

Section	Remove	Add
1.664-1(a)(6), introductory text	§ 1.664-4(e), § 1.664-4(A) (d), and former § 1.664-4 (d) (as contained in the 26 CFR part 1 edition revised as of April 1, 1994).	§§ 1.664-4T(e), 1.664-4T(e) and 1.664-4A(d) and (e).
1.664-2(c)	April 30, 1989	April 30, 1999.
1.664-2(c), sixth sentence	§ 20.2031-7A(a) through (d)	§ 20.2031-7A (a) through (e).
1.664-2(c), sixth sentence	May 1, 1989	May 1, 1999.
1.664-2(c)	Last sentence.	
1.7520-1(a)(2)	1989, see § 1.642(c)-6(e)	1999, see § 1.642(c)-6T(e).
1.7520-1(a)(3), last sentence	(Or, for certain prior periods, § 1.664-4A).	
1.7520-1(c)(1), first sentence	Section 1.642(c)-6(e)(4)	Section 1.642(c)-6A(e)(5).
1.7520-1(c)(1), second sentence	Section 1.664-4(e)(6) contains	Sections 1.664-4(e)(6) and 1.664-4A(e)(6) contain.
1.7520-1(c)(1), third sentence	Section 20.2031-7(d)(6) of this chapter (Estate Tax Regulations) contains.	Sections 20.2031-7(d)(6) and 20.2031-7A(e)(4) of this chapter contain.
20.2032-1(f)(1), fourth sentence	Paragraph (d) of § 20.2031-7(A)(d).	§ 20.2031-7A(d)(4).
20.2055-2(f)(2)(iv), <i>Example (1)</i> , second sentence	§ 20.2031-10(f)	§ 20.2031-7A(d).
20.2055-2(f)(2)(iv) <i>Example (2)</i> , second sentence	§ 20.2031-10(f)	§ 20.2031-7A(d).
20.2055-2(f)(2)(iv), <i>Example (3)</i> , second sentence	§ 20.2031-10(e)	§ 20.2031-7A(c).
20.2055-2(f)(2)(iv), <i>Example (3)</i> , third sentence	§ 20.2031-10(f)	§ 20.2031-7A(d).
20.2056A-4(c)(4)(ii)(B), penultimate sentence	Alpha Volume	Book Aleph.
20.2056A-4(d), <i>Example 4(iii)</i> , second sentence	Alpha Volume	Book Aleph.
20.7520-1(a)(2)	1989, see § 1.642(c)-6(e)	1999, see § 1.642(c)-6T(e).
20.7520-1(a)(3), second sentence	(Or, for certain prior periods, § 1.664-4A)..	
20.7520-1(c)(1), first sentence	Section 1.642(c)-6(e)(4)	Section 1.642(c)-6A(e)(5).
20.7520-1(c)(1), second sentence	Section 1.664-4(e)(6) of this chapter contains.	Sections 1.664-4(e)(6) and 1.664-4A(e)(6) of this chapter contain.
20.7520-1(c)(1), third sentence	Section 20.2031-7(d)(6) contains	Sections 20.2031-7(d)(6) and 20.2031-7A(e)(4) contain.
25.7520-1(a)(2)	1989, see § 1.642(c)-6(e)	1999, see § 1.642(c)-6T(e).
25.7520-1(a)(3), last sentence	(Or, for certain prior periods, § 1.664-4A).	
25.7520-1(c)(1), first sentence	Section 1.642(c)-6(e)(4)	Section 1.642(c)-6A(e)(5).
25.7520-1(c)(1), second sentence	Section 1.664-4(e)(6) of this chapter contains.	Sections 1.664-4(e)(6) and 1.664-4A(e)(6) of this chapter contain.
25.7520-1(c)(1), third sentence	Section 20.2031-7(d)(6), (Estate Tax Regulations) contains.	Sections 20.2031-7(d)(6) and 20.2031-7A(e)(4) contain.

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved: April 21, 1999.

Donald C. Lubick,
Assistant Secretary of the Treasury.
[FR Doc. 99-10533 Filed 4-29-99; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 98-147; FCC 99-48]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts several measures designed to promote competition in the advanced services markets. The intended effect is to

remove barriers to competition so that competing providers are able to compete effectively with incumbent local exchange carriers (LECs) and their affiliates in the provision of advanced services. An additional effect of the First Report and Order is to ensure that incumbent LECs are able to make their decisions to invest in, and deploy, advanced telecommunications services based on market demand and their own strategic business plans, rather than on regulatory requirements.

DATES: Effective June 1, 1999, except for 47 CFR 51.321(f) and 51.321(h) and 51.323(b) and (i)(3), which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for those sections. Written comments regarding the Paperwork Reduction Act requirements should be submitted on or before May 13, 1999.

FOR FURTHER INFORMATION CONTACT: Staci Pies, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418-1580 or via the Internet at spies@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 First Report and Order adopted March 18, 1999, and released March 31, 1999. The full text of this First Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. The complete text also may be obtained through the World Wide Web, at <http://www.fcc.gov/Bureaus/CommonCarrier/Orders/fcc9948.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. This First Report and Order contains 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. The general public and other federal agencies are invited to comment on the information collections contained in this proceeding. The Commission has requested an emergency review of the collections with an approval by May 13, 1999.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, the First Report and Order contains a Final Regulatory Flexibility Analysis which is set forth in the First Report and Order. A brief description of the analysis follows. Pursuant to section 604 of the Regulatory Flexibility Act, the Commission performed a comprehensive analysis of the Order with regard to small entities. This analysis includes: (1) a succinct statement of the need for, and objectives of, the Commission's decisions in the Order; (2) a summary of the significant

issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the Commission's assessment of these issues, and a statement of any changes made in the Order as a result of the comments; (3) a description of and an estimate of the number of small entities to which the Order will apply; (4) a description of the projected reporting, recordkeeping and other compliance requirements of the Order, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for compliance with the requirement; (5) a description of the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the Order and why each one of the other significant alternatives to each of the Commission's decisions which affect small entities was rejected.

Paperwork Reduction Act

This Report and Order contains new and modified information collections. The Commission, as part of its

continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law 104-12. Persons wishing to comment on the information collections should submit comments on or before May 13, 1999. Comments should address: (a) Whether the 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: 3060-0848.

Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability.

Form No.: N/A.

Type of Review: Revised collection.

Information collection	No. of respondents (approx.)	Estimated time per response	Total annual burden (hours)
List of Equipment	1400	1 hour	1400
Report of Available Collocation Space	1400	1 hour	1400
Information on Security Training	1400	30 minutes	700
Access to Spectrum Management Procedures and Policies	1400	30 minutes	700
Rejection and Loop Information	1400	1 hour	1400
Notification of Performance Degradation	1400	30 minutes	700

Total Annual Burden: 6300 hours.
Respondents: Businesses or other for-profit.
Estimated costs per respondent: \$0.
Needs and Uses: The Commission seeks to implement Congress's goal of promoting innovation and investment by all participating in the telecommunications marketplace, in order to stimulate competition for all services, including advanced services. In fulfillment of this goal, the Commission imposes certain collections of information on all incumbent local exchange carriers. Among other things, ILECs must provide a list of equipment to competitive LECs, submit to requesting carriers a report concerning collocation space, provide the specific type of security training a competitive LEC's employees must complete, etc. All of the requirements will be used by the Commission and by competitive carriers to facilitate the deployment of

advanced data services and to implement section 706 of the Communications Act of 1934, as amended.
Synopsis of Order
I. Introduction
1. One of the fundamental goals of the Telecommunications Act of 1996 (1996 Act) is to promote innovation and investment by all participants in the telecommunications marketplace, in order to stimulate competition for all services, including advanced services. In this order, we take important steps towards implementing Congress' goals with respect to advanced services.
2. The market for advanced telecommunications is a nascent one. Today, both incumbent local exchange carriers (LECs) and new entrants are at the early stages of developing and deploying innovative new technologies to meet the ever-increasing demand for

high-speed, high-capacity advanced services. Because it is in the early stages of development, the advanced services market is ripe for competition to develop in a robust fashion. In order to encourage competition among carriers to develop and deploy new advanced services, it is critical that the marketplace for these services be conducive to investment, innovation, and meeting the needs of consumers.
3. To this end, we are committed to removing barriers to competition so that competing providers are able to compete effectively with incumbent LECs and their affiliates in the provision of advanced services. We are also committed to ensuring that incumbent LECs are able to make their decisions to invest in, and deploy, advanced telecommunications services based on market demand and their own strategic business plans, rather than on regulatory requirements. We intend to

take deregulatory steps towards meeting this goal in a subsequent order.

