that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), an ''Environmental Analysis Check List'' or ''Categorical Exclusion Determination'' is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

2. § 117.469 is revised to read as follows:

§ 117.469 Liberty Bayou.

The draw of the S433 Bridge, mile 2.0 at Slidell, shall open on signal, except that between 7 p.m. and 7 a.m., the draw shall open on signal if at least 2 hours notice is given.

Dated: November 6, 2007.

J.H. Korn,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.

[FR Doc. E7–22365 Filed 11–14–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2007–1003; FRL–8492–2]

Revisions to the California State Implementation Plan, Imperial County and Monterey Bay Unified Air Pollution Control Districts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) and the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portions of the California State Implementation Plan (SIP). This action revises and adds various definitions of terms used by the ICAPCD and MBUAPCD. We are proposing to approve these local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by *December 17, 2007.*

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2007–1003, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

2. *E-mail: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, EPA Region IX, (415) 947–4120, *allen.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: ICAPCD 101, ''Definitions'' and MBUAPCD 101, ''Definitions.'' In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: October 11, 2007.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. E7–21810 Filed 11–14–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 07–135; FCC 07–176]

47 CFR Parts 61 and 69

Establishing Just and Reasonable Rates for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: In the Notice of Proposed Rulemaking (NPRM), the Federal Communications Commission (Commission) initiates a proceeding to examine whether its existing rules governing the setting of tariffed rates by local exchange carriers (LECs) provide incentives and opportunities for carriers to increase access demand endogenously with the result that the tariff rates are no longer just and reasonable. The Commission tentatively concludes that it must revise its tariff rules so that it can be confident that tariffed rates remain just and reasonable even if a carrier experiences or induces significant increases in access demand. The Commission seeks comment on the types of activities that are causing the

increases in interstate access demand and the effects of such demand increases on the cost structures of LECs. The Commission also seeks comment on several means of ensuring just and reasonable rates going forward. The NPRM invites comment on potential traffic stimulation by rate-of-return local exchange carriers (LECs), price cap LECs, and competitive LECs, as well as other forms of intercarrier traffic stimulation.

DATES: Comments are due on or before December 17, 2007. Reply comments are due on or before December 31, 2007.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Douglas Slotten, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1572.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in WC Docket No. 07–135, adopted on October 2, 2007, and released on October 2, 2007. The complete text of this Notice of Proposed Rulemaking is available for public inspection Monday through Thursday from 8 a.m. to 4:30 p.m. and Friday from 8 a.m. to 11:30 a.m. in the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text is available also on the Commission's Internet site at *www.fcc.gov.* Alternative formats are available for persons with disabilities by contacting the Consumer and Governmental Affairs Bureau, at (202) 418–0531, TTY (202) 418–7365, or at *fcc504@fcc.gov.* The complete text of the decision may be purchased from the Commission's duplicating contractor, Best Copying and Printing, Inc., Room CY–B402, 445 12th Street, SW., Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, or e-mail at *fcc@bcpiweb.com.*

Synopsis of Notice of Proposed Rulemaking

1. In the Notice of Proposed Rulemaking (NPRM), the Commission initiates a rulemaking proceeding to examine whether its existing rules governing the setting of tariffed rates by local exchange carriers (LECs) provide incentives and opportunities for carriers to increase access demand endogenously with the result that the tariff rates are no longer just and reasonable. Several interexchange carriers (IXCs) have filed complaints, either with the Commission or with United States federal district courts pursuant to sections 206–209 of the Act, alleging that such increases in access traffic have caused the involved LECs to earn a rate of return grossly in excess of the maximum allowed rate of return. The Commission tentatively concludes that it must revise its tariff rules so that it can be confident that tariffed rates remain just and reasonable even if a carrier experiences or induces significant increases in access demand.

2. The Commission observes that recent increases in switched access traffic appear to have been caused by the deployment of chat lines, conference bridges, or other similar high call volume operations in the service areas of certain rate-of-return or competitive LECs. Users of these services make interstate calls to the services and the LECs assess interstate access charges on the IXCs that deliver the calls. The applicable per minute access charge rates are often high because many of the carriers involved in these arrangements are small carriers whose rates were set based on higher than average costs and a low volume of traffic based on historical levels. It is alleged that the LECs experiencing or creating this access growth share the access revenues they receive with the service providers whose services are generating the demand growth. As a direct result of the increase in traffic volume, the LECs are alleged to be earning returns on these access services that are substantially above the maximum rate of return authorized by the Commission.

