope of network information that carriers must disclose is adopted from, and identical to, the *Computer II* requirements.

35. In the *Further NPRM,* we tentatively concluded that the network information disclosure rules for incumbent LECs that the Commission established pursuant to section 251(c)(5) should supersede the disclosure rules established in *Computer III.* We explained that, in our view, the 1996 Act disclosure rules for incumbent LECs are as comprehensive, if not more so, than the *Computer III* disclosure rules. We invited parties who disagreed to explain why, in light of the section 251(c)(5) rules, all or some aspects of the *Computer III* disclosure rules might still be needed.

3. Section 251(c)(5) Network Disclosure Rules

36. The Commission promulgated the rules implementing the section 251(c)(5) network disclosure requirements in the *Local Competition Second Report and Order.* The section 251(c)(5) network disclosure requirements apply to all incumbent LECs, as the term is defined in section 251(h) of the Act.

B. Discussion

37. We adopt our tentative conclusion that the network disclosure rules adopted pursuant to section 251(c)(5) supersede the *Computer III* disclosure rules. In addition, we remove the *Computer II* network disclosure rules that affect BOCs providing information services through a *Computer II* separate subsidiary. Finally, we eliminate the *Computer II* all carrier rule, but we preserve in our section 51 rules the requirement that incumbent LECs must disclose network changes that could affect the manner in which CPE is attached to the interstate network.

1. Computer III Network Disclosure Rules

38. We conclude that we should eliminate the *Computer III* network disclosure rules. We agree with comments that the section 251(c)(5) rules have rendered the *Computer III* network disclosure rules redundant.

2. Computer II Network Disclosure Rules

39. In the *Further NPRM* we identified two *Computer II* requirements that exceed the rules adopted pursuant to section 251(c)(5), the separate subsidiary rule and the all carrier rule. We address the separate subsidiary rule first.

a. The Separate Subsidiary Rule

40. In the *Further NPRM,* we recognized that some BOCs may be providing certain intraLATA information services through a *Computer II* subsidiary, rather than on an integrated basis under the Commission's *Computer III* rules. We tentatively concluded that the *Computer II* separate subsidiary disclosure rule should continue to apply in such cases. We conclude that maintaining the *Computer II* separate subsidiary network information disclosure rules is no longer necessary. We believe that the protection from discriminatory interconnection afforded by structural separation generally exceeds that provided by non-structural safeguards alone. It follows that a BOC that uses a *Computer II* separate affiliate should not be subject to more stringent network disclosure obligations than a BOC that offers such services on an integrated basis under the Commission's *Computer III* rules. Moreover, Congress has instructed us to repeal or modify any regulation we determine to be ''no longer necessary in the public interest.'' Because we find that it is no longer necessary to retain the separate subsidiary disclosure rule, we remove it.

b. The All Carrier Rule

41. We conclude that disclosure of network information by carriers other than incumbent LECs is ''no longer necessary in the public interest as a result of meaningful competition between providers. * * *'' Because no single carrier now dominates the interexchange market, no interexchange carrier (IXC) has the incentive or the ability to gain an unfair advantage by withholding network information from ISPs. We also find that no new entrants into the local exchange market possess individual market power. Because IXCs and competitive LECs currently lack individual market power, they also lack the incentive to create incompatible network interfaces for existing services in order to leverage that power into upstream or downstream markets.

42. We conclude that, in contrast to the incumbent LECs, the IXCs and competitive LECs are not likely to gain the individual market power that would allow them profitably to withhold information necessary for interconnection to their networks in order to increase market power in upstream or downstream markets. Thus, we find that regulatory intervention to ensure network information disclosure is no longer needed for all carriers, but only for incumbent LECs, whose duty to disclose network changes that will affect other service providers is already defined by the section 251(c)(5) network disclosure rules. This conclusion comports with our statutory obligation to eliminate regulations that are no longer necessary due to meaningful economic competition among providers.

43. Although we relieve IXCs and competitive LECs from the specific, routine network information disclosure obligations previously required under the all carrier rule, we emphasize that the Communications Act imposes certain nondiscrimination requirements on all common carriers providing interstate communication services. Among them, section 201 provides that all common carriers have a duty ''to establish physical connections with other carriers,'' and to furnish telecommunications services ''upon reasonable request therefor.'' We conclude in this proceeding that, if a carrier fails to disclose network information that enables other entities to interconnect to the carrier's basic telecommunications facilities and services in a just and reasonable manner, such action would violate section 201 of the Act. Moreover, all common carriers remain subject to the nondiscrimination requirements in section 202 of the Act. The Commission will not hesitate to use its enforcement authority to determine whether any carrier's network information disclosure practices are unjust or unreasonable.

