

Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

*Paperwork Reduction Act.* This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

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

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

**§ 64.6 [Amended]**

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region IV:				
North Carolina: Hamlet, City of, Richmond County.	370200	April 4, 1975, Emerg; July 2, 1987, Reg; October 16, 2007, Susp.	October 16, 2007.	October 16, 2007.
Richmond County, Unincorporated Areas ..	370348	September 6, 1985, Emerg; September 6, 1989, Reg; October 16, 2007, Susp.	.....*do .....	Do.
Rockingham, City of, Richmond County .....	370201	February 5, 1974, Emerg; September 6, 1989, Reg; October 16, 2007, Susp.	.....do .....	Do.

\*do =Ditto.

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

Dated: October 3, 2007.

**David I. Maurstad,**

*Assistant Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 53 and 64**

[WC Docket No. 02-112; CC Docket No. 00-175; FCC 07-159]

**Sunset of the BOC Separate Affiliate and Related Requirements and 2000 Biennial Regulatory Review Separate Affiliate Requirements**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this Order, the Commission establishes a new framework to govern the provision of in-region, long distance services by the Bell Operating Companies (BOCs) and their independent incumbent local exchange carrier (incumbent LEC) affiliates. The new framework permits the BOCs to provide in-region, interstate, long distance services either directly or through affiliates that are neither section 272 separate affiliates nor Commission rule 64.1903 separate affiliates, subject to nondominant carrier regulation, as long as they comply with certain targeted safeguards and other continuing statutory and regulatory obligations.

**DATES:** The Report and Order is effective November 13, 2007, subject to Office of Management and Budget (OMB) approval for new or modified information collection requirements contained in the Report and Order. The

FCC will publish a document in the **Federal Register** announcing the effective date for those sections.

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

**FOR FURTHER INFORMATION CONTACT:** Melissa Kinkel, Wireline Competition Bureau, (202) 418-1580.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Jerry R. Cowden at (202) 418-0447, or via the Internet at [PRA@fcc.gov](mailto:PRA@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order and Memorandum Opinion and Order (Order) in WC Docket Nos. 02-112 and 06-120, and CC Docket No. 00-175, FCC 07-159, adopted August 30, 2007, and released August 31, 2007. The text of this document is available for inspection and copying during

normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via e-mail at <http://www.bcpweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

### Synopsis of the Report and Order and Memorandum Opinion and Order

1. In May 2002, the Commission initiated a rulemaking proceeding (the *Section 272 Sunset* proceeding (67 FR 42211, June 21, 2002)) to determine what regulatory framework should apply to BOC provision of in-region, interLATA telecommunications services after the section 272 safeguards (other than those in section 272(e)) had sunset pursuant to section 272(f)(1). The Commission invited comment on whether it should extend those safeguards beyond the three-year period Congress established for each state. The Commission also invited comment on what, if any, alternative safeguards it might apply to the BOCs' provision of in-region, interLATA, telecommunications services.

2. In May 2003, the Commission issued a *Further Notice* (68 FR 32007, May 29, 2003) seeking comment on whether the BOCs should be classified as dominant if they provided in-region, interstate and international, long distance services in a way that did not comply with the section 272 separate affiliate requirements. This *Further Notice* also invited further comment on the issues raised in the *Independent Incumbent LEC* proceeding (66 FR 50139, Oct. 2, 2001), concerning whether independent incumbent LECs should be classified as dominant in their provision of in-region, interstate and international, interexchange telecommunications services if the Commission eliminated or modified the separate affiliate requirements in § 64.1903 of the Commission's rules.

3. In this Order, the Commission establishes a new framework to govern the provision of in-region, long distance services by the BOCs and their independent incumbent LEC affiliates. This framework replaces unnecessarily burdensome regulation with less intrusive measures that protect important customer interests while allowing the BOCs and their independent incumbent LEC affiliates to respond to marketplace demands

efficiently and effectively. The Commission finds that this new framework will increase the BOCs' and the BOC affiliates' ability to develop and deploy innovative long distance services that meet their customers' needs.