3. The Commission seeks to establish a more complete record as to the activities that are occurring, how the services are provided, and how compensation occurs between the involved parties. The Commission invites parties to comment on the prevalence of these types of operations and to describe in detail how each type of service is provisioned. The Commission asks parties to explain what fees, including both interstate and intrastate fees, the service provider pays to the LEC. The Commission also asks parties to describe what monies or other benefits the LEC provides to the provider of the stimulating activity, including, for example, direct payments, revenue sharing, commissions, or free services. The Commission asks that carriers complaining about the access stimulation arrangements explain how they provide each of the above mentioned services, including what charges they assess on the provider, whether access charges are assessed on such calls, and what compensation, if any, is paid to such provider.

4. The Commission observes that, if the average revenue per minute remains constant as demand grows, but the average cost per minute falls (which occurs if the marginal cost per minute is less than the average cost per minute), then profits (or return) will rise. In such circumstances, when a carrier experiences significant increases in access traffic, its realized rates of return are likely to exceed the authorized rate of return and thus the tariffed rates become unjust and unreasonable at some point. The Commission invites parties to comment on this analysis. It asks parties to identify and quantify the projected increase in investment and plant-related expenses associated with increases in switched access minutes.

5. Noting allegations that some LECs involved in access stimulation activities have been sharing revenues or paying some other form of compensation to the entity stimulating the terminating traffic, the Commission observes that, if compensation costs are included in a LEC's operating expense and thus bundled with access costs, the IXCs are paying for the costs of the stimulating service through the higher access charges assessed by the exchange carrier. The Commission tentatively concludes that a rate-of-return carrier that shares revenue, or provides other compensation to an end user customer, or directly provides the stimulating activity, and bundles the costs of such sharing, other compensation, or direct provisioning with its exchange access costs as part of its revenue requirement is engaging in an unreasonable practice that violates section 201(b) and the prudent expenditure standard. On its face, the compensation paid by the exchange carrier to the entity stimulating the traffic is unrelated to the provision of exchange access. The Commission invites parties to comment on this tentative conclusion. The Commission also asks parties to comment on whether, if the costs are not included in revenue requirements, the Commission has satisfied its obligation to ensure that just, reasonable, and non-discriminatory rates are maintained, or whether the payments may be an unlawful rebate.

6. The Commission tentatively concludes that average per minute switching costs do not increase proportionately to average per minute revenues as access demand increases, and that, as a result, rates that may be just and reasonable given a specific level of access demand may not be just and reasonable at a higher level of access demand. The type of increased demand under consideration in this proceeding occurs after the tariffs

become effective and was not included in the development of the carrier's filed switched access charges. Thus, the pre-review of the filed tariff may not enable the Commission to identify, prior to the time the tariff becomes effective, those cases in which significant increases in access demand will occur after the effective date of the tariff and will result in unreasonable rates. In these circumstances, the deemed lawful provisions of the Communications Act would be protecting rates that are unjust and unreasonable rather than protecting customers. The Commission tentatively concludes that it should have the opportunity to review the relationship between rates and average costs through the filing of a revised tariff when a section 61.38 or 61.39 carrier experiences significant increases in traffic to ensure that just and reasonable rates are maintained. Accordingly, the Commission tentatively concludes that section 61.38 and 61.39 carriers that file their own tariffs should be required to include language in their traffic-sensitive tariffs to the effect that, if their monthly local switching minutes exceed a given percent of the local switching demand of the same month of the preceding year, the carriers will file revised local switching and transport tariff rates to reflect this increased demand within a stated period of time. The Commission invites parties to comment on whether this conceptual approach is adequate to address the problems identified, or whether another approach would be more effective. The Commission seeks comment on whether any additional or revised reporting is necessary. Recognizing that establishing a tariffed trigger to require a new tariff filing is unlikely to address any cases of access stimulation by carriers participating in the National Exchange Carrier Association (NECA) pooling process, given the higher access demand of the NECA traffic-sensitive pool, the Commission invites parties to comment on the incentives of carriers in the NECA traffic-sensitive pool to engage in traffic stimulation and the methods they could employ to realize the benefits of the stimulation. Parties are also invited to address what steps, if any, should be adopted to address possible traffic stimulation by carriers in the NECA traffic-sensitive pool.

