

representative is responsible for representing the applicant and for ensuring that the applicant has identified all eligible work and submitted all costs for disaster-related damages for funding.

(i) We or the applicant, assisted by the State as appropriate, will prepare a Project Worksheet (FEMA Form 90-91) for each project. The Project Worksheet must identify the eligible scope of work and must include a quantitative estimate for the eligible work.

(ii) The applicant will have 60 days following its first substantive meeting with us to identify and to report damage to us.

(2) When the estimated cost of work on a project is less than \$1,000, that work is not eligible and we will not approve a Project Worksheet for the project. Periodically we will review this minimum approval amount for a Project Worksheet and, if needed, will adjust the amount by regulation.

(e) *Grant approval.* (1) Before we obligate any funds to the State, the Grantee must complete and send to the Regional Director a Standard Form (SF) 424, Application for Federal Assistance, and a SF 424D, Assurances for Construction Programs. After we receive the SF 424 and SF 424D, the Regional Director will obligate funds to the Grantee based on the approved Project Worksheets. The Grantee will then approve subgrants based on the Project Worksheets approved for each applicant.

(2) When the applicant submits the Project Worksheets, we will have 45 days to obligate Federal funds. If we have a delay beyond 45 days we will explain the delay to the Grantee.

(f) *Exceptions.* The following are exceptions to the procedures and time limitations outlined in paragraphs (c), (d), and (e) of this section.

(1) *Grant applications.* An Indian tribe or authorized tribal organization may submit a SF 424 directly to the RD when the Act authorizes assistance and a State is legally unable to assume the responsibilities that these regulations prescribe.

(2) *Time limitations.* The RD may extend the time limitations shown in paragraphs (c) and (d) of this section when the Grantees justifies and makes a request in writing. The justification must be based on extenuating circumstances beyond the grantee's or subgrantee's control.

5. Amend § 206.204 by revising paragraph (e) to read as follows:

§ 206.204 Project performance.

* * * * *

(e) *Cost Overruns.* (1) During the execution of approved work a subgrantee may find that the actual project costs exceed the approved Project Worksheet estimates. Such cost overruns normally fall into the following three categories:

(i) Variations in unit prices;
(ii) Change in the scope of eligible work; or

(iii) Delays in timely starts or completion of eligible work.

(2) The subgrantee must evaluate each cost overrun and, when justified, submit a request for additional funding through the Grantee to the RD for a final determination. All requests for the RD's approval will contain sufficient documentation to support the eligibility of all claimed work and costs. The Grantee must include a written recommendation when forwarding the request. The RD will notify the Grantee in writing of the final determination. FEMA will not normally review an overrun for an individual small project. The normal procedure for small projects will be that when a subgrantee discovers a significant overrun related to the total final cost for all small projects, the subgrantee may submit an appeal for additional funding in accordance with § 206.206, within 60 days following the completion of all its small projects.

* * * * *

6. Amend § 206.205 by revising paragraph (a) to read as follows:

§ 206.205 Payment of Claims.

(a) *Small Projects.* Final payment of the Federal share of these projects will be made to the Grantee upon approval of the Project Worksheet. The Grantee will make payment of the Federal share to the subgrantee as soon as practicable after Federal approval of funding. Before the closeout of the disaster contract, the Grantee must certify that all such projects were completed in accordance with FEMA approvals and that the State contribution to the non-Federal share, as specified in the FEMA-State Agreement, has been paid to each subgrantee. Such certification is not required to specify the amount spent by a subgrantee on small projects. The Federal payment for small projects shall not be reduced if all of the approved funds are not spent to complete a project. However, failure to complete a project may require that the Federal payment be refunded.

* * * * *

7. Amend § 206.208 by revising paragraph (c)(1) to read as follows:

§ 206.208 Direct Federal Assistance.

* * * * *

(c) *Implementation.* (1) If the RD approves the request, a mission

assignment will be issued to the appropriate Federal agency. The mission assignment letter to the agency will define the scope of eligible work, the estimated cost of the eligible work and the billing period frequency. The Federal agency must not exceed the approved funding limit without the authorization of the RD.

