Before the
Federal Communications Commission
Washington, D.C. 20554

CC Docket No. 87-113

In the Matter of

Amendment of Part 69 of the [1]
Commission's Rules and
Regulations, Access Charges, To
Conform It With Part 36,
Jurisdictional Separations Procedures

ORDER ON RECONSIDERATION

Adopted: December 9, 1988; Released: December 12, 1988

By the Commission:

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I. INTRODUCTION AND SUMMARY

1. Several parties[2] have filed petitions seeking reconsideration or clarification of the revisions to Part 69 of our rules recently adopted by this Commission. [3] In the *Report and Order*, we revised Part 69 of our rules to conform it to the recently revised Uniform System of Accounts (USOA) and Separations Manual. In this Order, we generally affirm our decision regarding the new allocation procedures under Part 69. To the limited extent indicated below, however, we grant the petitions for reconsideration and clarification. In this Order, we: (1) revise our prescribed phase-out schedule for the discounted Local Switching 1 rate element; (2) decline to revise the new allocation procedures for the General Support Facilities; (3) decline to revise the new allocation procedures for the computer expenses related to Billing and Collection; (4) revise the allocation procedures for Category 4.23 Central Office Equipment (COE), All Other Interexchange Circuit Equipment; (5) decline to adopt alternative proposals for the allocation of COE direct expenses; (6) decline to exclude equal access investment from the allocation of Other Investment; (7) revise the allocation procedures for Accounts 2002 and 2003; (8) generally decline to include Accounts 2004 and 2005 in the definition of Net Investment; (9) decline to adopt an alternative proposal for the allocation of gross receipts taxes; and (10) deny petitions seeking biennial access tariff filings.

II. BACKGROUND OF PROCEEDING

2. On May 1, 1987, we released a Notice of Proposed Rule Making (*Notice*) [4] to amend Part 69 of our rules to (1) conform the Access Charge Rules to the newly revised Part 36 Separations Manual,[5] (2) conform the Part 69

rules to the newly revised Part 32 USOA,[6] and (3) make certain other changes to facilitate the annual access tariff filings. The system of access charges codified in Part 69 is a final step in a multi-step process required to calculate the revenue requirements and rates for the various interstate access elements. The process begins when the carriers record their expenses and cost of investment in the accounts prescribed by the USOA. The carriers' next step is to segregate the costs associated with their regulated services from those associated with their nonregulated services in accordance with Part 64 of our Rules. Next, the carriers assign their regulated costs to the state or interstate jurisdiction pursuant to the Separations Manual. Finally, the carriers apportion their regulated interstate costs into interexchange costs and access costs and then apportion the latter among the access elements. The usual rate base and rate of return methodology is used to compute revenue requirements and access charges for each of these access elements.[7]

3. Because the Access Charge Rules are applied at the end of this rate determination process, they are written to accommodate the regulated accounts defined by the USOA and the categories prescribed by the Separations Manual. Therefore, our recent comprehensive revisions of both the USOA and the Separations Manual, which became effective January 1, 1988, necessitated a corresponding revision of the Access Charge Rules. Accordingly, we proposed amendments to the Access Charge Rules that would conform those rules to the new accounting and separations rules and would make necessary changes of a minor nature to enhance our ability to review annual access filings.

4. Based on the comments and data received in response to our *Notice*, we issued the *Report and Order*, adopting new access charge apportionment procedures. These new procedures incorporated our proposals to conform the Access Charge Rules to the new accounting and separations rules, to consolidate the Line Termination, Local Switching, and Intercept elements into a single element called Switching and to eliminate the distinction between the Local Switching 1 and Local Switching 2 subelements. We also adopted new procedures that limited the annual access filings to rate level changes. We modified our original proposal to reflect the revised separations procedures for marketing expenses,[8] to clarify generally the originally proposed apportionment procedures and to correct minor errors and omissions.

III. ISSUES AND DISCUSSION

A. Local Switching Rate Subelements

1. Background

5. Under the former Part 69 rules, carriers were required to apportion costs between three end office elements: Line Termination, Local Switching, and Intercept. In addition, Local Switching was divided into two subelements: Local Switching 1 (LS1) and Local Switching 2 (LS2).[9] The former Line Termination and Local Switching elements reflected the classification of the former Part 67 Category 6 COE, Local Dial Switching Equipment, into nontraffic sensitive (NTS) and traffic sensitive (TS) portions for jurisdictional separations purposes. The differences in the former LS1 and LS2 subelements of the Local Switching element reflected the Toll Weighting Factors (TWFs) that were applied to toll minutes for the purpose of allocating the TS portion of the former Category 6 COE. Under the new Separations Manual, we reclassified local dial equipment as Category 3 COE, Local Switching Equipment, and eliminated both the NTS/TS distinction and TWFs. We also found that given the advent of digital switching equipment, the maintenance of the NTS/TS distinction was no longer justified.[10]

6. Accordingly, in the *Notice*, we proposed to combine Line Termination, LS1, and LS2 into a single element that we proposed to assess on the basis of unweighted access minutes. We stated that this proposal would result in a modest increase in the Cost of Feature Groups A and B connections, but should not have a substantial impact on interexchange carriers (ICs) in view of the substantial progress in the implementation of equal access.[11] We also proposed to eliminate the Intercept element and to include those costs in the new Switching element.

7. The *Report and Order* adopted new rules to consolidate the former end office elements and to establish a transition to eliminate the rate differential between the LS1 and LS2 subelements. We found that retention of the LS1/LS2 differential in its former form would not be possible without changing the Part 36 separations rules.[12] We stated, however, that we could compute a discount for the new combined end office element that approximates the end result produced by the former combination of end office access elements and the consolidation of the Local Switching Subelements. We computed a series of declining discounts that parallel the transition formula for the new separations allocations factor for Category 3 COE. Our computations indicated that discounts of 22 percent in 1988, 17 percent in 1989, 12 percent in 1990, 7 percent in 1991, 2 percent in 1992, and 0 percent thereafter would accomplish that result.[13] We computed these discounts by: (1) adjusting the existing 35 percent rate differential between LS1 and LS2 to account for the fact that the switching costs associated with the old switching element represent only a portion of the total costs assigned to the new consolidated local switching element; and (2) applying to this adjusted differential the transitional formulas that are used for COE separations, *i.e.*, 90 percent in 1988, 70 percent in 1989, 50 percent in 1990, 30 percent in 1991, and 10 percent in 1992.[14] We developed a schedule to eliminate the rate differential between the LS1 and LS2 subelement over a five year period beginning in 1988 because the considerations that led us to adopt the recommendation of the Docket 80-286 Joint Board to phase-in the new Category 3 COE separations factor were sufficiently analogous to warrant the adoption of a five-year phase-in of the elimination of the LS1/LS2 differential.[15] We noted that the cost causational factors underlying the separations TWFs and the LS1/LS2 differential have not yet become totally obsolete. We also noted that a flash-cut approach could produce rate shock for both ratepayers and for ICs that compete with AT&T.

2. Positions of Parties

8. Several parties ask us to revise the phase-out schedule for the LS1/LS2 price differential.[16] These petitioners contend that the phase-out schedule will initially have the effect of increasing the LS1 discount rate rather than decreasing it. The petitioners also contend that such an increase will create perverse incentives for the ICs to continue to use Feature Group A and B services even

after conversion to equal access services and could result in a revenue shortfall for the NECA traffic-sensitive pool members.

9. AT&T contends that we erred in calculating the phase-out procedures and argues that the discount for the consolidated end office elements that is equivalent to the former 35 percent LS1 discount is actually 18.9 percent.[17] AT&T maintains that the discount factor for 1988, representing a 10 percent reduction in the LS1 discount, should be 17 percent, rather than 22 percent as established by this Commission. AT&T concludes that the current phase-out schedule will actually increase the LS1 discount by 30 percent in 1988 rather than decrease it by 10 percent as AT&T claims we intended. Moreover, AT&T argues that because the effect of the inflated Feature Groups A and B discount is to increase Feature Groups C and D rates and reduce the total demand minutes used in setting the Local Switching rates, those rates filed by the LECs are higher than the rates would have been had the discount been set at the proper level.

10. Pacific argues that we miscalculated the phase-out discount because we failed to recognize that, since the end office elements are consolidated, the effective discount for 1987 is 20 percent rather than 35 percent.[18] Thus, Pacific concludes, under the current phase-out schedule, the LS1 discount will actually increase in 1988. Pacific also disagrees with our decision not to combine the Directory Assistance surcharge access element with the Line Termination, Local Switching, and Intercept elements in the new Switching element.[19]

11. NECA proposes to discount the Local Switching element by 12.4 percent in 1987, 11.2 percent in 1988, 8.7 percent in 1989, 6.2 percent in 1990, 3.7 percent in 1991, 1.2 percent in 1992 and 0 percent in 1993.[20] NECA calculates that, when applied to the consolidated end office elements, the current 35 percent discount actually equals a 12.4 percent discount. Thus, NECA argues, the application of our prescribed 22 percent differential will result in an increase in the current LS1 discount. NECA also asserts that the 12.4 percent discount will not be reached until the third year under the current phase-out schedule. NECA maintains that as end offices are converted to equal access, the demand for the discounted LS1 service will increase, which will be exacerbated by the incentive provided by the current phase-out schedule for ICs to order Feature Groups A and B services in converted offices. NECA contends that, unless it has offsetting increases in its LS2 switching charge, these greater LS1 discounts will result in a revenue shortfall for the NECA traffic sensitive pool.

