FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 51, 64, and 68

[CC Docket Nos. 98–147, 98–11, 98–26, 98–32, 98–15, 98–78, 98–91; FCC 98–188]

Deployment of Wireline Services Offering Advanced Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On August 7, 1998, the Commission released a Notice of Proposed Rulemaking (NPRM) addressing deployment of wireline services offering advanced telecommunications capability. The NPRM is intended to obtain comment on how to facilitate deployment of advanced services and promote competition in the advanced services marketplace.

DATES: Comments are due on or before September 25, 1998 and reply comments are due on or before October 16, 1998. Written comments by the public on the proposed information collections are due September 23, 1998.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th St., N.W., Washington, D.C. 20036. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain__t@al.eop.gov. See Supplementary Information section for electronic access and filing addresses.

FOR FURTHER INFORMATION CONTACT: Linda Kinney, Assistant Division Chief, Policy and Program Planning Division, Common Carrier Bureau, at 202–418–1580 or via the Internet at lkinney@fcc.gov or Jordan Goldstein, Attorney, Policy and Program Planning Division, Common Carrier Bureau, at 202–418–1580 or via the Internet at jgoldste@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484. For additional information concerning the information collections contained in the NPRM contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted August 6, 1998 and released August 7, 1998 (FCC 98–188). The NPRM contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the OMB for review under the PRA. The OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding. The full text of the Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., N.W., Room 239, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/[Orders/fcc98188.wp], or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, 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 for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

Paperwork Reduction Act

The NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collections contained in the NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on the NPRM; OMB comments are due October 23, 1998. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have 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: None.

Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability.

Form No.: N/A.

Type of Review: New collection.

Information collection	Number of respondents (approx.)	Estimated time per response (hours)	Total annual burden (hours)
Listing of Collocation Equipment	1400	1	1400
Collocation Space Report	1400	1	1400
Local Loops and OSS Information	1400	1	1400

Total Annual Burden: 4200 hours.

Respondents: Business or other for profit.

Estimated costs per respondent: $0.

Needs and Uses: The NPRM seeks comment on a number of issues, the result of which could lead to the imposition of information collections. The NPRM seeks comment on certain reporting requirements to implement the requirements of the 1996 Act. The information will be used to facilitate the deployment of advanced services.

Initial Regulatory Flexibility Act Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected economic impact on small entities by the policies and proposals in the NPRM. The Commission solicited written public comments on the IRFA, which must be filed by the deadlines for the submission of comments in this proceeding.

I. Need for and Objectives of This NPRM

In this NPRM, we propose an optional alternative pathway for incumbent LECs that would allow separate affiliates to provide advanced services free from incumbent LEC regulation. In particular, if an incumbent LEC chooses to offer advanced services through an affiliate that is truly separate from the incumbent, that affiliate would not be deemed an incumbent LEC and therefore would not be subject to incumbent LEC regulation, including the obligations under section 251(c). On the other hand, if the advanced services affiliate derives an unfair advantage from its relationship with the incumbent, that affiliate should be viewed as stepping into the shoes of the incumbent LEC and would be subject to all the requirements that Congress established for incumbent LECs. We propose in this NPRM specific structural separation and nondiscrimination requirements that need to be in place in order for an affiliate to be deemed a non-incumbent LEC, and thus not subject to section 251(c). We also offer guidance on various factors that the Commission should consider in determining when an advanced services affiliate would be an ''assign'' of the incumbent LEC, and, therefore, subject to the obligations of section 251(c).

In this NPRM, we also propose additional rule changes that would apply whether or not incumbent LECs choose to establish a separate affiliate to provide advanced services. We propose rules to ensure that all entities seeking to offer advanced services have adequate access to collocation and loops, which is critical to promote competition in the marketplace for advanced services. We then seek comment on ways to modify the section 251(c) unbundling requirements, once companies are in compliance with the rule changes we propose regarding collocation and access to loops. Finally, we seek comment on measures that would provide BOCs with targeted interLATA relief to ensure that all consumers, even those in rural areas, are able to reap the benefits of advanced telecommunications capability.

II. Legal Basis

The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1–4, 10, 201, 202, 251–254, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151–154, 160, 201, 202, 251–254, 271, and 303(r).

III. Description and Estimate of the Number of Small Entities to Which the Proposals, if Adopted, Would Apply

Below, we describe and estimate the number of small entities that may be affected by the proposals in this NPRM, if adopted.

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

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

Although some affected incumbent LEC may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by the SBA as ''small business concerns.''

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

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

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

The collocation and loops sections of the NPRM include proposed reporting requirements. With regard to collocation, the NPRM tentatively concludes that incumbent LECs should

be required to list all equipment approved for use in a central office. The NPRM also tentatively concludes that, upon request from a competitive LEC, an incumbent LEC should submit to the requesting competitor a report indicating the incumbent LEC's available collocation space. The NPRM indicates that this report should: (1) Specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report; and (2) include measures that the incumbent LEC is taking to make additional space available for collocation. With regard to loops, the NPRM tentatively concludes that incumbent LECs should be required to share information about loops with new entrants.

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

We tentatively conclude that our proposals in the NPRM would impose minimum burdens on small entities. We seek comment on these proposals and the impact they may have on small entities.

VI. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposals in the NPRM

None.

Synopsis of Notice of Proposed Rulemaking

A. Introduction

1. In this NPRM, we propose an optional alternative pathway for incumbent LECs that would allow separate affiliates to provide advanced services free from incumbent LEC regulation. In particular, if an incumbent LEC chooses to offer advanced services through an affiliate that is truly separate from the incumbent, that affiliate would not be deemed an incumbent LEC and therefore would not be subject to incumbent LEC regulation, including the obligations under section 251(c). On the other hand, if the advanced services affiliate derives an unfair advantage from its relationship with the incumbent, that affiliate should be viewed as stepping into the shoes of the incumbent LEC and would be subject to all the requirements that Congress established for incumbent LECs. We propose in this NPRM specific structural separation and nondiscrimination requirements that need to be in place in order for an affiliate to be deemed a non-incumbent LEC, and thus not subject to section 251(c). We also offer guidance on various factors that the Commission should consider in determining when an advanced services affiliate would be an ''assign'' of the incumbent LEC, and, therefore, subject to the obligations of section 251(c).

2. In this NPRM, we also propose additional rule changes that would apply whether or not incumbent LECs choose to establish a separate affiliate to provide advanced services. We propose rules to ensure that all entities seeking to offer advanced services have adequate access to collocation and loops, which is critical to promote competition in the marketplace for advanced services. We then seek comment on ways to modify the section 251(c) unbundling requirements, once companies are in compliance with the rule changes we propose regarding collocation and access to loops. Finally, we seek comment on measures that would provide BOCs with targeted interLATA relief to ensure that all consumers, even those in rural areas, are able to reap the benefits of advanced telecommunications capability.

B. Provision of Advanced Services Through a Separate Affiliate

3. A number of parties have raised the question of whether incumbent LECs may provide advanced services through separate affiliates that would not be subject to incumbent LEC regulation.

4. We are committed to ensuring that an optional alternative pathway is available for incumbent LECs that are willing to offer advanced services on the same footing as any of their competitors. We believe that, if advanced services are offered by an affiliate that is truly separate from the incumbent LEC (an ''advanced services affiliate''), that affiliate should not be deemed an incumbent LEC and, therefore, should not be subject to the incumbent LEC regime established by Congress in section 251(c). In addition, we tentatively conclude below that such an advanced services affiliate, to the extent it provides interstate exchange access services, should, under existing Commission precedent, be presumed to be nondominant (and, therefore, not be subject to price cap regulation or rate of return regulation for its provision of such services). We also tentatively conclude below that such an affiliate, as a non-incumbent, also should not be required to file tariffs for its provision of any interstate services that are exchange access. We emphasize that we are not proposing that incumbent LECs be required to establish affiliates to provide advanced services. Any incumbent LEC is free to provide advanced services on an integrated basis, but, in those circumstances, is subject to section 251(c) requirements. Simply put, each incumbent LEC seeking to provide advanced services must make a business decision as to whether it wishes to provide such services free of section 251(c) requirements.

