

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80–286; FCC 04–11]

Jurisdictional Separations Reform and Referral to the Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts modifications to the Commission's Part 36 Jurisdictional Separations Rules to conform those rules to revisions to the Part 32 Uniform System of Accounts adopted in the Commission's 2000 Biennial Regulatory Review. The Part 36 modifications the Commission adopts will not have any effect on the assignment of costs and revenues to the state and interstate, but rather are merely ministerial in nature.

DATES: Effective April 16, 2004.

FOR FURTHER INFORMATION CONTACT: Gary Seigel, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket No. 80–286; FCC 04–11, released on January 16, 2004. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

I. Introduction

1. In this Report and Order, we adopt modifications to the Commission's Part 36 Jurisdictional Separations Rules to conform those rules to revisions to the Part 32 Uniform System of Accounts adopted in the Commission's 2000 Biennial Regulatory Review. The part 36 modifications we adopt will not have any effect on the assignment of costs and revenues to the state and interstate, but rather are merely ministerial in nature.

II. Discussion

2. We conclude that it is necessary to adopt modifications to the Commission's part 36 rules consistent with the changes made to the part 32 rules in the *Phase 2 Order*, 67 FR 5669, February 6, 2002. With regard to the elimination of certain part 32 accounts, we find that modifying the part 36 rules to reflect the elimination of such accounts ensures that the part 32 references contained in part 36 are

accurate. Because the costs recorded in the newly created subaccounts continue to be jurisdictionally separated in the part 36 rules at the higher account level, we find that modifications to the part 36 rules are not necessary in connection with these new subaccounts. We therefore modify the Commission's part 36 rules as set forth in Appendix C to reflect the revised part 32 accounting rules as adopted in the *Phase 2 Order*.

3. We disagree with those commenters who claim that the modifications to part 36 we adopt in this order should have been referred to the Joint Board. As an initial matter, we note that, although the Commission specifically invited comment from the Joint Board in order to identify any substantive impact on part 36, the Joint Board did not file comments. Moreover, contrary to the claims by NARUC and the state of Oregon, the part 32 changes do not require either reinitialization of the frozen category percentages or the identification of new jurisdictional allocators for the newly created subaccounts. The changes we adopt here are purely ministerial in nature and will not have any effect on jurisdictional cost allocations. For example, § 36.352 of the Commission's rules provides that Class A summary Account 6510 (Other Property Plant and Equipment Expenses) shall be separated based on the separation of Account 2001 (Telecommunications Plant in Service). Because the *Phase 2 Order* eliminated Class A summary Account 6510, § 36.352 is revised to direct Class A carriers to perform jurisdictional separations for detailed Accounts 6511 and 6512, rather than the summary Account 6510. Account 6510 was a summary of Accounts 6511 and 6512. Accounts 6511 and 6512, however, will continue to be separated based on Account 2001 (Telecommunications Plant in Service) as was Account 6510. The basis for conducting separations and the allocation between the jurisdictions remains the same. Similarly, as noted with regard to subaccounts, no part 36 changes are needed because the existing part 36 rules separate costs at the account level, not the subaccount level. We therefore conclude that referral to the Federal-State Joint Board on Separations was not necessary in this instance.

4. Finally, we take this opportunity to correct certain typographical errors in part 36 of our rules. We change the reference at the end of § 36.126(e)(2) from § 36.156 to § 36.155 and remove two references to “@@Q02” from § 36.321(a). We also modify §§ 36.631(a), (c) and (d) to correct

typographical errors in the dates that these provisions became applicable.

III. Procedural Issues

A. Paperwork Reduction Act Analysis

5. The decision herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law 104–13. This order merely modifies account references in part 36 to conform to the part 32 revisions adopted in the *Phase 2 Order* to ensure that all account references in part 36 are consistent with the Uniform System of Accounts. We find, therefore, that the modifications to part 36 adopted in this order do not impose new or modified recordkeeping requirements or burdens on the public.