12. USTA and GTOC support NECA's proposal and recommend that we amend our phase-out schedule for the LS1 discount. USTA recommends that the discount be phased-out by applying percentages that correspond to the phase-out schedule for the Category 3 COE allocation factor. GTOC proposes a similar phase-out schedule. USTA and GTOC each asserts that its proposal demonstrates the most appropriate methodology for the phase-out of the LS1/LS2 price differential.[21]

13. Bell Atlantic contends that the 22 percent discount level is higher than the 19.8 percent discount level it now offers users of Feature Groups A and B services in its region and suggests that the discount level be set instead at 17.8 percent.[22] Bell Atlantic also requests that we reconsider our decision to prescribe a local switching rate differential for the termination of Feature Group B service which Bell Atlantic maintains is identical to the termination service under Feature Group D.[23] US Sprint, MCI, and ALC oppose Bell Atlantic's request to eliminate the LS1/LS2 differential for terminating service. Those carriers contend that Bell Atlantic's arguments have already been presented to and considered by this Commission and that Bell Atlantic presents no reason to consider the issue again.[24] MCI also opposes Bell Atlantic's arguments regarding Feature Group B terminating service.[25]

14. MCI, US Sprint, and ALC object to any deviation from the adopted phase-out schedule for the LS1 discount. MCI and US Sprint contend that AT&T's reliance on the 1987 switched access charges based on the former separations rules instead of the revised separations rules results in an understated LS1 differential.[26] They contend the differential should be based on the rates that would be in place under the new rules.[27] These parties also claim that USTA's proposal would result in LEC-specific differentials. USTA maintains that LEC-specific cost characteristics are already reflected as a result of the elimination of the distinction between the traffic sensitive and non-traffic sensitive classification in Part 36 and the combination of Line Termination, Intercept, and Local Switching into a single rate element in Part 69. NECA suggests, in the alternative, that we adopt USTA's proposal.[28] Bell Atlantic urges us to recalculate the LS1/LS2 price differential, regardless of whether the results are company-specific or reflect a nationwide average.[29]

15. US Sprint suggests that the differential be based on rates developed under the new rules. US Sprint contends that a discount based on historical rates will bear little relationship to 1988 costs and rates and may result in a substantial decrease in the absolute value of the differential. US Sprint suggests that we use a hypothetical differential based on the new rules and phase-out that differential over the targeted five-year period.[30]

16. AT&T responds that MCI and US Sprint fail to understand the decision to phase-out the LS1 discount. AT&T says the transition rules were supposed to start decreasing the discount in 1988 from 1987 levels and to calculate a consolidated discount for the combined switching rate element based on the existing combination of end office access elements.[31] Therefore, AT&T maintains that its calculation of the consolidated discount using 1987 rates was proper.[32] AT&T adds that it does not oppose the proposals of NECA, GTOC, and USTA to calculate company-specific discount levels.[33]

3. Discussion

17. We will revise our prescribed phase-out schedule for the LS1 discount. The petitions demonstrate that implementation of the discounts we prescribed will actually result in an increase, at least in the initial years, in the LS1 discount. Such a result contravenes our objective of reflecting the phase-out of the former Category 6 COE separations procedures, including the elimination of both the NTS/TS distinction and the TWFs. We have reevaluated the impact of the discounts we prescribed in the *Report and Order* and have determined that, contrary to our intention, these discounts will have the effect of increasing the aggregate LS1 discount in the initial years. Based on our analysis of the projected savings under the 1988 tariffs, we have recalculated the discounts for the LS1 rate subelement.

18. We based our recalculations of the LS1 transition factors (which reflect the discount amounts) on cost and demand forecasts filed by the local exchange carriers (LECs) in support of their 1988 annual access tariff filings. We first determined the 1988 LS1 discount amount that would result if the discount were not being phased-out. We next phased-down the discount amounts to zero on a straight-line basis over a five-year period.[34] The new factors become effective on April 1, 1989. Therefore, we have only computed the factors for 1988 to 1992. For those years, the new LS1 transition factors shall be as follows:

From April 1, 1989 to June 30, 1990 -- .877
From July 1, 1990 to June 30, 1991 -- .921
From July 1, 1991 to June 30, 1992 -- .960
From July 1, 1992 to June 30, 1993 -- .995

We believe this new phase-out schedule for the discounted LS1 rate element will reflect both the impact of combining the three former end office elements and the five-year phase-out schedule for the former separations Category 6 COE. We therefore grant the petitions on this issue to the limited extent indicated herein.

19. We decline, however, to grant Pacific's request that we further aggregate the access elements by combining the Information element in the new Local Switching element. Costs that are apportioned to the Information element are indirectly reflected in interexchange carrier directory assistance charges. Elimination of a separate access element would be likely to result in interexchange carrier charges that are less cost causational. Thus, the original reasons for establishing a separate Information element are still valid. No change is required to achieve conformance with the revised Separations Manual. The Information element includes investment in Category 1 COE. We did not consolidate that category with other separations categories when we revised the separations categories. Therefore, we will not adopt Pacific's suggestion.

20. We also decline to adopt Bell Atlantic's suggestion that Feature Group B service should not be discounted because the use of Feature Group B for terminations is identical to Feature Group D termination service. As we stated in *Third Report and Order*, in Docket No. 78-72,[35] the connections provided under Feature Group B service are inherently different from those provided under Feature Group D service. We therefore believe that Feature Group B service should continue to be discounted in unconverted offices through the application of the LS2 nonpremium rate and should continue to be discounted in converted offices for the next five years through the the LS1 discounted rate.

B. General Support Facilities

1. Background

21. Under the former Part 69 rules, General Support Facilities (GSF) was divided into individual categories, including Land, Buildings, and Vehicles. Each category was apportioned on the basis of unique allocation factors. The *Report and Order* [36] adopted a revised procedure which combines these individual categories under GSF and apportions the investment among the Interexchange and Billing and Collection categories and the access elements on the basis of the combined investment in COE, Information Origination/Termination Equipment (IOT), and Cable and Wire Facilities (C&WF), excluding Category 1.3 C&WF.[37] Although several parties proposed the inclusion of Category 1.3 C&WF in the allocation factor for GSF, we determined that the inclusion of Category 1.3 C&WF could apportion excessive GSF costs to the Carrier Common Line Element. We observed that: "Although additional Common Line costs are usually recovered through the Carrier Common Line element, such costs can sometimes affect the level of subscriber line charges that are subject to a cap. In these circumstances, any doubts with respect to the apportionment of indirect expenses should be resolved against apportioning expenses to Common Line".[38]

2. Positions of Parties

22. Western Union, AT&T, and SATNET seek reconsideration of our revised allocation methods for GSF. Western Union argues that we did not consider the impact that the exclusion of Category 1.3 C&WF would have on special access. Western Union further argues that, based on the 1988 Tariff Review Plan data, the revised allocation procedures will shift $1.1 billion from the Common Line element to the Traffic Sensitive and Special Access elements thereby reducing Common Line by 44 percent and increasing Special Access by 63 percent.[39] Western Union maintains that this allocation to Special Access is not based on any rational allocation procedure but, rather, is based on a concern for the bottom-line revenue requirement impact on Common Line.[40]

23. Western Union recommends that we adopt one of its five alternative proposals[41] but favors two approaches which involve the use of a modified Big Three Expenses allocation factor.[42] Western Union states that the use of its first suggested modified Big Three Expenses approach, which would exclude Account 6410, Cable and Wire Facilities Expenses, would approximate the results achieved under the former Part 69 rules. Western Union maintains that the logic behind the exclusion of Account 6410 is that most C&WF is not located in carrier-owned buildings, although C&WF does make direct use of other GSF such as vehicles and work equipment. Western Union also maintains that Account 6310, IOT Expenses, could be excluded for the same reason and that the exclusion of Account 6310 would compensate for the complete removal of Account 6410. In its second modified Big Three Expenses proposal, Western Union recommends that the COE expenses in Accounts 6210 and 6230 be given a double weighting in the calculation of Big Three Expenses.[43] Western Union contends that double weighting is appropriate because these accounts have a larger land and building component in their costs than the remaining accounts, since the equipment is housed in company-owned buildings. It states that this method produces results that are similar to its first modified Big Three Expenses approach.

24. AT&T requests that we allocate GSF on the basis of a slightly different modified Big Three Expenses.[44] AT&T contends that the network plant-based allocation factor assigns no GSF investment to the Billing and Collection category even though GSF assets are used extensively in the LECs' billing and collection operations.[45] AT&T further contends that under the new rules, no GSF assets are assigned to Billing and Collection, whereas under the old rules, a proportionate share of GSF assets were assigned to Billing and Collection. As a result, AT&T contends, ap-

proximately $180 million of GSF-related revenue requirements that should be attributed to Billing and Collection are currently assigned to the access rate elements.[46]

25. Several parties oppose the allocation of GSF investment on the basis of the Big Three Expenses, arguing that such an approach would cause unacceptable shifts in revenue requirements to Common Line and would unduly complicate the access process.[47] These parties specifically cite AT&T's estimated revenue requirement shifts of $317 million to the Common Line and $177 million to the non-access elements. US West, USTA, BellSouth, SW Bell, and United contend that the use of the Big Three Expense factor would involve circularity because certain accounts included in that factor are allocated on the basis of GSF.[48] SNET maintains that the record of this proceeding does not contain any data or comments which suggest that GSF should be allocated on the basis of the Big Three Expenses rather than on the basis of investment. US West, SW Bell, and SNET suggest that we conduct a thorough evaluation of the impact of the Part 69 rule changes by reviewing industry data in a full Rule Making proceeding.[49]