4. The new framework, which applies to AT&T, Qwest, and Verizon, is consistent with the Commission's decision in the *Qwest Section 272 Sunset Forbearance Order*, 22 FCC Rcd 5207 (2007). As discussed in that Order, the Commission's current rules force a BOC to choose between two different regulatory regimes in providing in-region, long distance services, both of which impose significant burdens and costs: the BOC can provide these services on a nondominant carrier basis through a section 272 separate affiliate; alternatively, it can provide these services directly or through an affiliate that is not a section 272 separate affiliate subject to dominant carrier regulation, including rate regulation and tariff-filing requirements. AT&T's and Verizon's independent incumbent LEC affiliates must provide in-region, domestic, interexchange telecommunications services and in-region, international telecommunications services only through Commission rule 64.1903 separate affiliates. The Commission concludes that a new regulatory framework is more appropriate. The new framework allows AT&T, Qwest, and Verizon to provide in-region, interstate, long distance services either directly or through affiliates that are neither section 272 separate affiliates nor Commission rule 64.1903 separate affiliates, subject to nondominant carrier regulation, as long as they comply with certain targeted safeguards as well as with other continuing statutory and regulatory obligations.

5. In the Order, the Commission considers whether each BOC, if it provides in-region, interstate and international, long distance services through an affiliate that is not compliant with section 272, could exercise market power with respect to such services by either: (1) Unilaterally raising the retail price of its in-region, interstate, long distance services (i.e., exercising "classical" market power); or (2) using its control over bottleneck local facilities to raise its rivals' costs (i.e., exercising "exclusionary" market power). The Commission concludes that the BOCs lack market power with respect to interstate, long distance services and in-region, international telecommunications services. The Commission further concludes, however, that the BOCs have failed to demonstrate that they lack exclusionary

market power with regard to these services by reason of their control over ubiquitous telephone exchange service and exchange access networks. The Commission therefore assumes, for the purposes of this proceeding, that each of the BOCs individually continues to possess exclusionary market power within its respective region by reason of its control over these bottleneck access facilities.

6. In the Order, the Commission finds that application of dominant carrier regulation to AT&T's, Verizon's, and Qwest's in-region, interstate, long distance services is unwarranted. First, as the market analysis indicates, AT&T, Qwest, and Verizon do not possess classical market power in the provision of in-region, interstate, long distance services, which is the type of market power that dominant carrier regulation is designed to address. Second, as the Commission recognized in the *LEC Classification Order* (66 FR 35974, July 3, 1997), dominant carrier regulation is not designed to guard against potential abuse of exclusionary market power. Instead, the Commission finds that existing safeguards, combined with the additional safeguards adopted in the Order, adequately address the ability of AT&T, Qwest, and Verizon to raise their long distance rivals' costs through their control of bottleneck access facilities.

7. While the Commission recognizes that dominant carrier regulation of AT&T's, Qwest's, and Verizon's in-region, long distance services could provide some increased level of protection against the exercise of exclusionary market power beyond that provided by these alternative safeguards, such regulation would impose significant costs. These costs include the administrative costs imposed on both the carriers and the Commission that are associated with price regulation, tariff-filing requirements, and reporting requirements. Application of dominant carrier regulation to these services also would restrict AT&T's, Qwest's, and Verizon's ability to respond to competitors' pricing and product initiatives, and would give competitors advance notice of AT&T's, Qwest's, and Verizon's own pricing plans and new products. By impeding the BOCs' ability to compete, these requirements could dampen competition. Given the relative inefficiency of dominant carrier regulation in constraining the exercise of exclusionary market power and the significant costs associated with such regulation, the Commission finds that alternative safeguards adopted in this Order are more cost-effective than, and

preferable to, imposing dominant carrier regulation.