5. In this NPRM we lay out a framework that will guide incumbent LECs that choose to pursue this alternative. The proposals in this NPRM are based on the underlying assumption that, to be free of incumbent LEC regulation, an advanced services affiliate must function just like any other competitive LEC and not derive unfair advantages from the incumbent LEC.

6. We recognize that many states have significant practical experience in dealing with LEC affiliates in a variety of contexts. We therefore welcome input from the states on each of the issues raised below regarding provision of advanced services through a separate affiliate.

1. Background

7. The obligations set out in section 251(c) of the Act are imposed only on incumbent LECs. In the *Non-Accounting Safeguards Order*, 62 FR 2927, January 21, 1997, the Commission concluded that a BOC affiliate that satisfies appropriate structural separation requirements is not deemed an incumbent LEC for purposes of section 251 merely because it is engaged in local exchange activities. Consistent with the reasoning in the Non-Accounting Safeguards Order, a determination as to whether a carrier is an incumbent LEC is not based on the nature of the service the carrier provides. Rather, in order to be deemed an incumbent LEC, a carrier must meet the definition in section 251(h).

8. Section 251(h)(1), in turn, defines an incumbent LEC as either a member of NECA as of the date of the enactment of the 1996 Act, or a ''successor or assign'' of such a member. When applying the definition of section 251(h)(1)(B)(i) to separate affiliates in the *Non-Accounting Safeguards Order*, the Commission concluded that ''[n]o BOC affiliate was a member of NECA when the 1996 Act was enacted.'' The Commission determined that an affiliate can, however, be a ''successor or assign'' of a BOC. The Commission concluded that, if a BOC transfers to its affiliate ownership of any network elements that must be provided on an unbundled basis pursuant to section 251(c)(3), the affiliate would be deemed an assign of

the BOC under section 3(4) of the Act with respect to those network elements.

9. In addition, we note that the Commission, under section 251(h)(2), may, by rule, treat as an incumbent a LEC (or a class or category of LECs) that occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by the incumbent LEC, and such carrier has substantially replaced an incumbent LEC. The Commission stated in the *Local Competition Order* that it ''will not impose incumbent LEC obligations on non-incumbent LECs absent a clear and convincing showing that the LEC occupies a position in the telephone exchange market comparable to the position held by an incumbent LEC, has substantially replaced an incumbent LEC, and that such treatment would serve the public interest, convenience, and necessity and the purposes of section 251.'' In the *Non-Accounting Safeguards Order*, the Commission determined that a BOC affiliate is not ''comparable'' to an incumbent LEC under section 251(h)(2) merely because it is engaged in local exchange activities.

2. Advanced Services Affiliates

10. Building upon the reasoning in this existing precedent, we believe that an advanced services affiliate of an incumbent LEC that (1) satisfies adequate structural separation requirements (*i.e*, is ''truly'' separate); and (2) acquires, on its own, facilities used to provide advanced services (or leases such facilities from an unaffiliated entity) is generally not an incumbent LEC, and, therefore, is not subject to section 251(c) obligations with respect to those facilities. We also note that, although we believe an advanced services affiliate that is structured in accordance with rules we adopt in this proceeding would not be an incumbent LEC, the affiliate would remain subject to the general duties of telecommunications carriers in section 251(a) and the obligations of all local exchange carriers in section 251(b).

11. In describing what we believe is an alternative pathway by which a truly separate affiliate of an incumbent LEC may provide advanced services free from the obligations of section 251(c), we emphasize that we are not proposing to forbear from section 251(c) requirements. Rather, we are setting forth proposals on the circumstances under which an affiliate is not deemed an incumbent LEC in the first place.

12. Under section 251(c), obligations to unbundle and to offer resale at wholesale rates apply only to incumbent LECs, as defined in section 251(h). Accordingly, to the extent that an entity is not an ''incumbent LEC'' within the meaning of section 251(h), that entity will not be subject to the obligations, under section 251(c), to unbundle and to offer resale at wholesale rates. We believe that it would be contrary to congressional intent to impose these obligations under section 251(c) upon entities that do not fall within the definition of an incumbent LEC. We seek comment on this statutory analysis and on our belief that a truly separate affiliate of an incumbent LEC may provide advanced services free from the obligations of section 251(c).

a. Circumstances under which an advanced services affiliate would not be an incumbent LEC. 13. *Separation Requirements for Non-Incumbent LEC Status.* We now explore the circumstances under which an advanced services affiliate would not qualify as an ''incumbent LEC'' under the definition set forth by Congress in section 251(h), and thus would not be subject to section 251(c) obligations. In particular, we explore what structural separation requirements for advanced services affiliates are sufficient for those affiliates to be deemed non-incumbent LECs.

14. We believe that, if an incumbent LEC wishes to establish an advanced services affiliate that would not be deemed an incumbent LEC, it should comply with the following structural separation and nondiscrimination requirements.

—First, the incumbent must ''operate independently'' from its affiliate. In particular, the incumbent and affiliate may not jointly own switching facilities or the land and buildings on which such facilities are located. In addition, the incumbent may not perform operating, installation, or maintenance functions for the affiliate.

—Second, transactions must be on an arm's length basis, reduced to writing, and made available for public inspection. We propose that the affiliate be required to provide a detailed written description of any asset or service transferred and the terms and conditions of the transaction on the Internet, through the company's home page, within ten days of the transaction. This would provide a readily accessible mechanism for new entrants to ensure they are receiving treatment equivalent to that provided to the incumbent LEC's advanced services affiliate. All transactions between the incumbent and its affiliate also must comply with the affiliate transactions rules, as modified in the *Accounting Safeguards* proceeding. We believe that these affiliate transactions rules are, in the context of transfers from incumbent LECs to their advanced services affiliates, sufficient to discourage, and facilitate detection of, improper cost allocations in order to prevent incumbent LECs from imposing the costs of their competitive ventures on telephone ratepayers.

—Third, the incumbent and affiliate must maintain separate books, records, and accounts.

—Fourth, the incumbent and advanced services affiliate must have separate officers, directors, and employees.

—Fifth, the affiliate must not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the incumbent.

—Sixth, the incumbent LEC, in dealing with its advanced services affiliate may not discriminate in favor of its affiliate in the provision of any goods, services, facilities or information or in the establishment of standards.

—Seventh, an advanced services affiliate must interconnect with the incumbent LEC pursuant to tariff or pursuant to an interconnection agreement, and whatever network elements, facilities, interfaces and systems are provided by the incumbent LEC to the affiliate must also be made available to unaffiliated entities. We seek comment on our proposal.

15. To the extent commenters disagree with our reasoning, we invite them to propose specific modifications to the framework set forth above, and to describe with particularity why such modifications should be adopted. In particular, commenters should address how any proposed modification addresses concerns that incumbent LECs could improperly discriminate against competing providers, for instance, by using control over key facilities and services, in order to gain a competitive advantage for their advanced services affiliates. Commenters also should address how any proposed modification addresses concerns about cost misallocation.

16. We seek comment on whether the same separation requirements should apply to all advanced services affiliates for them to be deemed not incumbent LECs, regardless of the size of the associated incumbent LECs. We seek comment on whether, as a practical matter, a BOC would choose to establish two separate affiliates to provide advanced services—one to provide such

services on an interLATA basis and another to provide such services on an intraLATA basis—if we were to adopt separation requirements less stringent than those in section 272 for advanced services affiliates.

17. We seek comment on whether any separation and other safeguards should sunset after a certain period of time or change in conditions. For example, with respect to the BOCs, we seek comment on whether the safeguards necessary to be deemed a non-incumbent LEC in the provision of advanced services should sunset at the same time that the statutorily-mandated section 272 requirements sunset with respect to the BOCs' provision of in-region interLATA services. We seek comment on what other periods may be appropriate.

18. *Non-Dominant Status.* We also tentatively conclude that an advanced services affiliate, to the extent it provides interstate exchange access services, should, under existing Commission precedent, be presumed to be nondominant. Therefore, such affiliate would not be subject to price cap regulation or rate of return regulation for its provision of such services. We tentatively conclude that such an affiliate, as a non-incumbent, also should not be required to file tariffs for its provision of any interstate services that are exchange access. We seek comment on these tentative conclusions.