26. BellSouth and SNET argue that AT&T has contested the new Part 69 rules too early because the rules had not become effective when AT&T filed its Petition for Reconsideration.[50] On the other hand, US West and Texas Cooperative claim that AT&T's opposition to the new Part 69 rules is too late because AT&T fails to explain why it did not raise its arguments before this filing.[51] Texas Cooperative claims that AT&T's argument against our new allocation methodology for GSF is based on the results of the application of this methodology in the LECs' 1988 access filings, which, Texas Cooperative claims, does not justify a revision of our rules. Texas Cooperative further claims that AT&T is seeking to revise our rules simply because it believes that the new rules do not allocate enough revenue requirement to the Billing and Collection category. Texas Cooperative also notes that AT&T acknowledges that the new Part 69 treatment of GSF is consistent with the Part 36 treatment of GSF.[52]

27. SW Bell argues that the accounts that AT&T suggests be removed from a Big Three Expenses allocation for GSF cannot be excluded from the allocation factor because those accounts represent a significant portion, perhaps 10 percent, of its Big Three Expenses.[53] SW Bell also argues that AT&T's proposal is premised on Billing and Collection revenue requirement shifts caused by the revised Revenue Accounting Expenses allocation procedures we adopted in Docket No. 80-286.[54] SW Bell further states that any attempt to neutralize the effects of Docket No. 80-286 separations changes is beyond the scope of this proceeding. GVNW states that it analyzed data collected from fifteen of its companies based on the proposals of Western Union and AT&T. GVNW states that the results show that an expense-based allocation factor for GSF will exacerbate the current overallocation to the Billing and Collection category.[55] GVNW further states that all these companies would have experienced a substantial increase in the costs allocated to the Billing and Collection category using the alternatives proposed by AT&T and Western Union. United contends that although AT&T estimates a $5 million increase in United's Common Line revenue requirement for its Tier 1 companies, it estimates an $8.2 million increase in its Common Line revenue requirement, which is an approximately 39 percent increase.[56] USTA contends that, based on data collected from a sample of its Tier I companies, the petitioners' proposed modifications to the allocation of GSF could result in an increase in the Carrier Common Line revenue requirement of over $400 million.[57]

28. NYNEX maintains that our revised Part 69 rules reflect a simplified process which seeks to apply reasonable allocation factors intended to avoid the costly and burdensome studies necessary to identify costs for direct assignment. NYNEX suggests that AT&T has not addressed the full effects of its proposal on the costs allocated to other access rate elements of interest to other customers. NYNEX also maintains that the shifts in costs that AT&T claims were unexpected were evident at the time the original data were presented in this proceeding and became a part of the record.[58] In response to Western Union's petition, NYNEX contends that Western Union had an opportunity to submit its arguments in the record of this proceeding but chose not to do so.[59] MCI states that it would support AT&T's proposal that GSF be allocated on the basis of Big Three Expenses only if it would solve the problem of "overallocation" to Special Access. Otherwise, MCI supports Western Union's proposal.[60]

29. AT&T replies that no party disputes that the allocation methodologies it proposes will result in an assignment of GSF that reflects cost-causation principles. AT&T also maintains that the arguments raised against its proposal are merely procedural and technical in nature and do not justify reverting to the former Part 69 rules.[61] AT&T proposes two alternatives to address the oppositions to the use of the Big Three Expenses factor to allocate GSF among the regulated rate elements. AT&T proposes that the Big Three Expenses factor be used only to allocate GSF costs to the Billing and Collection category. AT&T further proposes that the investment-based allocation factor be used to assign the remaining GSF costs among the regulated access rate elements. AT&T contends that this approach would remove the Billing and Collection-related GSF costs proportionately from each regulated rate element, would ensure that no costs would shift between those rate elements, and would reduce Common Line costs.[62] AT&T proposes to solve the circularity problem by removing certain expenses in Accounts 6110 and 6610, and a portion of Account 6620, from the Big Three Expenses factor used to allocate the GSF assets to the Billing and Collection category.[63] AT&T responds to US West's assertion that Accounts 6120 and 6560 are also part of the circularity problem by stating that Account 6560 is not included in the Big Three Expenses.[64] Regarding Account 6120, AT&T asserts that it had previously recommended eliminating Account 6120, General Support Expenses, from the Big Three Expenses.[65]

30. The claim that its petition is too early is unfounded, AT&T asserts, because the LECs used the revised Part 69 rules to determine the access rates that are included in the annual access filings filed on October 2, 1987. AT&T also maintains that its petition is not too late because it raises new facts that were unknown and could not have been known by the petitioners at the time of the last submission.[66] AT&T argues that its petition illustrates cost shifts from the Billing and Collection Category of such magnitude that it could not have anticipated or foreseen purely on the basis of the record in this proceeding but, rather, only after reviewing the annual access tariffs filed

on October 2. 1987. Thus, AT&T argues, it has presented a new fact in a timely manner which warrants reconsideration.

31. Western Union replies that none of the carriers opposing its proposal defends the new rule as a reasonable cost allocation procedure. Western Union submits a chart which compares the allocation of GSF under the former rules, the new rules, and its two alternative modified Big Three Expenses proposals. [67] It claims that based on its calculations, its two alternatives are the best solutions. In the absence of any other acceptable simplified formula, Wester Union suggests that we revert to the former rules.

3. Discussion

32. The changes in the USOA and the Separations Manual that relate to GSF are so extensive that a new formula for the apportionment of these costs was necessarily required. Such investment cannot be directly attributed to particular services and accordingly must be apportioned on the basis of some general allocator. We are not persuaded that any of the alternative allocators proposed by the petitioners would produce results that are more equitable or more cost causational than the allocator that we adopted.[68] The Western Union proposals would indirectly result in shifting some burdens from business to residential customers without producing greater precision in the allocation process. The AT&T proposals would change procedures that would provide a long-term solution to respond to a temporary allocation problem.[69] AT&T is in the process of replacing exchange carrier billling and collection services with its own billing mechanisms. If exchange carriers do not obtain a significant amount of other third party billing and collection business, the apportionment of costs between the access elements and the billing and collection category will not have a great deal of long term significance. We accordingly decline to adopt any of the suggested changes in the GSF apportionment.

C. Computer Expenses Related to Billing and Collection

1. Background

33. Under the former Part 31 USOA and the former Part 69, all computer expenses related to Revenue Accounting Expenses were recorded in Account 662 and were included in the Billing and Collection category. Under the new Part 32 USOA, some of the computer expenses related to Revenue Accounting Expenses are recorded in Account 6623, Customer Services, but some of the computer related expenses previously recorded in Account 662 are recorded in Account 6124, General Purpose Computer Expenses, and Account 6724, Information Management. Under the new Part 69 rules, the interstate portion of the Revenue Accounting Expenses in Account 6623 is assigned to the Billing and Collection category, Account 6124 is allocated on the basis of the allocation of GSF, and Account 6724 is allocated on the basis of the Big Three Expenses.[70]

2. Positions of the Parties

34. AT&T asserts that under the new Part 32 accounting rules, Accounts 6124 and 6724 contain a high proportion of computer expenses related to Billing and Collection but the new Part 69 allocation factors attribute very little of the costs in those accounts to the Billing and Collection category. AT&T claims that the LECs' 1988 access filings disclose that approximately $80 million of the computer expenses related to Billing and Collection are currently recorded in Accounts 6124 and 6724.[71] AT&T further claims that under the former Part 69 rules, all those costs would have been directly assigned to the Billing and Collection category but, under the new rules, only approximately $3 million of the expenses in those accounts are allocated to that category.[72] As a result, AT&T claims that the new rules will shift approximately $77 million of computer expenses related to Billing and Collection to the regulated access rate elements.[73]

35. AT&T asserts that the new rules will allocate expenses that are incurred in providing detariffed billing and collection services to regulated access services. AT&T further asserts that the new rules will allow the LECs' billing and collection operations to use the land, buildings, office equipment, and computers included in the GSF category and the computer expenses in Accounts 6124 and 6724 without cost. As a result, AT&T claims, the LECs will be using their regulated services to recover 40 percent of the costs of their detariffed billing and collection operations.[74] A shift of this magnitude, AT&T asserts, contravenes this Commission's goal in this proceeding to avoid significant revenue requirement shifts. AT&T claims that the misallocation of billing and collection costs will create a double recovery for LECs because the LECS are under contract with AT&T for recovery of their billing and collection costs. If those costs are assigned to the access rate elements, AT&T asserts, the LECs will collect their billing and collection costs twice -- once under contract and again through access charges.

36. AT&T argues that the broad allocation factors for Accounts 6124 and 6724 should be abandoned and the LECs should be required instead to maintain records of their detariffed billing and collection expenses in those accounts and to directly assign those expenses to the Billing and Collection category. US West, USTA, SW Bell, NECA, Pacific, and NYNEX oppose AT&T's suggestion, contending that this proposal contravenes our objective of simplifying the accounting and separations process because it would require the LECs to perform special studies to identify the expenses in these accounts.[75] These parties are also concerned about the effects such a proposal would have on other access elements and on the Billing and Collection category.

37. Bell Atlantic responds that AT&T's claim of underassignment of costs to the Billing and Collection category is erroneous. Bell Atlantic contends that although its actual interstate Billing and Collection costs for January through August 1987 was $38 million,[76] it forecasted that those costs for 1988 would be $27 million. Bell Atlantic contends that this decrease reflects the reduction in billing and collection services currently obtained by AT&T from the LECs. Bell Atlantic further contends that as AT&T performs more of its own billing and collection, those costs will decline even further. Bell Atlantic opposes AT&T's proposal because it would require special studies to allocate the accounts by type of service; Bell Atlantic argues that the existing Part 69 and Part 36 rules do not provide such records. Bell Atlantic contends that such special studies would be costly and complex.