8. Thus, the Commission finds the BOCs to be nondominant in the provision of in-region, interstate, long distance services that they provide either directly or through affiliates that are not section 272 separate affiliates as long as they comply with certain targeted safeguards adopted in the Order as well as continuing statutory and regulatory obligations. The Commission also finds the BOCs' independent incumbent LEC affiliates to be nondominant in the provision of in-region, long distance services either directly or through affiliates that are not Commission rule 64.1903 separate affiliates.

9. The Commission further finds no practical distinctions between the BOCs' incentives and ability to use any in-region market power in their provision of international services on the one hand, and interstate long distance services on the other. Accordingly, to the extent the BOCs and their independent incumbent LEC affiliates are deemed nondominant in the provision of any in-region, international telecommunications service provided through a section 272 or Commission rule 64.1903 separate affiliate, the Commission finds them to be nondominant in the provision of that service in the event they choose to provide it directly or through an affiliate that is not a section 272 or Commission rule 64.1903 separate affiliate, subject to their compliance with the targeted safeguards set forth in the Order.

10. In view of the Commission's nondominance determinations in the Order, the Commission finds that, subject to the conditions set forth in the Order, AT&T, Verizon, and Qwest are no longer subject to the requirements in section 203 of the Act (47 U.S.C. 203) and certain of the Commission's price cap, rate of return, and tariffing rules with respect to in-region, interstate and international, long distance services. Specifically: (1) AT&T, Verizon, and Qwest are not required to, and are in fact barred from, filing tariffs for in-region, interstate and international, long distance services pursuant to section 203 of the Act and § 61.31 through 61.38, and 61.43 of the Commission's rules (47 CFR 61.31 through 61.38; 47 CFR 61.43); (2) AT&T, Verizon, and Qwest are not required to establish an "interexchange basket" pursuant to § 61.42(d)(4) of the Commission's rules (47 CFR 61.42(d)(4)), to the extent that § 61.42(d)(4) would require the establishment of an interexchange basket for the services covered by this Order when those services are provided

directly or through an affiliate that is neither a section 272 nor a Commission rule 64.1903 separate affiliate; and (3) AT&T, Verizon, and Qwest need not comply with § 61.28 of the Commission's rules (47 CFR 61.28) for the provision of in-region, international telecommunications services to the extent that, and only to the extent that, the BOCs or their affiliates that are neither section 272 nor Commission rule 64.1903 separate affiliates would be treated as dominant carriers under § 61.28 for no other reason than their provision of in-region, international telecommunications services. To the extent that the BOCs or their affiliates that are neither section 272 nor Commission rule 64.1903 separate affiliates otherwise would be treated as dominant carriers under § 61.28, this Order has no effect on that treatment.

11. The Commission also finds that, subject to the conditions set forth in the Order, AT&T, Qwest, and Verizon are not subject to certain of the Commission's discontinuance and streamlined transfer of control rules in connection with their in-region, interstate and international, long distance services. Specifically, AT&T, Qwest, and Verizon are not subject to §§ 63.03, 63.19, 63.21, 63.23, and 63.60 through 63.90 of the Commission's rules (47 CFR 63.03, 63.19, 63.21, 63.23, 63.60 through 63.90) for their provision of in-region, interstate and international, long distance services to the extent that, and only to the extent that, the BOCs or their affiliates would be treated as dominant carriers under these rules for no reason other than their provision of those services directly or through an affiliate that is neither a section 272 nor a Commission rule 64.1903 separate affiliate. To the extent that the BOCs or their affiliates otherwise would be treated as dominant carriers under these rules, that treatment shall continue.

12. The Commission further finds that, subject to the conditions set forth in the Order, AT&T, Qwest, and Verizon are not subject to § 43.51 of the Commission's rules (47 CFR 43.51) with respect to their provision of in-region, interstate or international, long distance services directly or through an affiliate that is neither a section 272 nor a Commission rule 64.1903 separate affiliate. Specifically, the BOCs and their affiliates are not subject to § 43.51 of the Commission's rules with respect to their provision of in-region, interstate or international, long distance services directly or through an affiliate that is neither a section 272 nor a Commission rule 64.1903 separate affiliate to the extent that, and only to the extent that, the BOCs or their affiliates would be

treated as dominant carriers under § 43.51 for no other reason than their provision of in-region, interstate or international, long distance services directly or through an affiliate that is neither a section 272 nor a Commission rule 64.1903 separate affiliate. To the extent that the BOCs or their affiliates otherwise would be treated as dominant carriers under § 43.51, that treatment shall continue.