19. *Miscellaneous Issues.* We seek comment on whether an advanced services affiliate should be limited in its ability either to resell telecommunications services offered by the incumbent LEC or to purchase unbundled network elements from the incumbent LEC. We also seek comment on whether a virtual collocation arrangement is more practical or attractive to an incumbent's affiliate than to other competitive LECs, and, therefore, creates an unfair competitive advantage for an advanced services affiliate vis-a-vis other entrants. If so, are there ways to make virtual collocation arrangements more equal?

20. We also note that some incumbent LECs have formed their own information services providers. Are advanced services affiliates likely to favor such affiliated information services providers, and, if so, in what ways? We also seek comment on whether competing information services providers (such as, for example, Internet services providers) will have the ability to offer service to customers of the advanced services affiliate. Could the advanced services affiliate and the incumbent LEC act in concert to engage in a price squeeze on unaffiliated information service providers? Parties arguing that the incentive and ability for affiliates to favor affiliated information services providers should suggest means by which the Commission could address these concerns.

21. Finally, commenters should compare any anticompetitive concerns they have with the operation of an advanced services affiliate to similar concerns they may have with the offering of such services on an integrated basis by the incumbent.

b. Transfers from an incumbent LEC to an advanced services affiliate. 22. In order not to be subject to the requirements of section 251(c), the advanced services affiliate must not be a successor or assign of the incumbent LEC. A determination as to whether an affiliate is a successor or assign is ultimately fact-based. In order to provide clarity and regulatory certainty, we make certain proposals below regarding when we would view an affiliate as a successor or assign. We seek to establish principles to guide the conduct of firms that choose to avail themselves of this pathway. We seek comment on how particular transactions between incumbents and their advanced services affiliates should affect the regulatory status of the affiliates. Commenters should consider whether, in a particular situation, the affiliate would be functioning like any other competitive LEC, or more like an assign of the incumbent.

23. *Transfers of Facilities.* Under existing Commission precedent, if a BOC transfers to an affiliated entity ownership of any network elements that must be provided on an unbundled basis pursuant to section 251(c)(3), such an entity would be deemed to be an assign of the BOC under section 3(4) of the Act with respect to those network elements. We seek comment on whether the converse is true: should an affiliate not be deemed an assign of the incumbent LEC if the affiliate acquires facilities on its own, and not by transfer from the incumbent LEC?

24. In the Order, we state that network elements used to provide advanced services must be unbundled pursuant to section 251(c)(3), subject to considerations of technical feasibility. We seek comment on the extent to which incumbent LECs already have purchased facilities used to provide advanced services, including, but not limited to DSLAMs and packet switches. We tentatively conclude that, subject to any *de minimis* exception as discussed below, a wholesale transfer of such facilities would make an affiliate the assign of the incumbent LEC.

25. Moreover, we tentatively conclude that any transfer of local loops from an incumbent LEC to an advanced services affiliate would make that affiliate an assign of the incumbent LEC and subject to section 251(c) with respect to those loops. We seek comment on these tentative conclusions.

26. We seek comment on whether there should be a *de minimis* exception, under which a limited transfer of equipment would not make an advanced services affiliate an assign of the incumbent LEC. We ask commenters to address with specificity what should be deemed a ''*de minimis* transfer of equipment.'' We tentatively conclude that, if we were to adopt a *de minimis* exception, such an exception should apply only to transfers of facilities used specifically to provide advanced services, such as DSLAMs, packet switches, and transport facilities, and not to other network elements, such as loops. We seek comment on this tentative conclusion. We also seek comment on whether a *de minimis* exception should apply only to transfers of equipment that the incumbent LEC purchased and installed, or whether it should apply only to equipment that the incumbent LEC has ordered but not installed.

27. We seek comment on whether, if we adopt a *de minimis* exception, there should be a time limitation on when such transfers may occur, and if so, whether six months would be an appropriate period. We also seek comment on whether there should be any difference in treatment for transfers of equipment ordered and/or installed prior to the release date of this NPRM as opposed to prior to the effective date of any rule adopted in this proceeding.

28. We also seek comment on whether, if we allow any transfer of ownership of equipment from the incumbent LEC to an advanced services affiliate, the affiliate should have the right to leave that equipment in its current location on the incumbent's premises. We tentatively conclude that to the extent there are space limitations on the incumbent LEC's premises, either in the central office or remote terminal, an affiliate may not leave such equipment in its current location. We seek comment on this analysis.

29. We also seek comment on whether, if we allow any transfer of equipment between the incumbent LEC and the advanced services affiliate, such transfers should be exempt from the nondiscrimination requirement we propose above, for a limited time. Without such an exception from the nondiscrimination requirement, the incumbent would be required to offer

such equipment on a nondiscriminatory basis to all entities. We seek comment on whether six months would be an appropriate period for such exemption. We tentatively conclude that even if we adopt such an exemption from the nondiscrimination requirement, such transfers should remain subject to the affiliate transactions rules. We seek comment on this analysis.

30. In addition, we seek comment on whether there are other circumstances under which incumbent LECs should be permitted to transfer facilities to their affiliates. For example, should the transfer of a packet switch used solely for trial purposes make the advanced services affiliate an assign of the incumbent LEC with respect to that packet switch? Commenters should suggest other situations in which transfers of network elements from an incumbent LEC to its advanced services affiliate should not render the affiliate an incumbent LEC.

31. *Other Transfers.* Incumbent LECs also may seek to transfer to their advanced services affiliates assets other than network elements. In order to provide clarity and regulatory certainty, we ask commenters to provide examples of what types of transfers an incumbent LEC may wish to make to its advanced services affiliate and whether these transfers should make advanced services affiliates assigns of incumbent LECs. Commenters should consider, among other things, transfers of customer accounts, employees, and brand names. In addition, we seek comment on whether, and if so to what extent, transfers of funds from an incumbent LEC's corporate parent to the incumbent LEC's advanced services affiliate should affect the affiliate's regulatory status as a non-incumbent LEC. We also seek comment on whether use by an affiliate of customer proprietary network information (CPNI) gathered by the incumbent LEC is one factor among many that might be relevant in making the determination that an affiliate is an assign of the incumbent LEC. In addition, we tentatively conclude that, if an incumbent sells or conveys central offices or other real estate in which equipment used to provide telecommunications services is located to an advanced services affiliate, that would make the affiliate an assign of the incumbent. We seek comment on this analysis.

32. We tentatively conclude that, if we adopt a de minimis exception for transfers of network elements, we should adopt an analogous exception for any transfers of other assets. We also tentatively conclude that if we adopt any exception from the nondiscrimination requirement for transfers of network elements, we should adopt an analogous exception for transfers of other assets. We seek comment on these tentative conclusions.

33. *Other Issues.* We also seek comment on whether the network disclosure requirements in section 251(c)(5) are sufficient to notify competitive LECs who might be using, or planning to use, facilities of the incumbent LEC that those facilities are being transferred to the advanced services affiliate. Parties arguing that the existing network disclosure requirement is not sufficient should suggest alternative disclosure rules, including suggestions regarding how soon prior to the transfer the incumbent LEC must notify competing carriers.

3. State Regulation

34. We note that, to the extent that an advanced services affiliate provides interstate exchange access services, the Commission has clear authority to regulate the separate affiliate's provision of those services. To the extent that an advanced services affiliate provides advanced services on an intrastate basis, we encourage states to treat the affiliate equivalently to any other competing carrier offering advanced services. We believe that, if states regulate advanced services affiliates equivalently to other competitive LECs, incumbents are more likely to offer such services through separate affiliates. On the other hand, if states impose incumbent LEC regulation on such affiliates, incumbent LECs are not likely to incur the expense of establishing such affiliates. We encourage the states, therefore, to the extent they require certification for competitive carriers, to certify such advanced services affiliates within their jurisdictions in the same manner as they certify other entities to provide advanced services. Moreover, we encourage states to apply regulatory policies in a nondiscriminatory fashion to all entities seeking to provide such services, including advanced services affiliates that qualify for non-incumbent LEC treatment under the rules we adopt in this NPRM. We believe that such nondiscriminatory treatment is essential in order to encourage innovation and investment in these new technologies. Congress has determined that state actions should not ''prohibit, or have the effect of prohibiting, the ability of any entity to provide interstate or intrastate telecommunications service.'' We seek comment on whether, if we adopt safeguards less stringent than those proposed in this NPRM, states might have a legitimate interest in regulating an incumbent LEC's advanced services affiliate differently than other competitive LECs offering advanced services, due to increased entanglement of the incumbent LEC and its advanced services affiliate.

