Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
1998 Biennial Regulatory Review --	)	CC Docket No. 98-117
Review of ARMIS Reporting Requirements	)	

NOTICE OF PROPOSED RULEMAKING

Adopted: July 6, 1998 Released: July 17, 1998

Comment Date: August 20, 1998
Reply Comment Date: September 4, 1998

By the Commission: Commissioner Furchtgott-Roth issuing a statement.

I. INTRODUCTION

1. Section 11 of the Communications Act of 1934, as amended, requires the Commission, in every even-numbered year beginning in 1998, to review its regulations applicable to providers of telecommunications service to determine whether the regulations are no longer in the public interest due to meaningful economic competition between providers of such service and whether such regulations should be repealed or modified.[1] In this Notice of Proposed Rulemaking ("Notice"), we propose as part of the biennial review to reduce the reporting requirements of our Automated Reporting Management Information System ("ARMIS").[2] These modifications are designed to minimize the reporting burden on carriers,

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[1] 47 U.S.C. § 161. Section 11 further instructs the Commission to "repeal or modify any regulation it determines to be no longer necessary in the public interest."

[2] In 1987 we established the ARMIS reporting system to facilitate the timely and efficient analysis of financial information, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy proposals. Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies, *Order*, 2 FCC Rcd 5770 (1987) ("*ARMIS Order*"), *modified on recon.*, 3 FCC Rcd 6375 (1988) ("*ARMIS Recon Order*").

Today the ten ARMIS reports are: the ARMIS 43-01 Annual Summary Report; ARMIS 43-02 USOA Report; ARMIS 43-03 Joint Cost Report; ARMIS 43-04 Access Charge Report; ARMIS 43-05 Service Quality improve the quality and use of the reported information, and reduce the cost to the Commission of collection, verification, and distribution of the data.[3]

II. DISCUSSION

A. Eliminating Paper Filing Requirement

2. The Common Carrier Bureau ("the Bureau") currently requires carriers to submit both paper and electronic copies of the ARMIS reports.[4] The Commission has, in recent years, relied increasingly on the data filed electronically to maintain internal databases and generate meaningful reports for policy making. We tentatively conclude that paper versions of the ARMIS reports do not significantly contribute to the Commission's current efforts or future goals in administering its accounting, joint cost, jurisdictional separations, access charge rules, or in monitoring the quality of service and infrastructure development in the public network. Therefore, we tentatively conclude that we should eliminate the paper filing requirement. We anticipate that the transition to an electronic-only reporting program will represent a substantial cost savings for all carriers that file ARMIS reports. We seek comment on this tentative conclusion and request suggestions for improving the electronic filing system for ARMIS reports.

3. The paper versions of the ARMIS reports, however, are our primary means for distributing ARMIS data to the public. To satisfy the frequent requests from the public for ARMIS data, we plan to meet the demand by making it available through the Internet. This will require Commission staff to develop software that will allow interested parties to obtain ARMIS reports over the Internet, which we anticipate to be a costly process. We seek comment on this proposal and request parties to provide information on the costs of filing

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Report; ARMIS 43-06 Customer Satisfaction Survey; ARMIS 43-07 Infrastructure Report; ARMIS 43-08 Operating Data Report; ARMIS 495A Forecast Usage Report; and ARMIS 495B Actual Usage Report.

[3] We note that SBC recently has proposed that the Commission, as part of its biennial review, consolidate and/or eliminate several of the ARMIS reports. *See* Petition for Section 11 Biennial Review, filed by SBC Communications, Inc. et al., May 8, 1998, at 13-14 & Exhibit C; *see also* Letter from Robin Gleason, Director - Regulatory Finance, Ameritech, to Kenneth P. Moran, Chief, Accounting Safeguards Division, FCC (recommending streamlining and consolidation of ARMIS reporting requirements by year end 1999).