13. Because the Commission finds that the section 272 safeguards impose significant costs and that other less costly safeguards adequately address the concerns raised by the BOCs' possession of exclusionary market power, the Commission declines to impose on the BOCs the section 272 safeguards that have sunset. The Commission finds that the section 272 safeguards impose a variety of costs, including administrative costs on both the BOCs and the Commission. For example, providing interstate, interLATA telecommunications services through a section 272 separate affiliate requires the BOCs, inter alia, to operate these services independently of their telephone exchange service and exchange access operations, and to maintain duplicate sets of officers, directors, and employees. These restrictions not only impose additional costs, but also prevent the BOCs from taking advantage of the economies of scope and scale associated with integrated operation that their competitors are able to realize. Moreover, structural separation between a BOC's local telephone and long distance operations is at odds with a market environment where the distinction between those local and long distance services has been blurred by the way those services are marketed and delivered to consumers. As a general matter, these restrictions and their associated costs make the BOCs less effective competitors in the market. These restrictions also may prevent the BOCs and their affiliates from quickly responding to technological and marketplace developments.

14. The Commission also finds good cause to waive § 64.1903 of the Commission's rules for the BOCs' independent incumbent LEC affiliates, SNET, including Woodbury, and former GTE. The Commission finds that the concerns regarding the costs of the section 272 safeguards effectively apply to both the BOCs and their independent incumbent LEC affiliates. Therefore, the Commission finds that AT&T and Verizon can more effectively implement the new regulatory framework adopted in the Order if their independent incumbent LEC affiliates are subject to

the same targeted safeguards as the rest of the company as a whole.

15. AT&T, Verizon, and Qwest remain subject to a number of legal obligations that are an important component of the regulatory framework that the Commission finds appropriate for the BOCs and their independent incumbent LEC affiliates. In particular, these carriers are still subject to: dominant carrier regulation of their interstate exchange access services, including price cap regulation of most exchange access services; the Commission's accounting and cost allocation rules and related reporting requirements; equal access obligations under longstanding Commission precedent and section 251(g) of the Act (*see* 47 U.S.C. 251(g)); section 251 obligations (*see* 47 U.S.C. 251); section 271 obligations (*see* 47 U.S.C. 271), including the obligation to continue to comply with the market-opening requirements that the BOCs had to meet in order to receive authority to provide in-region, interLATA services; and the continuing general obligation to provide service on just, reasonable, and not unreasonably discriminatory rates, terms, and conditions pursuant to sections 201 and 202 of the Act (*see* 47 U.S.C. 201, 202). In addition, the nondiscrimination requirement in section 272(e)(1) of the Act (47 U.S.C. 272(e)(1)) and the imputation requirement in section 272(e)(3) of the Act (47 U.S.C. 272(e)(3)) continue to apply. The Commission also requires the continued treatment of the costs of, and revenues from, the direct provision of in-region, long distance services as nonregulated for accounting purposes. The Commission finds that this requirement will provide an important protection against improper cost shifting by the BOCs and their independent incumbent LEC affiliates; address concerns of continued compliance with section 254(k) of the Act; and lessen the chance that costs associated with such services are inadvertently assigned to a local exchange or exchange access category.