35. We note, however, that our discussion here is limited to state regulation of the provision by advanced services affiliates of advanced services. We do not address state regulation of an advanced services affiliate's provision of other services, such as circuit-switched voice services. In addition, we note that some states have expressed concerns about an incumbent LEC's incentive to continue to innovate and invest in the public switched network. We are sensitive to these concerns, and we seek comment on how we and the states can work together to ensure that the incumbent LECs who choose to offer advanced services through affiliates do not allow their existing incumbent LEC networks to degrade.

C. Measures To Promote Competition in the Local Market

1. Collocation Requirements

a. Adoption of national standards. 36. We seek comment on the extent to which we should establish additional national rules for collocation pursuant to sections 201 and 251 in order to remove barriers to entry and speed the deployment of advanced services. Parties should address whether adoption of additional uniform standards would encourage the deployment of advanced services by increasing predictability and certainty, and by facilitating entry by competitors providing advanced services in multiple states. We also ask commenters to address how any collocation requirements they suggest would affect investment in, and deployment of, advanced services.

37. We tentatively conclude that any standards we adopt in this proceeding should serve as minimum requirements and that states should continue to have flexibility to adopt additional requirements that respond to issues specific to that state or region. In the past two years, a number of states have adopted collocation requirements that go beyond the minimum requirements the Commission adopted in the *Local Competition* proceeding. With respect to each subsection that follows, we encourage commenters to address whether any state approach to collocation might provide useful guidelines for additional national standards to facilitate deployment of

advanced services. We welcome input from the states on each of these issues.

38. We note that competitive LECs can pursue remedies for violations of our collocation requirements before the Commission and the appropriate state commissions. We seek comment on any measures we could take to aid enforcement of our collocation requirements.

b. Collocation equipment. 39. We tentatively conclude that incumbent LECs should not be permitted to impede competing carriers from offering advanced services by imposing unnecessary restrictions on the type of equipment that competing carriers may collocate. We seek comment on whether we should require incumbent LECs to allow new entrants to collocate equipment that is used for interconnection and access to unbundled network elements even if such equipment also includes switching functionality. Would allowing collocation of equipment that performs both switching and other functions encourage competitive LECs to use integrated equipment as a means to collocate equipment that otherwise would not be allowed in central offices? Would restrictions on placing switching equipment in collocation spaces prevent new entrants from taking advantage of integrated equipment that may be more cost efficient? We tentatively conclude that, if an incumbent LEC chooses to establish an advanced services affiliate, the incumbent must allow competitive LECs to collocate equipment to the same extent as the incumbent allows its advanced services affiliate to collocate equipment in order to meet its existing obligation to provide collocation on nondiscriminatory terms and conditions.

40. If we decide to allow carriers (whether they be new entrants or advanced services affiliates) to collocate equipment that includes switching functionality, should we limit such collocation to equipment that performs both switching and other functions (such as multiplexing), or should we extend such collocation to switching equipment in general? If we allow carriers to collocate switching equipment, should we limit such collocation to packet-switching equipment or should we allow collocation of circuit-switching equipment? Does it makes sense to differentiate among technologies? To the extent that parties urge the Commission to permit collocation of switching or other equipment that is not used for interconnection or access to unbundled network elements, as required by section 251(c)(6), parties should indicate what sections of the Act authorize the Commission to require collocation of such equipment.

41. We also seek comment on any other specific restrictions that we should adopt for switching equipment, assuming new entrants and advanced services affiliates are permitted to collocate such equipment. For example, given the lack of space in many central offices, we seek comment on whether we should adopt size restrictions on the switching equipment that a competing provider may collocate at a LEC's premises. Parties should address whether failure to impose size or other restrictions could impede competition by, for example, allowing the first competing provider in the market to request all of the available space, thereby potentially depriving other competitors of the opportunity to collocate facilities. We tentatively conclude that an advanced services affiliate should not be permitted to collocate its switching equipment if there is only enough room at the central office for one carrier to collocate such equipment. We seek comment on this tentative conclusion.

42. We further seek comment on whether carriers should be permitted to collocate other equipment on LEC premises. We tentatively conclude that we should continue to decline to require collocation of equipment used to provide enhanced services. We seek comment on this tentative conclusion. Parties should address whether provision of other advanced services would only be possible if we allow collocation of enhanced services equipment. Parties should further address whether allowing any other equipment in the collocation space will facilitate new entrants' ability to provide advanced services and thereby encourage widespread deployment of such services.

43. ALTS contends that some incumbent LECs will not allow competitive LECs to interconnect their collocated equipment. Under our current rules, an incumbent LEC is required to allow competing carriers to establish cross-connects to the collocated equipment of other competing carriers at the incumbent's premises. We seek comment on any additional steps we might take so that competitive LECs are able to establish cross-connects to the equipment of other collocated competitive LECs.

44. Finally, we tentatively conclude that incumbent LECs may require that all equipment that a new entrant places on its premises meet safety requirements to avoid endangering other equipment and the incumbent LECs' networks. Some performance and reliability requirements, however, may not be necessary to protect LEC equipment. Such requirements may increase costs unnecessarily, which lessens the ability of new entrants to serve certain markets and thereby harms competition. We tentatively conclude that, to the extent that incumbent LECs use equipment that does not satisfy the Bellcore Network Equipment and Building Specifications (NEBS) requirements, competitive LECs should be able to collocate the same or equivalent equipment. We further tentatively conclude that incumbent LECs should be required to list all approved equipment and all equipment they use.

45. We seek comment on whether competitive LECs should be required to use NEBS-compliant equipment where the incumbent LEC uses NEBS-compliant equipment for equivalent functions. Parties should address whether allowing competitive LECs to collocate non-NEBS-compliant equipment would introduce new vulnerability into the central office. Commenters should distinguish between those NEBS safety requirements, which address the need to protect central office equipment and telecommunications networks, and NEBS performance requirements, which set equipment reliability standards.

c. Allocation of space. 46. We tentatively conclude that we should require incumbent LECs to offer collocation arrangements to both new entrants and any advanced services affiliate incumbent LECs establish that minimize the space needed by each competing provider in order to promote the deployment of advanced services to all Americans. Such alternative collocation arrangements include: (1) The use of shared collocation cages, within which multiple competing providers' equipment could be either openly accessible or locked within a secure cabinet; (2) the option to request collocation cages of any size without any minimum requirement, so that competing providers will not use any more space than is reasonably necessary for their needs; and (3) physical collocation that does not require the use of collocation cages (''cageless'' collocation).

47. We anticipate that requiring such alternative collocation arrangements would foster deployment of advanced services by facilitating entry into the market by competing carriers. We tentatively conclude that allowing these alternative collocation arrangements will optimize the space available at a LEC's premises, thereby allowing more

competitive LECs to collocate equipment and provide service. Moreover, as ALTS indicates, more cost-effective collocation solutions may spur collocation in residential and less densely populated areas. We seek comment on what specific rules we should adopt to ensure that these alternative arrangements are offered in a manner that facilitates deployment of advanced services to the greatest extent possible.

48. We recognize that section 251(c)(6) requires the incumbent LEC to offer physical collocation unless the incumbent demonstrates to the state commission that such an arrangement is not technically feasible. We note that U S WEST is currently offering a cageless collocation arrangement, and SBC is permitting competitive LECs to share collocation space. We seek comment on whether, if an incumbent LEC offers a particular collocation arrangement, such a collocation arrangement should be presumed to be technically feasible at other LEC premises.