B. Final Regulatory Flexibility Certification

6. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

7. In this Order, we adopt modifications to Part 36 Jurisdictional Separations Rules to conform those rules to the revisions to the Part 32 Uniform System of Accounts adopted in our 2000 Biennial Regulatory Review. As indicated in our Initial Regulatory Analysis, our modifications to part 36 are due to the consolidation of several accounts that are also used in part 36. The alternative to not making these modifications would be that part 36 would reference part 32 accounts that are eliminated effective January 1, 2003. The modifications of part 36 to conform to the revised part 32 are necessary to eliminate the potential for confusion that may occur as a result of inconsistent account references. The conforming amendments to the Part 36 jurisdictional rules are a result of the consolidation of Part 32 accounts.

8. The modifications we adopt are ministerial in nature and merely

conform Part 36 account references to the Part 32 Uniform System of Accounts. These ministerial modifications do not have a significant economic effect on any entities and only clarify existing Commission rules. Therefore, we certify that the requirements of this Report and Order will not have a significant economic impact on a substantial number of small entities.

9. The Commission will send a copy of this Report and Order, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. In addition, the Report and Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the **Federal Register**.

IV. Ordering Clauses

10. Pursuant to sections 1, 4, 201–205, 215, and 218–220 of the Communications Act of 1934, as amended, 47 CFR part 36, is amended as described.

11. Pursuant to 5 U.S.C. 553(d) and § 1.427(a) of the Commission’s rules, Part 36 of the Commission’s rules, is amended as set forth effective April 16, 2004. We will, however, permit carriers to implement Part 36 changes as of January 1, 2003.

12. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, including the

Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 36

Jurisdictional separations, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 36 as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. Secs. 151, 154(i), and (j), 205, 221(c), 254, 403 and 410.

■ 2. Amend § 36.112 by revising paragraph (a) to read as follows:

§ 36.112 Apportionment procedures.

(a) The costs of the general support facilities of Class A Companies (which

are defined in part 32 of the Commission’s Rules) are apportioned among the operations on the basis of the separation of the costs of the combined Big Three Expenses which include the following accounts:

Plant Specific Expenses

Central Office Switching Expenses—
Accounts 6211 and 6212

Operators Systems Expenses—Account
6220

Central Office Transmission Expenses—
Accounts 6231 and 6232

Information Origination/Termination
Expenses—Accounts 6311, 6341,
6351, and 6362

Cable and Wire Facilities Expenses—
Accounts 6411, 6421, 6422, 6423,
6424, 6426, 6431, and 6441

Plant Non-Specific Expenses

Network Operations Expenses—
Accounts 6531, 6532, 6533, 6534,
and 6535

Customer Operations Expenses

Marketing—Account 6611 and 6613
Services—Account 6620

* * * * *

■ 3. Amend § 36.121 by revising paragraph (a) to read as follows:

§ 36.121 General.

(a) The costs of central office equipment are carried in the following accounts:

Central Office Switching	Account 2210.
Non-digital Switching	Account 2211.
Digital Electronic Switching	Account 2212.
Operator Systems	Account 2220.
Central Office—Transmission	Account 2230.
Radio Systems	Account 2231.
Circuit Equipment	Account 2232.

* * * * *

■ 4. Amend § 36.124 by revising paragraphs (a) introductory text and (c) to read as follows:

§ 36.124 Tandem switching equipment—Category 2.

(a) Tandem switching equipment is contained in Accounts 2210, 2211, and 2212. It includes all switching equipment in a tandem central office, including any associated tandem switchboard positions and any intertoll switching equipment. Intertoll switching equipment includes switching equipment used for the interconnection of message toll telephone circuits with each other or with local or tandem telephone central office trunks, intertoll dial selector equipment, or intertoll trunk equipment

in No. 5 type electronic offices. Equipment, including switchboards used for recording of calling telephone numbers and other billing information in connection with customer dialed charge traffic is included with Local Switching Equipment—Category 3.

* * * * *

(c) Effective July 1, 2001, through June 30, 2006, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the average balances of Accounts 2210, 2211, and 2212 to Category 2, Tandem Switching Equipment based on the relative percentage assignment of the average balances of Account 2210, 2211, 2212, and 2215 to Category 2, Tandem Switching Equipment during the twelve

month period ending December 31, 2000.

* * * * *

■ 5. Amend § 36.125 by revising paragraphs (a) introductory text and (h) to read as follows:

§ 36.125 Local switching equipment—Category 3.