16. In addition, in this Order the Commission adopts targeted safeguards that will apply to the BOCs to the extent they choose to provide in-region, interstate or international, long distance services either directly or through an affiliate that is not a section 272 separate affiliate. As a further condition of this Order, the BOCs' independent incumbent LEC affiliates also must comply with these safeguards to the extent they provide in-region, interstate, interexchange telecommunications services either directly or through an affiliate that does not comply with the requirements of either section 272 or

§ 64.1903 of the Commission's rules. The targeted safeguards include: (1) Special access performance metrics to prevent non-price discrimination in the provision of special access services; (2) imputation requirements to help monitor BOC provisioning of these services for possible price discrimination; (3) the offering of calling plans to protect residential customers who make few interstate, long distance calls; and (4) providing subscribers monthly usage information to enable them to make cost-effective decisions concerning alternative long distance plans.

17. *Special Access Performance Metrics.* As part of the Commission's implementation of the section 272 structural safeguards, the BOCs have implemented special access performance metrics designed to help ensure that they refrain from non-price discrimination in their provision of special access services. Once a BOC chooses to provide in-region, interLATA telecommunications services either directly or through an affiliate that is not a section 272 separate affiliate, those metrics would cease to be available. AT&T, Verizon, and Qwest also are required to implement special access metrics in accordance with their voluntary commitments in connection with the *SBC/AT&T Order*, 20 FCC Rcd 18290 (2005), the *Verizon/MCI Order*, 20 FCC Rcd 18433 (2005), the *AT&T/BellSouth Order*, 22 FCC Rcd 5662 (2007), and the *Qwest Section 272 Sunset Forbearance Order*. This latter group of special access metrics addresses order taking, provisioning, and maintenance and repair of the BOCs' DS0, DS1, DS3, and OCn services.

18. The Commission finds that the metrics the Commission approved in the *SBC/AT&T Order*, the *Verizon/MCI Order*, the *AT&T/BellSouth Order*, and the *Qwest Section 272 Sunset Forbearance Order* are necessary to monitor whether the BOCs and their independent incumbent LEC affiliates are engaging in non-price discrimination in the provision of special access services to unaffiliated entities in light of the regulatory relief the Commission grants those carriers in this Order. The information that AT&T, Qwest, and Verizon record and report to the Commission under these metrics will provide the Commission and other interested parties with reasonable tools to monitor each BOC's performance in providing these special access services to itself and its competitors. This obligation shall apply beginning the first full quarter following provision of any in-region, interLATA

telecommunications service through the BOC or through an affiliate that is not a section 272 separate affiliate. In addition, each of AT&T's and Verizon's independent incumbent LEC affiliates shall implement these metrics for the first full quarter following provision of any in-region, interstate, interexchange telecommunications service through the BOC or through an affiliate that is not a section 272 separate affiliate. The BOCs and their independent incumbent LEC affiliates must continue to abide by special access performance metrics until there is an affirmative Commission determination that such metrics no longer are necessary.

19. Each BOC and each of AT&T's and Verizon's independent incumbent LEC affiliates shall implement these metrics to the extent the BOC or independent incumbent LEC provides one or more of the covered special access services to itself, to any affiliate, or to third parties. The BOCs and their independent incumbent LEC affiliates shall provide the Commission with their performance measurement results on a quarterly basis.

20. *Imputation.* The Commission also provides guidance, pursuant to its authority under sections 201, 202(a), 220(a), and 272(e)(3) of the Act (47 U.S.C. 201, 202(a), 220(a), 272(e)(3)), to AT&T, Qwest, and Verizon regarding the treatment of charges for any access services that their incumbent LEC affiliates provide their in-region, long distance operations. In providing this guidance, the Commission addresses three situations: (1) The BOCs' imputation in the event they provide in-region, long distance services on an integrated basis; (2) the obligations of AT&T's and Verizon's independent incumbent LEC affiliates in the event they provide in-region, long distance services on an integrated basis; and (3) AT&T's, Qwest's, and Verizon's obligations in the event they provide in-region, long distance services through an affiliate that is neither a section 272 nor a rule 64.1903 separate affiliate.