49. In addition, we note that, in the *Local Competition Order*, the Commission concluded that incumbent LECs should be permitted reasonable security arrangements to protect their equipment and ensure network security and reliability. We recognize that adequate security for both incumbent LECs and competitive LECs is important to encourage deployment of advanced services. We now seek comment on the security and access issues and any other issues that may arise from a requirement that incumbent LECs provide these alternative collocation arrangements, including cageless collocation. In addressing any security or other issues, parties should identify any safeguards or other measures that would resolve such concerns.

50. With cageless collocation, in particular, we seek comment on whether incumbent LECs should be allowed to require escorts for competitive LEC technicians; whether concealed security cameras or badges with computerized tracking systems would provide sufficient protection; whether security measures should vary, or be allowed to vary, by central office; and what security measures are appropriate for unstaffed offices in remote areas. Given that incumbent LECs currently maintain control over competitive LEC equipment in virtual collocation arrangements, and competitive LECs have access to each other's equipment in shared collocation space, we tentatively conclude that carriers should be able to resolve any security concerns raised by cageless collocation. We ask parties with knowledge of virtual collocation and shared collocation arrangements to address how these arrangements might serve as models for cost-effective cageless collocation arrangements.

51. We further seek comment on any other alternative physical collocation arrangements that we should require to lower the cost of collocation and thereby facilitate competition in the advanced services marketplace. In addition, we seek comment on any other measures that would facilitate the implementation of collocation arrangements and thereby enable firms to enter new markets. Given that space preparation and construction times vary greatly depending on the location, parties should address whether there should be any uniform standards that would apply on a national level. We also ask commenters to address whether we can and should require incumbent LECs to remove obsolete equipment and non-critical offices in central offices to increase the amount of space available for collocation.

52. We also seek comment on other measures that would reduce the cost of physical collocation arrangements. For example, we seek comment on ALTS' proposal that we establish rules for the allocation of up-front space preparation charges. One approach, adopted by Bell Atlantic in its pre-filing statement in the New York Commission's section 271 docket, is that the competing provider would be responsible only for its share of the cost of conditioning the collocation space, whether or not other competing providers are immediately occupying the rest of the space. In addition, Bell Atlantic committed to allowing smaller competing providers to pay on an installment basis. We seek comment on whether we should adopt Bell Atlantic's approach, or any other approach, as a national standard in order to speed the deployment of advanced telecommunications capability to all Americans. We also seek comment on the ramifications that such a national standard would have on the implementation and enforcement of the requirements of section 251 and 271. We tentatively conclude that any standards we adopt in this proceeding should serve as minimum requirements, and that states should continue to have flexibility to adopt additional collocation requirements, consistent with the Act.

53. Finally, we seek comment on how to address the entry barrier posed by delays between the ordering and provisioning of collocation space. We seek comment on ALTS' proposal that we should establish presumptive reasonable deployment intervals for new collocation arrangements and expansion of existing arrangements. Currently, a new entrant typically must first seek state competitive LEC certification, before it can begin to negotiate an interconnection agreement. In addition, competitive LECs have asserted that some incumbent LECs will not allow a requesting carrier to order collocation space until an interconnection agreement becomes final. If certain issues are taken to arbitration, there can be considerable delay. We seek comment on ways to shorten collocation ordering intervals. We also ask commenters to address whether we should set specific intervals by which time the incumbent LEC must or should be expected to provide the competitive LEC with: (1) information on collocation availability and prices; and (2) collocation space. We also seek comment on what should be done in the event that an incumbent LEC fails to meet a specified interval.

d. Space exhaustion. 54. We tentatively conclude that an incumbent LEC that denies a request for physical collocation due to space limitations should not only continue to provide the state commission with detailed floor plans, but should also allow any competing provider that is seeking physical collocation at the LEC's premises to tour the premises. We tentatively conclude that state commissions will be better able to evaluate whether a refusal to allow physical collocation is justified if competing providers can view the LEC's premises and present their arguments to the state commission. We seek comment on these tentative conclusions.

55. We further tentatively conclude that, upon request from a competitive LEC, an incumbent LEC should submit to the requesting carrier a report indicating the incumbent LEC's available collocation space. This report should specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. The report should also include measures that the incumbent LEC is taking to make additional space available for collocation. We seek comment on this tentative conclusion. Parties should address whether the incumbent LEC should be required to include any additional information in such a report.

56. We also seek comment on measures that would facilitate the use of virtual collocation for the provision of advanced services. Although competing providers may prefer physical collocation arrangements that permit

their employees to install and repair their own equipment, we seek comment on measures that would make virtual collocation an effective alternative in locations where physical collocation space is unavailable. We tentatively conclude that all competitive LECs must be offered the same virtual collocation arrangements as the incumbent provides to its advanced services affiliate in order to meet its existing obligation to provide collocation on nondiscriminatory terms and conditions.

57. We seek comment on any other measures that would help ensure that sufficient collocation space will be available in the future. Such measures may include, but are not limited to, modifying our rules on warehousing of space. Parties should address how any such measures they propose would affect investment in, and deployment of, advanced services.

e. Effects of additional collocation requirements. 58. Although this NPRM addresses ways in which the Commission can promote the deployment of advanced services, a number of our tentative conclusions and rule proposals relating to collocation may affect existing collocation arrangements. We seek comment on whether (and, if so, to what extent) any of our tentative conclusions or proposals might affect existing negotiated and arbitrated interconnection agreements, existing state requirements, or pending state proceedings.

2. Local Loop Requirements

a. Overview. 59. In the Order, we grant ALTS' request for a declaratory ruling that incumbent LECs are required to provide xDSL-compatible loops to requesting carriers pursuant to section 251(c)(3) and our implementing rules. We are concerned, however, that our existing rules requiring the unbundling of loops do not fully ensure that competitive providers of advanced services have adequate access to the ''last mile,'' which is critical to ensure that a variety of providers are able to offer the full range of advanced services that consumers may demand. Accordingly, in this section, we seek comment on rule changes that we could adopt pursuant to section 251 that would strengthen the ability of new entrants to gain access to xDSL-compatible loops.

b. Adoption of National Standards. 60. We seek comment on the extent to which we should establish additional national rules for local loops pursuant to sections 201 and 251 in order to remove barriers to entry and speed the deployment of advanced services. Parties should address whether adoption of additional uniform standards would encourage the deployment of advanced services by increasing predictability and certainty, and by facilitating entry by competitors providing advanced services in multiple states. We also ask commenters to address how any local loop requirements they suggest would affect investment in, and deployment of, advanced services.

61. We tentatively conclude that any standards we adopt in this proceeding should serve as minimum requirements and that states should continue to have flexibility to adopt additional requirements that respond to issues specific to that state or region. In the past two years, a number of states have adopted local loop requirements that go beyond the minimum requirements the Commission adopted in the *Local Competition* proceeding. With respect to each subsection that follows, we encourage commenters to address whether any state approach to local loops might provide useful guidelines for additional national standards to facilitate deployment of advanced services. We welcome input from the states on each of these issues.

62. We note that competitive LECs can pursue remedies for violations of our local loop requirements before the Commission and the appropriate state commissions. We seek comment on any measures we could take to aid enforcement of our local loop requirements.

c. Loops and operations support systems. 63. We seek comment on whether our existing operations support system rules adequately ensure that competitive LECs have access to necessary information about loops. We tentatively conclude that incumbent LECs should provide requesting competitive LECs with sufficient detailed information about the loop so that competitive LECs can make an independent determination about whether the loop is capable of supporting the xDSL equipment they intend to install. Thus, competitive LECs would need access to such information as whether the loops pass through remote concentration devices, what, if any, electronics are attached to loops, the condition and location of loops, loop length, the electrical parameters that determine the suitability of loops for various xDSL technologies, and other loop quality issues. We tentatively conclude that it is important that competitors have the ability to make their own assessments because the parameters for determining whether a loop is xDSL-compatible may differ for different technologies. Such parameters may also change as technology evolves. We seek comment on these tentative conclusions and whether other types of information should also be made available. We note that, to the extent that a competitive LEC cannot obtain nondiscriminatory access to operations support systems, competitive LECs can pursue remedies for violations of our requirements before the Commission and the appropriate state commissions. We seek comment on any additional measures we could take to ensure that competitive LECs receive nondiscriminatory access to operations support systems. We tentatively conclude that incumbent LECs must provide competitors with the same access to operations support systems as the incumbent provides to its advanced services affiliate pursuant to its existing obligation to provide nondiscriminatory access to operations support systems.