[4] *See* Revision of ARMIS Annual Summary Report (FCC Report 43-01), ARMIS USOA Report (FCC Report 43-02), ARMIS Joint Cost Report (FCC Report 43-03) ARMIS Access Report (FCC Report 43-04), ARMIS Service Quality Report (FCC Report 43-05), ARMIS Customer Satisfaction Report (FCC Report 43-06), ARMIS Infrastructure Report (FCC Report 43-07), and ARMIS Operating Data Report (FCC Report 43-08) for Certain Class A and Tier 1 Telephone Companies, *Order*, DA 97-2621 (Com. Car. Bur. rel. Dec. 16, 1997). The accompanying instructions for each report require carriers to file both paper and electronic reports with the Accounting Safeguards Division.

paper copies of ARMIS data so that we can assess the utility of eliminating the paper filing requirement. In considering whether to make ARMIS data available on the Internet, we plan to balance the benefits of such availability, in particular the frequency of requests from the public and the reduced administrative burden on Commission staff, against the costs of this course of action.

B. Equal Access, Payphone, and Inside Wire Data

4. The ARMIS 43-04 Access Report provides jurisdictional separations and access charge data by Part 36 category at the study area level. The data collected in this report are used by Commission staff to verify cost information filed in tariffs. We propose to modify the ARMIS 43-04 Access Report by eliminating 114 rows and three columns in which carriers report data pertaining to equal access, inside wire, and payphone investment. We tentatively conclude that the equal access information is no longer necessary because the nearly complete transition to equal access has reduced our need to monitor its deployment.[5] We tentatively conclude that we can eliminate the inside wire and payphone investment columns because these two categories are no longer regulated. Appendix A presents the specific row and column deletions and our reasons for their removal. We solicit comment on these tentative conclusions and seek additional suggestions from interested parties on streamlining the ARMIS 43-04 Access Report.

5. The ARMIS 43-01 Annual Summary Report summarizes the carriers' accounting, rate base, and cost allocation data prescribed in Parts 32, 36, 64, 65, and 69 of the Commission's rules.[6] The Annual Summary Report consists of two tables: (1) Table I, the "Cost and Revenue Table;" and (2) Table II, the "Demand Analysis Table." In order to make the ARMIS 43-01 Annual Summary Report consistent with the streamlined version of the ARMIS 43-04 Access Report, we tentatively conclude that we should eliminate the corresponding rows and columns pertaining to equal access, inside wire, and payphone investment. Appendix B presents the specific row and column deletions and our reasons for their removal. We seek comment on this proposal and ask whether any additional streamlining or consolidation of these reports should be made, as suggested by SBC and Ameritech.[7]

C. Reduced Reporting Requirements for Mid-Sized Incumbent LECs

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[5] *See* Industry Analysis Division, Common Carrier Bureau, *Distribution of Equal Access and Presubscribed Lines* (1996) (estimating that 99.4% of the nation's lines have been converted to equal access); *cf.*, SBC Petition for Section 11 Biennial Review, Exhibit C at 3 (questioning the usefulness of the ARMIS 43-04 Access Charge Report).

[6] 47 C.F.R. Parts 32, 36, 64, 65, and 69.

[7] *See supra* note 3.

6. Incumbent LECs whose annual operating revenues exceed an indexed revenue threshold are required to file ARMIS reports.[8] The indexed revenue threshold, which has recently been increased to $112 million, is based on annual operating revenues for both regulated and nonregulated activities and is adjusted for inflation.[9] Based on our experience with administering the ARMIS reporting system, it appears that the carriers' costs of implementing that system are largely fixed with respect to the number of access lines served. This implies that, on a per-access-line basis, the cost of complying with the full ARMIS reporting requirements is substantially higher for mid-size incumbent LECs than for large incumbent LECs, because the large incumbent LECs are able to average their fixed reporting costs over a larger number of access lines. Reducing the reporting requirements on mid-sized carriers would eliminate a costly reporting burden on those carriers that must recover the cost from a smaller number of customers.