4. In this order, we adopt several measures that we believe will promote competition in the advanced services markets. We fully expect that these measures will create incentives for providers of advanced services to innovate and to develop and deploy new technologies and services on a more efficient and expeditious basis. As a result, consumers will ultimately benefit through lower prices and increased choices in advanced services.

II. Overview and Executive Summary

A. Overview

5. Increasingly, electronic communications are becoming digital and are transmitted by means of "packet switching." Packet-switched transmission of information promises a revolution in information, communications services, and entertainment by offering businesses, residential users, schools and libraries, and other end users of information the ability to access and send large amounts of information very quickly across the street or across the globe. Moreover, for wireline carriers, digital subscriber line technologies are making it possible for ordinary citizens to access various networks, such as the Internet, corporate networks, and governmental networks, at high speeds through the existing copper telephone lines that connect their residences or businesses to the incumbent LEC's central office. The existing infrastructure is being used in new ways that make available to average citizens a variety of new services and vast improvements to existing services.

6. We adopt, in this order, additional measures to further facilitate the development of competition in the advanced services market. First, we strengthen our collocation rules to reduce the costs and delays faced by competitors that seek to collocate equipment in an incumbent LEC's central office. For example, we require incumbent LECs to make available to requesting competitive LECs shared cage and cageless collocation arrangements. Moreover, when collocation space is exhausted at a particular LEC location, we require incumbent LECs to permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. Second, we adopt certain spectrum compatibility rules and adopt a Further Notice of Proposed Rulemaking (Further NPRM) to explore issues related to developing long-term standards and practices for spectrum compatibility and management. Finally,

in the Further NPRM, we consider whether we should require LECs to allow competitors to offer advanced services to end users over the same line on which the LEC is offering voice service.

7. We intend to address, in a future order, other specific forms of regulatory relief that may be needed to stimulate investment and deployment of advanced services by incumbents or new entrants, or whether other changes to the Commission's local competition rules may facilitate deployment of advanced services by competing carriers. For example, in the *Advanced Services Order and NPRM*, 63 FR 45134, August 24, 1998, we had proposed an option under which incumbent LECs would be free to establish separate affiliates to provide advanced services that would not be subject to section 251(c) obligations if those affiliates were structured in a fashion so as not to be deemed a successor or assign of the incumbent. We also sought comment on the applicability of section 251(c)(4) resale obligations to advanced services to the extent such services are exchange access services. In addition, the NPRM proposed limited modifications of LATA boundaries. We also had set forth proposals in the *Advanced Services Order and NPRM* relating to incumbent LEC loop unbundling obligations. We are deferring action on those issues and proposals.

B. Executive Summary

8. In the Order, we take the following steps:

Collocation

- Incumbent LECs must make available to requesting competitive LECs shared cage and cageless collocation arrangements. Moreover, when collocation is exhausted at a particular LEC location, incumbent LECs must permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible.

- A collocation method used by one incumbent LEC or mandated by a state commission is presumptively technically feasible for any other incumbent LEC.

- Incumbent LECs may adopt reasonable security measures to protect their central office equipment.

- Incumbent LECs may not require competitive LEC equipment to meet more stringent safety requirements than those the incumbent LEC imposes on its own equipment.

- Incumbent LECs must permit competitors to collocate all equipment used for interconnection and/or access

to unbundled network elements (UNEs), even if it includes a "switching" or enhanced services function, and incumbent LECs cannot require that the switching or enhanced services functionality of equipment be disengaged.

- Incumbent LECs must permit a competitive LEC to tour the entire central office in which that competitive LEC has been denied collocation space. Incumbent LECs must provide a list of all offices in which there is no more space. Incumbent LECs must remove obsolete, unused equipment, in order to facilitate the creation of additional collocation space within a central office.

- The collocation rules set forth in the Order serve as minimum standards, and permit any state to adopt additional requirements.

Spectrum Compatibility

- We adopt certain spectrum compatibility and management rules to allow competitive providers to deploy innovative advanced services technology in a timely manner. Specifically, any loop technology that complies with existing industry standards, has been successfully deployed by any carrier without significantly degrading the performance of other services, or has been approved by this Commission, any state commission, or an industry standards body is presumed acceptable for deployment. A LEC may not deny a carrier's request to deploy technology that is presumed acceptable for deployment, unless the LEC demonstrates to the state commission that deployment of the particular technology within the LEC network will significantly degrade the performance of other services.

- We also seek comment in the Further NPRM on measures that would facilitate timely development of long-term industry standards and practices on spectrum compatibility and management to facilitate deployment of new and innovative loop technologies.

Line Sharing

- In the Further NPRM, we tentatively conclude line sharing is technically feasible, and we seek comment on the operational, pricing, and policy ramifications to determine whether or not to mandate line sharing nationally.

III. Background

A. Advanced Services Technologies

9. In circumstances in which the xDSL-equipped line carries both POTS ("plain old telephone service") and data

channels, the carrier must separate those two streams when they reach the telephone company's central office. This is generally done by a device known as a digital subscriber line access multiplexer, or DSLAM. The DSLAM and central office xDSL modem send the customer's POTS traffic to the public, circuit-switched telephone network. The DSLAM sends the customer's data traffic (combined with that of other xDSL users) to a packet-switched data network. Thus, the data traffic, after traversing the local loop, avoids the circuit-switched telephone network altogether.

10. Once on the packet-switched network, the data traffic is routed to the location selected by the customer, for example, a corporate local area network or an Internet service provider. That location may itself be a gateway to a new packet-switched network or set of networks, like the Internet.

B. Statutory Framework

11. In the 1996 Act, Congress established a "pro-competitive, deregulatory national policy framework" for telecommunications, opening all telecommunications markets to competition so as to make advanced telecommunications and information technologies and services available to all Americans. At the core of the Act's market-opening provisions is section 251. In section 251, Congress sought to open local telecommunications markets to competition by, among other things, reducing economic and operational advantages possessed by incumbents.

12. Section 251 requires incumbent LECs to share their networks in a manner that enables competitors to choose among three methods of entry—the construction of new networks, the use of unbundled elements of the incumbent's network, and resale of the incumbent's retail services. Section 251(a) requires all "telecommunications carriers" to "interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers." Section 251(c)(3) requires incumbent LECs to provide nondiscriminatory access to unbundled network elements. In addition, section 251(c)(6) imposes an obligation on incumbent LECs "to provide, on rates, terms and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements. * * * Finally, for competitors that seek to compete by reselling the incumbent LEC's services, section 251(c)(4) requires incumbent LECs to offer for resale at wholesale

rates "any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers."

C. Procedural History

13. On August 7, 1998, we released the *Advanced Services Order and NPRM*, in response to six petitions suggesting action we should take to speed the deployment by wireline carriers of advanced services. In that order, we concluded, *inter alia*, that the pro-competitive provisions of the 1996 Act are technology-neutral and thus apply equally to advanced services and to circuit-switched voice services. We therefore concluded that incumbent LECs are subject to section 251(c) in their provision of advanced services. Specifically, we found that incumbent LECs are subject to the interconnection obligations of sections 251(a) and 251(c)(2) with respect to both their circuit-switched and packet-switched networks. We also clarified that the facilities and equipment used by the incumbent LECs to provide advanced services are network elements and generally subject to the obligations in section 251(c)(3). In response to the petitions of Ameritech, Bell Atlantic, SBC and US WEST requesting us to forbear from applying the requirements of section 251(c), or section 271, or both with respect to their provision of advanced services, we concluded that we lacked the statutory authority to do so and therefore denied those petitions.

14. In the *Advanced Services Order and NPRM*, we proposed, in relevant part, to strengthen collocation requirements to foster timely, cost-effective, competitive deployment of advanced services. We also proposed to establish spectrum compatibility and management guidelines so that multiple carriers could deploy advanced technologies on common facilities.