64. We also seek comment on the type of information that is currently available to incumbent LECs. Do incumbent LECs currently have a detailed inventory of existing loops? Do incumbent LECs currently have electronic access to such information? If so, is the same quality of access being made available to new entrants? We tentatively conclude that, in order to satisfy the nondiscrimination requirements of the Act, competitive LECs should have access to the same electronic interfaces that are available to incumbent LECs to obtain loop information. We also tentatively conclude that, as new information becomes available, incumbent LECs should be required to share such information with new entrants immediately. We seek comment on these tentative conclusions.

d. Loop spectrum management. 65. We seek comment on the way in which we should address loop spectrum issues. In particular, we ask commenters to address any interference that may result from provision of advanced telecommunications capability using different signal formats on copper pairs in the same bundle.

66. We ask parties to suggest ways to determine when a particular service, technology or piece of equipment causes network interference such that use of the particular service, technology, or piece of equipment should be prohibited. We also ask commenters to suggest ways to distinguish between legitimate claims that particular services, technologies or equipment create spectrum interference and claims raised simply to impede competition. We seek comment on whether the Commission should adopt any industry

standards as the basis for national spectrum management requirements. We also seek comment on how any requirements should evolve over time so as to encourage and not stifle innovation. In addition, we seek comment on other approaches to spectrum management that would foster pro-competitive use of the loop plant by incumbent LECs and new entrants, while providing necessary network protection.

67. If we adopt any national standards on spectrum management, we propose to impose the same spectral requirements on both incumbent LECs and new entrants. We seek comment on whether and how to grandfather existing technology that does not satisfy any new requirements. We seek comment on how we might best administer the grandfathering process.

68. We also seek comment on whether two different service providers should be allowed to offer services over the same loop, with each provider utilizing different frequencies to transport voice or data over that loop. xDSL technology, for example, separates a single loop into a POTS channel and a data channel, and can carry both POTS and data traffic over the loop simultaneously. A competitive LEC may want to provide only high-speed data service, without voice service, over an unbundled loop. Should the competitive LEC have the right to put a high frequency signal on the same loop as the incumbent LEC's voice signal? If a competitive LEC takes an entire loop, could the competitive LEC sell the voice channel back to the incumbent LEC or to another carrier? Should the competitive LEC be allowed to lease the loop for data services and resell the voice service of the incumbent LEC? Commenters should address with particularity the advantages and disadvantages of these various possibilities, and what practical considerations would arise in each situation. For example, which entity would manage the frequency division multiplexing equipment if two carriers are offering services over the same loop? We tentatively conclude that any voice product that the incumbent LEC provides to its advanced services affiliate would have to be made available to competitive LECs on the same terms and conditions. For example, if the advanced services affiliate leases the loop and resells the incumbent's voice service, the competitive LEC must be allowed to do likewise.

e. Uniform standards for attachment of electronic equipment at the central office end of a loop. 69. To facilitate competition in the local loop, we tentatively conclude that there should be uniform national standards for attachment of electronic equipment (such as modems and multiplexers) at the central office end of a loop by incumbent LECs and new entrants. The requirements would apply to both incumbent LEC and new entrant equipment. The requirements would serve the same role, for the attachment of equipment to the central office end of a loop, as do the *Part 68—Connection of Terminal Equipment to the Telephone Network*—rules for the attachment of customer premises equipment. Currently, each incumbent LEC sets its own requirements for central office equipment, and each has its own processes for certifying equipment before it can be connected to loop plant. This increases new entrants' costs and time to market. A simple set of national requirements would reduce new entrants' costs, speed their time to market, and reduce confusion. We seek comment on the content of these requirements. We also seek comment on whether central office equipment complying with these requirements should be certified, and if so, how.

f. Redefining the local loop to ensure competitive LEC access to loops capable of providing advanced services. 70. In the Order above, we emphasize that, under our existing rules, incumbent LECs are required to make xDSL-compatible loops available to competitors. We seek comment on whether our current definition of the loop is sufficient to ensure that competitive LECs have access to the loop functionalities they need to offer advanced services, such as xDSL-based services, or whether any refinements to that definition are necessary to ensure that incumbent LECs are providing competitive LECs with loops capable of delivering such advanced services. Commenters should also address whether our current definition is sufficiently flexible and forward-looking to facilitate deployment of new technologies and new services in the future.

g. Unbundling loops passing through remote terminals. 71. *Unbundling DLC-Delivered Loops.* As discussed in the Order, we grant ALTS' request for a declaratory ruling that incumbent LECs are required to provide loops capable of transporting high-speed digital signals where technically feasible. This requirement includes the obligation to unbundle high-speed data-compatible loops whether or not a remote concentration device like a digital loop carrier is in place on the loop. We tentatively conclude that providing an xDSL-compatible loop as an unbundled network element is presumed to be ''technically feasible'' if the incumbent LEC is capable of providing xDSL-based services over that loop. Consistent with the pro-competitive goals of the Act, we tentatively conclude that the incumbent LEC shall bear the burden of demonstrating that it is not technically feasible to provide requesting carriers with xDSL-compatible loops. We seek comment on these tentative conclusions.

72. We note that, to the extent that a competitive LEC cannot obtain nondiscriminatory access to xDSL-compatible loops, competitive LECs can pursue remedies for violations of our requirements before the Commission and the appropriate state commissions. We seek comment on any additional measures we could take to ensure that competitive LECs receive nondiscriminatory access to access to xDSL-compatible loops. We tentatively conclude that if the incumbent chooses to offer xDSL-based services through an advanced services affiliate, whatever loops are provided to the affiliate must also be provided to the other entrants.

73. We ask commenters to address the technical issues that may arise when local loops pass through digital loop carriers or similar remote concentration devices. For example, we ask commenters to address the issues of loop quality, analog-to-digital translation of signals, electronic equipment attached to loops, loop length, and other issues that arise with remote concentration devices. We ask commenters to address the traffic management issues that may arise when local loops pass through digital loop carrier systems or similar remote concentration devices. We ask commenters to identify and evaluate any concerns that they identify with having the traffic on the digital loop carrier systems managed by the incumbent LEC and to identify feasible alternatives. We encourage commenters to identify other technological problems and to propose concrete solutions to those problems. We also ask commenters to address the extent to which next generation digital loop carrier systems and other new technologies will affect the provision of advanced data services over unbundled loops.

74. We ask commenters to propose methods of unbundling loops passing through remote concentration devices that will enable competitive carriers to provide advanced services. We ask commenters to identify and evaluate the benefits and drawbacks of any proposed methods. We ask commenters to evaluate the technical feasibility, legal

consequences, and policy ramifications of any proposed unbundling methods. We also ask commenters to consider how any loop requirements we may adopt will affect investment in, and deployment, of advanced services.

75. We tentatively conclude that the competitive LEC may request any ''technically feasible'' method of unbundling the DLC-delivered loop, and the incumbent LEC is obligated to provide the particular method requested. We base this tentative conclusion on the premise that each competitive LEC may have its own business strategy and unique reasons for obtaining loop access in a particular manner or at a specific interconnection point. We tentatively conclude that, in the event that the incumbent LEC demonstrates that the unbundling method requested by the competitive LEC is not technically feasible, the competitive LEC may request other unbundling methods. In the event that the incumbent LEC demonstrates that none of the requested methods are technically feasible, the incumbent LEC may offer another unbundling method, provided that the method would provide the competitive LEC with a loop of equal quality and functionality as the incumbent's loop. We seek comment on these tentative conclusions.

76. We further tentatively conclude that competitive LECs should not be comparatively disadvantaged by incumbent LECs regarding provisioning of DLC-delivered loops. We tentatively conclude that incumbent LECs must make available, in a nondiscriminatory manner, to competitive LECs the same methods that the incumbent (or its advanced services affiliate) uses itself to provide advanced telecommunications capability such as xDSL-based services. We further tentatively conclude that deployment intervals for provisioning xDSL-compatible loops should be the same for incumbent LECs and competitive LECs, regardless of whether the loop passes through a remote concentration device. We seek comment on these tentative conclusions. We also ask commenters to address whether we should require incumbent LECs to provision xDSL-compatible loops within a specified interval and, if so, what that interval should be. Again, we tentatively conclude that whatever accommodations are provided to the incumbent's advanced services affiliate must be equally provided to new entrants.