7. We propose to streamline the ARMIS reporting requirements for certain mid-sized incumbent LECs based on the aggregate revenues of the incumbent LEC and any LEC that it controls, is controlled by, or with which it is under common control.[10] If the aggregate revenues of these affiliated incumbent LECs are less than $7 billion, then each LEC within that group would be eligible for the streamlined reporting requirements described below.[11] Incumbent LECs with individual annual operating revenues below the indexed revenue threshold would continue to be exempt from all ARMIS reporting requirements. The $7 billion threshold will still provide the Commission with data for nearly 90% of the industry for local exchange telecommunications, as measured by annual operating revenues. We seek

[8] *See* Reform of Filing Requirements and Carrier Classifications; Anchorage Telephone Utility, Petition for Withdrawal of Cost Allocation Manual, *Report and Order*, 12 FCC Rcd 8071, paras. 52-54 (1997) ("*Filing Requirements Reform Order*"); *see also* 47 C.F.R. § 43.21. "Annual operating revenues" includes revenues from both regulated and nonregulated activities, to determine whether carriers must file ARMIS reports and cost allocation manuals. *See Filing Requirements Reform Order* at para. 68; *see also* Reform of Filing Requirements and Carrier Classifications; Anchorage Telephone Utility, Petition for Withdrawal of Cost Allocation Manual, *Order and Notice of Proposed Rulemaking*, 11 FCC Rcd 11716, paras. 30-32 (1996).

[9] *See* 47 C.F.R. § 32.9000; *see also* Annual Adjustment of Revenue Threshold, *Public Notice*, DA 98-785 (rel. Apr. 24, 1998) (adjusting annual indexed revenue threshold to $112 million).

[10] *See* 47 C.F.R. § 32.9000. Our rules define "control" as "the possession directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement with, one or more other companies, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers, or stock-holders, voting trusts, holding trusts, affiliated companies, contract, or any other direct or indirect means."

[11] We will refer to mid-sized incumbent LECs eligible for streamlined ARMIS reporting as "eligible reporting carriers."

comment on our proposal to streamline the reporting requirements for mid-sized LECs and on utility of this threshold mechanism. In addition to the reporting requirements detailed below, we seek comment on other suggestions for reducing the reporting burden on mid-sized incumbent LECs while still collecting the information needed to perform our oversight functions and protect ratepayers from the effects of improper cost allocations.

8. The ARMIS 43-02 USOA Report provides the annual operating results of carriers' activities for every account in the Uniform System of Accounts ("USOA"), which we use to review the operations of communications common carriers subject to our jurisdiction. The USOA encompasses both balance sheet and income statement accounts that we use to review overall investment and expense levels, affiliate transactions, property valuation, and depreciation rates. The ARMIS 43-02 USOA Report collects accounting and financial data in 27 tables. We tentatively conclude that we should reduce the filing burden of eligible reporting carriers by eliminating the requirement to file 21 tables in the ARMIS 43-02 USOA Report. Our experience administering the ARMIS reporting system and our accounting rules suggests that routine reporting of the balance sheet information contained in tables B-3 and B-5 through B-15 may not be crucial for eligible reporting carriers to report on a regular basis.[12] Because we will continue to have access to the underlying data and source documents, we tentatively conclude that eliminating these reporting requirements will not impair our ability to perform necessary oversight functions.

9. This tentative conclusion, if adopted, would result in eligible reporting carriers filing only six tables in the USOA Report: (1) Table B-1, "Balance Sheet Accounts;" (2) Table B-2, "Statement of Cash Flows;" (3) Table B-4, "Analysis of Assets Purchased from or Sold to an Affiliate;" (4) Table C-3, "Board of Directors and General Officers;" (5) Table I-1, "Income Statement Accounts;" and (6) Table I-2, "Analysis of Services Provided from or Sold to an Affiliate." Together, these tables provide the information, such as the complete financial statements, needed to perform our audit and other oversight functions. In addition, we tentatively conclude that we should allow eligible reporting carriers to file the Class B level of detail for applicable schedules.[13] This proposed modification would not relieve