(a) Local switching equipment is included in accounts 2210, 2211, and 2212. It comprises all central office switching equipment not assigned other categories. Examples of local switching equipment are basic switching train, toll connecting trunk equipment, interlocal trunks, tandem trunks, terminating senders used for toll completion, toll completing train, call reverting equipment, weather and time of day service equipment, and switching

equipment at electronic analog or digital remote line locations. Equipment used for the identification, recording and timing of customer dialed charge traffic, or switched private line traffic (e.g. transmitters, recorders, call identity indexers, perforators, ticketers, detectors, mastertimes) switchboards used solely for recording of calling telephone numbers in connection with customer dialed charge traffic, or switched private line traffic (or both) is included in this local switching category. Equipment provided and used primarily for operator dialed toll or customer dialed charge traffic except such equipment included in Category 2 Tandem Switching Equipment is also included in this local switching category. This includes such items as directors translators, sender registers, out trunk selectors and facilities for toll intercepting and digit absorption. Special services switching equipment which primarily performs the switching function for special services (e.g.

switching equipment, TWX concentrators and switchboards) is also included in this local switching category.

* * * * *

(h) Effective July 1, 2001, through June 30, 2006, study areas subject to price cap regulation, pursuant to § 61.41 of this chapter, shall assign the average balances of Accounts 2210, 2211, and 2212 to Category 3, Local Switching Equipment, based on the relative percentage assignment of the average balances of Account 2210, 2211, 2212, and 2215 to Category 3, during the twelve month period ending December 31, 2000.

* * * * *

■ 6. Amend § 36.126 by revising paragraph (e)(2) to read as follows:

§ 36.126 Circuit equipment—Category 4.

* * * * *

(e) * * *

(2) Interexchange Circuit Equipment Used for Wideband Service—Category

4.22—This category includes the circuit equipment portion of interexchange channels used for wideband services. The cost of interexchange circuit equipment in this category is determined separately for each wideband channel and is segregated between message and private line services on the basis of the use of the channels provided. The respective costs are allocated to the appropriate operation in the same manner as the related interexchange cable and wire facilities described in § 36.155.

* * * * *

■ 7. In § 36.172, revise the section heading to read as follows:

§ 36.172 Other noncurrent assets—Account 1410.

* * * * *

■ 8. Revise § 36.201 to read as follows:

§ 36.201 Section arrangement.

(a) This subpart is arranged in sections as follows:

General	36.202
Operating Revenues	36.211
Basic local services revenue—Account 5000 (Class B telephone companies); Basic area revenue—Account 5001 (Class A telephone companies)	36.212
Network Access Revenues—Accounts 5081 thru 5083	36.213
Long Distance Message Revenue—Account 5100	36.214
Miscellaneous Revenue—Account 5200	36.215
Uncollectible Revenue—Account 5300	36.216
Certain Income Accounts:	
Other Operating Income and Expenses—Account 7100	36.221
Nonoperating Income and Expenses—Account 7300	36.222
Interest and Related Items—Account 7500	36.223
Extraordinary Items—Account 7600	36.224
Income Effect of Jurisdictional Ratemaking Differences—Account 7910	36.225

■ 9. Amend § 36.202 by revising paragraph (b) to read as follows:

§ 36.202 General.

* * * * *

(b) Except for the Network Access Revenues, subsidiary record categories

are maintained for all revenue accounts in accordance with the requirements of part 32. These subsidiary records identify services for the appropriate jurisdiction and will be used in conjunction with apportionment procedures stated in this manual.

■ 10. Revise § 36.211 to read as follows:

§ 36.211 General.

(a) Operating revenues are included in the following accounts:

Account title	Account No.
Basic local service revenue (Class B telephone companies)	5000
Basic Area Revenue (Class A telephone companies)	5001
Network Access Revenues:	
End User Revenue	5081
Switched Access Revenue	5082
Special Access Revenue	5083
Long Distance Message Revenue	5100
Miscellaneous Revenue	5200
Uncollectible Revenue	5300

■ 11. In § 36.212, revise the section heading to read as follows:

§ 36.212 Basic local services revenue—Account 5000 (Class B telephone companies); Basic area revenue—Account 5001 (Class A telephone companies).