7. The Commission invites parties to comment on the traffic growth rate that should require a carrier to make a new tariff filing and on how the demand should be measured, e.g., over what period of time and/or should the demand level vary by the size of the carrier. The Commission asks parties to comment on whether the Commission should adopt a rule requiring carriers to file revised tariffs whenever they enter into an arrangement that would have the effect of stimulating switched access traffic by some percentage. If such a rule is adopted, parties should address whether the Commission should forbear from applying deemed lawful status to the new tariff rates. Finally, parties should address how the proposals contained in this order can be applied to carriers who are engaged in access stimulation activities today, or how such proposals can be adapted to address that situation.

8. The Commission invites parties to comment on the appropriate period of time within which a carrier should be required to file a revised tariff after it learns it has exceeded the growth trigger. The Commission also asks parties to address what cost support materials should be required of section 61.38 carriers to ensure that the Commission will have the data necessary to prescribe just and reasonable rates, if that becomes necessary. Parties should comment on what additional data would be necessary if they believe that incremental cost factors will be necessary to establish revised rates that will be just and reasonable. Parties should also comment on how the demand estimates used in the revised tariff filing should be determined.

9. The Commission also asks about the tariff support materials that should be required of a section 61.39 carrier using historical average schedule demand. The formulas are developed based on an examination of the costs and demand of comparably sized cost companies and are designed to produce disbursements to an average schedule company that simulate the disbursements that would be received by a cost company that is representative of the average schedule company. The Commission tentatively concludes that the average schedule formulas can only yield reasonable estimates of an average schedule carrier's cost when the demand is within the range used to develop the formulas. The Commission invites parties to comment on the validity of this tentative conclusion with respect to both section 61.39 average schedule carriers and to average schedule carriers in the NECA traffic-sensitive pool that experience increased traffic that is beyond the demand observed in establishing the average schedule formulas. If parties believe that the average schedule formulas produce an incorrect estimate of an average schedule carrier's costs when demand has increased dramatically over some baseline period, they should suggest ways the Commission could revise section 61.39 or other rules to address average schedule carriers in the NECA traffic-sensitive pool. Parties should also comment on the extent to which historical and prospective demand should be used in establishing revised rates.

10. Parties are also invited to comment on two alternatives for establishing rates for section 61.39 average schedule carriers or average schedule carriers in the NECA traffic-sensitive pool that experience significant increases in demand. First, the Commission could require NECA, as part of its development of the average schedule formulas, to define the range over which the formulas were valid. Once a carrier's demand reached the top of the range, it would be presumed to have recovered all of its costs. The carrier's settlement would be set at the amount produced by the formula at that demand level. That amount would then be used to calculate the carrier's switched access rates. Alternatively, the Commission could require NECA to extend the range of the formulas in a manner that addressed the reduced incremental costs of increased traffic.

11. The Commission also seeks comment on proposals that section 61.39 carriers be required to certify as part of their tariff filing that they are not currently stimulating traffic and will not do so during the tariff period. The Commission invites parties to comment on this idea, either as a stand-alone proposition, or as part of a broader package of rule revisions. Alternatively, the Commission could make clear that by filing a tariff, a carrier is making certain representations. For example, the Commission could adopt a rule providing that by filing under section 61.39, a carrier is certifying that its use of historical average schedule settlement data to establish its rates is in fact a reasonable proxy for its future costs. More broadly, the Commission could establish an ongoing requirement that carriers bring to the Commission's attention all significant operational changes that could materially affect the reasonableness of their rates. Parties should comment on the need for requirements such as these and should provide rule language that would specify the extent of a carrier's obligation. The Commission contemplates that a finding that a carrier had failed to disclose any required information could be the basis for denying deemed lawful status to the carrier's rates.

12. Without reasonable and reliable methods of establishing new cost and

demand levels, the Commission could be unable to determine whether revised switched access rates filed based on a higher demand will be just and reasonable. Parties should address whether it would be appropriate for the Commission, on its own motion, to forbear from enforcing the deemed lawful provision of section 204(a)(3) for the remainder of the two-year tariff period if a mid-course tariff filing is triggered by a sufficient increase in demand. The Commission also asks whether it should forbear from enforcing the deemed lawful provision of section 204(a)(3) with respect to a carrier's rates if it fails to file a revised tariff when required. Each of these approaches would have the effect of excluding such tariffs from the streamlined filing process. Parties are also asked to comment on what reporting requirements, if any, should be established for any carrier whose rates may no longer be deemed lawful if the Commission adopts this proposal.

