State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region VIII				
Wyoming: Sheridan County, unincorporated areas.	560047	September 25, 1979, Emerg; August 1, 1986, Reg; March 30, 1998, Susp.	March 30, 1998.	March 30, 1998.
Region IX				
California:				
Palmdale, city of, Los Angeles County	060144	October 3, 1975, Emerg; January 6, 1982, Reg; March 30, 1998 Susp.	.....do	do.
Los Angeles County, unincorporated areas.	065043	July 10, 1970, Emerg; December 2, 1980, Reg; March 30, 1998, Susp.	.....do	do.
Region X				
Washington:				
Issaquah, city of, King County	530079	May 20, 1974, Emerg; May 1, 1980, Reg; March 30, 1998, Susp.	.....do	do.
King County, unincorporated areas	530071	October 13, 1972, Emerg; September 29, 1978, Reg; March 30, 1998.	.....do	do.
Redmond, city of, King County	530087	October 15, 1974, Emerg; February 1, 1979, Reg; March 30, 1998, Susp.	.....do	do.
Skykomish, town of, King County	530236	December 20, 1976, Emerg; July 2, 1981, Reg; March 30, 1998, Susp.	.....do	do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Issued: February 27, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–6123 Filed 3–9–98; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 92–77; FCC 98–9]

Billed Party Preference for InterLATA 0+ Calls

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted a combined Second Report and Order and Order on Reconsideration which amends the Commission's rules and policies governing the disclosure of rates that will be offered when an away-from-home caller dials a non-access code operator service followed by an interexchange number (0+ call). In the Report and Order, the Commission amends its rules to require operator services providers (OSPs) to disclose orally to such callers how to obtain the total cost of a call, before the call is connected. The Order also adopts rules governing the filing of OSP informational tariffs and adopts oral disclosure requirements with respect to interstate collect calls initiated by prison inmates. A carrier providing the latter service must orally inform the party to be billed for such a call of its identity and how to obtain its charges for a call before anyone may be billed for the call. The Commission's decision is intended to make consumers more informed of their right to receive such cost information at the point of purchase from long-distance carriers before a call is connected. In the Order on Reconsideration, the Commission denied petitions for reconsideration of its earlier decision in this proceeding concerning proprietary calling card practices of AT&T. That decision declined to adopt a ''0+ in the Public Domain'' proposal urged by AT&T competitors.

DATES: Effective July 1, 1998, except for the amendments to § 64.703 and § 64.710 which become effective October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Adrien Auger, Enforcement Division, Common Carrier Bureau (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order in CC Docket No. 92–77 [FCC 98–9], adopted on January 29, 1998 and released on January 29, 1998. This Report and Order contains new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding. The full text of the Second Report and Order and Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's duplicating contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C.

SUMMARY OF SECOND REPORT AND ORDER

I. Background

1. The Commission has long been concerned about consumer dissatisfaction over high charges and certain practices of many OSPs for calls from public phones at away-from-home aggregator locations. In 1990, Congress responded to such consumer concerns by providing the Commission and consumers with additional tools to address abusive practices, through the passage of the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA or Section 226 of the Communications Act.) Under TOCSIA, an aggregator must, among other things, allow consumers the option of using an OSP of their choice by dialing an 800 or other number to reach that OSP, rather than having to use the particular OSP the aggregator has selected as its preferred or presubscribed interexchange carrier (PIC) for long-

distance calls. Further, under TOCSIA, OSPs are required to file and maintain tariffs informing consumers of, not only their interstate charges, but also any applicable premises-imposed fee (PIF) or aggregator surcharge collected by the OSP or permitted in an OSP's contracts with aggregators.

2. The Commission initiated Phase I of the instant proceeding in May, 1992 to examine alleged competitive inequities arising from AT&T's issuance of its proprietary card and short term proposals by many of AT&T's competitors to restrict the use of its proprietary carrier card with 0+ access. At the same time, the Commission also initiated an investigation of long term issues related to certain interexchange carrier (IXC) calling card practices, including a billed party preference (BPP) routing system for all 0+ interLATA calls (Phase II). In November, 1992, the Commission released a Report and Order with respect to Phase I of this proceeding, declining to adopt a ''0+ in the public domain'' proposal or other alternative interim remedies proffered by AT&T's competitors. In Phase II, the Commission addressed on a generic basis, the continuing complaints and concerns over the high level of charges billed consumers by many OSPs.