38. GVNW opposes AT&T's proposal because of the impact on small companies. GVNW conducted studies for fifteen companies which it claims illustrates the overassignment of interstate costs to the Billing and Col-

lection category. GVNW contends that this overassignment will probably result in nonrecovery of some corporate expenses that were formerly assigned to the access elements. GVNW further contends that, because the LECs bargained in good faith to recover their billing and collection costs under their contracts with AT&T, the assignment of other costs to the Billing and Collection category would result in the LECs' inability to recover those costs. GVNW also contends that, because the small companies handle less than 10 percent of message volumes, they can not dictate contractual terms to AT&T.[77]

39. BellSouth responds that AT&T should suggest revisions of Part 32 rather than Part 69 to correct the problem of the appropriate allocation factor for the computer expenses related to Billing and Collection. Bell South suggests that, since we are monitoring the effects of our rule revisions, we should wait until we have those results before us to determine whether unintended impacts have resulted rather than acting on speculation.[78] On the other hand, United contends that AT&T's argument should be addressed in context of the revised Part 36 rules. Texas Cooperative believes that AT&T's arguments should be addressed in the context of both the revised Part 32 and Part 36.[79]

40. Texas Cooperative also states that any shifts in the allocation of costs relating to Billing and Collection can be addressed through contract negotiations. SW Bell contends that any costs that are presently shifted to Billing and Collection may not be recouped from customers purchasing billing and collection services because many LECs are committed to billing and collection contracts. Therefore, SW Bell suggests that we should reject AT&T's attempt to mitigate revenue requirement shifts for some companies, while aggravating shifts for others. NECA responds that AT&T's proposal is inconsistent with its earlier position, in which AT&T stated that parties could have included price adjustment clauses in their contracts, because they knew at the time of contract negotiations that separations procedures were subject to modification. NECA asserts that AT&T was equally aware and could have included price adjustment clauses in the same contracts.[80]

41. NYNEX responds that AT&T's assumptions regarding the impact of revenue requirement shifts are exaggerated. NYNEX states that the reduction in billing and collection revenue requirements is less than 1 percent of the total interstate revenue requirements.[81] NYNEX also responds that AT&T's assertion that the new rules will shift costs from the detariffed billing and collection operations to the regulated access services is incorrect. NYNEX states that if billing and collection activities for the ICs were not performed by the LECs, the LECs would still incur costs for other billing and network-related activities.[82] Double recovery of costs is not an issue, NYNEX contends, because the contract between AT&T and NYNEX illustrates that the rates for billing and collection are based on the value to AT&T, not NYNEX's costs. NYNEX also asserts that basing Part 69 costs for Billing and Collection on contract rates is not logical. NYNEX asserts that, based on AT&T's arguments, if the negotiated Billing and Collection contract rates changed a certain amount, interstate revenue requirements would be adjusted correspondingly. In addition, NYNEX asserts that Billing and Collection cost apportionments would vary among LECs depending on the billing and collection rate levels negotiated with AT&T. In addition, NYNEX also asserts that billing and collection service provided to the ICs is a declining service, as AT&T performs more of the billing and collection functions. NYNEX asserts that only a small portion of the LECs' costs can be eliminated when billing and collection activities are curtailed and that the majority of costs that remain will be recovered in the LECs' regulated services.[83]

42. AT&T replies that no party argues that the application of our Part 69 rules to billing and collection costs can be justified as reflective of cost-causation principles. Moreover, AT&T replies that no party disputes that the allocation methodologies it proposes will result in an assignment of Accounts 6124 and 6724 expenses to the Billing and Collection category that reflects cost-causation principles.[84]

3. Discussion

43. We decline to adopt AT&T's suggested modification of Part 69 procedures for the apportionment of the computer expenses related to billing and collection. The AT&T proposal would introduce additional complexity in order to solve a temporary problem of uncertain magnitude. AT&T has not presented a sufficient justification for modifying a final decision.

D. Circuit Equipment

1. Background

44. The revised Section 69.306(e) provides:

> COE Category 4 (Circuit Equipment) shall be apportioned among the interexchange category and the Common Line, Limited Pay Telephone, Dedicated Transport, Common Transport and Special Access elements. COE 4 shall be apportioned in the same proportion as the associated Cable and Wire Facilities.[85]

The C&WF categories that are used for purposes of access apportionments are described in Section 69.305.[86]

2. Positions of Parties

45. SW Bell requests clarification of these procedures, stating that it has interpreted the new rules as requiring that all Interexchange Circuit Equipment costs identified pursuant to the Separations Manual as interstate private line costs be allocated to the Special Access element and that all Interexchange Circuit Equipment costs identified as Message be assigned to the Transport elements. Basically, SW Bell argues that when it can directly identify a certain amount of Interexchange Circuit Equipment as Interstate Private Line, the investment in those circuits should be directly assigned to the Special Access element, regardless of the proportion of Interexchange C&WF revenue requirement assigned to that element. SW Bell maintains that its preferred procedure would provide the most equitable assignment of Category 4.23 COE investment because allocation on the basis of the relative allocation of investment in C&WF would ignore the fact that although Interexchange C&WF is still allocated between the jurisdictions on the basis of circuit miles, we eliminated the mileage component of the jurisdictional allocation factor for Interexchange Circuit Equipment.[87] SW Bell argues that the assignment of Interexchange Circuit

Equipment costs on the basis of the absolute amounts of Interexchange C&WF would ignore the impact of circuit terminations for purposes of developing access charges and would be inconsistent with jurisdictional cost allocation procedures.[88]

46. Western Union opposes SW Bell's interpretation, arguing that the LECs should be required to follow the "literal" language of the rules. Western Union argues that the Part 69 rules need not follow Part 36 rules and states that the Access Charge Rules do not necessarily require the direct flow-through of separations results.[89] Moreover, Western Union contends, the issue of the use of circuit terminations warrants further investigation because the rules do not define this term and because the LECs are apparently applying a variety of definitions. SW Bell replies that we have adequate information to assess the impact of its procedure.

47. SW Bell also responds that its analysis of data filed with the Commission illustrates that substantial changes in the historic revenue requirement allocations would occur if Western Union's interpretation is upheld.[90] Specifically, SW Bell contends that Western Union's interpretation would produce a 28 percent increase in historic Common Line assignments, a 54 percent decrease in Transport assignments, and a 30 percent decrease in Special Access assignments.[91] SW Bell also responds that Western Union is incorrect in its assertion that no Private Line category is identified in Part 36. SW Bell asserts that regardless of how the groupings are named in Part 36, COE and C&WF are grouped into Message and Private Line categories to facilitate allocations.[92] SW Bell further adds that although the Part 36 rules may refer to categories, it does not believe that we meant to exclude subcategories, subsidiary categories, and classes of circuits in light of the significant shifts in revenue requirements that would result from Western Union's definition of categories.

3. Discussion

48. Section 69.306(e) means that Circuit Equipment that is used in conjunction with a particular cable or wire facility will be assigned or allocated in the same manner as the associated facility. Circuit Equipment that is used with an ordinary subscriber line is assigned to the Common Line element. Circuit Equipment that is used with a WATS access line or a private line is assigned to the Special Access element. Circuit Equipment that is used with trunks that connect end office switches or that connect end office and interexchange switches is assigned to Transport. Circuit Equipment used with trunks that are not classified as "origination" or "termination" for purposes of the Part 69 access charge rules are assigned to the interexchange category. SW Bell does not appear to disagree with this interpretation and apparently does not propose any change in this procedure. Accordingly, the request for clarification appears to be satisfied.[93]

E. COE Direct Expenses

1. Background

49. The *Notice* [94] proposed to allocate COE direct expenses on the basis of the associated COE investment. Thus, Operator Systems expenses would be allocated on the basis of Operator Systems investment, Switching Equipment expenses would be allocated on the basis of Switching Equipment investment, and Circuit Equipment expenses would be allocated on the basis of Circuit Equipment investment. In the *Report and Order*, [95] we decided instead to allocate COE direct expenses on the basis of total COE investment. We revised our original proposal to ensure conformance with Part 36 procedures, which allocate COE expenses between the jurisdictions on the basis of the total COE investment.[96] In addition, the data submitted in this docket indicated that this modification would significantly reduce the shift in revenue requirements between the Switching and Special Access elements.

2. Positions of Parties

50. Western Union and SATNET contend that this modification of our original proposal will shift substantial message costs to Special Access and they request that we adopt instead our original proposal to apportion these costs on the basis of associated investment. Western Union asserts that several LECs have warned of substantial revenue shifts from switched access to special access in the calculations of their revenue requirements for the 1988 access tariffs.[97] SATNET states that a significant shift in revenue requirements has occurred, but is not easily quantifiable. Western Union asserts that this unforeseen shift is due to the fact that Special Access does not employ two of the three categories of COE, *i.e.*, Switching equipment and Operator Systems equipment, that are included in the total COE investment allocation factor. Moreover, Western Union contends that this situation is exacerbated by the fact that expenses, as a percentage of investment, are much higher for the equipment employed by switched access than by special access. Thus, Western Union concludes, by aggregating these expenses, the rule requires Special Access ratepayers to pay a portion of Switched Access costs. Western Union maintains that the benefits of simplifying the procedures by requiring the use of a total COE investment allocation factor is outweighed by the cost of the resulting distortions such a method would produce. Western Union contends that LEC assertions that an associated COE investment allocation factor would be burdensome are unjustified because they used this methodology in their earlier access tariff filings. Western Union acknowledges as valid the LECs' concern that a lack of conformance between Part 36 and Part 69 would create a possibility of nonrecovery of some COE expenses[98] but states that this problem could be corrected by either revising Part 36 or allowing for a true-up of access costs.