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■ 12. Amend § 36.213 by revising paragraphs (a), (b), and (c) and by removing paragraphs (d) and (e) to read as follows:

§ 36.213 Network access revenues.

(a) End User Revenue—Account 5081. Revenues in this account are directly assigned on the basis of analysis and studies.

(b) Switched Access Revenue—Account 5082. Revenues in this account are directly assigned on the basis of analysis and studies.

(c) Special Access Revenue—Account 5083. Revenues in this account are directly assigned on the basis of analysis and studies.

■ 13. Revise § 36.216 to read as follows:

§ 36.216 Uncollectible revenue—Account 5300.

The amounts in this account are apportioned among the operations on

the basis of analysis during a representative period of the portion of Account 1171, Allowance for doubtful accounts, related to telecommunications billing.

■ 14. Revise § 36.301 to read as follows:

§ 36.301 Section arrangement.

(a) This subpart is arranged in sections as follows:

General	36.301 and 36.302.
Plant Specific Operations Expenses:	
General	36.310.
Network Support/General Support Expenses—Accounts 6110 and 6120 (Class B Telephone Companies); Accounts 6112, 6113, 6114, 6121, 6122, 6123, and 6124 (Class A Telephone Companies).	36.311.
Central Office Expenses—Accounts 6210, 6220, 6230 (Class B Telephone Companies); Accounts 6211, 6212, 6220, 6231, and 6232 (Class A Telephone Companies).	36.321
Information Origination/Termination Expenses—Account 6310 (Class B Telephone Companies); Accounts 6311, 6341, 6351, and 6362 (Class A Telephone Companies).	36.331.
Cable and Wire Facilities Expenses—Account 6410 (Class B Telephone Companies); Accounts 6411, 6421, 6422, 6423, 6424, 6426, 6431, and 6441 (Class A Telephone Companies).	36.341.
Plant Nonspecific Operations Expenses:	
General	36.351.
Other Property Plant and Equipment Expenses—Account 6510 (Class B Telephone Companies); Accounts 6511 and 6512 (Class A Telephone Companies).	36.352.
Network Operations Expenses—Account 6530 (Class B Telephone Companies); Accounts 6531, 6532, 6533, 6534, and 6535 (Class A Telephone Companies).	36.353.
Access Expenses—Account 6540	36.354.
Depreciation and Amortization Expenses—Account 6560	36.361.
Customer Operations Expenses:	
General	36.371.
Marketing—Account 6610 (Class B Telephone Companies); Accounts 6611 and 6613 (Class A Telephone Companies).	36.372.
Services—Account 6620	36.373.
Telephone Operator Services	36.374.
Published Directory Listing	36.375.
All Other	36.376.
Category 1—Local Bus. Office Expense	36.377.
Category 2—Customer Services (Revenue Accounting)	36.378.
Message Processing Expense	36.379.
Other Billing and Collecting Expense	36.380.
Carrier Access Charge Billing and Collecting Expense	36.381.
Category 3—All other Customer Service Expense	36.382.
Corporate Operations Expenses:	
General	36.391.
General and Administrative Expenses—Account 6720	36.392.
Operating Taxes—Account 7200 (Class B Telephone Companies); Accounts 7210, 7220, 7230, 7240, and 7250 (Class A Telephone Companies).	36.411 and 36.412.
Equal Access Expenses	36.421.

■ 15. Amend § 36.310 by revising paragraph (a) to read as follows:

§ 36.310 General.

(a) Plant specific operations expenses include the following accounts:

Network Support Expenses	Account 6110 (Class B Telephone Companies); Accounts 6112, 6113, and 6114 (Class A Telephone Companies)
General Support Expenses	Account 6120 (Class B Telephone Companies); Accounts 6121, 6122, 6123, and 6124 (Class A Telephone Companies).
Central Office Switching Expenses	Account 6210 (Class B Telephone Companies); Accounts 6211 and 6212 (Class A Telephone Companies)
Operator System Expenses	Account 6220
Central Office Transmission Expenses	Account 6230 (Class B Telephone Companies); Accounts 6231 and 6232 (Class A Telephone Companies).
Information Origination/Termination Expenses	Account 6310 (Class B Telephone Companies); Accounts 6311, 6341, 6351, and 6362 (Class A Telephone Companies).
Cable and Wire Facilities Expenses	Account 6410 (Class B Telephone Companies); Accounts 6411, 6421, 6422, 6423, 6424, 6426, 6431, and 6441 (Class A Telephone Companies).