3. On February 8, 1996, the Telecommunications Act of 1996 (1996 Act) was enacted. The goal of the 1996 Act is to establish ''a pro-competitive, de-regulatory national policy framework'' in order to make available to all Americans advanced telecommunications and information technologies and services ''by opening all telecommunications markets to competition.'' The 1996 Act requires that the Commission forbear from applying any provision of the Communications Act, or any of the Commission's regulations, to a telecommunications carrier or telecommunications service, or class thereof, if the Commission makes certain specified findings with respect to such provisions or regulations.

4. On June 6, 1996, the Commission released a Second Further Notice of Proposed Rulemaking in the instant proceeding seeking comment on whether, under the 1996 Act, it should forbear from applying the informational tariff filing requirements of section 226 of the Communications Act. The Commission also sought comment on whether to require all OSPs to disclose their rates on all 0+ calls. Alternatively, the Commission sought comment on a tentative conclusion that it should: (1) Establish benchmarks for OSPs' consumer rates and associated charges that reflect what consumers expect to pay and (2) require OSPs that charge rates and/or allow related premises-imposed fees whose total is greater than a given percentage above a composite of the 0+ rates charged by the three largest interstate, interexchange carriers to disclose the applicable charges for the call to consumers orally before connecting a call. Further, with respect to collect calls initiated by prison inmates, the Commission sought comment on whether the public interest would be better served by some alternative to a billed party preference for routing operator service calls.

II. Discussion

5. The Commission believes that adoption of the order will result in better informed consumers, foster a more competitive marketplace, and better serve the public interest than if it were to establish price controls or rate benchmarks. It also declined to implement a billed party preference (BPP) approach to the problem of high rates. It also denied petitions for reconsideration of its *Phase I Order* in this proceeding, where it declined to adopt, a 0+ in the public domain policy, in which OSPs would be entitled to access the calling card validation databases of all carriers.

6. In the order the Commission also concluded that it should not, at this time, either waive or forebear from enforcing the requirement that OSPs file informational tariffs pursuant to section 226 of the Communications Act. It amended its rules, however, to increase the usefulness of informational tariffs by requiring that such tariffs include specific rates expressed in dollars and cents as well as applicable per-call aggregator surcharges or other per-call fees, if any, that are collected from consumers.

III. Conclusion

7. The Commission amended its rules to require OSPs to provide additional oral information to away-from-home callers, disclosing how to obtain the cost of a call, including any aggregator surcharge, for a non-access code operator service interstate call from that aggregator location, before such a call is connected. The consumer has an option to bypass receipt of such cost information. The Commission also amended its rules to require carriers providing interstate service to prison inmates to orally disclose their identity to the party to be billed for such calls and, if such party elects to receive rate quotes for the call, to orally disclose the charges for the call before connecting the call.

IV. Final Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *OSP Reform Notice.* The Commission sought written public comments on the proposals in the *OSP Reform Notice,* including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this Order conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Public Law 104–121, 110 Stat. 847 (1996). The Commission is issuing this Order to protect consumers from excessive charges in connection with interstate 0+ operator services for payphone and prison inmate calls by ensuring that they are aware of their right to ascertain the specific cost for such calls so that they may hang up before incurring any charge that they believe is excessive.

i. Need for and Objectives of this Report and Order and the Rules Adopted Herein

9. In the 1996 Act, Congress sought to establish ''a pro-competitive, de-regulatory national policy framework'' for the United States telecommunications industry. One of the principal goals of the telephony provisions of the 1996 Act is promoting increased competition in all telecommunications markets, including those that are already open to competition, particularly long-distance services markets.

10. In this Second Report and Order, we adopt rules requiring carriers to orally disclose to consumers how to obtain the cost of operator services for interstate calls from aggregator locations and from prison inmate-only telephones. The objective of the rules adopted in this Order is to implement as quickly and effectively as possible the national telecommunications policies embodied in the 1996 Act and to promote the development of competitive, deregulated markets envisioned by Congress. In doing so, we are mindful of the balance that Congress struck between this goal of bringing the benefits of competition to all consumers and its concern for the impact of the 1996 Act on small business entities.