51. NYNEX, SW Bell, and SNET oppose the petitions of Western Union and SATNET. NYNEX asserts that Western Union fails to demonstrate how its proposed allocation factor will affect costs and rates, other than those for Special Access. NYNEX notes that Western Union provides no evidence that COE expenses are incurred in lesser proportions for Special Access COE investment than for Switched Access. In particular, NYNEX cites the costs of high capacity Special Access COE transmission equipment.[99] SNET notes that we modified the rules to apportion COE direct expenses based on total COE to conform the Part 69 rules to Part 36 and we should decline to reconsider that decision.[100]

52. SW Bell contends that Western Union's proposal contravenes the objectives of this proceeding to simplify COE expense allocations. SW Bell also contends that its 1988 access filings demonstrate that under the former Part

69 procedures, approximately 23 percent of the COE expenses were allocated to Special Access and that under the revised procedure, approximately 22 percent of those COE expenses will be allocated to Special Access.[101] SW Bell notes that the proposal of Western Union and SATNET would allocate only approximately 13 percent of those expenses to Special Access, which would seriously deviate from the distribution of revenue requirements under the former Part 69 procedures. SW Bell contends that the data submitted in this docket indicated that, under the new procedure, switching costs would increase by 2.3 percent and Special Access costs would increase by 1.1 percent, whereas under the proposal of Western Union and SATNET, switching costs would increase by 20.5 and Special Access costs would decrease by 3.6 percent.[102] In its Reply, Western Union maintains that adoption of its proposal would not shift revenue requirements to the Common Line element as anticipated by this Commission but, rather, would merely preserve the status quo by maintaining the associated COE investment allocation factor that was in effect under the former Part 69 rules.[103]

3. Discussion

53. We decline to adopt Western Union's suggestion that COE direct expenses be allocated on the basis of the associated COE investment rather than on the basis of total COE investment. The allocation of these expenses on the basis of total COE investment is consistent with Part 36 procedures. We believe that since conformance of the Part 69 rules to the new Part 36 rules is an overriding goal of this proceeding, we should strive to maintain consistency between those sets of rules whenever possible. Moreover, the use of associated COE investment allocation factor is a more complex procedure than the use of a total COE investment allocation factor. We do not believe that any additional precision in cost allocation results that the associated COE allocation factor may yield outweighs the undue complexity and added burdens such an approach would require. We accordingly deny the petitions to reconsider this apportionment.

F. Allocation of Other Investment

1. Background

54. The former Part 69 rules included equal access costs in the Local Switching element. Several waivers were granted to recover these costs through a separate rate element pending completion of the proceeding we instituted in Docket No. 78-72.[104] The *Notice* proposed to continue to assign these costs to the Local Switching element.[105] The *Report and Order*, declined to adopt a separate rate element, stating that our decision to assign equal access costs to the Switching element in this Rule Making did not supersede the existing waivers.[106] We also stated that our decision would not foreclose a different assignment of equal access costs in Docket No. 78-72. The *Notice* also proposed to continue to include equal access costs in the allocation of Other Investment.[107] The *Report and Order* adopted this proposal over the objections of several LECs.[108]

2. Positions of the Parties

55. SW Bell and USTA maintain that the new rules could result in the allocation of certain loadings related to equal access to the Local Switching element as a result of including equal access investment in the allocation factor for Other Investment. They contend that this excessive loading will distort the interstate cost allocations and will cause volatility in other interstate rates as equal access costs are amortized over eight years.[109] These parties also contend that the improper loadings will result in a reduction of the costs allocated to the Equal Access rate element in cases in which a waiver has been granted and a shift in investment and expenses from the Local Switching or Equal Access rate element to other elements. No party opposes the exclusion of equal access from the allocation factor for Other Investment.[110]

3. Discussion

56. We decline to adopt the proposal of SW Bell and USTA that equal access costs be excluded from the allocation factor for Other Investment. The proposed refinement would not be likely to have a substantial impact upon charges for other elements. Moreover, we find that the overheads in these accounts are equally related to equal access investment and other operating investment. Thus, we decline to amend the adopted rule.

G. Allocation of Accounts 2002 and 2003

1. Background

57. Pursuant to the new Separations Manual, the investment in Account 2002, Property Held for Future Telecommunications Use, and Account 2003, Telecommunications Plant Under Construction - Short Term, is allocated between the jurisdictions on the basis of total investment in Telecommunications Plant in Service (TPIS).[111] The new Part 69 rules require that this investment be apportioned among the Interexchange and Billing and Collection categories and the appropriate access elements in the same proportion as the associated investment.[112]

58. In response to the *Notice*, several parties proposed that carriers be given the option of allocating the investment in these accounts between the access elements and categories on the basis of TPIS. The *Report and Order* declined to adopt this approach, stating that its adoption was not required to achieve conformance with the revised USOA or the new Separations Manual and that the record had not demonstrated that the burdens imposed by the associated investment procedure outweigh the uncertainties that would be created by introducing optional apportionment procedures. We added, however, that we would consider waiver requests in the appropriate cases.[113]

2. Positions of the Parties

59. USTA and Pacific state that the new procedures should be changed to require allocation of the investment in Accounts 2002 and 2003 on the basis of total TPIS because such an approach would conform to Part 36 procedures and because the current procedures require carriers to perform special studies.[114] USTA requests that carriers be allowed the option of using total TPIS or associated TPIS. USTA claims that this option would insure that the smaller LECs are not burdened with unnec-

essary regulatory costs.[115] AT&T and MCI oppose this change, maintaining that the complexity argument does not warrant reconsideration of our decision.[116]

3. Discussion

60. We grant these petitions and will require the allocation of the investment in Accounts 2002 and 2003 on the basis of TPIS, rather than on the basis of the associated investment. The Part 69 allocation of this investment on the basis of TPIS would be consistent with Part 36 procedures, which requires the allocation of this investment between the jurisdictions on the basis of TPIS. In addition, the associated investment allocation factor requires carriers to perform costly and complex special studies to determine in which plant accounts the plant held for future use and the plant under construction will likely be included. Such complexities and burdens would contravene our objective of simplifying our procedures whenever possible. Moreover, the associated investment approach is flawed because the use of the plant will not necessarily match that of plant already in service. Therefore, the use of an associated investment allocation factor will not necessarily yield accurate cost allocations among the access elements. We therefore believe that allocation of these accounts on the basis of TPIS will yield results that will be as representative of the actual use of this plant and will be less burdensome and costly to implement.

H. Inclusion of Accounts 2004 and 2005 in Net Investment

1. Background

61. The *Notice* proposed to define Net Investment to include Account 2004, Telecommunications Plant Under Construction - Long Term, and Account 2005, Telecommunications Plant Adjustment.[117] The *Report and Order* changed the definition to exclude those accounts.[118] In an earlier decision in Docket No. 19129, we excluded these two accounts from the Bell Operating Companies' rate base.[119] In an Order released in December 1987, in Docket No. 86-497, we applied this policy to the independent telephone companies.[120]

2. Positions of Parties

62. GTOC and USTA state that, if Accounts 2004 and 2005 remain excluded from the determination of net investment, the LECs will experience significant revenue shortfalls. Specifically, GTOC contends that under the new Part 69 rule, its companies will experience an ongoing revenue shortfall of approximately $12 million.[121] SW Bell states that the inclusion of Account 2005 in the rate base was formerly addressed on a case-by-case basis, and argues that we should continue that practice.[122] These parties also maintain that they have not had an opportunity to address this modification and, therefore, have not been able to plan for any resulting revenue shortfalls.

63. Western Union, MCI, and Ad Hoc object to these petitions, contending that our decision in Docket No. 19129 established that the inclusion of long-term plant in the rate base would unduly burden ratepayers with the cost of investment that would not become used and useful for several years. Western Union maintains that the principle underlying this decision is to avoid inflating the rate base by merger and acquisition transactions from which the ratepayer derives no tangible benefits.[123] MCI states that when plant acquisitions arise, the difference is treated as below-the-line so that ratepayers do not bear any burden of the inflated acquisition costs.[124] Ad Hoc states that we have never deferred to the USOA treatment of Accounts 2004 and 2005 costs in computing access charges.[125]

3. Discussion

64. We deny the requests for reconsideration of our decision to define Net Investment to exclude Account 2004. In the *Rate Base Report and Order*, [126] we determined that the policies of Docket No. 19129, which required the exclusion of Account 2004 investment from the rate base, remain sound. Moreover, we noted that this policy reflects an appropriate balance of incentives for companies to complete construction projects in a timely manner and the inputing of interest during construction to compensate investors for funds used during the construction period. Moreover, in Docket No. 19129, we concluded that the costs associated with long-term projects should not be placed on current ratepayers, because that would be unduly burdensome and unreasonable and would contravene the public interest.[127] The considerations that led us to exclude long-term plant under construction from the rate base necessitate the exclusion of such plant from the definition of Net Investment in Part 69, because Net Investment is the investment on which a carrier earns its rate of return. A contrary decision would result in the abrogation of our decisions in Docket Nos. 19129 and 86-497. We therefore, decline to reconsider our decision regarding Account 2004.

65. The *RateBase Report and Order* [128] adopted our original proposal to exclude Account 2005 from the rate base but to grant exceptions to permit the inclusion of this account in appropriate cases. Accordingly, Account 2005 should generally be excluded from net investment. We will allow investment in Account 2005 to be included in the definition of net investment, however, in those limited cases in which the Common Carrier Bureau has granted a waiver to allow the inclusion of Account 2005 in the rate base. Such an approach will ensure that our Part 65 and Part 69 policies are consistent. In addition, we will amend Part 69 to provide that in cases in which a waiver has been granted to allow Account 2005 to be included in the rate base, the investment in that account shall be allocated among the access elements and categories on the basis of TPIS. We believe such an allocation methodology will best reflect the actual use of acquired plant.