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■ 16. In § 36.311, revise the section heading to read as follows:

§ 36.311 Network Support/General Support Expenses—Accounts 6110 and 6120 (Class B Telephone Companies); Accounts 6112, 6113, 6114, 6121, 6122, 6123, and 6124 (Class A Telephone Companies).

§ 36.321 Central office expenses—Accounts 6210, 6220, and 6230 (Class B telephone companies); Accounts 6211, 6212, 6220, 6231, and 6232 (Class A telephone companies).

* * * * *

■ 17. Amend § 36.321 by revising the section heading and paragraph (a) to read as follows:

(a) The expenses related to central office equipment are summarized in the following accounts:

Central Office Switching Expense	Account 6210 (Class B telephone companies); Accounts 6211 and 6212 (Class A telephone companies).
Operator Systems Expense	Account 6220.
Central Office Transmission Expense	Account 6230 (Class B telephone companies); Accounts 6231 and 6232 (Class A telephone companies).

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■ 18. In § 36.331, revise the section heading to read as follows:

§ 36.331 Information origination/termination expenses—Account 6310 (Class B telephone companies); Accounts 6311, 6341, 6351, and 6362 (Class A telephone companies).

19. In § 36.341, revise the section heading to read as follows:

§ 36.341 Cable and wire facilities expenses—Account 6410 (Class B telephone companies); Accounts 6411, 6421, 6422, 6423, 6424, 6426, 6431, and 6441 (Class A telephone companies).

§ 36.351 General.

(a) Plant nonspecific operations expenses include the following accounts:

Other Property Plant and Equipment Expenses	Account 6510 (Class B telephone companies); Accounts 6511 and 6512 (Class A telephone companies).
Network Operations Expenses	Account 6530 (Class B telephone companies); Accounts 6531, 6532, 6533, 6534, and 6535 (Class A telephone companies).
Access Expenses	Account 6540.
Depreciation and Amortization Expenses	Account 6560.

■ 21. In § 36.352, revise the section heading to read as follows:

§ 36.352 Other property plant and equipment expenses—Account 6510 (Class B telephone companies); Accounts 6511 and 6512 (Class A telephone companies).

■ 22. In § 36.353, revise the section heading to read as follows:

§ 36.353 Network operations expenses—Account 6530 (Class B telephone companies); Accounts 6531, 6532, 6533, 6534, and 6535 (Class A telephone companies).

■ 23. Revise § 36.371 to read as follows:

§ 36.371 General.

Customer Operations Expenses are included in the following accounts:

Marketing	Account 6610 (Class B telephone companies); Accounts 6611 and 6613 (Class A telephone companies).
Services	Account 6620.

■ 24. In § 36.372, revise the section heading to read as follows:

§ 36.372 Marketing—Account 6610 (Class B telephone companies); Accounts 6611 and 6613 (Class A telephone companies).

§ 36.391 General.

Corporate Operations Expenses are included in the following account:

General and Administrative	Account 6720.
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■ 26. Amend § 36.392 by revising the section heading and paragraph (c) to read as follows:

§ 36.392 General and administrative—Account 6720.

* * * * *

(c) The expenses in this account are apportioned among the operations on the basis of the separation of the cost of the combined Big Three Expenses which include the following accounts:

Plant Specific Expenses

Central Office Switching Expenses—Account 6210 (Class B Telephone Companies); Accounts 6211 and 6212 (Class A Telephone Companies)
Operators Systems Expenses—Account 6220
Central Office Transmission Expenses—Account 6230 (Class B Telephone Companies); Accounts 6231 and 6232 (Class A Telephone Companies)

Information Origination/Termination Expenses—Account 6310 (Class B Telephone Companies); Accounts 6311, 6341, 6351, and 6362 (Class A Telephone Companies)
Cable and Wire Facilities Expense—Account 6410 (Class B Telephone Companies); Accounts 6411, 6421, 6422, 6423, 6424, 6426, 6431, and 6441 (Class A Telephone Companies)