13. If the Commission was to forbear from deemed lawful in these limited circumstances, carriers may be subject to refunds because deemed lawful would not apply to their tariffed rates. Parties should comment on what approach the Commission should use in determining whether section 61.38 and 61.39 carriers should be required to make a refund and how to determine the amount of any such refund. In addition, commenters are encouraged to suggest alternative means besides forbearance to eliminate the prohibition on refunds resulting from deemed lawful. For example, parties should comment on the possibility of requiring carriers to file revised tariffs on a notice period such that deemed lawful status would not apply, rather than forbearing from its application.

14. Section 61.39(b)(2)(ii) requires the use of the ''most recent average schedule formulas approved by the Commission.'' This language may be ambiguous in its reference to the appropriate formula to use and does not mention demand at all. To clarify the application of this rule, the Commission invites parties to comment on when a carrier should switch from one year's formula to the next. Parties should also consider whether a calendar year should be used as the period for measurement in order to get more recent historical data.

15. The IXCs allege that the section 61.39 carriers have exhibited a pattern of exiting the NECA traffic-sensitive pool when their demand is low, thus establishing a high rate for the two-year effective period of the tariff. The IXCs further allege that, after a single two-year period as a section 61.39 carrier, the carriers reenter the NECA traffic-sensitive pool to avoid basing rates for the next two years on the high demand realized while they were not in the NECA pool. To address this, the Commission could make the section 61.39 election one-way, could require that carriers remain out of the NECA traffic-sensitive pool for a stated number of tariff cycles, or could eliminate the section 61.39 option altogether. The Commission invites parties to comment on these and other options the Commission has to ensure that rates remain just and reasonable and that section 61.39 does not itself provide incentives for carriers to engage in regulatory arbitrage.

16. Although the complaints to date about access stimulation have generally been directed at section 61.38 and 61.39 carriers, the Commission is interested in understanding the full breadth of possible access stimulation activities. The Commission, therefore, invites parties to indicate the extent to which price cap carriers have an incentive to engage in or are engaging in access stimulation. If price cap carriers are engaging, or can economically engage in access stimulation, the Commission invites parties to address what actions it should take to ensure that their rates are just and reasonable.

17. Finally, the Commission addresses the potential for access stimulation by competitive LECs. Competitive LECs may file access tariffs if their rates comply with the benchmarking requirements of section 61.26. That section allows competitive LECs to file tariffs if the rates are no higher than those charged by the incumbent LEC serving the same area, or, in the case of rural competitive LECs competing against a non-rural incumbent LEC, to charge a rate no higher than NECA's access rate, assuming the highest band for local switching. Under these rules, a competitive LEC has the same incentive to stimulate access traffic as does an incumbent LEC.

18. The Commission invites parties to comment on several proposals for addressing the incentives for and abilities of competitive LECs to engage in access stimulation activities, including requiring a competitive LEC relying on the rural exemption to file quarterly reports of interstate access minutes and modify its tariffs if it exceeds defined volume thresholds. The Commission asks parties to comment on how competitive LEC access traffic should be measured and how such traffic measures could be verified. The Commission asks parties to comment on whether a competitive LEC should be subject to any of the other remedies on which comment is sought in the NPRM when a competitive LEC enters into an access stimulation arrangement. Parties should also address how the proposals contained in this order can be applied to competitive LECs who are engaged in access stimulation activities today, or how such proposals could be adapted to address that situation. The Commission also invites parties to address whether special rules are necessary when the competitive LEC is affiliated with an incumbent LEC. Finally, a competitive LEC may be benchmarking to the rates of an incumbent LEC that has stimulated traffic and been required to file a revised tariff or take some other action to reduce its rates. Parties should comment on whether a competitive LEC that benchmarks against an incumbent LEC should be affected by any of the changes in the incumbent LEC's tariffs that are the result of the incumbent LEC's access stimulation activities.

19. Finally, while the previous sections have addressed stimulation in the context of access charges, the Commission is also interested in understanding the full breadth of possible traffic stimulation activities. The Commission, therefore, invites parties to address whether carriers are adopting traffic stimulation strategies with respect to forms of intercarrier compensation other than interstate access charges. The Commission asks parties to identify situations in which this is occurring and to explain the physical provisioning and compensation arrangements that make these strategies work. Parties should also address what remedies may be available to the Commission to address such activities.