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

11. In the *OSP Reform Notice,* the Commission performed an IRFA. In the IRFA, the Commission found that the rules it proposed to adopt in this

proceeding may have an impact on small business entities as defined by section 601(3) of the RFA. In addition, the IRFA solicited comment on alternatives to the proposed rules that would minimize the impact on small entities consistent with the objectives of this proceeding.

iii. Comments on the IRFA

12. Only one comment specifically addressed the Commission's IRFA. ACTA, a national trade association representing interexchange carriers, strongly supports adoption of a price disclosure requirement for all 0+ calls to provide consumers with the information necessary to make informed choices, thus doing away with the need for alternative proposals setting benchmark rates to trigger oral disclosure requirements. ACTA asserts that adoption of the alternative benchmark proposal would lead to anti-competitive and discriminatory results and therefore does not comply with the RFA.

13. In support thereof, ACTA asserts: that basing benchmarks on the rates of the three largest IXCs (the Big Three) is unsound because it ignores greater underlying costs borne by smaller carriers and economic disparities which exist between the Big Three carriers and all other OSPs; that the Big Three may recover their costs through cross-subsidization and arbitrary cost allocations that are possible because of their multi-market operations, whereas small providers can only recover their costs directly through rates charged consumers; that because all or most small carriers will be required to make oral disclosures, the public will be conditioned to associate small providers with excessive rates; that OSPs will be forced to charge rates below the Big Three and below their own costs, plus a reasonable profit, to get consumers to use their services; that the benchmark proposal thus has a confiscatory effect; and, accordingly, the already competitively disadvantaged smaller OSPs will not be able to sustain themselves in the marketplace, contrary to broad general policies seeking greater participation by smaller companies in competing in the OSP market, and the more specific policy that the Commission must apply in its RFA analysis.

14. Further, ACTA contends that proposed benchmark rate elements such as time of day and distance do not affect underlying costs, are contrary to the industry's growing reliance on nationwide flat rates, and are inappropriate and unduly burdensome on small businesses. Moreover, ACTA contends that the list of characteristics proposed by the Commission does not take into account actual costs necessary to compete in the OSP marketplace such as PIFs and commissions, further skewing the competitive environment adversely to small businesses. According to ACTA, a benchmark margin of two to three times that of the Big Three benchmark carriers is needed to cover differences in underlying costs, not the 15 percent margin on which the Commission sought comment. ACTA also contends that the proposed benchmark methodology provides the benchmark carriers with the opportunity to engage in anti-competitive conduct and predatory pricing.

15. Although not specifically filing an IRFA analysis, other commenters oppose adoption of rules that would unduly burden small businesses. Cleartel/ConQuest assert, *arguendo*, that even if a rate benchmark could be justified on the basis of consumer expectations, any standard disclosure that only applies to the smaller OSPs, and not to the three largest, would be arbitrary and discriminatory, would place an uneven burden on smaller OSPs, and would stigmatize all carriers other than the big three for the traveling public. NTCA asserts that industry-wide mandated BPP deployment is not economically feasible and would adversely affect small and rural LECs.

Discussion

16. We agree with ACTA's views in regard to our IRFA and have concluded that the minimum rules adopted herein are necessary to protect consumers and will not unduly burden small OSPs or other small business entities. Such rules will aid consumers, including small business entities, avoid incurring excessive charges for 0+ operator services. The rules also provide OSPs and potential OSP competitors, including small business firms, a level playing field in that they apply equally to all OSPs, and, unlike benchmark proposals, do not discriminate against smaller OSP companies. Further, we are terminating our inquiry into BPP as urged by NTCA on behalf of small and rural LECs. Moreover, as urged by many commenters, including small business entities, we have not adopted various benchmark proposals or other price control rules set forth in this proceeding. Based on the record in this proceeding, we conclude that, contrary to the initial tentative conclusion in *OSP Reform Notice*, for the Commission to engage in price regulation of OSPs' rates, including benchmark regulation, would involve micro-managing the rates of nondominant carriers, including hundreds of small business companies. Such regulation would be the antithesis of the deregulatory thrust of the Regulatory Flexibility Act and the 1996 Act.

iv. Description and Estimates of the Number of Small Entities to Which the Rules Will Apply

17. The rules adopted require that hundreds of nondominant interexchange carriers implement certain information disclosure procedures regarding their rates, and any related fees of the owners of the premises where the telephone instrument is located. Small entities may feel some economic impact in additional message production, recording costs, and equipment retrofitting or replacement costs due to the policies and rules adopted. Small providers of operator services also may experience greater live operator costs initially until automated terminal equipment and network systems are modified to replace the need for intervention of live operators.