* * * * *

8. Amend § 206.228 by revising paragraph (a)(2)(i) to read as follows:

§ 206.228 Allowable costs.

* * * * *

(a) * * *

(1) * * *

(2) *Statutory Administrative Costs—(i) Grantee.* Under section 406(f)(2) of the Stafford Act, we will pay you, the State, an allowance to cover the extraordinary costs that you incur to formulate Project Worksheets for small and large projects, to validate small projects, to prepare final inspection reports, project applications, final audits, and to make related field inspections by State employees. Eligible costs include overtime pay and per diem and travel expenses, but do not include regular time for your State employees. The allowance to the State will be based on the following percentages of the total amount of Federal assistance that we provide for all subgrantees in the State under sections 403, 406, 407, 502, and 503 of the Act:

(A) For the first \$100,000 of total assistance provided (Federal share), three percent of such assistance.

(B) For the next \$900,000, two percent of such assistance.

(C) For the next \$4,000,000, one percent of such assistance.

(D) For assistance over \$5,000,000, one-half percent of such assistance.

* * * * *

Dated: October 1, 1999.

James L. Witt,

Director.

[FR Doc. 99-26352 Filed 10-8-99; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[GC Docket No. 96-55; FCC 99-262]

Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission denies reconsideration of its decision amending its rules concerning the treatment of confidential information submitted to the Commission. It also makes five technical amendments to its Freedom of Information Act-related rules. The amended rules provide the General Accounting Office with more expedited access to confidential information submitted to the Commission. Another amendment clarifies that if a request for confidentiality is denied, the documents will not be disclosed until the Commission disposes of an application for review or a court acts on a motion for stay. The third amendment permits third party owners of materials subject to confidentiality disputes to participate in the proceeding. Another rule amendment permits parties seeking confidential treatment of materials to reply to oppositions to requests for confidentiality.

DATES: Effective October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Laurence H. Schecker, Office of General Counsel, (202) 418-1720.

SUPPLEMENTARY INFORMATION:

1. The Commission has under consideration a petition for reconsideration filed by MCI WorldCom, Inc. (MCIW), of our decision setting out our general policies governing the handling of confidential information. In the *Matter of Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, 63 FR 44161 (August 18, 1998); 13 FCC Rcd 24816 (1998) (*Report and Order*). MCIW seeks rule changes that would restrict the ability of a submitting party to seek confidential treatment of tariff cost support data and that would allow access to confidential information pursuant to a protective order while a denial of confidentiality was being appealed to the Commission. We deny MCIW's petition. In addition, we amend the rules to ensure that the General Accounting Office (GAO) has more efficient access to confidential materials, consistent with its statutory authority, and to make minor technical changes to the confidentiality portions of our Freedom of Information Act (FOIA) regulations.

2. *Disclosure to the GAO.* Section 0.442 of our Rules, 47 CFR 0.442, along with 44 U.S.C. 3510, governs disclosure of records to other federal government agencies (but not to Congress, see 47 CFR 0.442(e)). Section 0.442 currently provides that information submitted to the Commission in confidence will be disclosed to other federal agencies as long as the Commission has not given

specific assurances against such disclosure, the requesting agency has established a legitimate need for the information, the confidentiality of the information will be maintained by the requesting agency, and disclosure is not prohibited by the Privacy Act or other law. 47 CFR 0.442(b). A party who submits confidential information to the Commission is notified at the time the records are requested by another federal agency and may oppose the requests. No notice is provided, however, if notice will unduly interfere with law enforcement activities, in which case notice is provided once the potential for interference is eliminated. 47 CFR 0.442(d)(1), (2). If the party who submitted the confidential information does not object, the information is provided to the requesting federal agency. 47 CFR 0.442(d)(3). If disclosure is opposed, and the Commission decides to provide the information to the requesting agency, the submitting party is afforded 10 working days to seek a judicial stay. 47 CFR 0.442(d)(4).