15. On January 25, 1999, the Supreme Court released an opinion in *AT&T Corp. v. Iowa Utilities Board* in which it addressed the Commission's rule setting forth those network elements that incumbent LECs must make available to competitors. The Court held that the Commission did not adequately consider the standards of section 251(d)(2) in determining which network elements must be unbundled pursuant to section 251(c)(3). The Court stated that the Commission's rule setting forth the network elements that incumbent LECs must make available to requesting carriers should be vacated, and it remanded the matter for further proceedings. We are currently reviewing the section 251(d)(2) standard consistent with the Supreme Court opinion in *Iowa*

Utilities Board, and will seek further comment on the issue of whether network elements used in the provision of advanced services should be unbundled.

IV. First Report and Order

A. Measures to Encourage Competitive LEC Deployment of Advanced Services

1. Overview

16. In this section we adopt additional measures that we expect will further facilitate competitive deployment of advanced services. In order to enable competitive LECs to compete effectively with incumbents in the advanced services marketplace, we establish additional standards and rules that will strengthen our collocation requirements, thereby reducing costs and delays associated with competitors collocating in an incumbent LEC's central office. We also adopt certain spectrum compatibility and management rules to allow competitive providers to deploy innovative advanced services technology in a timely manner. We acknowledge that the rules we adopt in this Order focus on the provision of advanced services, but we emphasize that the actions we take today pursuant to the Act apply to all telecommunications services, whether traditional voice services or advanced services.

2. Collocation Requirements

a. Background

17. In 1992, in the *Expanded Interconnection* proceeding, the Commission adopted rules pursuant to section 201 of the Act that required certain incumbent LECs to offer physical and virtual collocation for parties seeking to locate interstate special access and switched transport transmission facilities at LEC premises.

18. Section 251(c)(6) of the 1996 Act requires incumbent LECs to "provide, on rates terms and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations." In the *Local Competition First Report and Order*, 61 FR 45476, August 29, 1996, the Commission adopted specific rules to implement the collocation requirements of section 251(c)(6). In the *Advanced Services Order and NPRM*, we tentatively concluded that we

should adopt additional collocation rules to ensure that competing providers have access to the physical collocation space they need in order to offer advanced services.

b. Adoption of National Standards

(1) Background: 19. In the *Local Competition First Report and Order*, the Commission adopted minimum requirements for nondiscriminatory collocation arrangements. The Commission adopted rules for, among other things, space allocation and exhaustion, types of equipment that could be collocated, and LEC premises where parties could collocate equipment. The Commission also concluded that state commissions should have the flexibility to adopt additional collocation requirements that are otherwise consistent with the Act and the Commission's regulations. In the *Advanced Services Order and NPRM*, we sought comment on the extent to which we should establish additional national rules for collocation pursuant to sections 201 and 251 in order to remove barriers to entry and speed the deployment of advanced services.

(2) Discussion: 20. We adopt our tentative conclusion to establish additional national rules for collocation. We emphasize that the collocation measures we adopt in this order apply to all telecommunications services, including advanced services and traditional voice services. The standards and rules we implement in this proceeding will serve as minimum requirements. We note that state commissions commenting in this proceeding generally support our proposal to adopt additional national rules. We conclude that states will continue to have the flexibility to respond to specific issues by imposing additional requirements.

21. There are numerous problems that remain with provisioning of collocation space, and we believe that there are concrete steps we can take, in conjunction with the ongoing work of state commissions, to further the pro-competitive goals of the 1996 Act.

c. Collocation Equipment

(1) Background: 22. Section 251(c)(6) requires incumbent LECs to allow collocation of "equipment necessary for interconnection or access to unbundled network elements" In the *Local Competition First Report and Order*, the Commission concluded that section 251(c)(6) requires collocation of equipment used for: (1) interconnection for "the transmission and routing of telephone exchange service and

exchange access" pursuant to section 251(c)(2); and (2) access to unbundled network elements for "the provision of a telecommunications service" pursuant to section 251(c)(3). The Commission interpreted section 251(c)(6) as requiring incumbent LECs to permit competitors to collocate equipment that is "used and useful" for either interconnection or access to unbundled network elements.

23. The Commission concluded in the *Local Competition First Report and Order* that new entrants may collocate transmission equipment, including optical terminating equipment and multiplexers, on incumbent LEC premises. The Commission further concluded, at the time, that incumbent LECs need not permit the collocation of other types of equipment, including switching equipment and equipment used to provide enhanced services. With respect to switching equipment, however, the Commission recognized that "modern technology has tended to blur the line between switching equipment and multiplexing equipment." This trend in manufacturing has benefited service providers and their customers by reducing costs, promoting efficient network design, and expanding the range of possible service offerings. As a consequence of this integration, certain equipment that competing carriers need to collocate to provide advanced services efficiently may also perform switching functions. Because incumbent LECs are currently not required by our rules to permit collocation of switching equipment, competing providers argue that incumbent LECs have delayed competitive entry by contesting, on a case-by-case basis, the functionality of a particular piece of equipment (which may perform switching functions in addition to its other functions) and whether it may be collocated.

(2) Discussion: 24. *Equipment with switching and enhanced services functionality.* In the *Advanced Services Order and NPRM*, we tentatively concluded that incumbent LECs should not be permitted to impede competing carriers from offering advanced services by imposing unnecessary restrictions on the type of equipment that competing carriers may collocate. We sought comment on whether we should require incumbent LECs to allow new entrants to collocate any equipment that is used for interconnection and access to unbundled network elements, even if such equipment also includes a switching functionality. Specifically, we asked if collocation of equipment that performs both switching and other functions would encourage competitive

LECs to use integrated equipment that otherwise might not be allowed in incumbent LEC premises.

25. Our existing rules, correctly read, require incumbent LECs to permit collocation of all equipment that is necessary for interconnection or access to unbundled network elements, regardless of whether such equipment includes a switching functionality, provides enhanced services capabilities, or offers other functionalities. Our rules obligate incumbent LECs to "permit the collocation of any type of equipment used for interconnection or access to unbundled network elements." Stated differently, an incumbent LEC may not refuse to permit collocation of any equipment that is "used or useful" for either interconnection or access to unbundled network elements, regardless of other functionalities inherent in such equipment. Rather, our rules require incumbent LECs to permit collocation of any equipment required by the statute unless they first "prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements." This rule requires incumbent LECs to permit competitors to collocate such equipment as DSLAMs, routers, ATM multiplexers, and remote switching modules. Nor may incumbent LECs place any limitations on the ability of competitors to use all the features, functions, and capabilities of collocated equipment, including, but not limited to, switching and routing features and functions.

26. We consider this clarification of our existing rules to be particularly important given the rapid pace of technological change in the telecommunications equipment marketplace. By clarifying that incumbent LECs must permit advanced services equipment to be collocated on their premises, we take an important step towards elimination of obstacles to competition. In order to compete effectively in the advanced services marketplace, competitive telecommunications providers must be permitted to collocate integrated equipment that lowers costs and increases the services they can offer their customers.

27. We continue to decline, however, to require incumbent LECs to permit the collocation of equipment that is not necessary for either access to UNEs or for interconnection, such as equipment used exclusively for switching or for enhanced services. Although we may explore requiring such collocation in the future, we do not find sufficient

support in the record at this time for such a requirement. We reiterate that incumbent LECs are obligated, pursuant to section 251(c)(6), to permit competitors to collocate multi-functional equipment, even equipment that includes switching or enhanced services functionalities, if such equipment is necessary for access to UNEs or for interconnection with the incumbent LEC's network.

28. *Cross-Connects.* In the *Advanced Services Order* and *NPRM*, we sought comment on any additional steps we might take so that competitive LECs are able to establish cross-connects to the equipment of other collocated competitive LECs.

29. We now revise our rules to require incumbent LECs to permit collocating carriers to construct their own cross-connect facilities between collocated equipment located on the incumbent's premises.

30. *Equipment Safety Requirements.* In the *Advanced Services Order* and *NPRM*, we tentatively concluded that incumbent LECs may require that all equipment that a new entrant places on its premises meet safety requirements to avoid endangering other equipment and the incumbent LECs' networks. Certain performance and reliability requirements, however, may not be necessary to protect LEC equipment. Such requirements may increase costs unnecessarily, which would lessen the ability of new entrants to serve certain markets and thereby harm competition. We tentatively concluded that, to the extent that incumbent LECs use equipment that does not satisfy the Bellcore Network Equipment and Building Specifications (NEBS) requirements, competitive LECs should be able to collocate the same or equivalent equipment. We further tentatively concluded that incumbent LECs should be required to list all approved equipment and all equipment they use.

