

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

[FRL-7110-1]

**National Priorities List for Uncontrolled Hazardous Waste Sites; Notice of Amendment to Proposed Listing of the Smeltertown-Operable Unit 3 (CoZinCo) Superfund Site, Salida, Chaffee County, CO****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of amendment to proposed listing.

**SUMMARY:** In accordance with the requirements of section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(h)(1), notice is hereby given that the proposal to list the Smeltertown-Operable Unit 3 site on the National Priorities List (NPL) is amended to exclude the CoZinCo facility from the scope of listing under section 122(h) of CERCLA, 42 U.S.C. 9622(h). The Smeltertown-Operable Unit 3 Site is located in Salida, Chaffee County, Colorado (the Site). This amendment was initially proposed on May 11, 2000 (65 FR 30489). CoZinCo, Inc., submitted comments on July 10, 2000, supporting the amendment, but disputing the rationale for such action. On August 14, 2000, CoZinCo, Inc., amended its comments, withdrawing its request for a written response from EPA regarding the Agency's rationale for the amendment for the proposed NPL listing. On August 25, 2000, CoZinCo, Inc. withdrew its comments in their entirety. No other comments were received by EPA.

**FOR FURTHER INFORMATION CONTACT:** Andrea Madigan, Legal Enforcement Attorney (ENF-L) Legal Enforcement Program, U.S. Environmental Protection Agency, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, (303) 312-6904.

Dated: November 15, 2001.

**Diane L. Sipe,**

*Acting Assistant Regional Administrator,  
Office of Enforcement, Compliance and  
Environmental Justice, Region VIII.*

[FR Doc. 01-29657 Filed 11-29-01; 8:45 am]

**BILLING CODE 6560-50-P****FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 51**

[CC Docket No. 01-318, CC Docket No. 98-56, CC Docket No. 98-157, CC Docket No. 96-98, CC Docket No. 98-141; FCC 01-331]

**Performance Measurements and Standards for Unbundled Network Elements and Interconnection****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** This document seeks comment on whether the Commission should adopt a select group of measurements and standards for evaluating incumbent local exchange carrier (LEC) performance in the provisioning of facilities that are used by their carrier-customers to compete for end-user customers. In particular, the Commission offers for comment performance measurements and standards that could apply to the key aspects of pre-ordering, ordering, provisioning, and maintaining those facilities and services that are critically important to ensuring that competitive LECs can enter the market for local exchange services, as contemplated by the Telecommunications Act of 1996. The Commission therefore seeks comment on measurements and standards for collocation, loop, transport, and interconnection trunk facilities. The Commission also seeks comment on enforcement policies and guidelines should the Commission promulgate national measurements and standards for unbundled network elements and interconnection.

**DATES:** Comments are due December 31, 2001 and Reply Comments are due January 22, 2002.

**FOR FURTHER INFORMATION CONTACT:** Cathy Carpino, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-1580.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket No. 01-318, FCC 01-331, adopted November 8, 2001, and released November 19, 2001. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street,

SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). It is also available on the Commission's website at <http://www.fcc.gov>.

**Synopsis of the Notice of Proposed Rulemaking**

1. Background. The Commission intends to fold all relevant proceedings relating to measurements and standards for UNEs and interconnection into the instant proceeding. Toward that end, the Commission terminates CC Docket No. 98-56 and urges all interested parties that filed comment in that docket to participate in this proceeding. Moreover, the Commission incorporates by reference the record generated by the Association for Local Telecommunications Services' petition related to UNE and interconnection measurements and standards. Finally, the Commission requests further comment on a 90-day collocation provisioning interval and incorporates by reference the record on this issue created in CC Docket Nos. 98-147 and 96-98.

2. Legal Authority, Enforcement and Scope. Although the Commission seeks comment on whether to adopt national performance measurements and standards, its authority to do so is clear, pursuant to sections 201(b), 251 and 252 of the Communications Act of 1934, as amended (Act). The Commission recognizes that many state commissions have adopted extensive performance measurements, standards, and penalty plans to capture incumbent LECs' performance in provisioning UNEs, interconnection trunks and collocation. Accordingly, the Commission seeks comment on how to build on states' efforts in developing national performance measures and standards.