18. For the purposes of this analysis, we examine the relevant definition of ''small entity'' or ''small business'' and apply this definition to identify those entities that may be affected by the rules adopted in this Second Report and Order. The RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. A ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (the SBA). The SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have fewer than 1,500 employees. We first discuss generally the total number of telephone companies falling within this SIC category. Then, we refine further those estimates and discuss the number of carriers falling within relevant subcategories.

19. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange

carriers, competitive access providers, cellular carriers, operator service providers, pay telephone operators, personal communications service (PCS) providers, covered specialized mobile radio (SMR) providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities, small interexchange carriers, or resellers of interexchange services, because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms that may be affected by this Order.

20. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telecommunications companies other than radiotelephone (wireless) companies (Telephone Communications, Except Radiotelephone). The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau, 2,295 companies were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities based on these employment statistics. Because it seems certain, however, that some of these carriers are not independently owned and operated, this figure necessarily overstates the actual number of non-radiotelephone companies that would qualify as ''small business concerns'' under the SBA's definition. Consequently, we estimate using this methodology that there are fewer than 2,295 small entity telephone communications companies (other than radiotelephone companies) that may be affected by the decisions and rules adopted in this Order.

21. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of interexchange carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the *TRS Worksheet.* According to our most recent data, 130 companies reported that they were engaged in the provision of interexchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of interexchange carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 130 small entity interexchange carriers that may be affected by the decisions and rules adopted in this Order.

22. *Resellers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies. The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the *TRS Worksheet.* According to our most recent data, 260 companies reported that they were engaged in the resale of telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 260 small entity resellers that may be affected by the decisions and rules adopted in this Order.

23. *Operator Service Providers.* Carriers engaged in providing interstate operator services from aggregator locations (OSPs) currently are required under section 226 of the Communications Act to file and maintain informational tariffs at the Commission. The number of such tariffs on file thus appears to be the most reliable source of information of which we are aware regarding the number of OSPs nationwide, including small business concerns, that will be affected by decisions and rules adopted in this Order. As of August 19, 1997, approximately 630 carriers had informational tariffs on file at the Commission. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of OSPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 630 small entity OSPs that may be affected by the decisions and rules adopted in this Order.

24. *Local Exchange Carriers.* Consistent with our prior practice, we shall continue to exclude small incumbent providers of local exchange services (LECs) from the definition of ''small entity'' and ''small business concerns'' for the purpose of this FRFA. Because any small incumbent LECs that may be subject to these rules are either dominant in their field of operations or are not independently owned and operated, consistent with our prior practice, they are excluded from the definition of ''small entity'' and ''small business concerns.'' 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 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.''

25. Neither the Commission nor the SBA has developed a definition of small LECs. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813) (Telephone Communications, Except Radiotelephone) as previously detailed above. Our alternative method for estimation utilizes the data that we collect annually in connection with the *TRS Worksheet.* This data provides us with the most reliable source of information of which we are aware regarding the number of LECs nationwide. According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of incumbent LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small LECs (including small incumbent LECs) that may be affected by the rules adopted in this Order.

26. In addition, the rules adopted in this Order may affect companies that analyze information contained in OSPs'

tariffs. The SBA has not developed a definition of small entities specifically applicable to companies that analyze tariff information. The closest applicable definition under SBA rules is for Information Retrieval Services (SIC Category 7375). The Census Bureau reports that, at the end of 1992, there were approximately 618 such firms classified as small entities. This number contains a variety of different types of companies, only some of which analyze tariff information. We are unable at this time to estimate with greater precision the number of such companies and those that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 618 such small entity companies that may be affected by the decisions and rules adopted in this Order.

v. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

27. The rules adopted require carriers to disclose audibly to consumers how to obtain the price of a call before it is connected. In this section of the FRFA, we analyze the projected reporting, recordkeeping, and other compliance requirements that may apply to small entities as a result of this Order. As a part of this discussion, we mention some of the types of skills that will be needed to meet the new requirements.