[12] The tables reflecting balance sheet information are: Table B-3, "Balance Sheet Accounts;" Table B-5, "Analysis of Entries in Accumulated Depreciation;" Table B-6, Summary of Investment and Accumulated Depreciation By Jurisdiction;" Table B-7, "Bases of Change for Depreciation;" Table B-8, "Capital Leases;" Table B-9, "Deferred Charges;" Table B-10, "Accounts Payable to Affiliates;" Table B-11, "Long-Term Debt;" Table B-12, "Net Deferred Income Taxes;" Table B-13, "Other Deferred Credits;" Table B-14, "Capital Stock;" Table B-15, Capital Stock and Funded Debt Reacquired or Retired During Year."

[13] Our rules provide for two accounting classifications, Class A and Class B. *See* 47 C.F.R. § 32.11. We classify incumbent LECs with annual operating revenues exceeding the indexed revenue threshold for five consecutive years as Class A carriers. The Class A incumbent LECs are required to disaggregate their ARMIS data to provide much greater detail than the Class B carriers. Class B carriers report ARMIS data at a more

eligible reporting carriers of their responsibility to maintain their books of accounts in accordance with Part 32 of the Commission's rules, but would reduce the filing burden imposed on eligible reporting carriers that file ARMIS reports. We seek comment on this tentative conclusion.

10. We note that our pole attachment formulas are based on the Class A level of accounting detail.[14] If the Commission adopts Class B accounts for mid-sized LECs as proposed herein, the ARMIS reports of the mid-sized LECs would no longer provide the details needed to calculate pole attachment fees using the pole attachment formulas.[15] The details provided in eight Class A accounts are needed to provide data for the pole attachment formulas: six accounts associated with cable and wire facilities investment and expenses, and

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aggregated level that does not reflect all Part 32 accounts. Adopting the Class B level of detail will result in a substantial decrease in the number of line items reported in various ARMIS Reports. For example, in the plant accounts alone, there are 40 accounts at the Class A level, but there are only 15 plant accounts at the Class B level, so that eligible reporting carriers would provide data for 25 fewer plant accounts. Similarly, at the Class A level of detail there are 34 plant specific operations expense accounts, but only seven plant specific operations expense accounts at the Class B level. Adopting the Class B level of detail results in eligible reporting carriers providing data for 27 fewer specific operations expense accounts.

We note that, in a companion item, we likewise propose to raise the revenue threshold for required Class A accounting thus allowing mid-sized carriers currently required to use Class A accounts to use the more streamlined Class B accounts. *See* 1998 Biennial Regulatory Review -- Review of Accounting and Cost Allocation Requirements, *Notice of Proposed Rulemaking*, FCC 98-xxx (rel. May xx, 1998) ("*Accounting NPRM*"). In the *Accounting NPRM*, we also propose to establish less burdensome cost allocation manual ("CAM") procedures for the mid-sized incumbent LECs and to reduce the frequency with which independent audits of the cost allocations based upon the CAMs are required.

[14] In 1978, Congress enacted section 224 in order to address concerns raised by cable television operators. *See* 47 U.S.C. § 224. Section 224(b)(1) provides in part that "the Commission shall regulate the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions are just and reasonable." *See also* 47 C.F.R. §§ 1.1401-1.1416; Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles, *Report and Order*, 2 FCC Rcd 4387 (1987), *recon.*, 4 FCC Rcd 468 (1989); Implementation of Section 703(e) of the Telecommunications Act of 1996 and Amendment of Rules and Policies Governing Pole Attachments, *Report and Order*, FCC 98-20 (rel. Feb. 6, 1998).