I. Allocation of Gross Receipts Taxes

1. Background

66. The former Part 69 procedures apportioned state income taxes and state gross receipts (or gross earnings taxes) that are collected in lieu of corporate income taxes, among the Interexchange and Billing and Collection categories and the access elements in the same proportions as the combined investment in Station Equipment, Outside Plant (OSP), COE, and Land and Buildings investment attributable to property that is located within the state that imposed the tax. The *Notice* proposed a new formula for the apportionment of tax expenses. We also solicited suggestions for formulas that either more closely parallel the former Part 69 rules or propose alternative ap-

proaches.[129] Ameritech and SW Bell proposed that gross receipts tax expenses be allocated on the basis of the receipts on which those taxes are levied. Ameritech argued that the apportionment of gross receipts tax expenses in this manner would better reflect cost-causation principles and would be more consistent with both the apportionment of income tax expense and the manner in which revenue is reported in our rate-of-return monitoring plan. NYNEX proposed that gross receipts taxes be directly assigned whenever possible. The *Report and Order* apportioned these taxes among the Interexchange and Billing and Collection categories and the access elements based on the approximate net taxable income applicable to each element and category.[130] These provisions do not apply to ordinary gross receipts taxes, *i.e.*, those that are not collected in lieu of income taxes, which are apportioned among the Interexchange category and Billing and Collection categories and the access elements on the basis of the allocation of Other Investment.

2. Positions of Parties

67. Ameritech argues that we have not given any valid rationale for rejecting its proposal. Ameritech also argues that the apportionment method for gross receipts taxes is incompatible with the Separations Manual which requires the direct assignment of operating taxes, including gross receipts taxes, whenever possible. [131] Moreover, Ameritech argues that the retention of this particular apportionment method for gross receipts taxes can result in intra-element anomalies under which the amount of investment assigned to an element is disproportionate to the revenue generated.[132] US West agrees with Ameritech's arguments and also replies that using different allocation factors in connection with the same tax is unsupportable. US West notes that, in Oregon and Minnesota, it is currently paying gross receipts taxes, in addition to income taxes.[133]

3. Discussion

68. We decline to adopt the proposals that we allocate gross receipts taxes on the basis of taxable receipts. The *Report and Order* [134] declined to adopt such proposals because the proposals would represent a departure from the status quo that is not required to achieve conformance. Moreover, we noted that the record did not enable us to evaluate the consequences of such a change. We stated, however, that we were not foreclosing consideration of a different treatment of gross receipts taxes if the carriers choose to file a separate petition for Rule Making. We continue to believe that a change in the allocation procedures for gross receipts taxes is not warranted on the basis of the record in this proceeding. We also note that the allocation of gross receipts taxes on the basis of net income is consistent with Part 36 procedures which allocate these taxes on the basis of net plant because carriers' authorized income level is based on net plant investment. Thus, the current procedures are in closer conformance with the Part 36 procedures than those proposed by Ameritech. We accordingly deny Ameritech's petition.[135]

J. Access Tariff Filings

1. Background

69. The *Report and Order* retained the annual access tariff filing period in lieu of several proposals for a biennial filing period.[136] We stated that such proposals exceeded the limited scope of this proceeding.

2. Positions of Parties

70. Pacific requests that the annual access tariff filing period be changed to a biennial period to give the carriers more latitude to make interim rate adjustments if necessary. Pacific believes that a biennial filing period would reduce the burden of reviewing tariff filings, as well as simplify the review process. Pacific suggests that such a filing would be consistent with the current two-year rate-of-return monitoring enforcement period and the biennial review of the prescribed authorized rates-of-return.[137] AT&T, Ad Hoc, and Western Union oppose this request because it is outside the scope of this proceeding.[138]

3. Discussion

71. We decline to change the annual access tariff filing period from annual to biennial. As we stated in the *Report and Order*, a streamlining measure such as this is outside the scope of this limited proceeding to conform the Access Charge Rules to the new accounting and separations rules.[139]

IV. OTHER MATTERS

A. Regulatory Flexibility Act

72. We certify that the Regulatory Flexibility Act[140] is not applicable to the rule changes we are adopting in this proceeding. In accordance with the provisions of Section 605 of that Act, a copy of this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration at the time of publication of a summary of this Notice in the Federal Register. As part of our analysis of the new rules adopted in this Order, we have considered the impact of proposals on small telephone companies, *i.e.*, those serving 50,000 or fewer access lines.[141] The action adopted herein will have a beneficial economic impact on all such telephone companies because the new procedures will reduce administrative burdens and will better reflect cost-causation principles. The carriers will therefore be able to develop rates that better reflect their actual costs.

B. Paperwork Reduction Act

73. We have analyzed the new rules contained herein with respect to the Paperwork Reduction Act of 1980[142] and have concluded that they will not impose new or modified information collection requirements on the public. Therefore, implementation of the new rules will not be subject to approval by the Office of Management and Budget as prescribed by the Paperwork Reduction Act.

C. Erratum

74. We also make various additional changes to Part 36 of the Rules to correct certain minor errors in the *Report and Order*. These changes are listed in Appendix A.

V. ORDERING CLAUSES

75. Accordingly, IT IS HEREBY ORDERED, That the Petitions for Reconsideration or Clarification filed in these proceedings ARE GRANTED to the extent provided herein and otherwise ARE DENIED.[143]

76. IT IS FURTHER ORDERED, That the modifications of Part 69 of the Commission's Rules described above and set forth in Appendix A ARE ADOPTED effective April 1, 1989.

77. IT IS FURTHER ORDERED, That the Petition for Waiver, filed August 25, 1987 by the National Exchange Carrier Association IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

APPENDIX A

Part 69 of Title 47 of the Code of Federal Regulations is revised to read as follows:

1. The authority citation for Part 69 continues to read Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Sec. 69.205 is amended by revising para. (d) to read to as follows:

Sec. 69.205 ***Transitional Premium Charges.***

****

(d) During each of the following years the LS1 transition factor shall be:

(1) From April 1, 1989 to June 30, 1990 -- .877
(2) From July 1, 1990 to June 30, 1991 -- .921
(3) From July 1, 1991 to June 30, 1992 -- .960
(4) From July 1, 1992 to June 30, 1993 -- .995

3. Sec. 69.302 is amended by revising para. (b) to read as follows:

Sec. 69.302 ***Net Investment.***

*

(b) Investment in Accounts 2002, 2003 and to the extent such inclusions are allowed by this Commission, Account 2005 shall be apportioned on the basis of the total investment in Account 2001, Telecommunications Plant in Service.

4. In addition, the following changes are made to the *Access Charge Rules*, 52 Fed. Reg. 37,308 (October 6, 1987):

On page 37,309, Sec. 69.2(g), line 4, add "and included in Account 2410" after "Manual."

On page 37,309, Sec. 69.2(i), line 5, add "and included in Accounts 2210, 2220 and 2230" after "Manual."

On page 37,309, Sec. 69.2(l)(1), line 2, change "6223" to "6230."

On page 37,309, Sec. 69.2(q), line 6, add "and included in Account 2110" after "Manual."

On page 37,309, Sec. 69.2(r), line 6, add "and in Account 2310" after "Manual."

On page 37,310, Sec. 69.2(dd), line 6, add ", WATS" after "FX."

On page 37,312, Sec. 69.302(b)(3), line 7, change "2001" to "2110."

On page 37,314, Sec. 69.408, line 6, change "69.403" to "69.404."

FOOTNOTES

[1] * * *

[2] The following parties filed petitions for reconsideration: the Bell Atlantic Telephone Companies (Bell Atlantic), the United States Telephone Association (USTA), Pacific Bell (Pacific), and the Western Union Telegraph Company (Western Union). Western Union filed a Petition for Reconsideration and Request for Expedited Treatment on September 23, 1987. Western Union also filed a Further Petition for Reconsideration and Request for Expedited Treatment on October 14, 1987. The following parties filed petitions for partial reconsideration or clarification: Southwestern Bell Telephone Company (SW Bell), GTE Service Corporation (GTOC), Satellite Data Broadcast Network, Inc. (SATNET), the American Telephone and Telegraph Company (AT&T), and the Ameritech Operating Companies (Ameritech). The following parties filed oppositions: Western Union, SW Bell, the New England Telephone and Telegraph Company and the New York Telephone Company (NYNEX), Pacific, ALC Communications Corporation (ALC), the United Telephone System Companies (United), Bell Atlantic, AT&T, USTA, the Texas Statewide Cooperative, Inc. (Texas Cooperative), the BellSouth Corporation and the BellSouth Telephone Companies, South Central Bell Telephone Company and Southern Bell Telephone and Telegraph Company (BellSouth), GVNW Inc./Management (GVNW), the Southern New England Telephone Company (SNET), the US Sprint Communications Company (US Sprint), and the Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company and Pacific Northwest Bell Telephone Company (US West). The following parties filed comments: ITT Communications Services, Inc. (ITT), the International Communcations Association (ICA), the National Exchange Carriers Association (NECA), the Ad Hoc Telecommunications Users Committee (Ad Hoc), and and MCI Communications Corporation (MCI). The following parties filed replies: Ameritech, USTA, Bell Atlantic, AT&T,

SW Bell, Ad Hoc, and Western Union. The following parties submitted *ex parte* filings: Western Union on January 14, 1988, and AT&T on August 18, 1988, and August 22, 1988.