3. The Commission seeks comment on whether and how state and federal performance requirements could be harmonized and streamlined through the adoption of national measurements and standards. Should this harmonization not occur, however, the adoption of national measurements and standards could increase overall reporting burdens on incumbent LECs. Thus, the Commission seeks comment on the possibility of national performance measurements and standards reducing an incumbent's reporting requirements and on the likelihood of differences between state and national performance requirements. In particular, the Commission seeks comment on whether it is consistent with the deregulatory emphasis of the Act to have separate sets of federal and

state performance measurements and standards.

4. The Commission seeks comment as to whether it should exercise the full panoply of enforcement mechanisms available to it under the Act to enforce any national measurements and standards it might adopt. Should the Commission establish specific enforcement policies or guidelines for responding to violations? The Commission also seeks comment on whether national measurements, standards, and reporting requirements for UNEs, interconnection trunks, and collocation should apply to all incumbent LECs and not just to some category of incumbent LECs.

5. Performance measurements and standards. The Commission sets forth for comment a core set of twelve performance measurements for four basic functions obtained from the incumbent LEC: pre-ordering, ordering, provisioning, and maintenance and repair services. The Commission seeks comment on the following questions, among others, with respect to those twelve measurements: (1) Are there other performance metrics that better measure an incumbent LEC's performance and are less burdensome? (2) What associated penalties, if any, should apply if the incumbent LEC does not meet the standard established for a particular metric? and (3) What are the appropriate definitions, exclusions, business rules, and levels of disaggregation to apply to the metrics set forth for comment?

6. Implementation, Reporting Procedures, Performance Evaluation and Statistical Issues. The Commission seeks comment regarding: (1) Data validation and audits procedures, (2) whether national performance measures and standards would benefit from workshops based on general guidance from the Commission regarding scope, number and applicability of performance measures and standards, (3) periodic review of the measurements and sunset provisions, and (4) reporting procedures.

#### Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act (RFA), as amended, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this document. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the document provided above. The

Commission will send a copy of the document, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, this document will be published in the **Federal Register**.

#### Need for, and Objectives of, the Proposed Rules

8. In this document, the Commission seeks comment on whether it should adopt a limited number of measurements and standards for evaluating incumbent LEC performance with respect to pre-ordering, ordering, provisioning, repair, and maintenance functions that are critical for competitive carriers to compete for end-user customers. We seek comment on the use and scope of any performance requirements and, as a threshold matter, on how to balance competitors' concerns about poor provisioning of UNEs, interconnection trunks and collocation with the incumbent LECs' concern about the number and cost of state and federal measurements and standards. Moreover, we seek comment on whether these are problems for which intervention in the form of national measurements and standards is more beneficial than harmful, and expect that the comments we receive in response to this document will inform our decision. In addition, we seek comment on how these standards may benefit the industry in general by increasing the uniformity of expectations and creating clear, predictable, and enforceable standards. Finally, we seek comment on the most appropriate periodic review or sunset mechanism should we adopt a set of measurements and standards.

#### Legal Basis

9. The legal basis for any action that may be taken pursuant to this document is contained in sections 1, 2, 4, 201, 202, 251, 252 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 202, 251, 252 and 303(r).

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

10. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that will be affected by any rules. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of 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 SBA.

11. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

12. *Local Exchange Carriers*. The most reliable source of information regarding the number of LECs nationwide appears to be the data that we collect annually in connection with the Telecommunications Relay Service. According to our most recent data, there are 1,335 incumbent LECs. Additionally, it appears that 1,037 of these entities have 1,500 or fewer employees although we are uncertain whether all of these carriers are independently owned and operated.

#### Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

13. This document acknowledges that the reporting requirements may require incumbent LECs to modify existing computer systems to collect the necessary data and that there may be a certain level of expense involved in generating performance measurements and statistical analyses. However, as noted below, the Commission already requires several BOCs to file such performance reports. Moreover, many states require certain carriers to report their performance with respect to similar, if not identical, measurements and standards. To date, states where the BOC has received section 271 approval have reporting requirements that are more extensive than those contemplated in this document. Therefore, we expect that any proposal we may adopt pursuant to this document will not substantially increase existing reporting, recordkeeping or other compliance requirements. Finally, the document requests comment on how national performance measurements and standards could serve to minimize inconsistent or redundant state and federal requirements, and thereby not

increase incumbent LECs' overall regulatory burdens.

### Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

14. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

15. A key objective of this proceeding is to adopt performance measurements and reporting requirements that will not ultimately increase the overall regulatory burdens on carriers, particularly small entities. As explained in detail, a primary goal in considering whether to establish national performance measurements and standards is whether such requirements can serve to rationalize the multiple regulatory requirements imposed on carriers. Additionally, the document expressly seeks comment on how adopted rules should be modified to take into account any particular concerns of small, midsized or rural incumbent LECs. The document also requests comment on how measurements could be tailored to address the unique characteristics of the areas in which these carriers are located. Finally, we seek comment on whether, as an alternative, small entities should file reports less frequently than larger incumbent LECs and whether the Commission should delay the implementation of any new reporting requirements for small entities.

### Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

16. A modest amount of duplication, overlap, or conflict may exist between the measurements offered for comment in this document and the measurements that certain BOCs report as part of their merger conditions. This document requests comment on whether and how federal performance requirements could be harmonized and possibly streamlined through the adoption of national measurements and standards, expressly mentioning the Commission's Merger Orders. Again, a goal of this proceeding

is to minimize inconsistent or redundant federal requirements.

### Ordering Clauses

17. Accordingly, pursuant to Sections 1, 2, 4, 201, 202, 251, 252 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 202, 251, 252 and 303(r), *a Notice of Proposed Rulemaking is Adopted.*

18. CC Docket No. 98-56 is hereby *Terminated.*

19. Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of this document, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission  
**Magalie Roman Salas,**  
*Secretary.*

[FR Doc. 01-29746 Filed 11-29-01; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 54 and 69

[CC Docket No. 00-256; FCC 01-304]

### Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Further notice of proposed rule.

**SUMMARY:** In this document, the Commission considers methods by which to build on the access charge reforms adopted for rate-of-return carriers in the companion Report and Order. Second, the Commission will consider the appropriate degree and timing of pricing flexibility for rate-of-return carriers. Third, the Commission seeks further comment on the MAG's proposed changes to the Commission's "all-or-nothing" rule. In these ways, the Commission seeks to improve the efficiency of the provision of telecommunications services in rural America by ultimately relying on markets to discipline prices and service quality and, whenever possible, to reduce regulatory oversight. Finally, the Commission seeks comment on merging the Long Term Support (LTS) mechanism into Interstate Common Line Support as of July 1, 2003, when the Carrier Common Line (CCL) charge will be eliminated.

**DATES:** Comments are due on or before December 31, 2001. Reply comments are due on or before January 29, 2002.

**ADDRESSES:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Douglas Slotten, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418-1520. Regarding LTS, contact William Scher, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418-7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 00-256 released on November 8, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC, 20554 or at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-01-304A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-01-304A1.doc).

### I. Further Notice of Proposed Rulemaking

#### A. Alternative Regulation

1. In this section, we critique the MAG proposal for introducing incentive regulation for rate-of-return carriers. This evaluation will form a foundation on which to discuss the development of an appropriate alternative regulation plan for rate-of-return carriers. We then explore several options for alternative regulation and seek input to assist in setting the parameters of any plan to be adopted.

#### a. Critique of MAG's Incentive Regulation Proposal

2. Based on the present record, we are unable to conclude that the MAG's incentive regulation plan should be adopted. The MAG's incentive regulation plan does not properly balance carrier and customer interests given the current regulatory environment for those carriers. In addition to the broad concerns we identify in this section with the plan as proposed, other issues will be raised in the discussion addressing the development of an alternative regulatory structure for rate-of-return carriers.