Plant Non-Specific Expenses

Network Operations Expenses—
Account 6530 (Class B Telephone
Companies); Accounts 6531, 6532,
6533, 6534, and 6535 (Class A
Telephone Companies)

Other Jurisdictional Assets—Net	Account 1500.
Accumulated Depreciation	Account 3100.
Accumulated Depreciation—Property Held for Future Telecommuni- cations Use.	Account 3200.
Accumulated Amortization—Capital Leases	Account 3400 (Class B Telephone Companies); Account 3410 (Class A Telephone Companies).
Net Current Deferred Operating Income Taxes	Account 4100.
Net Noncurrent Deferred Operating Income Taxes	Account 4340.
Other Jurisdictional Liabilities and Deferred Credits—Net	Account 4370.

■ 29. In § 36.505, revise the section heading to read as follows:

§ 36.505 Accumulated amortization—Tangible—Account 3400 (Class B Telephone Companies); Accumulated amortization—Capital Leases—Account 3410 (Class A Telephone Companies).

* * * * *

■ 30. Amend § 36.631 by revising paragraphs (a) introductory text, (c) introductory text, and (d) introductory text to read as follows:

§ 36.631 Expense adjustment.

(a) Until December 31, 1987, for study areas reporting 50,000 or fewer working loops pursuant to § 36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

* * * * *

(c) Beginning January 1, 1988, for study areas reporting 200,000 or fewer working loops pursuant to § 36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of paragraphs (c)(1) through (2) of this section. After January 1, 2000, the expense adjustment (additional interstate expense allocation) for non-rural telephone companies serving study areas reporting 200,000 or fewer working loops pursuant to § 36.611(h) shall be calculated pursuant to § 54.309 of this chapter or § 54.311 of this chapter (which relies on this part), whichever is applicable.

(d) Beginning January 1, 1988, for study areas reporting more than 200,000 working loops pursuant to § 36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of paragraphs (d)(1) through (4) of this section. After January 1, 2000, the expense adjustment (additional interstate expense allocation) shall be calculated pursuant to § 54.309 of this

Customer Operations Expenses

Marketing—Account 6610 (Class B Telephone Companies); Accounts 6611 and 6613 (Class A Telephone Companies)

Services—Account 6620

■ 27. In § 36.411, revise the section heading to read as follows:

chapter or § 54.311 of this chapter (which relies on this part), whichever is applicable.

* * * * *

[FR Doc. 04-5015 Filed 3-16-04; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AG88

Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for *Cirsium loncholepis* (La Graciosa thistle)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for *Cirsium loncholepis* (La Graciosa thistle). Approximately 41,089 acres (ac) (16,628 hectares (ha)) are within the boundaries of the critical habitat designation. The designated critical habitat is in San Luis Obispo and Santa Barbara Counties, California.

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. Section 7(a)(2) of the Act requires that each Federal agency, in consultation with and with the assistance of the Service, ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or

§ 36.411 Operating taxes—Account 7200 (Class B Telephone Companies); Accounts 7210, 7220, 7230, 7240, and 7250 (Class A Telephone Companies).

■ 28. Revise § 36.501 to read as follows:

§ 36.501 General.

For separations purposes, reserves and deferrals include the following accounts:

result in the destruction or adverse modification of critical habitat. Section 4 of the Act requires us to consider economic and other relevant impacts of designating any particular area as critical habitat. We solicited data and comments from the public on all aspects of this designation, including data on economic and other impacts of the designation.

DATES: This rule is effective April 16, 2004.

ADDRESSES: Comments and materials received, as well as supporting documentation, used in the preparation of this final rule are available for public inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Ventura Fish and Wildlife Office (see **ADDRESSES** section) (telephone 805/644-1766; facsimile 805/644-3958).

SUPPLEMENTARY INFORMATION:

Designation of Critical Habitat Provides Little Additional Protection to Species

In 30 years of implementing the Act, the Service has found that the designation of statutory critical habitat provides little additional protection to most listed species, while consuming significant amounts of available conservation resources. The Service's present system for designating critical habitat has evolved since its original statutory prescription into a process that provides little real conservation benefit, is driven by litigation and the courts rather than biology, limits our ability to fully evaluate the science involved, consumes enormous agency resources, and imposes huge social and economic costs. The Service believes that