Western Union filed a Motion for Stay on November 24, 1987, seeking a stay of the effectiveness of the new Part 69 rules. The Common Carrier Bureau denied Western Union's motion on December 18, 1987. *See* Amendment of Part 69 of the Commission's Rules and Regulations, Access Charges, to Conform It With Part 36, Jurisdictional Separations Procedures, CC Docket 87-113, DA 87-1845, released December 18, 1987.

[3] Amendment of Part 69 of the Commission's Rules and Regulations, Access Charges to Conform It With Part 36, Jurisdictional Separations Procedures, CC Docket No. 87-113, 2 FCC Rcd 6447 (1987) (*Report and Order).*

[4] Amendment of Part 69 of the Commission's Rules and Regulations, Access Charges, to Conform It With Part 36, Jurisdictional Separations Procedures, CC Docket No. 87-113, 2 FCC Rcd 2673 (1987).

[5] Amendment of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Federal-State Joint Board, CC Docket Nos. 78-72, 80-286 and 86-297, 2 FCC Rcd 2639 (1987) (*Separations Report and Order), recon. granted in part,* 2 FCC Rcd 5349 (1987), *recon. granted in part,* FCC 82-216, released August 8, 1988 (*Reconsideration Order and Supplemental NPRM).*

[6] Revision of the Uniform System of Accounts and Financial Reporting Requirements for Class A and Class B Telephone Companies (Parts 31, 33, 42, and 43 of the FCC's Rules), CC Docket No. 78-196, FCC 86-221, released May 15, 1986, 51 Fed. Reg. 43,493 (December 2, 1986).

[7] Although billing and collection for interstate services is no longer subject to tariff regulation, the costs attributable to this activity are included in the separations process and the interstate portion of such costs is assigned to the billing and collection category pursuant to the Part 69 rules. *See* Detarriffing of Billing and Collection Services, CC Docket No. 85-88, 102 FCC 2d 1150 (1986).

[8] *See* MTS and WATS Market Structure, Amendment of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72, 80-286 and 86-297, 2 FCC Rcd 5349 (1987).

[9] LS1 was the discount subelement and reflected a 35 percent discount. LS1 is being phased-out in the new Part 69 rules. The LS2 subelement contains both a premium and nonpremium (transitional) rate. The premium LS2 rate applies only to converted offices, *i.e.*, to Feature Group C and D services. The nonpremium LS2 rate applies to Feature Group A and B services provided in unconverted offices; this nonpremium rate reflects a 55 percent discount. This LS2 transitional nonpremium rate remains under the new Part 69 rules; only the LS1 discount had been changed.

[10] 2 FCC Rcd at 2642.

[11] *See Notice*, 2 FCC Rcd at 2673.

[12] In the separations process, TWFs were intended to reflect the higher cost of usage of the switch by toll calls, which are trunk side connections, rather than local calls, which are line side connections. Similarly, the LS1 discount was intended to reflect the lower cost of a line side connection in the access charge rates. The Docket 80-286 Joint Board eliminated the TWFs because it determined that with the use of modern digital swtiches, use of the switch for toll calls is no longer more costly than for local calls. *See* Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, 2 FCC Rcd 2551, 2552 (1987). Therefore, we decided that the LS1 discount must also be eliminated. This Commission determined that a gradual phase-out of the LS1 discount reflecting the elimination of the TWFs would avoid the rate shock effects of a flash cut elimination of the LS1 discount. *See Report and Order*, 2 FCC Rcd at 6457.

[13] 2 FCC Rcd at 6457, n. 106.

[14] *See* 47 C.F.R. §36.125.

[15] 2 FCC Rcd at 6457.

[16] These parties are USTA, GTOC, AT&T, Pacific, Bell Atlantic, and NECA.

[17] *See* Petition of AT&T at 11-14.

[18] *See* Petition of Pacific at 2-4.

[19] *See* Petition of Pacific at 2, n. 4.

[20] *See* NECA Supplemental Petition for Waiver, filed August 25, 1987.

[21] *See* Petition of USTA at 5; Petition of GTOC at 6-7. Pacific supports USTA's Petition. *See* Petition of Pacific at n. 1.

[22] *See* Petition of Bell Atlantic at 3-4.

[23] *See id.* at 3.

[24] *See* Opposition of US Sprint at 5; Opposition of the ALC at 4; Comments of MCI at 6-8.

[25] *See* Comments of MCI at 6-8.

[26] *See id.* at 3-4; Opposition of US Sprint at 2-3.

[27] *Id.*

[28] *See* Comments of NECA at 3-4.

[29] *See* Reply of Bell Atlantic at 3.

[30] *See* Opposition of US Sprint at 4.

[31] *See* Reply of AT&T at 10.

[32] *See id.* at 9-10, n. **.

[33] *See id.* at 9, n. **.

[34] This calculation reflects the recently revised access tariff filings periods. *See* Access Tariff Filing Schedules, CC Docket No. 88-326, 3 FCC Rcd 5495, released September 14, 1988.

[35] MTS and WATS Market Structure, CC Docket No. 78-72, Phase I, 93 FCC 2d 241, 306 (1983), *aff'd in principal part,* National Association of Regulatory Utility Commissioners v. FCC. 737 F.2d 1095 (D.C. Cir. 1984), *cert denied*, 103 S. Ct. 1224 (1985).

[36] 2 FCC Rcd at 6452. *See* Access Charge Rules, 52 Fed. Reg. 37,308, 37,312 (1987) (to be codified at 47 C.F.R. §69.307) (effective January 1, 1988).

[37] Category 1.3 C&WF includes subscriber or common lines that are jointly used for local exchange service and exchange access for state and interstate interexchange service. *See* 47 C.F.R. §36.154(a).

[38] 2 FCC Rcd at 6452.

[39] *See* Petition of Western Union filed October 14, 1987, at 6, Table 1.

[40] Western Union provides examples of how the allocation of GSF changes in proportion to the Common Line and Special Access elements under the former Part 69 rules and the new rules. *Id.* at 6-7, Table 2.

[41] Western Union's five proposals for the allocation of GSF are: (1) the inclusion of Category 1.3 C&WF in the current allocation factor; (2) the exclusion of Category 1.2 C&WF (interstate private line and interstate WATS lines) from the current allocation factor; (3) combined Big Three Expenses; (4) modified Big Three Expenses; and (5) an alternative modified Big Three Expenses. *Id.* at 8-10.

[42] Big Three Expenses are the combined expense groups comprising: Plant Specific Operations Expenses, Accounts 6210, 6220, 6230, 6310, and 6410; Plant Nonspecific Operations Ex-

penses, Accounts 6510, 6530, and 6540; Customer Operations Expenses; Account 6610, Marketing, and Account 6620, Services. *See* Access Charge Rules, 52 Fed. Reg. 37,308, 37,309 (1987) (to be codified at 47 C.F.R. §69.2(e)) (effective January 1, 1988).

[43] *See* Petition of Western Union filed October 14, 1987, at 10.

[44] AT&T proposes that the Category 1.3 C&WF portion of Account 6410, Cable and Wire Facilities Expenses, be excluded to reduce the allocation to Common Line. AT&T also proposes the exclusion of Account 6621, Telephone Operator Services, at least on a transitional basis, because it argues that to do otherwise would result in a 30 to 40 percent increase in the costs assigned to the Information rate element. *See* Petition of AT&T at 9-10, n. *.

[45] *See id.* at 4, n. ***.

[46] *Id.* at 3-5 and Appendices B and C .

[47] The following parties opposed the petitions regarding this issue: Pacific, NYNEX, Bell Atlantic, US West, GVNW, BellSouth, MCI, USTA, SW Bell, United, SNET, Ad Hoc, and Texas Cooperative.

[48] USTA and US West argue that the use of the Big Three Expenses as the allocation factor for GSF creates circularity because several components of the Big Three Expenses allocation factor (*i.e.*, Account 6110, Network Support Expenses; Account 6120, General Support Expenses; Account 6560, Depreciation and Amortization Expenses; Account 6610, Marketing; and Account 6620, Services) are allocated in the same proportion as GSF or on the basis of a combination of COE, IOT, CW&F, and GSF. They argue that the elimination of this circularity would require additional rule changes in the allocation of those expenses or a change in the definition of Big Three Expenses allocation factor. *See* Opposition of US West at 3, n. 5; Opposition of USTA at 5-7; Opposition of BellSouth at 5, n.6; Opposition of SW Bell at 9, n. 14; Opposition of United at 5.

[49] *See* Opposition of SNET at 6.

[50] *See* Opposition of BellSouth at 6-7; Opposition of SNET at 3-4.

[51] *See* Opposition of US West 2-3; Opposition of Texas Cooperative at 3-4.

[52] *See* Opposition of Texas Cooperative at 7, n. 12.

[53] *See* Opposition of SW Bell at 9.

[54] *See id.* at 10. *See also Separations Report and Order*, 2 FCC Rcd at 2641.

[55] *See* Opposition of GVNW at 6 and Attachment A, p. 8.

[56] *See* Opposition of United at 3.

[57] *See* Reply of USTA at 5-6 and Appendix.

[58] *See* Opposition of NYNEX at 12, nn. 16 and 17.

[59] *See id.* at 19 and 21, n. 32.

[60] Ad Hoc, ITT, and ICA also generally support Western Union's petition. *See* Comments of Ad Hoc at 3-5; Comments of ITT at 2; Comments of ICA at 2.

[61] *See* Reply of AT&T at 2-3.

[62] *Id.* at 6-7.

[63] *Id.* at 7-8.