Ex Parte Presentations

20. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) of the Commission's rules as well.

Comment Filing Procedures

21. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or

before the dates indicated on the first page of this document. All filings related to this Notice of Proposed Rulemaking should refer to WC Docket No. 07–135. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's rulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
  - For ECFS filers, if multiple dockets or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- *Paper Filers:* 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 appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

22. Comments and reply comments and any other filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via e-mail at *fcc@bcpiweb.com.* The pleadings will also be available for public inspection and copying during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, and through the Commission's Electronic Comment Filing System (ECFS) accessible on the Commission's Web site, *http://www.fcc.gov/cgb/ecfs.*

23. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

24. Commenters who file information that they believe should be withheld from public inspection may request confidential treatment pursuant to Section 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. *See* 47 CFR 0.461; 5 U.S.C. 552. The Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, The Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

Initial Paperwork Reduction Act of 1995 Analysis

25. The NPRM discusses potential new or revised information collection requirements. The reporting requirements, if any, that might be adopted pursuant to this NPRM are too speculative at this time to request comment from the OMB or interested parties under section 3507(d) of the Paperwork Reduction Act, 44 U.S.C. 3507(d). Therefore, if the Commission determines that reporting is required, it will seek comment from the OMB and interested parties prior to any such requirements taking effect. Nevertheless, interested parties are encouraged to comment on whether any new or revised information collection is necessary, and if so, how the Commission might minimize the burden of any such collection.

Initial Regulatory Flexibility Analysis

26. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities that might result from this Notice. 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 Notice provided above. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

27. In the Notice, the Commission initiates a rulemaking proceeding to consider whether the current rules governing the tariffing of traffic-sensitive switched access services by local exchange carriers (LECs) are ensuring that rates remain just and reasonable, as required by section 201(b). In particular, the Commission focuses on allegations that substantial growth in terminating access traffic may be causing carriers' rates to become unjust and unreasonable because the increased demand is increasing carriers' rates of return to levels significantly higher than the maximum allowed rate. In the Notice, the Commission seeks comment on the causes for the increased terminating access demand and the effect that the increase in demand has on a carrier's cost of providing switched access service. The Commission also tentatively concludes that average per minute switching costs do not increase proportionately to average per minute revenues as access demand increases, and that, as a result, rates that may be just and reasonable given a specific level of access demand may not be just and reasonable at a higher level of access demand.

28. We tentatively conclude that a rate-of-return carrier that shares revenue

with, or provides other compensation to, an end user customer that is engaged in access stimulating activity, or itself provides the access stimulating activity, and bundles the costs of obtaining or providing an access stimulating activity with its costs for access is engaging in an unreasonable practice that violates section 201(b). The Commission tentatively concludes that to ensure that just and reasonable rates are maintained, the Commission should have the opportunity to review the relationship between rates and average costs through the filing of a revised tariff when a section 61.38 or 61.39 carrier experiences significant increases in traffic. The Commission seeks comment on whether tariff language should be included in a tariff that would require a carrier to file a revised tariff if a specified increase in traffic occurs, the level of increased demand that should trigger any such filing, when that filing should be made, and whether revised tariff support should be required. The Commission also seeks comment on whether it would be appropriate for the Commission to forbear from enforcing the deemed lawful provision of section 204(a)(3) if a mid-course tariff filing is triggered by a sufficient increase in demand, or if a carrier fails to file a revised tariff when required. The Commission also seeks comment on whether carriers should be required to certify that they are not, and do not intend to, stimulate traffic, or whether some general rules should be adopted regarding a carrier's representations as to the reasonableness of the historical data submitted in support of its tariff filings. The Notice also seeks comment on whether section 61.39(b)(2)(ii) should be clarified.

29. We also invite comment on whether price cap LECs and competitive LECs have an incentive to stimulate access traffic and what steps should be taken if they do have such incentives. The Commission invites comment on a variety of means of ensuring that access charges of competitive LECs remain just and reasonable if access stimulation occurs. These include establishing growth triggers that would require a competitive LEC to refile a tariff, and redefining the benchmark rate that competitive LECs can target.

Legal Basis

30. The legal basis for any action that may be taken pursuant to the Notice is contained in sections 1, 4(i), 4(j), and 201–205 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 201–205.

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

31. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. 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).

32. *Small Businesses*. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.

33. *Small Organizations*. Nationwide, there are approximately 1.6 million small organizations.