28. Nondominant interexchange carriers, including small nondominant interexchange carriers, will be required to provide oral information to away-from-home callers, advising them how to obtain the cost of an interstate 0+ call, and similarly to disclose to the party to be billed for collect calls from telephones set aside for use by prison inmates how to obtain the cost of the call before they could be billed for such calls. This change in the manner of conducting their business may require the use of technical, operational, accounting, billing, and legal skills.

vi. Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

29. In this section, we describe the steps taken to minimize the economic impact of our decisions on small entities and small incumbent IXCs, including the significant alternatives considered and rejected. To the extent that any statement contained in this FRFA is perceived as creating ambiguity with respect to our rules or statements made in preceding sections of this Order, the rules and statements set forth in those preceding sections shall be controlling.

30. We believe that our action requiring carriers to orally disclose how to obtain the price of their interstate 0+ operator services up front at the point of purchase will facilitate the development of increased competition in the interstate, domestic, interexchange market, thereby benefitting all consumers, some of which are small business entities. Specifically, we find that the rules adopted herein with respect to interstate, domestic, interexchange 0+ services will enhance competition among OSPs, promote competitive market conditions, and achieve other objectives that are in the public interest, including establishing market conditions that more closely resemble an unregulated environment. The decision not to require detariffing of OSP informational tariffs will also allow businesses, including small business entities, that audit and analyze information contained in tariffs to continue.

31. We have rejected several alternatives to the additional oral disclosure requirements and rules adopted herein, including proposals (1) to establish a costly billed party preference system for 0+ calls from aggregator and prison locations; (2) to micro-manage nondominant carriers' prices for such calls, including proposals to cap rates, establish annual FCC benchmarks, and to require cost justification for rates that exceed such benchmarks; (3) requiring oral warnings to prospective consumers comparing a carrier's rates with lower rates of the largest carriers; and (4) mandating 0+ in the public domain. Rejection of these alternatives helps to ensure that small carriers will not be unnecessarily burdened. The rules adopted herein are applicable only to limited interexchange 0+ calls from payphones, or other aggregator locations, and from inmate phones in correctional institutions. They are not applicable to international calls, intrastate calls, and interstate 0+ calls made by callers from their regular home or business. The rules also are inapplicable to calls that are initiated by dialing an access code prefix, such as 10333 or 1–800–877–8000, whereby callers may circumvent placing the call through the long-distance carrier that is presubscribed for that line.

vii. Report to Congress

32. The Commission shall send a copy of this Final Regulatory Flexibility Act Analysis, along with this Second Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A).

V. Paperwork Reduction Act

33. This Report and Order contains either a new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–12. Written comments by the public on the information collections are due 30 days after date of publication in the Federal Register. OMB notification of action is due May 11, 1998. Comments should address: (1) Whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0717.

Title: Billed Party Preference for InterLATA 0+ Calls, CC Docket No. 92–77 (47 CFR Sections 64.703(a), 64.709, and 64.710).

Form No.: N/A.

Type of Review: Revised collection.

Respondents: Businesses or other for profit.

Section/title	No. of responses	Est. time per response	Total annual burden
64.703(a)(4)	617,000,000	6–8 secs	13,711
64.709	330	50 hours	16,500
64.710	570	4 hours	2,280

Total Annual Burden: 32,491 burden hours.

Estimated Costs Per Respondents: $600.

Needs and Uses: The Commission adopts rules to further the goals of 47 U.S.C. Section 226: (1) To protect consumers from unfair and deceptive practices relating to their use of operator services for interstate calls; and (2) to ensure that consumers have the opportunity to make informed choices in making such calls. Pursuant to § 64.703(a) operator service providers (OSPs) are required to disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate call, how to obtain rate quotations, including any applicable surcharges, if the call is to be placed through the carrier selected by the payphone or premises owner. Section 64.709 codifies the requirements for OSPs to file informational tariffs with the Commission. Section 64.710 requires providers of interstate operator services to inmates at correctional institutions to identify themselves, audibly and distinctly, to the party to be billed for the call and also disclose immediately thereafter to that party how he or she, without having to hang up to dial a separate number, may obtain the charges for the call, before the carrier may connect, and bill for, a call.