3. Recently, the Commission has received numerous requests for documents from GAO. The 10-day notice procedures of section 0.442 have resulted in unnecessary delay when GAO requests information that is deemed confidential by the submitting party. We do not believe this notice period is necessary, as GAO is required under its own statute, 31 U.S.C. 716(e), to maintain the confidentiality of confidential information that it obtains from the Commission. Moreover, the Commission is obligated by law to allow GAO access to its records. See 31 U.S.C. 716(a). Given GAO's undisputed statutory authority, in our experience the 10-day period has merely resulted in delaying GAO's ability to gain access to requested information. We will therefore amend section 0.442(e) to provide that the advance notification requirement does not apply to requests from the GAO, although we will continue to provide notice that GAO has been afforded access to the documents. We find good cause that this rule change may be made without notice and comment because it is more consistent with Congress' clear intent that GAO be afforded unimpeded access to Commission records, and thereby better serves the public interest. See 5 U.S.C. 553(b)(B). For the same reason, we will make this change effective upon publication in the **Federal Register**. See 5 U.S.C. 553(d)(3).

4. *Technical Amendments to the Rules.* We take this opportunity to make several minor procedural amendments to our confidentiality regulations. Section 0.459(g) will be modified to

clarify that documents will not be disclosed until the Commission disposes of any application for review of the order denying confidentiality and, if a judicial stay of that order is sought, until the court disposes of the motion for stay. This is consistent with out current practice. In addition, in the *Report and Order* we indicated that we would amend section 0.459 to permit third party owners of materials subject to confidentiality disputes to participate in the proceeding resolving the confidentiality issue, but by oversight section 0.459 was not so amended. Section 0.459 will be amended accordingly and corresponding changes will be made to section 0.461. We also believe that the rules should be amended to make clear that if a response in opposition to a confidentiality request is filed, the party requesting confidentiality should be able to reply. Section 0.459 will be amended to so provide. We will also correct the citation to the Paperwork Reduction Act (PRA) in 47 CFR 0.442(a) and (b), because the confidentiality section of the PRA was recodified as 44 U.S.C. 3510(b). These modifications are either nonsubstantive rule changes or procedural rules that do not require notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b)(A) (rules of agency procedure do not require notice and comment). See *Aluminum Co. of America v. FTC*, 589 F. Supp. 169, 178 (S.D.N.Y. 1984) (holding FOIA rules are procedural rules); see also *JEM Broadcasting Co., Inc. v. FCC*, 22 F.3d 320, 326-28 (D.C. Cir. 1994) (rules of agency procedure are exempt from general notice and comment requirements of the APA). For the same reason, we will make this change effective October 12, 1999. See 5 U.S.C. 553(d).

List of Subjects in 47 CFR Part 0

Freedom of Information.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 0 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.442 is amended by removing "3508(a)" and adding

"3510(b)" in its place in paragraphs (a) and (b), and by revising paragraph (d)(1), (d)(3), and (e) to read as follows:

§ 0.442 Disclosure to other Federal government agencies of information submitted to the Commission in confidence.

* * * * *

(d)(1) Except as provided in paragraphs (d)(2) and (d)(3) of this section, a party who furnished records to the Commission in confidence will be notified at the time that the request for disclosure is submitted and will be afforded 10 days in which to oppose disclosure.

* * * * *

(3) A party who furnished records to the Commission in confidence under § 0.457(d) or 0.459 will not be afforded prior notice when the disclosure is made to the Comptroller General. Such a party will instead be notified of disclosure of the records to the Comptroller General either individually or by public notice.

* * * * *

(e) Except as provided in paragraph (d)(3) of this section, nothing in this section is intended to govern disclosure of information to Congress or the Comptroller General.

3. Section 0.459 is amended by adding a sentence to the end of paragraph (d)(1), by adding a sentence to the end of paragraph (g), and by adding paragraph (i) to read as follows:

§ 0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.