34. *Small Governmental Jurisdictions*. The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. The Commission estimates that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, the Commission estimates that most governmental jurisdictions are small.

35. We have included small incumbent local exchange carriers 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 local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. The Commission has therefore included small incumbent local exchange carriers in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

36. *Incumbent Local Exchange Carriers (LECs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,307 carriers, an estimated 1,019 have 1,500 or fewer employees and 288 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the Commission's action.

37. *Competitive Local Exchange Carriers, Competitive Access Providers (CAPs), ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers.''* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 859 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 859 carriers, an estimated 741 have 1,500 or fewer employees and 118 have more than 1,500 employees. In addition, 16 carriers have reported that they are ''Shared-Tenant Service Providers,'' and all 16 are estimated to have 1,500 or fewer employees. In addition, 44 carriers have reported that they are ''Other Local Service Providers.'' Of the 44, an estimated 43 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers'' are small entities that may be affected by the Commission's action.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

38. Should the Commission decide to adopt any regulations to address access stimulation by LECs, the associated rules potentially could modify the reporting and recordkeeping requirements of LECs. The Commission could, for instance, require LECs to make additional reports on switched access traffic demand, or provide

additional supporting materials with their tariff filings. These proposals may impose additional reporting or recordkeeping requirements on entities. The Commission seeks comment on the possible burden these requirements would place on small entities. Also, the Commission seeks comment on whether a special approach toward any possible compliance burdens on small entities might be appropriate. Entities, especially small businesses, are encouraged to quantify the costs and benefits of any reporting requirement that may be established in this proceeding.

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

39. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (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.

40. The Commission's primary objective is to develop a framework for ensuring that rates remain just and reasonable, as required by section 201(b). The Commission seeks comment here on the effect the various proposals described in the Notice will have on small entities, and on what effect alternative rules would have on those entities. The Commission invites comment on ways in which the Commission can achieve its goal of protecting consumers while at the same time imposing minimal burdens on small entities.

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

41. None.

Ordering Clauses

42. Accordingly, *It is ordered*, pursuant to Sections 4(i), 160, 201–204, and 254(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 160, 201–204, and 254(g), that this Notice of Proposed Rulemaking is adopted.

43. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

44. *It is further ordered* that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before December 17, 2007 and reply comments on or before December 31, 2007.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–22342 Filed 11–14–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAR Case 2006–021; Docket 2007–0001; Sequence 10]

RIN: 9000–AK84

Federal Acquisition Regulation; FAR Case 2006–021, Post Retirement Benefits (PRB), FAS 106

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to permit the contractor to measure accrued PRB costs using either the criteria in Internal Revenue Code (IRC) 419 or the criteria in Financial Accounting Standard (FAS) 106.

DATES: Interested parties should submit written comments to the FAR Secretariat on or before January 14, 2008 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case number 2006–021 by any of the following methods:

Federal eRulemaking Portal: *http://www.regulations.gov*.

• To search for any document, first select under ''Step 1,'' ''Documents with an Open Comment Period'' and select under ''Optional Step 2,'' ''Federal Acquisition Regulation'' as the agency of choice. Under ''Optional Step 3,'' select ''Proposed Rules''. Under ''Optional Step 4,'' from the drop down list, select ''Document Title'' and type the FAR Case number ''2006–021''. Click the ''Submit'' button. Please include your name and company name (if any) inside the document. You may also search for any document by clicking on the ''Search for Documents'' tab at the top of the screen. Select from the agency field ''Federal Acquisition Regulation'', and type ''2006–021'' in the ''Document Title'' field. Select the ''Submit'' button.

• Fax: 202–501–4067.

• Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2006–021 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Edward Chambers, Procurement Analyst, at (202) 501–3221, for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAR case 2006–021.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 31.205–6(o) allows contractors to choose among three different accounting methods for PRB costs: cash basis, terminal funding, and accrual basis.

When the accrual basis is used, the FAR currently requires that costs must be measured based on the requirements of FAS 106.

However, the tax-deductible amount that is contributed to the retiree benefit trust is determined using IRC 419, which has different measurement criteria than FAS 106. As a result, the FAS 106 amount can often exceed the IRC 419 measured costs, and contractors that choose to accrue PRB costs for Government reimbursement face a dilemma: whether to fund the entire FAS 106 amount to obtain Government reimbursement of the costs, regardless of tax implications, or fund only the tax deductible amount and not be reimbursed for the entire FAS 106 amount under their Government contracts.