21. In order to ensure the BOCs' continued compliance with their imputation obligations under section 272(e)(3), the Commission directs each BOC to continue to impute to itself its highest tariffed rate for access, including access provided over joint-use facilities. The Commission also requires AT&T's and Verizon's independent incumbent LEC affiliates, as a condition of the waiver granted to them in the Order, to comply with the same requirement with regard to their provision of access to any in-region, long distance services that they provide directly. In addition, the Commission requires the BOCs and

their independent incumbent LEC affiliates to charge any non-section 272 affiliate through which they provide in-region, long distance services the same amount for access that they would have charged a section 272 separate affiliate under section 272(e)(3). Although the statute does not address these latter two situations directly, applying protections paralleling those in section 272(e)(3) to these situations will assure that the degree of protection against improper cost shifting does not vary with AT&T's, Qwest's, and Verizon's choice of corporate structure for the provision of in-region, long distance services.

22. Section 69.727(a)(iii) of the Commission's rules (47 CFR 69.727(a)(iii)) requires that a price cap LEC cannot provide contract tariff services to either a section 272 separate affiliate or a Commission rule 64.1903 affiliate until after it "certifies to the Commission that it provides service pursuant to that contract tariff to an unaffiliated customer." To ensure that equivalent protection is in place in the event the BOCs provide in-region, long distance services directly, the Commission requires that each AT&T, Verizon, and Qwest incumbent LEC provide such a certification to the Commission prior to providing contract tariff services to itself or to any affiliate that is neither a section 272 nor a Commission rule 64.1903 separate affiliate for use in the provision of any in-region, long distance services.

23. The Commission requires that AT&T, Qwest, and Verizon revise the cost allocation manuals they filed pursuant to § 64.903 of the Commission's rules (47 CFR 64.903) to include their imputation methodologies, which will be subject to public comment. The Commission also requires AT&T, Qwest, and Verizon to revise their cost allocation manuals to include a description of how their provision of access services will comply with the affiliate transaction rules, to the extent they will offer in-region, interstate, long distance service through an affiliate that is not a section 272 separate affiliate or a Commission rule 64.1903 affiliate. Consistent with the Commission's findings in the *Accounting Safeguards Order* (61 FR 41208, Aug. 7, 1996), the Commission requires that the BOCs and their independent incumbent LEC affiliates continue to treat in-region, long distance services as nonregulated for accounting purposes. These carriers also must continue to apply the Commission's affiliate transaction rules to any transactions they have with affiliates that provide long distance services. The Commission also directs AT&T, Qwest,

and Verizon to modify their cost allocation manuals as necessary to ensure that their imputation and access charge methodologies remain consistent with section 272(e)(3) and this Order as each of these carriers changes the degree to which it integrates its local telephone and long distance operations.

24. Finally, under the Commission's rules, amounts imputed to each BOC's, or BOC independent incumbent LEC affiliate's, in-region, long distance operations pursuant to section 272(e)(3) and the Order must be debited to account 32.5280 (47 CFR 32.5280), which includes nonregulated operating revenue. To facilitate transparency of each carrier's imputation of in-region, long distance costs, the Commission requires AT&T, Qwest, and Verizon, as a condition of the Order, to include the imputation charges it debits to account 32.5280 in its ARMIS filings, accompanied by an explanatory footnote for each line item identifying the amount imputed. This requirement should pose at most a minimal additional burden to the carriers because they already record imputation charges in a subsidiary record account for revenues derived from regulated services treated as nonregulated for federal accounting purposes, and already must file ARMIS reports.