[64] *See* Reply of AT&T at 8, n. **, citing Opposition of US West at 3, n. 5

[65] *See* Petition of AT&T at 10, n. *; Reply of AT&T at 8, n. **.

[66] *See* Reply of AT&T at 4, n. *.

[67] *See* Reply of Western Union at 10, Appendix.

[68] In its August 18, 1988, *ex parte* filing, AT&T presents data to show the impact of its proposed GSF allocation factor. This data, however, illustates the results for only the Bell Operating Companies and GTOC and does not illustrate the results for small companies which have been our concern throughout this proceeding. In its Reply, Western Union provides data on the impact of its proposed revision of the GSF allocation factor for only some of the Bell Operating Companies' study areas. Moreover, Western Union fails to show the impact of its proposal on access elements and categories other than Special Access and Switched Access. Moreover,Western Union's data indicates that implementation of either of its modified Big Three Expenses approaches would result in significant shifts in revenue requirements when compared to the results under the former Part 67 rules. *See* Reply of Western Union at Appendix.

[69] We note that, contrary to the arguments of BellSouth, SNET, US West, and Texas Cooperative, AT&T's petition is neither too early nor too late. A party may raise objections to adopted rules before they become effective if those objections are properly submitted in a petition for reconsideration filed within thirty days of the date of public notice of the order adopting such rules. *See* 47 C.F.R. §1.429(d). In addition, AT&T may properly raise objections to the originally proposed rules within the time for filing petitions for reconsideration especially since, in this case, the petition was based on facts that were not previously presented to the Commission, *i. e.*, the 1988 annual access tariff filing. *See* 47 C.F.R. §1.429(b).

[70] Access Charge Rules, 52 Fed. Reg. 37,308, 37,313, and 37,314 (1987) (to be codified at 47 C.F.R. §§§69.401(a), 69.408 and 69.409) (effective January 1, 1988).

[71] *See* Petition of AT&T at 6, n. *.

[72] AT&T states that because the model that we used to evaluate the impact of our proposed Part 69 rules did not include detail at the subaccount level, it did not permit a quantification of the amount of Revenue Accounting Expenses recorded in Accounts 6124 and 6724 or an identification of the shift in costs from the Billing and Collection category to the access rate elements that would occur under the new rules. *See id.* at 6, n. **.

[73] AT&T states that other methodologies contained in the new Part 69 rules, such as the treatment of Automatic Message Recording Equipment, contribute to the shift in costs from the Billing and Collection category to the access elements. AT&T argues, however, that the shifts attributable to those methodologies are less significant and, because of the lack of accounting detail under the new separations procedures, are much more difficult to correct. *Id.*

[74] *See id.* at 7-8.

[75] *See* Oppostion of US West at 4; Opposition of USTA at 3-5; Opposition of NYNEX at 10; Opposition of SW Bell at 11, n. 17; Comments of NECA at 7. Pacific supports USTA's Opposition. *See* Opposition of Pacific at 3-4.

[76] *See* Opposition of Bell Atlantic at 3-4.

[77] *See* Opposition of GVNW at 4-5.

[78] NECA also states that we should use our monitoring program to determine the cumulative effects of the revenue requirement shifts. *See* Comments of NECA at 8.

[79] *See* Opposition of Texas Cooperative at 7-9.

[80] *See* Comments of NECA at 7-8, n.19.

[81] *See* Opposition of NYNEX at 11.

[82] *See also id.* at 13, n. 19.

[83] *See id.* at 13, n. 19, and 15-17, n. 25.

[84] *See* Reply of AT&T at 2-3.

[85] 52 Fed. Reg. 37,312 (1987) (to be codified at 47 C.F.R. §69.306(e)) (effective January 1, 1988).

[86] *Id.*, (to be codified at 47 C.F.R. §69.305) (effective January 1, 1988).

[87] *See* Petition of SW Bell at 6-9.

[88] Although SW Bell requests clarification of the rules, it also proposes that Section 69.306(e) be amended.

[89] *See* Opposition of Western Union at 4, n. 1.

[90] *See* Reply of SW Bell at 3 and Appendix 1.

[91] *See id.* at 3-4.

[92] *See id.* at 5, nn. 6 and 7.

[93] Western Union's assertion that some other interpretation would be in accord with a literal interpretation of the rule is not persuasive. The rule requires an apportionment that is consistent with the apportionment of the "associated" C&WF.

[94] 2 FCC Rcd at 2679.

[95] 2 FCC Rcd at 6452.

[96] *See* 47 C.F.R. §36.321.

[97] Western Union states that one Bell Operating Company had estimated that the effect of this change is to increase the special access revenue requirement by approximately 5 percent. *See* Petition of Western Union filed September 23, 1987, at 4, n. 1.

[98] *See Report and Order*, 2 FCC Rcd at 6452.

[99] *See* Opposition of NYNEX at 21.

[100] *See* Reply of SNET at 6.

[101] *See* Opposition of SW Bell at 6-7.

[102] *See id.* at 7.

[103] *See* Reply of Western Union at 7, n. 1.

[104] *See* MTS and WATS Market Structure, Amendment of Part 69 of the Commission's Rules for Recovery of Equal Access Cost, CC Docket No. 78- 72, 2 FCC Rcd 254 (1987).

[105] 2 FCC Rcd at 2679.

[106] 2 FCC Rcd at 6460.

[107] Other investment includes the investment in Account 2682, Leasehold Improvements; Account 2690, Intangibles; Account 1220, Material and Supplies; and Account 1402, Rural Telephone Bank Stock. *See* Access Charge Rules, 52 Fed. Reg. 37,308, 37,313 (1987) (to be codified at 47 C.F.R. §69.309)(effective January 1, 1988).

[108] 2 FCC Rcd at 6460.

[109] *See* Petition of SW Bell at 2-3; Petition of USTA at 6.

[110] US West and NECA support SW Bell's proposal. *See* Opposition of US West at 7; Comments of NECA at 8-9.

[111] 47 C.F.R. §36.171.

[112] Access Charge Rules, 52 Fed. Reg. 37308, 37,312, (1987) (to be codified at 47 C.F.R. §69.302(b)) (effective January 1, 1988). This means that the plant must be assigned to the plant categories that are used to apportion plant in service.

[113] 2 FCC Rcd at 6460.

[114] *See* Petition of USTA at 2-3; Petition of Pacific at 6. NECA supports USTA's proposal. *See* Comments of NECA at 10.

[115] *See* Reply of USTA at 2-3 and n. 4.

[116] *See* Opposition of AT&T at 3-4; Comments of MCI at 8-9.

[117] 2 FCC Rcd at 2676.

[118] 2 FCC Rcd at 6461.

[119] American Telephone and Telegraph Company Charges for Interstate Telephone Service, Docket No. 19129, 64 FCC 2d 1, (*Docket 19129 Report and Order)* (1977), *recon.*, 67 FCC 2d 1429 (1978).

[120] Amendment of Part 65 of the Commission's Rules to Prescribe Components of the Rate Bases and Net Incomes of Dominant Carriers, CC Docket No. 86-497, 2 FCC Rcd 332 (1987), *petitions for recon. filed*, February 18, 1988.

[121] *See* Petition of GTOC at 3.

[122] *See* Petition of SW Bell at 5, nn. 6 and 7.

[123] *See* Opposition of Western Union at 7.

[124] *See* Comments of MCI at 10.

[125] *See* Comments of Ad Hoc at 17.

[126] 3 FCC Rcd at 273.

[127] *Docket 19129 Report and Order*, 64 FCC 2d at 58-59.

[128] 3 FCC Rcd at 273.

[129] We stated that because the Part 69 Rule Making was re-examining the apportionment of taxes, we would not take any further action on the then pending Rule Making petition on the taxes issue. *See* Modification of Section 69.402 of the Commission's Rules, RM No. 5527, Mimeo No. 6773, released September 5, 1986.

[130] 2 FCC Rcd at 6460. *See also* Access Charge Rules, 52 Fed. Reg. 37,308, 37,313 (1987) (to be codified at 47. C.F.R. §69.402)(effective January 1, 1988).

[131] *See* Petition of Ameritech at 5-6. *See also* 47 C.F.R. §36.412(c).

[132] *See* Petition of Ameritech at 7, n. 6; Reply of Ameritech at 2-3.

[133] *See* Opposition of U S West at 5, n. 13.

[134] 2 FCC Rcd at 6460.

[135] If it so desires, Ameritech may file another petition for Rule Making concerning the apportionment of gross receipts taxes which are not collected in lieu of income taxes.

[136] *Id.* at 6459.

[137] *See* Petition of Pacific at 5, n. 8.

[138] *See* Opposition of AT&T at 2; Comments of Ad Hoc at 18-19; Opposition of Western Union at 8-10.

[139] 2 FCC Rcd 6459.

[140] 5 U.S.C. §601.

[141] Because of the nature of local exchange and access service, this Commission has concluded that small telephone companies are dominant in their fields of operation and, therefore, are not small entities as defined by the Regulatory Flexibility Act. *See* MTS and WATS Market Structure, 93 FCC 2d 241, 338-39 (1983). Thus, this Commission is not required by the terms of the Regulatory Flexibility Act to apply the formal procedures set forth therein. We are nevetheless committed to reducing the regulatory burdens on small telephone companies whenever possible consistent with our other public interest responsibilities. Accordingly, we have chosen to utilize, on an informal basis, appropriate Regulatory Flexibility Act procedures to analyze the effect of proposed regulations on small telephone companies.

[142] 44 U.S.C. §501.

[143] These actions are taken pursuant to 47 U.S.C. §§ 154(i), 154(j), 201, 202, 202, 203, 205, 218, and 221(c).