77. *Sub-Loop Unbundling and Collocation at the Remote Terminal.* We seek comment on whether we need to extend the concept of loop unbundling to sub-loop elements in order to further the pro-competitive goals of the 1996 Act and facilitate deployment of advanced services. We ask commenters to address whether it is technically feasible to require incumbent LECs to unbundle sub-loop elements and provide competitive LECs access to the remote terminal so that competitive LECs can provide advanced services.

78. We tentatively conclude that incumbent LECs must provide sub-loop unbundling and permit competitive LECs to collocate at remote terminals, unless the incumbent LEC can demonstrate one of the following with respect to the particular remote terminal requested by the competitive LEC: (1) Sub-loop unbundling is not ''technically feasible;'' or (2) there is insufficient space at the remote terminal to accommodate the requesting carrier. We make this tentative conclusion because the use of sub-loop elements and access to the remote terminal may be the only means by which competitive LECs can provide xDSL-based services for those end-users whose connection to the central office is currently provided via digital loop carrier systems. We further tentatively conclude that it would be an unreasonable practice for an incumbent LEC to deny competitive LECs collocation at the remote terminal on either of these grounds, while allowing its own affiliate to collocate at the remote terminal. We seek comment on these tentative conclusions. In particular, we seek comment on whether such sub-loop unbundling and remote terminal access are, in fact, necessary in order for competitive LECs to provide high bandwidth services, such as xDSL-based services. We ask commenters to consider whether new technologies, such as next generation digital loop carrier systems, might reduce or eliminate the need for competitive LEC access to sub-loop elements. As an alternative to requiring sub-loop unbundling, or if sub-loop unbundling proves to be technically infeasible or there is insufficient space at the remote terminal, we seek comment on whether the incumbent LEC should be obligated to provide an alternative unbundling method at no greater cost to the competitive LEC. Should the incumbent LEC be obligated to demonstrate that such unbundling method will provide the competitive LEC with a loop of the same quality and functionality as the loop that the competitive LEC would have obtained through access to the sub-loop element(s)?

79. We also ask commenters to address the use to which competitive LECs would put sub-loop elements and what specific sub-loop elements, if any, should be unbundled. We also ask commenters to address the technical issues involved with loops that pass through remote concentration devices, including the ability of competitive providers of advanced services to access the necessary elements of the incumbent LEC networks. Commenters should address the extent to which the incumbent LEC's control over the remote terminal and electronics therein might limit the ability of end users to access a full range of competitive services. We seek comment on the technical issues of customer premises equipment and central office or remote terminal equipment compatibility, and we ask commenters that perceive problems to propose solutions that would ensure that end users have the widest possible access to competitive services. We also ask commenters to address what should be done if more competitive LECs request access to a remote terminal than the remote terminal can accommodate. What would be a fair means of allocating limited space? Should there be a lottery system? Should the space be auctioned? Should the space be made available on a ''first come, first served'' basis? If we conclude that ''first come, first served'' is the most appropriate method, how can we ensure that incumbent LECs do not fill up all the available space before competitive LECs have the opportunity to collocate their equipment? We tentatively conclude that an incumbent LEC may not take all the available space in a remote terminal, and then transfer ownership of that equipment in the remote terminal to an advanced services affiliate. We seek comment on this tentative conclusion.

80. We seek comment from those with evidence demonstrating or challenging the proposition that sub-loop unbundling and competitive LEC access to remote terminals may impair network reliability or pose significant technical problems. We seek comment on whether accountability for the network would be lost or compromised if competitive LECs are allowed access to the incumbent LEC's remote terminals or other plant in the field. We seek comment on whether there is a need for operational, administrative, and maintenance procedures for allowing access to the incumbent LEC's plant in the field in order to ensure network quality and reliability. We seek comment on how best to allow such access and ask commenters to propose operational, administrative and maintenance procedures to ensure network quality and reliability in the event that we permit competitive LECs

access to incumbent LEC plant in the field. We also seek comment on ways to minimize the cost of providing such access.

h. Effects of additional requirements for local loops. 81. We seek comment on whether (and if so, to what extent) any of our tentative conclusions or proposals might affect existing negotiated or arbitrated interconnection agreements, existing state requirements, or pending state proceedings.

D. Unbundling Obligations Under Section 251(c)(3)

82. We now seek comment on the specific unbundling requirements we should impose on network elements used by incumbent LECs in the provision of advanced services. Parties should address the specific network elements that incumbent LECs should be required to unbundle pursuant to section 251(c)(3). In particular, parties should address the applicability of section 251(d)(2), namely: (1) The extent to which particular network elements are ''proprietary'' as that term is used in section 251(d)(2)(a), and (2) the extent to which a carrier would be ''impair[ed],'' as that term is used in section 251(d)(2)(b), in its ability to offer advanced services without unbundled access to a particular network element.

83. We also seek comment on whether there are any additional criteria under section 251(d)(2) that the Commission should consider when identifying those network elements used to provide advanced services that must be made available pursuant to section 251(c)(3). Parties suggesting additional criteria should address the extent to which consideration of those criteria could lead the Commission to remove certain facilities used to provide advanced services from the unbundling obligations of section 251(c)(3). Parties should also address the extent to which consideration of each criterion will promote the deployment of advanced services.

84. In addition, we seek comment on the attributes of particular network elements that may make unbundling of those elements technically infeasible. For example, we note that it may not be technically feasible to offer unbundled access to individual packet switches. If the functionality offered by a single packet switch in the incumbent's network is not available to a competitor using packet switches of a different manufacturer, we seek comment on whether the unbundling of that packet switch would be ''technically infeasible.'' In addition, we ask commenters how an incumbent LEC's claim of technical infeasibility should be verified, such as whether the lack of a standard network interface, for example, should support such a claim.

85. We also seek comment on NTIA's proposal that we find section 251(c) to be fully implemented on a service-by-service basis. For example, NTIA suggests that the Commission should determine that section 251(c) is fully implemented with respect to xDSL services only after incumbent LECs ''give competitors access to * * * loop facilities capable of supporting DSL services and collocation space on [incumbent] LEC premises.'' Parties commenting on this proposal should address whether it provides an appropriate framework for ensuring compliance with section 251(c) by incumbent LECs.

86. In addition, given our objective in this proceeding to encourage deployment of wireline advanced services by all telecommunications carriers, including incumbent LECs, we seek comment in this section on any other specific measures that the Commission should take to provide regulatory relief from the obligations of section 251(c) for incumbent LECs that choose to offer advanced services on an integrated basis. Parties should address the extent to which any measures they propose will give incumbent LECs greater incentive to offer advanced services, promote competition in the advanced services market, and encourage widespread deployment of such services. Parties should also address whether such relief would justify the loss of significant pro-competitive benefits that we expect would accompany a separate affiliate approach.

E. Resale Obligations Under Section 251(c)(4)

87. In the Order, we conclude that an incumbent LEC has the obligation to offer for resale the advanced services that it generally offers to subscribers who are not telecommunications carriers. We further conclude above that, to the extent advanced services are telephone exchange services, incumbent LECs must offer such services for resale.

88. We now seek comment on the applicability of section 251(c)(4) to advanced services to the extent that such services are exchange access services. We tentatively conclude that such advanced services are fundamentally different from the exchange access services that the Commission referenced in the *Local Competition Order* and concluded were not subject to section 251(c)(4). We expect that advanced services will be offered predominantly to ordinary residential or business users or to Internet service providers. None of these purchasers are telecommunications carriers.