25. *Low Volume Usage Plans.* Although it finds that the BOCs generally lack classical market power in the provision of in-region, interstate, long distance services, the Commission remains concerned that BOC residential customers who make relatively few interstate long distance calls and who do not also subscribe to wireless or broadband Internet access service may have fewer competitive choices among in-region, interstate long distance providers and may not be able to avoid the impact of a price increase by engaging in usage substitution. To address this concern, AT&T and Verizon each have committed for three years to offer a rate plan tailored to these customers' needs. Specifically, AT&T and Verizon each commit to offer a rate plan under which residential consumers with a local access line may obtain 1+ long distance telecommunications services at a rate of 12 cents per minute with no monthly minimum or monthly recurring charge. In connection with the *Qwest Section 272 Sunset Forbearance Order*, Qwest committed to freeze for two years the per-minute prices for two calling plans that it currently offers which are tailored to these customers' needs, and to not increase the monthly fee that applies to one of these plans by more than one dollar as a condition of the Commission's forbearance. The

Commission requires that AT&T, Qwest, and Verizon adhere to these commitments as a condition of the relief granted in this Order, and finds that this condition will help protect against the exercise of any classical market power that Verizon, AT&T, or Qwest may have in relation to customers that make relatively few interstate long distance calls.

26. *Monthly Usage Information.* The Commission is also concerned that interstate long distance consumers need adequate information regarding their monthly usage in order to make informed choices among alternative long distance calling plans. To address this concern, AT&T has committed to provide, for three years, each residential customer who subscribes to a calling plan that establishes a single rate for unlimited wireline local exchange and long distance telecommunications service with the total number of long distance telecommunications service minutes used by that customer each month. Similarly, Verizon has committed, for three years, to offer monthly long distance usage information to customers who subscribe to wireline interstate, interexchange telecommunications service plans that establish a single rate for unlimited wireline local exchange, intraLATA toll, and 1+ long distance telecommunications service. As a condition of the regulatory relief granted in this Order, the Commission requires AT&T, Verizon, and Qwest to provide such usage information without an additional charge.

27. The Commission finds that the new regulatory framework adopted in this Order is preferable to the regulatory requirements previously in place for the BOCs and their independent incumbent LEC affiliates. In particular, the Commission finds that the new framework imposes significantly fewer costs than the prior regulations. Because the new framework does not involve retail price regulation or tariff filing with respect to in-region interLATA telecommunications services, it imposes fewer costs than would dominant carrier regulation. The new framework also does not impose the costs and inefficiencies associated with the full section 272 safeguards, including the costs and inefficiencies from maintaining structural separation between local telephone and long distance operations, operating these services independently, and maintaining duplicate sets of officers, directors, and employees. In addition, the new framework does not impose the same constraints on the ability of the BOCs and their independent incumbent

LEC affiliates to respond to technological and marketplace developments as do the section 272 and Commission rule 64.1903 safeguards. Further, the Commission finds that the improved ability of AT&T, Verizon, and Qwest to develop and deploy innovative interLATA services that meet their customers' needs is a significant benefit associated with the new framework adopted in this Order. Given its expertise and experience with the regulation historically imposed on the BOCs and their independent incumbent LEC affiliates; the evidence of significant competition and evolution in the marketplace for interstate long distance services within the AT&T, Verizon, and Qwest incumbent LEC territories; and its conclusions regarding the adequacy of other safeguards, the Commission finds it appropriate to remove hindrances to the BOCs' and their independent incumbent LEC affiliates' becoming more effective competitors in a manner that is administrable and adequately protects customers and competition.

#### Paperwork Reduction Act Analysis

28. This document contains new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this Order as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. Public and agency comments are due December 11, 2007. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

29. In this document, the Commission has assessed the effects of the new or modified information collection requirements adopted in this Order, and finds that they do not affect businesses with few than 25 employees.

In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Jerry R. Cowden, Federal Communications Commission, 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [PRA@fcc.gov](mailto:PRA@fcc.gov).

#### Congressional Review Act

30. The Commission will send a copy of this Report and Order and Memorandum Opinion and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

#### Final Regulatory Flexibility Act Analysis

31. In this Order, the Commission establishes a new framework to govern the provision of in-region, long distance services by AT&T, Qwest, and Verizon. This new framework replaces burdensome regulation with less intrusive measures that protect important customer interests while allowing AT&T, Qwest, and Verizon to respond to marketplace demands efficiently and effectively. The issues addressed by the Commission in this Order directly affect only the BOCs and their affiliates, which do not qualify as small entities under the RFA. In particular, none of the BOCs is a small entity because each BOC is an affiliate of a Regional Holding Company (RHC), and all of the BOCs or their RHCs have more than 1,500 employees. Insofar as this Order applies to other BOC or RHC affiliates, those affiliates are controlled by the BOCs or by the RHC. Accordingly, they are not "independently owned and operated" entities for purposes of the RFA.