31. We conclude that, subject to the limitations described herein, an incumbent LEC may impose safety standards that must be met by the equipment to be collocated in its central office.

32. Second, we conclude that, although an incumbent LEC may require competitive LEC equipment to satisfy NEBS safety standards, the incumbent may not impose safety requirements that are more stringent than the safety requirements it imposes on its own equipment that it locates in its premises.

d. Alternative Collocation Arrangements

(1) Background

33. In the *Advanced Services Order* and *NPRM*, we made several tentative conclusions and sought comment on issues raised by ALTS in its petition contending that the practices and policies that incumbent LECs employed in offering physical collocation impeded competition by imposing substantial costs and delays on competing carriers for space and construction of collocation cages. Based on the record submitted in this proceeding, we now adopt several of our tentative conclusions related to the provisioning of collocation space in incumbent LEC premises.

34. In the *Advanced Services Order* and *NPRM*, we tentatively concluded that we should require incumbent LECs to offer collocation arrangements to new entrants that minimize the space needed by each competing provider in order to promote the deployment of advanced services to all Americans. Such alternative collocation arrangements include: (1) the use of shared collocation cages, within which multiple competing providers' equipment could be either openly accessible or locked within a secure cabinet; (2) the option to request collocation cages of any size without any minimum requirement, so that competing providers will not use any more space than is reasonably necessary for their needs; and (3) physical collocation that does not require the use of collocation cages ("cageless" collocation).

(2) Discussion

35. We now adopt our tentative conclusion that incumbent LECs must provide specific collocation arrangements, consistent with the rules we outline below, at reasonable rates, terms, and conditions as are set by state commissions in conformity with the Act and our rules.

36. We now adopt new rules requiring incumbent LECs to make certain collocation arrangements available to requesting carriers. In adopting new rules, we reject the arguments of incumbent LEC commenters that additional national collocation rules are not necessary.

37. First, we require incumbent LECs to make shared collocation cages available to new entrants. A shared collocation cage is a caged collocation space shared by two or more competitive LECs pursuant to terms and conditions agreed to by the competitive LECs. In making shared cage arrangements available, incumbent LECs

may not increase the cost of site preparation or nonrecurring charges above the cost for provisioning such a cage of similar dimensions and material to a single collocating party. In addition, the incumbent must prorate the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation cage or condition the space for collocation use, regardless of how many carriers actually collocate in that cage, by determining the total charge for site preparation and allocating that charge to a collocating carrier based on the percentage of the total space utilized by that carrier. In other words, a carrier should be charged only for those costs directly attributable to that carrier. The incumbent may not place unreasonable restrictions on a new entrant's use of a collocation cage, such as limiting the new entrant's ability to contract with other competitive carriers to share the new entrant's collocation cage in a sublease-type arrangement. In addition, if two or more competitive LECs who have interconnection agreements with an incumbent LEC utilize a shared collocation arrangement, the incumbent LEC must permit each competitive LEC to order UNEs to and provision service from that shared collocation space, regardless of which competitive LEC was the original collocator.

38. Second, we require incumbent LECs to make cageless collocation arrangements available to requesting carriers. While we do not prevent incumbent LECs from offering caged collocation arrangements, we require incumbent LECs to make cageless collocation available so as to offer competitors a choice of arrangements. Subject only to technical feasibility and the permissible security parameters outlined below, incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a room, cage, or similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. Incumbent LECs may require competitors to use a central entrance to the incumbent's building, but may not require construction of a new entrance for competitors' use, and once inside the building incumbent LECs must permit competitors to have direct access to their equipment. Incumbent LECs may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible, because such intermediate points of interconnection

simply increase collocation costs without a concomitant benefit to incumbents. In addition, an incumbent LEC must give competitors the option of collocating equipment in any unused space within the incumbent's premises, to the extent technically feasible, and may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment. The incumbent LEC may take reasonable steps to protect its own equipment, such as enclosing the equipment in its own cage, and other reasonable security measures as discussed below. The incumbent LEC may not, however, require competitors to use separate rooms or floors, which only serves to increase the cost of collocation and decrease the amount of available collocation space. The incumbent LEC may not utilize unreasonable segregation requirements to impose unnecessary additional costs on competitors.

39. Incumbent LECs must also ensure that cageless collocation arrangements do not place unreasonable minimum space requirements on collocating carriers. Thus, a competitive LEC must be able to purchase collocation space sufficient, for example, to house only one rack of equipment, and should not be forced to purchase collocation space that is much larger than the carrier requires. We require incumbent LECs to make collocation space available in single-bay increments, meaning that a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment. We conclude that this requirement serves the public interest because it would reduce the cost of collocation for competitive LECs and it will reduce the likelihood of premature space exhaustion. We rely on state commissions to ensure that the prices of these smaller collocation spaces are appropriate given the amount of space in the incumbent LEC's premises actually occupied by the new entrants.

40. Finally, we require incumbent LECs, when space is legitimately exhausted in a particular LEC premises, to permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. Such a requirement is, we believe, the best means suggested by commenters, both incumbents and new entrants, of addressing the issue of space exhaustion by ensuring that competitive carriers can compete with the incumbent, even when there is no space inside the LEC's premises. Because zoning and other state and local regulations may affect the viability of adjacent collocation, and because the

incumbent LEC may have a legitimate reason to exercise some measure of control over design or construction parameters, we rely on state commissions to address such issues. In general, however, the incumbent LEC must permit the new entrant to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscrimination requirements as traditional collocation arrangements.

41. In the *Advanced Services Order* and *NPRM*, we also asked whether, if an incumbent LEC offers a particular collocation arrangement, such an arrangement should be presumed to be technically feasible at other LEC premises. We recognize that different incumbent LECs make different collocation arrangements available on a region by region, state by state, and even central office by central office basis. We now conclude that the deployment by any incumbent LEC of a collocation arrangement gives rise to a rebuttable presumption in favor of a competitive LEC seeking collocation in any incumbent LEC premises that such an arrangement is technically feasible. Such a presumption of technical feasibility, we find, will encourage all LECs to explore a wide variety of collocation arrangements and to make such arrangements available in a reasonable and timely fashion. We believe this "best practices" approach will promote competition.

e. Security

42. In the *Advanced Services Order* and *NPRM*, we sought comment on the security and access issues that may arise from a requirement that incumbent LECs provide alternative collocation arrangements, including cageless collocation. We noted that, in the *Local Competition First Report and Order*, the Commission concluded that incumbent LECs should be permitted reasonable security arrangements to protect their equipment and ensure network security and reliability. We recognized that adequate security for both incumbent LECs and competitive LECs is important to encourage deployment of advanced services.

43. We conclude, based on the record, that incumbent LECs may impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their own premises either for their own employees or for authorized contractors. To the extent existing security arrangements are more stringent for one

group than for the other, the incumbent may impose the more stringent requirements. Except as provided below, we conclude that incumbent LECs may not impose more stringent security requirements than these. Stated differently, the incumbent LEC may not impose discriminatory security requirements that result in increased collocation costs without the concomitant benefit of providing necessary protection of the incumbent LEC's equipment.

44. We agree with commenting incumbent LECs that protection of their equipment is crucial to the incumbents' own ability to offer service to their customers. Therefore, incumbent LECs may establish certain reasonable security measures that will assist in protecting their networks and equipment from harm. The incumbent LEC may not, however, unreasonably restrict the access of a new entrant to the new entrant's equipment. We permit incumbent LECs to install, for example, security cameras or other monitoring systems, or to require competitive LEC personnel to use badges with computerized tracking systems. Incumbent LECs may not use any information they collect in the course of implementing or operating security arrangements for any marketing or other purpose in aid of competing with other carriers. We expect that state commissions will permit incumbent LECs to recover the costs of implementing these security measures from collocating carriers in a reasonable manner. We further permit incumbent LECs to require competitors' employees to undergo the same level of security training, or its equivalent, that the incumbent's own employees, or third party contractors providing similar functions, must undergo. The incumbent LEC may not, however, require competitive LEC employees to receive such training from the incumbent LEC itself, but must provide information to the competitive LEC on the specific type of training required so the competitive LEC's employees can complete such training by, for example, conducting their own security training.