[15] Class B carriers record their investment associated with poles in Account 2410 (Cable and wire facilities). Account 2410 includes the investment associated with poles, as well as the investment associated with aerial cable, underground cable, buried cable, submarine cable, deep sea cable, intrabuilding network cable, aerial wire, and conduit systems. *See* 47 C.F.R. §§ 32.2410-2441. Likewise, Class B carriers record their expenses associated with poles in Account 6410 (Cable and wire facilities expenses), which contains aggregated expense data related to aerial cable, underground cable, buried cable, submarine cable, deep sea cable, intrabuilding network cable, aerial wire, and conduit systems. *See* 47 C.F.R. §§ 32.6410-6441.

two accounts associated with network operations expenses.[16] We seek comment on whether mid-sized LECs should be required to maintain subsidiary record categories to provide the data now provided in the eight Class A accounts and to report in ARMIS the information in the noted accounts as well as other information required by the pole attachment formulas.[17]

11. The ARMIS 43-03 Joint Cost Report details the regulated and nonregulated cost and revenue allocations by study area[18] in accordance with the Commission's rules.[19] In order to be consistent with the modifications to the USOA Report, we tentatively conclude that we should allow eligible reporting carriers to file only the Class B level of detail. This proposal, if adopted, would eliminate roughly two-thirds of the entries for eligible reporting carriers. We seek comment on this proposal.

12. The ARMIS 495A Forecast Report and the ARMIS 495B Actual Usage Report provide the information needed to monitor our requirement that incumbent LECs allocate the costs of certain telephone plant investment used for both regulated and nonregulated activities on the basis of forecasted regulated and nonregulated usage.[20] Carriers file these reports at the same time as their annual access tariff filing. The ARMIS 495A Forecast Report displays forecasts of expected regulated and nonregulated investment usage at the study area level. The ARMIS 495B Actual Usage Report displays the actual usage of regulated and nonregulated investment at the study area level. We tentatively conclude to allow eligible reporting carriers to report the data in the ARMIS 495A Forecast Report and the ARMIS 495B Actual Usage Report at the Class B level of detail. This tentative conclusion, if adopted, will provide flexibility for eligible reporting carriers to aggregate types of equipment

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[16] The six Class A accounts associated with cable and wire facilities investment and expenses are Account 2411 (Poles), Account 2441 (Conduit systems), Account 2423 (Buried cable), 6411 (Poles expense), Account 6441 (Conduit systems expense), Account 6423 (Buried cable expense). The two accounts associated with network operations expenses are Account 6534 (Plant operations administration expense) and Account 6535 (Engineering expense).

[17] For example, the current and proposed pole attachment formulas require accumulated depreciation as detailed in ARMIS Report 43-02, Table B-5 as follows: for poles as reported on line 0390, for conduit on line 0420, and for buried cable on line 0470.

[18] A study area is a geographic segment of a carrier's telephone operations. A study area generally corresponds to a carrier's entire service territory within a state.

[19] *See* 47 C.F.R. §§ 64.901-904.

[20] 47 C.F.R. § 64.901(b); *see ARMIS Order* at paras. 4, 54; *see also* Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), *Order*, 3 FCC Rcd 3762 (Com. Car. Bur. 1988) (adopting the format and media for the 495A and 495B reports).

and to forecast the regulated and nonregulated usage of such equipment. We seek comment on this tentative conclusion.

D. ARMIS Reporting Requirements for Large Incumbent LECs

13. For the largest incumbent LECs, we tentatively conclude that we should maintain the Class A level of detail for their ARMIS reporting requirements. The more detailed reporting requirements are necessary for the Commission to uphold our statutory obligations to prevent cross-subsidization and discrimination under sections 254(k),[21] 260,[22] 271,[23] 272,[24] 273,[25] 274,[26] 275,[27] and 276[28] of the Act. The Class A level of detail specified in

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[21] 47 U.S.C. § 254(k). Section 254(k) imposes a general prohibition against cross-subsidization by barring telecommunications carriers from "us[ing] services that are not competitive to subsidize services that are subject to competition."

[22] 47 U.S.C. § 260. Section 260 prohibits an incumbent LEC from subsidizing its telemessaging service with revenues from regulated telecommunications services. Section 260 provides that an incumbent LEC, including a BOC, that provides telemessaging service "shall not subsidize its telemessaging service directly or indirectly from its telephone exchange service or its exchange access," but does not require a separate affiliate.