For further information contact: For additional information concerning the information collections contained in this Report and Order contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

VI. Ordering Clauses

34. Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 4(j), 10, 201–205, 215, 218, 226, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 215, 218, 226, 254, that the policies, rules, and requirements set forth herein are adopted.

35. *It is further ordered* that 47 CFR Part 64, Subpart B is amended, effective July 1, 1998, except for §§ 64.703(a)(4) and 64.710 which become effective October 1, 1999.

36. *It is further ordered* that the request by Intellicall, Inc., filed March 21, 1997, seeking exemption of its Ultratel payphones from the rules adopted herein is denied.

37. *It is further ordered* that the Office of Public Affairs, Reference Operations Division, shall mail a copy of this Report and Order to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a)(1981).

List of Subjects in 47 CFR Part 64

Communications common carriers, Consumer protection, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: 47 U.S.C. 154, unless otherwise noted. Interpret or apply sections 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. Section 64.703 is amended by removing the word ''and'' at the end of paragraph (a)(2), removing the ''.'' at the end of the paragraph (a)(3)(iii) and adding in its place ''; and'' and by adding new paragraph (a)(4) to read as follows:

§ 64.703 Consumer information.

(a) * * *

(4) Disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate, domestic, interexchange non-access code operator service call, how to obtain the total cost of the call, including any aggregator surcharge, or the maximum possible total cost of the call, including any aggregator surcharge, before providing further oral advice to the consumer on how to proceed to make the call. The oral disclosure required in this subsection shall instruct consumers that they may obtain applicable rate and surcharge quotations either, at the option of the provider of operator services, by dialing no more than two digits or by remaining on the line.

3. Section 64.709 is added to subpart G to read as follows:

§ 64.709 Informational tariffs.

(a) Informational tariffs filed pursuant to 47 U.S.C. 226(h)(1)(A) shall contain specific rates expressed in dollars and cents for each interstate operator service of the carrier and shall also contain applicable per call aggregator surcharges or other per call fees, if any, collected from consumers by the carrier or any other entity.

(b) Per call fees, if any, billed on behalf of aggregators or others, shall be specified in informational tariffs in dollars and cents.

(c) In order to remove all doubt as to their proper application, all informational tariffs must contain clear and explicit explanatory statements regarding the rates, *i.e.*, the tariffed price per unit of service, and the regulations governing the offering of service in that tariff.

(d) Informational tariffs shall be accompanied by a cover letter, addressed to the Secretary of the Commission, explaining the purpose of the filing.

(1) The original of the cover letter shall be submitted to the Secretary without attachments, along with FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, Pennsylvania.

(2) Copies of the cover letter and the attachments shall be submitted to the Secretary's Office, the Commission's contractor for public records duplication, and the Chief, Tariff and Price Analysis Branch, Competitive Pricing Division.

(e) Any changes to the tariff shall be submitted under a new cover letter with a complete copy of the tariff, including changes.

(1) Changes to a tariff shall be explained in the cover letter but need not be symbolized on the tariff pages.

(2) Revised tariffs shall be filed pursuant to the procedures specified in § 64.703(c).

4. Section 64.710 is added to subpart G to read as follows:

§ 64.710 Operator services for prison inmate phones.

(a) Each provider of inmate operator services shall:

(1) Identify itself, audibly and distinctly, to the consumer before connecting any interstate, domestic, interexchange telephone call and disclose immediately thereafter how the consumer may obtain rate quotations, by dialing no more than two digits or remaining on the line, for the first minute of the call and for additional minutes, before providing further oral advice to the consumer how to proceed to make the call;

(2) Permit the consumer to terminate the telephone call at no charge before the call is connected; and

(3) Disclose immediately to the consumer, upon request and at no charge to the consumer—

(i) The methods by which its rates or charges for the call will be collected; and

(ii) The methods by which complaints concerning such rates, charges or collection practices will be resolved.

(b) As used in this subpart:

(1) *Consumer* means the party to be billed for any interstate, domestic,

interexchange call from an inmate telephone;

(2) *Inmate telephone* means a telephone instrument set aside by authorities of a prison or other correctional institution for use by inmates.