45. Incumbent LECs must allow collocating parties to access their equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the incumbent LEC's premises by requiring, for example, an incumbent LEC employee to be present. We also require incumbent LECs to provide competitors reasonable access to basic facilities, such as restroom facilities and parking, while at the incumbent LEC's premises.

f. Space Preparation Cost Allocation

46. In the *Advanced Services Order and NPRM*, we sought comment on ALTS' proposal that we establish rules for the allocation of up-front space preparation charges. One approach we noted, which had been adopted by Bell Atlantic in its pre-filing statement in the New York Commission's section 271 docket, was that the competing provider would be responsible only for its share of the cost of conditioning the collocation space, whether or not other competing providers were immediately occupying the rest of the space. In addition, Bell Atlantic committed to allowing smaller competing providers to pay on an installment basis. We sought comment on whether we should adopt Bell Atlantic's approach, or any other approach, as a national standard in order to speed the deployment of advanced telecommunications capability to all Americans.

47. We conclude, based on the record, that incumbent LECs must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocater in a particular incumbent premises will not be responsible for the entire cost of site preparation. In order to ensure that the first entrant into an incumbent's premises does not bear the entire cost of site preparation, the incumbent must develop a system of partitioning the cost by comparing, for example, the amount of conditioned space actually occupied by the new entrant with the overall space conditioning expenses. We expect state commissions will determine the proper pricing methodology to ensure that incumbent LECs properly allocate site preparation costs among new entrants. We also conclude that these standards will serve as minimum requirements, and that states should continue to have flexibility to adopt additional collocation requirements, consistent with the Act.

g. Provisioning Intervals

48. In the *Advanced Services Order and NPRM*, we sought comment on how to address the entry barrier posed by delays between the ordering and provisioning of collocation space. Specifically, we sought comment on ALTS' proposal that we should establish presumptive reasonable deployment intervals for new collocation arrangements and expansion of existing arrangements. Currently, some incumbent LECs require a new entrant to obtain state competitive LEC certification before it can begin to negotiate an interconnection agreement. In addition, competitive LECs asserted

that some incumbent LECs will not allow a requesting carrier to order collocation space until an interconnection agreement becomes final.

49. We conclude that an incumbent LEC may not impose unreasonable restrictions on the time period within which it will consider applications for collocation space. Specifically, we conclude that an incumbent LEC may not refuse to consider an application for collocation space submitted by a competitor while that competitor's state certification is pending, or before the competitor and incumbent LEC have entered into a final interconnection agreement. There is no legitimate reason for an incumbent LEC to refuse to begin processing a collocation application, especially given that competitors pay an application fee to the incumbent to cover the costs associated with consideration of the application.

50. We do not adopt specific provisioning intervals at this time. We have adopted several new collocation rules in this Order, and we do not yet have sufficient experience with the implementation of these new collocation arrangements to suggest time frames for provisioning. While we do not at this time adopt specific intervals, we retain authority to adopt specific time frames in the future as we deem necessary. We emphasize the importance of timely provisioning, and we are confident that state commissions recognize the competitive harm that new entrants suffer when collocation arrangements are unnecessarily delayed. The record in this proceeding reflects the significant competitive harm suffered by new entrants whose collocation space is not ready for as long as six to eight months after their initial collocation request is submitted to the incumbent LEC. Several state commissions have taken significant steps to lessen the time periods within which incumbent LECs provision collocation space. The Texas PUC has required Southwestern Bell Telephone Company (SWBT) to provide competitive LECs with information on space availability in a SWBT premises within ten days of receipt of a collocation request. Because of the importance of ensuring timely provisioning of collocation space, we encourage state commissions to ensure that incumbent LECs are given specific time intervals within which they must respond to collocation requests.

51. The practices of several carriers suggest that provisioning intervals can be short. Both GTE and Ameritech state that they respond to physical collocation requests within ten days by

advising the requesting carrier whether space is available or not. We view ten days as a reasonable time period within which to inform a new entrant whether its collocation application is accepted or denied. Even with a timely response to their applications, however, new entrants cannot compete effectively unless they have timely access to provisioned collocation space. We urge the states to ensure that collocation space is available in a timely and pro-competitive manner that gives new entrants a full and fair opportunity to compete.

h. Space Exhaustion

52. In the *Advanced Services Order and NPRM*, we noted that one of the major barriers facing new entrants that seek to provide advanced services on a facilities basis is the lack of collocation space in many incumbent LEC premises. Pursuant to the Act, incumbent LECs must provide physical collocation unless they demonstrate to the state commission's satisfaction that "physical collocation is not practical for technical reasons or because of space limitations." Because incumbent LECs have the incentive and capability to impede competition by reducing the amount of space available for collocation by competitors, the Commission, in the *Local Competition First Report and Order*, required incumbent LECs that deny requests for physical collocation on the basis of space limitations to provide the state commission with detailed floor plans or diagrams of their premises. The Commission concluded that such submissions would aid the state commission in evaluating whether the denial of physical collocation was justified.

53. We now adopt our tentative conclusion that an incumbent LEC that denies a request for physical collocation due to space limitations should, in addition to providing the state commission with detailed floor plans, allow any competing provider that is denied physical collocation at the incumbent LEC's premises to tour the premises. Specifically, we require the incumbent LEC to permit representatives of a requesting telecommunications carrier that has been denied collocation due to space constraints to tour the entire premises in question, not just the room in which space was denied, without charge, within ten days of the denial of space. As we noted in the *Advanced Services NPRM*, allowing competing providers to walk through a LEC's premises will enable those providers to identify space that they believe could be used for physical collocation. If, after the tour of

the premises, the incumbent LEC and competing provider disagree about whether space limitations at that premise make collocation impractical, both carriers could present their arguments to the state commission. Incumbent LECs are permitted to assign their own personnel to such tours, thus offering sufficient protection against harm to the network and proprietary information.

54. We also adopt our tentative conclusion that an incumbent LEC must submit to a requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. The report must also include measures that the incumbent LEC is taking to make additional space available for collocation. In addition to this reporting requirement incumbent LECs must maintain a publicly available document, posted for viewing on the Internet, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space. Such requirements will allow competitors to avoid expending significant resources in applying for collocation space in an incumbent LEC's premises where no such space exists. We expect that state commissions will permit incumbent LECs to recover the costs of implementing these reporting measures from collocating carriers in a reasonable manner.

55. For network planning purposes, new entrants need to know what incumbent LEC offices are available for collocation. Each new entrant cannot be required to apply for collocation space in every central office in order to find out if there is space available in that office, when such information is readily available to the incumbent LEC that occupies that office.

56. Finally, we conclude that in order to increase the amount of space available for collocation, incumbent LECs must remove obsolete unused equipment from their premises upon reasonable request by a competitor or upon the order of a state commission. We rely on state commissions to settle disputes between carriers as to which incumbent equipment is truly obsolete and unused and can be removed from the LEC's premises. We also note that carriers may utilize the complaint provisions of section 208 of the Act in

the case of collocation disputes that fall within the Commission's jurisdiction.

B. Spectrum Compatibility

57. *Background.* Spectrum compatibility refers generally to the ability of various loop technologies to reside and operate in close proximity while not significantly degrading each other's performance. Our discussion of spectrum compatibility includes spectral compatibility standards issues, such as setting the signal power densities so as to minimize interference, and spectrum management issues, such as establishing binder group administration and deployment practices. The development of spectral compatibility standards should help to minimize crosstalk, the noise caused by extraneous signals combining with the intended signal. This noise can result in the degradation of the intended signal. Compatibility becomes a significant concern with the introduction of new high-speed services in a multiple provider environment. For example, if an incumbent LEC and a competitive LEC offer DSL services that use different line encoding technologies, and if their respective customers' loops are located adjacent to each other within a binder group, the two technologies may unintentionally interfere with one another and interrupt the signals travelling over each loop. One method of ensuring spectral compatibility is through the use of power spectral density (PSD) masks. PSD masks are represented as graphical templates that define the limits on signal power densities across a range of frequencies so as to minimize interference. The goal of PSD mask standards is to permit divergent technologies to coexist in close proximity within the same binder groups. Standards bodies, such as T1E1.4, define these masks as technology develops. The development of spectrum management rules and practices should help enable multiple technologies to coexist within binder groups.