32. Therefore, the Commission finds that the requirements adopted in this Order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Order including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 801(a)(1)(A). In addition, a summary of the Order will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

#### Ordering Clauses

33. Accordingly, *it is ordered* that, pursuant to sections 1, 2, 4(i), 4(j), 201 through 204, 214, 220(a), 251, 252, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 201 through 204, 214, 220(a), 251, 252, 271, 272, and 303(r), the Report and Order *is adopted*.

34. *It is further ordered*, pursuant to sections 1, 2, 4(i), 4(j), 201 through 204, 214, 220(a), 251, 252, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 201 through 204, 214,

220(a), 251, 252, 271, 272, and 303(r), the Petition for Extension of section 272 Obligations of Southwestern Bell Telephone Co. in the States of Arkansas and Missouri that Legacy AT&T Corp. filed September 24, 2004 in WC Docket No. 02-112; the Petition for Extension of section 272 Obligations of Verizon in the State of Massachusetts that Legacy AT&T Corp. filed February 29, 2004 in WC Docket No. 02-112; the Petition for Extension of section 272 Obligations of Southwestern Bell Telephone Co. in the States of Kansas and Oklahoma that Legacy AT&T Corp. filed December 8, 2003 in WC Docket No. 02-112; and the Petition for Extension of section 272 Obligations of Southwestern Bell Telephone Co. in the State of Texas in WC Docket No. 02-112 that Legacy AT&T Corp. filed April 10, 2003 in WC Docket No. 02-112 *are denied*.

35. *It is further ordered*, pursuant to sections 1, 2, 4(i), 4(j), 201 through 204, 214, 220(a), 251, 252, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)-154(j), 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r), that § 64.1903 of the Commission's rules *is waived* as applied to Southern New England Telephone Company and the General Telephone Operating Companies, subject to the conditions set forth in this Report and Order.

36. *It is further ordered*, pursuant to § 1.103(a) and 1.427(b) of the Commission's rules, 47 CFR 1.103(a), 1.427(b), that this Report and Order *shall be effective* 30 days after publication of notice of the Report and Order in the **Federal Register**, subject to Office of Management and Budget (OMB) approval for new or modified information collection requirements.

37. *It is further ordered*, pursuant to sections 1, 2, 4(i), 4(j), 10, 201 through 204, 214, 220(a), 251, 252, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 160, 201 through 204, 214, 220(a), 251, 252, 271, 272, and 303(r) that AT&T's Petition for Forbearance, filed June 2, 2006, *is granted* in part, to the extent set forth herein.

38. *It is further ordered*, pursuant to sections 1, 4(i), 4(j), 201 through 204, 251(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) through 154(j), 201-204, 251(g), and 303(r), and § 1.3 of the Commission's rules, 47 CFR 1.3, that the Equal Access Scripting Requirement *is waived* as applied to Southern New England Telephone Company and the General Telephone Operating Companies as described in the Memorandum Opinion and Order, effective on August 31, 2007.

39. *It is further ordered*, pursuant to section 10 of the Communications Act of 1934, as amended, 47 U.S.C. 160, and § 1.103(a) of the Commission's rules, 47 CFR 1.103(a), that the Memorandum Opinion and Order *shall be effective* on August 31, 2007. Pursuant to § 1.4 and 1.13 of the Commission's rules, 47 CFR 1.4, 1.13, the time for appeal from that Memorandum Opinion and Order shall run from its release date.

40. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Parts 53 and 64**

Accounting, Communications common carriers, Reporting and recordkeeping requirements, Telephone, Telecommunications.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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