(3) *Inmate operator services* means any interstate telecommunications service initiated from an inmate telephone that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than:

(i) Automatic completion with billing to the telephone from which the call originated; or

(ii) Completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer;

(4) *Provider of inmate operator services* means any common carrier that provides outbound interstate, domestic, interexchange operator services from inmate telephones.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 223, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, and 240

[Docket No. RSEP–8, Notice 1]

RIN 2105–AC63

Civil Monetary Penalty Inflation Adjustment

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FRA is implementing the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 in this final rule. FRA is adjusting the maximum civil monetary penalties it issues for violations of railroad safety statutes and regulations under its authority.

EFFECTIVE DATE: April 9, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia Walters, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street S.W., Washington, D.C. 20590 (telephone 202–632–3188).

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461, note (Act), as amended by Section 31001(s)(1) of the Debt Collection Improvement Act of 1996 Public Law 104–134, 110 Stat. 1321–373, April 26, 1996, requires that agencies adjust by regulation each maximum civil monetary penalty (CMP) within that agency's jurisdiction by October 23, 1996 (180 days after enactment of the Debt Collection Improvement Act) and adjust those penalty amounts once every four years thereafter. Congress recognized the important role that CMPs play in deterring violations of Federal law and regulations and realized that inflation has diminished the impact of these penalties. In the Debt Collection Improvement Act, Congress found a way to counter the effect that inflation has had on the CMPs by having the agencies charged with enforcement responsibility administratively adjust the CMP.

Calculation of the Adjustment

The inflation adjustment is to be calculated by increasing the maximum civil monetary penalty or the range of minimum and maximum CMPs by the percentage that the Consumer Price Index (CPI) for the month of June 1995 (the calendar year preceding the adjustment) exceeds the CPI for the month of June of the last calendar year in which the amount of such penalty was last set or adjusted. These adjusted amounts are subject to a rounding formula found in Section 5 of the Act and the first adjustment may not exceed an increase of ten percent. FRA utilized Bureau of Labor Statistics Data to calculate adjusted CMP amounts.

FRA currently has 21 regulations that contain provisions which reference its ability to impose civil penalties if a person violates any requirement in the pertinent portion of a statute or the Code of Federal Regulations. In this final rule, FRA is amending each of those separate regulatory provisions to reflect the increased maximum CMP and the corresponding footnotes in each Schedule of Civil Penalties. In some instances, FRA is amending the corresponding appendices to these regulatory provisions, which outline FRA enforcement policy, as well. With the exception of the provisions relating to the Hours of Service Laws contained in Part 228, FRA's maximum penalty was established by the Rail Safety Improvement Act of 1988, which set a $10,000 limit for a penalty imposed for any single violation and a $20,000 limit for willful violation where a grossly negligent violation or pattern of repeat violations has created an imminent hazard of death or injury or has actually caused death or injury. By applying the adjustment calculation described above using the 1988 CPI, these maximum penalties will rise to $11,000 and $22,000, respectively, in each of the regulations being amended. The Rail Safety Enforcement and Review Act of 1992 increased the maximum civil penalty from $1,000 to $10,000 and $20,000, respectively, for violations of the Hours of Service Laws, making these penalty amounts uniform with those of FRA's other regulatory provisions. By applying the same adjustment calculation using the 1992 CPI, the maximum penalties for violations of the Hours of Service Laws are equivalent to those of the other regulations, $11,000 and $22,000.

FRA is also responsible for enforcement in instances where violations of the hazardous materials regulations involve railroads and those who ship by rail. The hazardous materials regulations are not issued by FRA but are issued by the Research and Special Projects Administration (RSPA), a component of DOT. The relevant portions of the RSPA regulations have been revised (see 62 FR 2970) to reflect the calculation that the new statutory maximum is $27,500. Since FRA has previously issued a policy statement concerning its enforcement of these regulations, FRA is modifying the language in the policy statement which references the statutory maximum to reflect this new maximum of $27,500 in this final rule, as well as the provisions in 49 CFR Part 209 addressing hazardous materials.

Except for the hazardous materials regulations, these new FRA maximum penalties will apply to violations that occur on or after April 1, 1998. RSPA has already determined that the new maximums for hazardous materials violations apply to violations that occurred after January 21, 1997.

Public Participation

FRA is proceeding to a final rule without providing a notice of proposed rulemaking or an opportunity for public comment. The adjustments required by the Act are ministerial acts over which FRA has no discretion, making public comment unnecessary. FRA is issuing these amendments as a final rule applicable to all future cases under its authority.