58. In the *Advanced Services Order and NPRM*, we sought comment on how to address the host of loop spectrum compatibility issues. In particular, we asked commenters to consider how we should address interference concerns that may result from provision of advanced services using different signal formats on copper pairs in the same bundle. We asked parties to suggest ways to determine when a particular service, technology, or piece of equipment causes network interference such that the use of the particular service, technology, or piece of equipment should be prohibited. We

also asked commenters to suggest ways to distinguish between legitimate claims that particular services, technologies, or equipment create spectrum interference and claims raised simply to impede competition. We sought comment on whether we should adopt any industry standards as the basis for national spectrum compatibility requirements. We also sought comment on how any requirements should evolve over time so as to encourage and not stifle innovation. In addition, we sought comment on other approaches to spectrum management that would foster pro-competitive use of the loop plant by incumbent LECs and new entrants, while providing necessary network protection.

59. *Discussion.* We acknowledge that clear spectral compatibility standards and spectrum management rules and practices are necessary both to foster competitive deployment of innovative technologies and to ensure the quality and reliability of the public telephone network. We find, however, that incumbent LECs should not unilaterally determine what technologies LECs, both competitive LECs and incumbent LECs, may deploy. Nor should incumbent LECs have unfettered control over spectrum management standards and practices.

60. We find that we do not have a sufficient record with which we can adequately address all of the long-term spectrum compatibility issues. Thus, we adopt below a Further NPRM through which we hope to resolve, in a timely manner, the long-term spectrum compatibility issues. In the Further NPRM, we seek comment on additional measures we can take to encourage deployment of innovative technology while simultaneously ensuring the integrity of the network. In this Order, we adopt certain rules on spectrum compatibility and management which we believe will enable reasonable and safe deployment of advanced services prior to development of industry standards and resolution of all the issues raised in the Further NPRM.

a. Existing Power Spectral Density Masks

61. Commenters generally agree that the process of establishing power spectral density masks best occurs within the industry standards setting bodies. Such standards bodies possess the combined knowledge and expertise of a broad sector of the industry.

62. We conclude, however, that we should establish certain rules on spectrum compatibility that will immediately facilitate the deployment of advanced services, until long-term

standards and practices can be established. Although we believe that the development of power spectral density masks is best left to standards bodies such as the T1E1.4, we also believe the Commission can take certain immediate steps to encourage the deployment of advanced services. Rather than setting forth in this Order specific standards for the new technologies, we establish certain rules to foster deployment of advanced services while maintaining network integrity, until the standards bodies adopt comprehensive standards for the new technologies. We find that any equipment deployed consistent with the rules adopted here can be connected to the public switched telephone network with reasonable confidence that this technology will not significantly degrade the performance of other advanced services, and with reasonable confidence that this technology will not impair traditional voice band services.

63. We conclude that any loop technology that complies with existing industry standards is presumed acceptable for deployment. Specifically, we conclude that technology that complies with any of the following standards is presumed acceptable for deployment: T1.601, T1.413, and TR28. Furthermore, any technology which has been successfully deployed by any carrier without significantly degrading the performance of other services or has been approved by this Commission, any state commission, or an industry standards body is presumed acceptable for deployment.

64. We conclude that a LEC may not deny a carrier's request to deploy technology that is presumed acceptable for deployment, unless the LEC demonstrates to the state commission that deployment of the particular technology within the LEC network will significantly degrade the performance of other advanced services or traditional voice band services. We conclude further that industry standards are not upper limits on what technology is deployable; incumbent LECs and competitive LECs are free to mutually agree to deploy new technologies that may exceed these standards. We encourage cooperation between incumbents and competitors to establish agreements on the deployment of non-standard xDSL-based and other advanced services technology. We expect that as standards are ratified for new technologies, carriers will recognize these as deployable technologies and will not deny competitors the ability to deploy these technologies. In the event that a LEC subsequently demonstrates to this

Commission or the relevant state commission that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, the carrier deploying the technology shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of other such services.

65. We further conclude that incumbent LECs cannot deny requesting carriers the right to deploy a new technology that does not conform to the standards cited in the preceding paragraph and has not yet been approved by a standards body (or otherwise authorized by this Commission or any state commission), if the requesting carrier can demonstrate to the state commission that this particular technology will not significantly degrade the performance of other advanced services or traditional voice band services. In this situation, there would be no presumption in favor of deployment and the burden would be on the requesting carrier to make the appropriate showing.

b. Spectrum Management

66. In order to encourage deployment of innovative technology and allow competitors the same opportunity as incumbent LECs to deploy advanced services, while simultaneously ensuring the integrity of the network, we establish certain spectrum management rules.

67. We define spectrum management to include binder/cable administration as well as the broader issue of deployment practices (e.g., the rules for testing and implementing xDSL-based and other advanced services). We believe that the industry must develop a simpler and more open approach to spectrum management. Currently, each incumbent LEC defines its own spectrum management specifications. These measures vary from provider to provider and from state to state, thereby requiring competitive LECs to conform to different specifications in each area. We find that uniform spectrum management procedures are essential to the success of advanced services deployment. As such, we adopt the following spectrum management rules.

68. We conclude that the incumbent LEC must provide competitive LECs with nondiscriminatory access to the incumbent LEC's spectrum management procedures and policies. The procedures and policies that the incumbent LEC uses in determining which services can be deployed must be equally available to competitive LECs

intending to provide service in an area. We believe that competitive LECs need nondiscriminatory access to such information so that the competitive LEC can independently and expeditiously determine what services and technologies it can deploy within the incumbent LEC's territory.

69. We conclude that incumbent LECs must disclose to requesting carriers information with respect to the rejection of the requesting carrier's provision of advanced services, together with the specific reason for the rejection. The incumbent LEC must also disclose to requesting carriers information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops. We believe that such disclosure will allow for a more open and accessible environment, foster competition, and encourage deployment of advanced services.

70. We strongly believe that industry should discontinue deployment of well recognized disturbers, such as AMI T1. We further believe carriers should, to the fullest extent possible, replace AMI T1 with new and less interfering technologies. In the accompanying Further NPRM, we seek comment on methods by which to reduce or eliminate the deployment of AMI T1.

71. We conclude that if a carrier claims a service is significantly degrading the performance of other advanced services or traditional voice band services, then that carrier must notify the causing carrier and allow that carrier a reasonable opportunity to correct the problem. Any claims of network harm must be supported with specific and verifiable supporting information.

72. We recognize that there may be a limit to the number of lines delivering advanced services that can share a binder group without interfering with other customers' services. We conclude that the incumbent LEC shall bear the burden of demonstrating to the relevant state commission when a requested advanced service will significantly degrade the performance of existing services, such that the incumbent can deny the competitor's request. We do not believe this will be a problem until advanced services penetrate a significant portion of the market and expect incumbents to manage binder groups in such a manner so as to maximize the number and types of advanced services that can be deployed.

73. We recognize further that the standards development process may delay the deployment of new technologies. To address this difficulty, we encourage the industry to apply a

“test and see” strategy, which would allow competitive LECs and incumbent LECs to cooperate in testing and deployment of new services. We find that this strategy will encourage innovation and allow for the more rapid deployment of new technologies. Our hope is that all providers recognize that cooperation is essential in this future shared environment.

5. Further Information

74. For further information regarding this proceeding, contact Michael Pryor, Deputy Division Chief, Policy and Program Planning Division, Common Carrier Bureau, at 202-418-1580 or mpryor@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202-418-0484.

VI. Ordering Clauses

75. Accordingly, it is ordered that, pursuant to sections 1-4, 10, 201, 202, 251-254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 160, 201, 202, 251-254, 256, 271, and 303(r), the First Report and Order is hereby adopted. The requirements adopted in this Order shall be effective 30 days after publication in the **Federal Register**, except for 47 CFR 51.321 (f) and (h) and 51.323 (b) and (i)(3) which contain information collection requirements that are not effective until approved by the Office of Management and Budget.

76. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this First Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Advanced Services Order* and *NPRM*. The Commission sought written public comment on the proposals in the *Advanced Services Order* and *NPRM*, including comment on the IRFA. [The comments received are discussed below.] This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

I. Need for and Objectives of This First Report and Order and the Rules Adopted Herein

2. In order to encourage competition among carriers to develop and deploy new advanced services, it is critical that

the marketplace for these services be conducive to investment, innovation, and meeting the needs of consumers. In this *First Report and Order*, we seek to ensure that all carriers have economic incentives to innovate and invest in new technologies.