89. By its terms, section 251(c)(4) applies to ''any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.'' Advanced services generally offered by incumbent LECs to subscribers who are not telecommunications carriers meet this statutory test. We thus tentatively conclude that these services fall within the core category of retail services that both Congress and the Commission deemed subject to the resale obligation, and the reasoning that led the Commission in the *Local Competition Order* to exclude exchange access from the section 251(c)(4) resale obligation does not apply. We tentatively conclude, therefore, that advanced services marketed by incumbent LECs generally to residential or business users or to Internet service providers should be deemed subject to the section 251(c)(4) resale obligation, without regard to their classification as telephone exchange service or exchange access. We seek comment on these tentative conclusions.

F. Limited InterLATA Relief

1. Background

90. In this section, we seek comment on the scope of section 271(b)(3) of the Act, which permits the BOCs and their affiliates to provide certain ''incidental interLATA services.'' In addition, section 3(25)(B) of the Act permits the BOCs to modify LATA boundaries provided that the Commission approves such modifications. Since the 1996 Act became law, both the Commission and the Common Carrier Bureau (acting on delegated authority) have approved a significant number of LATA boundary modifications. As a general matter, the Commission, within the discretion granted to it under the Act, weighs the need for the proposed modification against the potential harm from anticompetitive BOC activity, and considers whether the proposed modification will have a significant effect on the BOC's incentive to open its local market pursuant to section 271. In the Order, we deny Ameritech's, Bell Atlantic's, and U S WEST's requests for large-scale changes in LATA boundaries for packet-switched services, because such changes could effectively eviscerate section 271 for those services and circumvent the procompetitive incentives for opening the local market to competition. In this section, we seek comment on the criteria we should use

in evaluating requests for more targeted LATA boundary changes. We also seek comment on whether there are any other forms of interLATA relief that we may consider.

2. Discussion

91. *Incidental InterLATA Services.* Section 271(b)(3) permits the BOCs and their affiliates to provide ''incidental interLATA services,'' as defined in section 271(g). We seek comment on the scope of this authority as it relates to BOC provision of advanced services. Section 271(g)(2), for example, permits the BOCs to provide ''two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools.'' This authority clearly allows the BOCs to provide certain advanced services to or for elementary and secondary schools. We seek comment on whether the ability to provide the other incidental interLATA services defined in section 271(g) affects the BOCs' ability to deploy advanced services on a reasonable and timely basis.

92. *LATA Boundary Modifications for Elementary and Secondary Schools and Classrooms.* We seek comment on whether additional relief beyond the incidental interLATA authority set forth in section 271(g)(2) would help ensure that elementary and secondary schools and classrooms have adequate access to advanced services. We tentatively conclude, for example, that it would be reasonable to approve LATA boundary modifications that allow BOCs to provide advanced services to entire elementary or secondary school districts on an intraLATA basis, when the school districts straddle LATA boundaries. We ask the commenters to suggest other types of LATA boundary modifications that would encourage deployment of advanced telecommunications capability to elementary and secondary schools and classrooms. Parties should address, with particularity, the criteria that we should use to evaluate these requests. We seek comment, for example, on whether we should adopt the same criteria used in the expanded local calling service proceedings. Parties should also address whether we should take such actions only to the extent that advanced services are provided by BOC advanced services affiliates, rather than by the BOCs.

93. *Network Access Points.* We seek comment on the criteria that we should use to evaluate LATA boundary modification requests that would allow BOCs to carry packet-switched traffic across current LATA boundaries for the purpose of providing their subscribers with high-speed connections to nearby network access points, which are points of access to the Internet. U S WEST contends that many rural areas do not have high-capacity network access points. We seek comment on the criteria we should use to determine whether a LATA has high-speed access to the Internet. Commenters should provide empirical data on the number and location of LATAs that do not contain high-speed network access points.

94. We tentatively conclude that some modification of LATA boundaries may be necessary to provide subscribers in rural areas with the same type of access to the Internet that other subscribers throughout the nation enjoy. We also tentatively conclude that modification of those boundaries for the purpose of facilitating high-speed access to the Internet would further Congress' goal of ensuring that advanced services are deployed to all Americans. Furthermore, we tentatively conclude that such boundary modifications would be consistent with the Common Carrier Bureau's decision that, under certain circumstances, a limited LATA boundary modification for integrated services digital network (ISDN) services is appropriate where such a modification is necessary to accommodate a demonstrated need and would have only a small impact on competition. We seek comment on these tentative conclusions. We also seek comment on whether LATA modifications to facilitate high-speed access to the Internet for rural subscribers would be consistent with the requirement under section 10(d) of the Act that the Commission must ensure that the requirements of section 271 are fully implemented before a BOC may offer interLATA services.

95. In addition, we seek comment on the type of documentation that BOCs should submit in order to qualify for such a LATA boundary modification. We note that in a July 23, 1998 petition, Bell Atlantic asks that we modify LATA boundaries for the limited purpose of allowing Bell Atlantic to provide high-speed connections between West Virginia's two LATAs and between West Virginia and the nearest Internet access points located in other states. We ask the parties to address whether the information in Bell Atlantic's petition is the appropriate type of documentation that a BOC should submit. We also seek comment on whether the LATA boundary modification should be withdrawn if a high-speed network access point is established in the LATA or whether it should expire at a certain date. We further seek comment on the competitive impact of permitting LATA boundary modifications in this limited context. Parties should address whether the BOCs are the only carriers likely to serve areas that do not currently contain high-speed network access points. Parties should also address whether we should take such action only to the extent that advanced services are provided by BOC advanced services affiliates, rather than by the BOCs.

96. *Additional Targeted InterLATA Relief.* We seek comment on whether we have authority to take other actions to facilitate deployment of advanced services and, if so, the criteria we should use in evaluating such requests. For example, we seek comment on the criteria we should use in evaluating requests to permit BOCs and/or BOC affiliates to provide corporate intranet and extranet services or to serve institutions such as universities or health care facilities. Parties should address any safeguards that we should adopt to ensure that these services are provided in a pro-competitive manner and that any targeted interLATA relief does not undermine the incentives for opening the local market to competition. Such safeguards may include, but not be limited to, taking such actions only to the extent they are provided by BOC advanced services affiliates, rather than by the BOCs.

G. Procedural Matters

1. Ex Parte Presentations

97. The matter in Docket No. 98–147, initiated by the NPRM portion of this item, 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) as well.

2. Initial Paperwork Reduction Act Analysis

98. The NPRM contains a proposed information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public comments are due at the same time as other comments on this NPRM; OMB

comments are due October 23, 1998. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have 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.

3. Initial Regulatory Flexibility Analysis

99. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. § 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible impact on small entities of the proposals suggested in this document. The IRFA is set forth in the Appendix. Written public comments are requested with respect to the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the NPRM, but they must have a separate and distinct heading, designating the comments as responses to the IRFA. The Office of Public Affairs, Reference Operations Division, will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

4. Comment Filing Procedures

100. The proceeding, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147, is initiated by the NPRM portion of this item. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before September 25, 1998 and reply comments on or before October 16, 1998. All filings should refer only to Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail.

101. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M St. N.W., Room 222, Washington, D.C. 20554.

102. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Janice Myles, Common Carrier Bureau, Policy and Program Planning Division, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labelled with the commenter's name, proceeding (including the docket number, in this case, CC Docket No. 98–147, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

103. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C., 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C., 20554.

104. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

105. Written comments by the public on the proposed information collections are due on or before September 25, 1998 and reply comments on or before October 16, 1998. Written comments must be submitted by OMB on the proposed information collections on or before October 23, 1998. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

5. Further Information

106. For further information regarding this proceeding, contact Linda Kinney, Assistant Division Chief, Policy and Program Planning Division, Common Carrier Bureau, at 202–418–1580 or lkinney@fcc.gov or Jordan Goldstein, Attorney, Policy and Program Planning Division, Common Carrier Bureau, at 202–418–1580 or jgoldste@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

H. Ordering Clauses

107. *It is ordered that,* pursuant to sections 1–4, 10, 201, 202, 251–254, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151–154, 160, 201, 202, 251–254, 271, and 303(r), the Notice of Proposed Rulemaking is hereby adopted.

108. *It is further ordered that* the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act, see 5 U.S.C. § 605(b).

List of Subjects in 47 CFR Parts 51, 64, and 68

Communications common carriers, Communications equipment, Local exchange carrier, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–22597 Filed 8–21–98; 8:45 am]

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