* * * * *

(d)(1) * * * If a response in opposition to a confidentiality request is filed, the party requesting confidentiality may file a reply.

* * * * *

(g) * * * Materials will be accorded confidential treatment, as provided in § 0.459(g) and § 0.461, until the Commission acts on any timely applications for review of an order denying a request for confidentiality, and until a court acts on any timely motion for stay of such an order denying confidential treatment.

* * * * *

(i) Third party owners of materials submitted to the Commission by another party may participate in the proceeding resolving the confidentiality of the materials.

4. Section 0.461 is amended by revising paragraph (i) to read as follows:

§ 0.461 Requests for inspection of materials not routinely available for public inspection.

* * * * *

(i)(1) If a request for inspection of records submitted to the Commission in confidence under § 0.457(d) or § 0.459 is granted, an application for review of the action may be filed by the person who submitted the records to the Commission or by a third party owner of the records. The application for review and the envelope containing it (if any) shall be captioned "Review of Freedom of Information Action." The application for review shall be filed within 10 working days after the date of the written ruling, shall be delivered or mailed to the General Counsel, and shall be served on the person who filed the request for inspection of records. The first day to be counted in computing the time period for filing the application for review is the day after the date of the written ruling. If an application for review is not filed within this period, the records will be produced for inspection. The person who filed the request for inspection of records may respond to the application for review within 10 working days after it is filed.

(2) If the request for inspection of records submitted to the Commission in confidence under § 0.457(d) or § 0.459 is partially granted and partially denied, the person who submitted the records to the Commission, a third party owner of the records and the person who filed the request for inspection of those records may file an application for review within the 10 working days after the date of the written ruling. The application for review and the envelope containing it (if any) shall be captioned "REVIEW OF FREEDOM OF INFORMATION ACTION." The application for review shall be delivered or mailed to the General Counsel. If either person files an application for review, it shall be served upon the other person.

(3) If an application for review is denied, the person filing the application for review will be notified in writing and advised of their rights.

(4) If an application for review filed by the person who submitted the records to the Commission or who owns the records is denied, or if the records are made available on review which were not initially made available, the person who submitted the records to the Commission or who owns the records will be afforded 10 working days from the date of the written ruling in which to move for a judicial stay of the Commission's action. The first day to be counted in computing the time period for seeking a judicial stay is the day after the date of the written ruling. If a motion for stay is not made within this

period, the record will be produced for inspection.

* * * * *

[FR Doc. 99-26520 Filed 10-8-99; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 98-170; FCC 99-72]

Truth-in-Billing and Billing Format

AGENCY: Federal Communications Commission.

ACTION: Final rule; establishment of effective date.

SUMMARY: This document establishes the effective and compliance dates of the Commission's rules published June 25, 1999 concerning Truth-in-Billing. The rules are intended to ensure that consumers are provided with basic information they need to make informed choices among telecommunications services and providers, to protect themselves against inaccurate and unfair billing practices, and to enhance their ability to detect cramming and slamming.

DATES: Sections 64.2000 and 64.2001 become effective November 12, 1999. However, compliance with § 64.2001(a)(2)'s requirement that carriers highlight new service providers, and § 64.2001(c), which requires that carriers identify deniable and nondeniable charges, is required by April 1, 2000.

FOR FURTHER INFORMATION CONTACT: David A. Konuch, Enforcement Division, Common Carrier Bureau (202) 418-0960.

SUPPLEMENTARY INFORMATION: On April 15, 1999, the Commission adopted an order establishing billing principles to ensure that consumers are provided with basic information they need to make informed choices among telecommunications services and providers, to protect themselves against inaccurate and unfair billing practices, and to enhance their ability to detect cramming and slamming. A summary of this order was published in the **Federal Register**. See 64 FR 34488, June 25, 1999. Because §§ 64.2000 and 64.2001 impose new information collection requirements, they could not become effective until approved by the Office of Management and Budget (OMB). On September 24, 1999, OMB approved the information collections contained in the rules. During this review, OMB raised concerns that certain requirements of the Order could impair the efforts of