3. We also adopt additional measures to further facilitate the development of competition in the advanced services market. First, we strengthen our collocation rules to reduce the costs and delays faced by competitors that seek to collocate equipment in an incumbent LEC's central office. We also adopt certain spectrum compatibility guidelines and adopt a *Further Notice of Proposed Rulemaking (FNPRM)* to explore issues related to developing long-term standards and practices for spectrum compatibility and management and line sharing. The issues which are the subject of the *FNPRM* will be discussed in a separate Initial Regulatory Flexibility Analysis.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

4. In the IRFA, we stated that any rule changes would impose minimum burdens on small entities. We indicated that the collocation section of the *NPRM* proposed reporting requirements. The IRFA solicited comment on alternatives to our proposed rules that would minimize the impact they may have on small entities. In response we received comments from the Office of Advocacy, United States Small Business Administration (SBA) specifically directed to the IRFA. Specifically, SBA contends that the Commission's IRFA was inadequate because it failed to consider the effect of its proposed rules on small incumbent LECs. While we continue to believe that incumbent LECs are dominant and therefore not “small” businesses within the meaning of the SBA, we include a discussion of the effect of the actions taken in this order on small incumbent LECs in order to remove any possible issue of RFA compliance. As noted in Part V of this FRFA, in making the determinations reflected in this order, we have given consideration to the SBA's comments, as well as comments of parties that generally addressed the impact of our proposed rules on small entities. We also do not agree with SBA's contention that our IRFA was not sufficiently detailed to generate “meaningful comments on the impact of the proposed rules.” The comments of the SBA, the National Rural Telecom Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies,

among others, provided more than sufficient detail for us to prepare this FRFA.

III. Description and Estimates of the Number of Small Entities Affected by the First Report and Order

5. 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 actions taken in this *First Report and Order*. The RFA generally defines the term “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).

6. Below, we further describe and estimate the number of small entities that may be affected by the decisions in this *First Report and Order*.

7. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia*, local exchange carriers (LECs), wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

8. The SBA has defined establishments engaged in providing “Telephone Communications, Except Radiotelephone” to be small businesses when they have no more than 1,500 employees. Below, we discuss the total estimated number of telephone companies and small businesses in this category, and we then attempt to refine further those estimates.

9. Although some affected incumbent LECs may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not

independently owned and operated, and therefore by definition not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term "small incumbent LECs" to refer to any incumbent LECs that arguably might be defined by the SBA as "small business concerns."

10. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small LECs. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed rules, if adopted.

11. *Competitive LECs.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive LECs. The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable of information regarding the number of competitive LECs nationwide is the data that we collect annually in connection with the TRS Worksheet. According to the most recent *Telecommunications Industry Revenue* data, 109 companies reported that they were engaged in the provision of either competitive local exchange service or competitive access service, which are placed together in the data. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of competitive LECs that would qualify as small business concerns under the SBA definition. Consequently, we estimate

that there are fewer than 109 small competitive LECs or competitive access providers.

IV. Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

A. Collocation

12. We establish additional national rules for collocation. We require incumbent LECs to permit collocating carriers to construct their own cross-connect facilities between collocated equipment located on the incumbent's premises. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days a list of all equipment that the incumbent LEC locates within the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet. Incumbent LECs must provide specific collocation arrangements, consistent with the rules we outline below, at reasonable rates, terms, and conditions as are set by state commissions in conformity with the Act and our rules.

13. Incumbent LECs must make shared collocation cages, cageless collocation, and adjacent controlled environmental huts, each with single-bay collocation arrangements, available to new entrants. Subject only to technical feasibility and certain security parameters, incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a cage or similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. Incumbent LECs may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible, because such intermediate points of interconnection simply increase collocation costs without a concomitant benefit to incumbents. Incumbent LECs must allow competitive LECs to have access to their collocated equipment 24 hours a day, seven days a week, without requiring a security escort or delaying a competitor's employees' entry into the incumbent LEC's premises.

14. Incumbent LECs must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocator in a particular incumbent premises will not be responsible for the entire cost of site preparation. An incumbent LEC may not

refuse to consider an application for collocation space submitted by a competitor while that competitor's state certification is pending, or before the competitor and incumbent LEC have entered into a final interconnection agreement. Incumbent LECs must permit representatives of a requesting telecommunications carrier that has been denied collocation due to space constraints to tour the entire premises in question. Upon request from a competitive LEC, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report should specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. The report should also include measures that the incumbent LEC is taking to make additional space available for collocation. In addition to this reporting requirement, incumbent LECs must maintain a publicly available document, posted for viewing on the Internet, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space. Finally, incumbent LECs must remove obsolete unused equipment from their premises to increase the amount of space available for collocation.

B. Spectrum Compatibility

15. We establish certain spectrum compatibility guidelines in order to permit the safe deployment of xDSL and other advanced technologies. We determine that complying with these rules may require use of engineering, technical, operational, accounting, billing, and legal skills. However, we believe that incumbent LECs will already have these skills.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Alternatives Considered

A. Collocation

16. Incumbent LECs that deny competitive LECs collocation of certain equipment in a central office must provide the requesting carrier, within five business days, a list of all equipment the incumbent locates within the premises in question, together with an affidavit attesting that all the incumbent's equipment meets the safety standards that the incumbent contends the competitor's equipment fails to

meet. In addition, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. These requirements allow competitive LECs, who would otherwise have been unable to discover if incumbent LECs are imposing discriminatory standards, to determine what type of equipment incumbents will accept to be collocated, and further will allow competitive LECs to determine if incumbent LECs are discriminating in enforcing equipment requirements on competitive LECs but not on themselves. The burden in preparing these reports is minimum, because incumbent LECs already know what equipment they have in their offices, how much space they have available, and the way in which they apply their collocation standards.

17. Incumbent LECs that deny collocation for space reasons must allow competitive LECs to tour facilities. This requirement again provides proof of lack of space, and allows competitive LECs to gather evidence for presentation to state commission if there is a factual dispute regarding space availability. The burden on the incumbent LEC is minimum, because it can schedule tours when an employee is on site and available to give one.

18. An incumbent LEC must make public a document available on Internet that lists all its premises that have no more collocation space available, within 10 days of the time that the space fills up completely. This serves competitive LECs by telling them when an incumbent LEC office is full, so they need not apply for space. The burden on incumbent LECs is minimal, because an Internet site is easy and cheap to maintain, and all they are doing is making available information that they already know themselves.

19. An incumbent LEC must submit a report, within 10 days of receipt of a request for such a report, to a requesting competitive LEC indicating how much space is available in a particular incumbent LEC premises. This benefits competitive LECs by allowing them to find out if space is available without having to go through the lengthy and expensive application process. There is minimal burden on the incumbents because they already know the design of their own central offices and should be able to easily state how much space is available for collocation.

20. Incumbent LECs must remove obsolete unused equipment from their premises to create more collocation space. Such a requirement can result in the creation of more collocation space in

central offices that were previously without space. The burden on incumbent LECs is minimal, because if the equipment is obsolete and unused, the removal of such equipment will not affect the network operations of the incumbent.

B. Spectrum Compatibility

21. Incumbent LECs must make public the spectrum management guidelines and policies that they use to determine what services competitive LECs can provide over unbundled loops. This requirement benefits competitive LECs by ensuring they know what services they can provide over unbundled loops. There is a minimal burden to incumbent LECs, because they already know what spectrum management guidelines they are applying to their own network, and they are now simply required to make such information public.

VI. Report to Congress

22. The Commission will send a copy of the First Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the First Report and Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the First Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

List of Subjects in 47 CFR Part 51

Communications common carriers, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Amendments to the Code of Federal Regulations

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 51 as follows:

PART 51—INTERCONNECTION

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

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 51.5 is amended by adding the following definition to read as follows:

§ 51.5 Terms and definitions.

* * * * *

Advanced services. The term “advanced services” is defined as high speed, switched, broadband, wireline telecommunications capability that enables users to originate and receive high-quality voice, data, graphics or video telecommunications using any technology.

* * * * *

3. Section 51.321 is amended by revising paragraphs (c) and (f) and adding new paragraphs (h) and (i) to read as follows:

§ 51.321 Methods of obtaining interconnection and access to unbundled elements under section 251 of the Act.