44. We further conclude that the *Computer II* network information disclosure rules that extend disclosure requirements to CPE should be retained, but that their application should be limited to incumbent LECs only. The primary purpose of network information disclosure in this context is not to protect intercarrier interconnection, but rather to give competitive manufacturers of CPE adequate advance notice when a carrier intends to alter its network in a way that may affect the manner in which CPE is attached to the network. Our concern has been that to the extent that a company with control over underlying transmission facilities also manufactures CPE, that company may have the incentive and ability to leverage its control of those facilities to favor its affiliate's CPE over that of competitive manufacturers. We note that section 201 interconnection and section 202 nondiscrimination obligations also apply in the context of CPE. We conclude that failure to disclose network changes that affect CPE could give incumbent LECs a significant head start in providing fully compatible equipment, and could thereby adversely affect competition in the CPE market.

45. Although we find it necessary to retain a network information disclosure requirement that extends incumbent LECs' disclosure obligations to CPE, we see no point in subjecting incumbent LECs to two separate sets of network information disclosure rules, each with its own timing, triggering, and notice requirements. Instead, we simplify our disclosure requirements to the extent feasible. We therefore remove from our rules the *Computer II* all carrier requirement, and instead extend the disclosure requirements in section 51.325(a) of our rules to require incumbent LECs to provide public notice of any network changes that will affect the manner in which CPE is attached to the network. By amending section 51.325(a) of our rules to include a CPE disclosure requirement to, we continue to require incumbent LECs to disclose that information.

IV. Procedural Matters

A. Final Regulatory Flexibility Certification

46. This regulatory flexibility certification supplements our prior certifications and analyses in this proceeding. The Regulatory Flexibility Act (RFA) requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The SBA defines small businesses under the category ''Telephone Communications, Except Radiotelephone,'' to be those employing no more than 1,500 persons.

47. The Commission, in the previous *Further Notice of Proposed Rulemaking* (*Further NPRM*) in this proceeding, stated in the Initial Regulatory Flexibility Certification that the *Further NPRM* pertained to Bell Operating Companies (BOCs), each of which is an affiliate of a Regional Holding Company (RHC), as well as to GTE and AT&T. Because each BOC is dominant in its field of operations and all of the BOCs as well as GTE and AT&T have more than 1,500 employees, we previously certified that the proposed action would not have a significant economic impact on a substantial number of small entities. No commenter addressed this previous certification. Subsequently, however, it has became clear that the changes to the Commission's network information disclosure requirements will also affect IXCs and competitive LECs, because the present *Report and Order* removes the network information disclosure requirements from interexchange carriers (IXCs) and competitive local exchange carriers (LECs). At present, because these additional carriers are relieved of any burden associated with the requirements, we continue to foresee no significant economic impact on a substantial number of small entities, and therefore so certify regarding the rules adopted. In addition, this removal of regulation produces no reporting, recordkeeping, or other compliance requirement.

48. The Commission will send a copy of the *Report and Order,* including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the *Report and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration. Finally, the *Report and Order* (or summary thereof) and certification will be published in the **Federal Register**.

V. Ordering Clauses

49. Accordingly, it is ordered that, pursuant to the authority contained in sections 1, 2, 4, 11, 201–205, 208, 251, 260, and 271–276, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 161, 201–205, 208, 251, 260, and 271–276, that the policies, rules, and requirements set forth herein are adopted, and that parts 51 and 64 of the Commission's rules, 47 CFR Parts 51 and 64, are amended as set forth in Rule Changes.

50. It is further ordered that, pursuant to 5 U.S.C. 553(d), the rules, requirements, and amendments set forth herein shall take effect 30 days after the publication of this Report and Order in the **Federal Register**, except for the amendments to parts 51 and 64 of the Commission's rules, 47 CFR parts 51 and 64, as set forth in Rule Changes, which, pursuant to 44 U.S.C. 3507(c), shall take effect 70 days after the publication of this Report and Order in the **Federal Register**.

51. It is further ordered that, pursuant to the authority contained in sections 1, 2, 4, and 201–204, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, and 201–204, the pending requests for approval of CEI plans and CEI plan amendments listed in Attachment A are dismissed.

52. It is further ordered that, pursuant to the authority contained in sections 1, 2, 4, and 201–204, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, and 201–204, the pending petitions for reconsideration or applications for review of orders approving CEI plans listed in Attachment B are dismissed without prejudice.

53. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act, *see* 5 U.S.C. 605(b).

List of Subjects

47 CFR Part 51

Communications common carriers, Telecommunications.

47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Attachment A—Pending Requests for Approval of CEI Plans or Amendments

1. Ameritech CEI Plan for Enhanced Services. DA 95–553. Plan filed March 13, 1995.

2. Bell Atlantic Amendment to CEI Plan for Internet Access Service. CCBPol 96–09. Amendment filed May 5, 1997.

3. Southwestern Bell Telephone Company CEI Plan for Internet Support Services. CCBPol 97–05. Plan filed May 22, 1997.

4. US West CEI Plan for Alarm Monitoring. CCBPol 98–02. Plan filed April 24, 1998.

5. BellSouth CEI Plan for Alarm Monitoring. CCBPol 98–03. Plan filed June 12, 1998.

Attachment B—Pending Petitions for Reconsideration or Applications for Review of Orders Approving CEI Plans

1. Reconsideration of Bell Atlantic Internet Access CEI Plan. CCBPol 96–9. Petition for Reconsideration filed July 3, 1996.

2. Applications for Review of Payphone CEI Orders. CC Docket No. 96–28. Applications for Review filed May 5, 1997.

Rule Changes

For the reasons discussed in the Preamble, the Federal Communications Commission amends 47 CFR parts 51 and 64 as follows:

PART 51—INTERCONNECTION

1. The authority citation for part 51 continues to read as follows:

Authority: Sections 1–5, 7, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, unless otherwise noted.

2. Section 51.325(a) is amended by revising paragraphs (a)(1) and (a)(2) and adding a new paragraph (a)(3):

§ 51.325 Notice of network changes; Public notice requirement.

(a) * * *

(1) Will affect a competing service provider's performance or ability to provide service;

(2) Will affect the incumbent LEC's interoperability with other service providers; or

(3) Will affect the manner in which customer premises equipment is attached to the interstate network.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

3. The authority for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. secs 201, 218, 226, 228, and 254(k) unless otherwise noted.

Subpart G of Part 64—[Amended]

§ 64.702 [Amended]

4. In the title of Subpart G of Part 64 and in paragraph (b) of § 64.702 remove the words ''Communications Common Carriers'' and add, in their place, the words ''Bell Operating Companies.''

5. In § 64.702, in paragraph (c), remove the words ''Communications Common Carrier'' and add, in their place, the words ''Bell Operating Company,'' and revise the last sentence of paragraph (d)(2) to read as follows:

§ 64.702 Furnishing of enhanced services and customer-premises equipment.

* * * * *

(d) * * *

(2) * * * Such information shall be disclosed in compliance with the procedures set forth in 47 CFR 51.325 through 51.335.

* * * * *

[FR Doc. 99–6726 Filed 3–23–99; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1822

Designation of Contracts for Notification to the Government of Actual or Potential Labor Disputes

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This rule amends the NASA Federal Acquisition Regulation Supplement (NFS) to designate all NASA contracts in excess of the simplified acquisition threshold as requiring notification to the Government of actual or potential labor disputes that are delaying or threaten to delay timely contract performance.

EFFECTIVE DATE: March 24, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, Telephone: (202) 358–0444, e-mail: joseph.lecren@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

Background

FAR 22.101–1(e) permits the head of the contracting activity to designate programs or requirements requiring notifying the Government of actual or potential labor disputes that are delaying or threaten to delay timely contract performance. Contracts resulting from those programs or requirements are to include the clause at FAR 52.222–1, Notice to the Government of Labor Disputes. NASA believes it is appropriate, in order to establish consistent application across the agency, to designate the contracts in which the requirement for contractor notification shall be included. NASA has selected the notification requirement to be included in all contracts in excess of the simplified acquisition threshold to ensure that it is made aware of labor disputes which could adversely impact critical mission needs.

Impact

Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comments is not required. However, comments from small entities concerning the affected NFS subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.*

Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 1822

Government procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Part 1822 is amended as follows:

1. The authority citation for 48 CFR Part 1822 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

1822.101–1 [Amended]

2. In section 1822.101–1, paragraph (e) is added to read as follows:

1822.101–1 General. (NASA supplements paragraphs (d) and (e))

* * * * *

(e) Programs or requirements that result in contracts in excess of the simplified acquisition threshold shall require contractors to notify NASA of actual or potential labor disputes that are delaying or threaten to delay timely contract performance.