* * * * *

(c) A previously successful method of obtaining interconnection or access to unbundled network elements at a particular premises or point on any incumbent LEC's network is substantial evidence that such method is technically feasible in the case of substantially similar network premises or points. A requesting telecommunications carrier seeking a particular collocation arrangement, either physical or virtual, is entitled to a presumption that such arrangement is technically feasible if any LEC has deployed such collocation arrangement in any incumbent LEC premises.

* * * * *

(f) An incumbent LEC shall submit to the state commission, subject to any protective order as the state commission may deem necessary, detailed floor plans or diagrams of any premises where the incumbent LEC claims that physical collocation is not practical because of space limitations. An incumbent LEC that contends space for physical collocation is not available in an incumbent LEC premises must also allow the requesting carrier to tour the entire premises in question, not just the area in which space was denied, without charge, within ten days of the receipt of the incumbent LEC's denial of space.

* * * * *

(h) Upon request, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. This report must also include measures that the incumbent LEC is taking to

make additional space available for collocation. The incumbent LEC must maintain a publicly available document, posted for viewing on the incumbent LEC's publicly available Internet site, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space.

(i) An incumbent LEC must, upon request, remove obsolete unused equipment from their premises to increase the amount of space available for collocation.

4. Section 51.323 is amended by revising paragraphs (b), (c), (h), and (i) and adding new paragraph (k) to read as follows:

§ 51.323 Standards for physical collocation and virtual collocation.

* * * * *

(b) An incumbent LEC shall permit the collocation of any type of equipment used or useful for interconnection or access to unbundled network elements. Whenever an incumbent LEC objects to collocation of equipment by a requesting telecommunications carrier for the purposes within the scope of section 251(c)(6) of the Act, the incumbent LEC shall prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements. An incumbent LEC may not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that the incumbent LEC applies to its own equipment. An incumbent LEC may not object to the collocation of equipment on the ground that the equipment fails to comply with National Equipment and Building Specifications performance standards. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days of the denial a list of all equipment that the incumbent LEC locates within the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet. Equipment used for interconnection and access to unbundled network elements includes, but is not limited to:

(1) Transmission equipment including, but not limited to, optical terminating equipment and multiplexers, and

(2) Equipment being collocated to terminate basic transmission facilities pursuant to §§ 66.1401 and 64.1402 of this chapter as of August 1, 1996.

(3) Digital subscriber line access multiplexers, routers, asynchronous transfer

(c) Nothing in this section requires an incumbent LEC to permit collocation of equipment used solely for switching or solely to provide enhanced services; provided, however, that an incumbent LEC may not place any limitations on the ability of requesting carriers to use all the features, functions, and capabilities of equipment collocated pursuant to paragraph (b) of this section, including, but not limited to, switching and routing features and functions and enhanced services functionalities.

* * * * *

(h) An incumbent LEC shall permit a collocating telecommunications carrier to interconnect its network with that of another collocating telecommunications carrier at the incumbent LEC's premises and to connect its collocated equipment to the collocated equipment of another telecommunications carrier within the same premises provided that the collocated equipment is also used for interconnection with the incumbent LEC or for access to the incumbent LEC's unbundled network elements.

(i) An incumbent LEC shall provide, at the request of a collocating telecommunications carrier, the connection between the equipment in the collocated spaces of two or more telecommunications carriers. The incumbent LEC must permit any collocating telecommunications carrier to construct its own connection between the carrier's equipment and that of one or more collocating carriers, if the telecommunications carrier does not request the incumbent LEC's construction of such facilities. The incumbent LEC must permit the requesting carrier to construct such facilities using copper or optical fiber equipment.

(2) An incumbent LEC shall permit collocating telecommunications carriers to place their own connecting transmission facilities within the incumbent LEC's premises outside of the actual physical collocation space, subject only to reasonable safety limitations.

(i) As provided herein, an incumbent LEC may require reasonable security arrangements to protect its equipment and ensure network reliability. An incumbent LEC may only impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their

own premises for their own employees or authorized contractors. An incumbent LEC must allow collocating parties to access their collocated equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the incumbent LEC's premises. Reasonable security measures that the incumbent LEC may adopt include:

(1) Installing security cameras or other monitoring systems; or

(2) Requiring competitive LEC personnel to use badges with computerized tracking systems; or

(3) Requiring competitive LEC employees to undergo the same level of security training, or its equivalent, that the incumbent's own employees, or third party contractors providing similar functions, must undergo; provided, however, that the incumbent LEC may not require competitive LEC employees to receive such training from the incumbent LEC itself, but must provide information to the competitive LEC on the specific type of training required so the competitive LEC's employees can conduct their own training.

* * * * *

(k) An incumbent LEC's physical collocation offering must include the following:

(1) *Shared collocation cages.* A shared collocation cage is a caged collocation space shared by two or more competitive LECs pursuant to terms and conditions agreed to by the competitive LECs. In making shared cage arrangements available, an incumbent LEC may not increase the cost of site preparation or nonrecurring charges above the cost for provisioning such a cage of similar dimensions and material to a single collocating party. In addition, the incumbent must prorate the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation cage or condition the space for collocation use, regardless of how many carriers actually collocate in that cage, by determining the total charge for site preparation and allocating that charge to a collocating carrier based on the percentage of the total space utilized by that carrier. An incumbent LEC must make shared collocation space available in single-bay increments or their equivalent, i.e., a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment.

(2) *Cageless collocation.* Incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a cage or

similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. An incumbent LEC may require collocating carriers to use a central entrance to the incumbent's building, but may not require construction of a new entrance for competitors' use, and once inside the building, incumbent LECs must permit collocating carriers to have direct access to their equipment. An incumbent LEC may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible. In addition, an incumbent LEC must give competitors the option of collocating equipment in any unused space within the incumbent's premises, and may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment. An incumbent LEC must make cageless collocation space available in single-bay increments, meaning that a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment.

(3) *Adjacent space collocation.* An incumbent LEC must make available, where space is legitimately exhausted in a particular incumbent LEC premises, collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. The incumbent LEC must permit the new entrant to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscrimination requirements as applicable to any other physical collocation arrangement. The incumbent LEC must permit the requesting carrier to place its own equipment, including, but not limited to, copper cables, coaxial cables, fiber cables, and telecommunications equipment, in adjacent facilities constructed by either the incumbent LEC or by the requesting carrier itself.

[FR Doc. 99-10832 Filed 4-29-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-187; RM-9371]

Radio Broadcasting Services; Des Moines, IA; Bennington, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the joint request of Triathlon Broadcasting of Omaha Licensee, Inc., licensee of Station KTNP, Bennington, NE, and Saga Communications of Iowa, Inc., licensee of Station KIOA-FM, Des Moines, IA, substitutes Channel 227C3 for Channel 227A at Bennington, NE, modifies the license of Station KTNP to specify the higher powered channel, substitutes Channel 227C1 for Channel 227C at Des Moines, IA, and modifies the license of Station KIOA-FM to specify the lower class channel. See 63 FR 57637, October 27, 1998. Channel 227C1 can be allotted to Des Moines in compliance with the Commission's minimum distance separation requirements and can be used at Station KIOA-FM's licensed site, at coordinates 41-37-54 NL; 93-27-24 WL. Channel 227C3 can be allotted to Bennington, NE, with a site restriction of 15.2 kilometers (9.4 miles) east, at coordinates 41-20-43 NL; 95-58-33 WL, to accommodate Triathlon Broadcasting's desired site. With this action, this proceeding is terminated.

EFFECTIVE DATE: Effective June 7, 1999.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98-187, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 227C and adding Channel 227C1 at Des Moines.

3. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 227A and adding Channel 227C3 at Bennington.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-10906 Filed 4-29-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-27; RM-9188]

Radio Broadcasting Services; Munds Park, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 291A to Munds Park, Arizona, as that community's first local aural transmission service, in response to a petition filed by Dancing Terrapin Broadcasting. See 63 FR 12427, March 13, 1998. Coordinates used for Channel 291A at Munds Park are 34-56-44 NL and 111-38-22 WL. With this action, the proceeding is terminated.

DATES: Effective June 7, 1999. A filing window for Channel 291A at Munds Park, Arizona, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner Mass Media Bureau, (202) 418-2180. Questions related to the application filing process should be addressed to the Audio Services Division, (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98-27, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY A-257),