[23] 47 U.S.C. § 271. Section 271(b) authorizes the BOCs to immediately provide "out-of-region" interLATA services but requires the BOCs to obtain Commission approval before providing "in-region" interLATA services. Section 271(g) lists specific "incidental interLATA services that BOCs and their affiliates may provide after February 8, 1996. Section 271(h) states that "[t]he Commission shall ensure that the provision of services authorized under [section 271(g)] by a Bell operating company or its affiliate will not adversely affect telephone exchange service ratepayers or competition in any telecommunications market."

[24] 47 U.S.C. § 272. Section 272 permits a BOC (including any affiliate) that is subject to section 251(c) to manufacture equipment, originate in-region interLATA telecommunications services, other than incidental and previously authorized interLATA services, and provide certain interLATA information services only if it does so through one or more separate affiliates. Each of the separate affiliates must "maintain [separate] books, records, and accounts in the manner prescribed by the Commission" and "shall conduct all transactions with the Bell operating company of which it is an affiliate on an arm's length basis." In its dealings with the separate affiliate, each BOC must "account for all transactions . . . in accordance with accounting principles designated or approved by the Commission."

[25] 47 U.S.C. § 273. Section 273(d)(3) imposes separate affiliate requirements for the manufacture of telecommunications equipment and customer premises equipment produced by unaffiliated entities.

[26] 47 U.S.C. § 274. Section 274(a) prohibits any "Bell operating company or any affiliate [from] engag[ing] in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service," other than through "a separated affiliate or electronic publishing joint venture." This separated affiliate or electronic publishing joint venture must, among other requirements, "maintain separate books, records, and accounts and prepare separate financial statements."

the Part 32 accounting rules allows us to identify potential cost misallocations beyond those revealed by the Class B system of accounts.[29] In addition, the Class A level of detail is critical for monitoring large incumbent LECs because such carriers typically conduct a higher volume of transactions involving competitive services.[30] We need sufficient detail to adequately perform audit and verification functions of the largest incumbent LECs that represent nearly 90% of the local exchange industry as measured by annual revenues.[31] Moreover, the Class A level of detail is required to monitor the large incumbent LECs as competition begins to develop in local telephony markets. Therefore, we tentatively conclude that any further reduction in reporting requirements for ARMIS financial, cost allocation, and access charge data would impair our ability to guard against improper cost allocations, to

[27] 47 U.S.C. § 275. Section 275(b)(2) bars an incumbent LEC, including a BOC, that provides alarm monitoring services from "subsidiz[ing] its alarm monitoring services either directly or indirectly from telephone exchange service operations." but does not require a separate affiliate.

[28] 47 U.S.C. § 276. Section 276(b)(1)(C) directs the Commission to prescribe rules for BOC provision of payphone service that, "at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III proceeding. Section 276(a)(1) states that any BOC that provides payphone service after the effective date of those rules "shall not subsidize its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations."

[29] The existing level of detail in the ARMIS 43-02 USOA Report and the ARMIS 43-03 Joint Cost Report assists in identifying the cross-subsidization of competitive services with revenues from non-competitive services as banned by section 254(k). Likewise, the existing level of detail contained in these financial reports assists in evaluating whether a section 272 affiliate conducts all transactions with its affiliated BOC on an arm's length basis as required by section 272(b)(5). Similarly, the financial and operating data contained in the ARMIS reports will facilitate the biennial audit process specified in section 272, and our oversight functions with respect to the nondiscrimination safeguards. the separate affiliate requirements, and the prohibition on cross-subsidization contained in sections 260, 271, 272, 273, 274, 275, and 276.

[30] The Class A level of detail also assists in administering the Commission's universal service, access charge, and accounting rules.

[31] An example from our audit experience illustrates the usefulness of the Class A level of detail in identifying improper cost allocations. Account 7370 (Special Charges) is an account maintained at the Class A level of detail and includes, among other things, lobbying expenses. *See* 47 C.F.R. § 32.7370. By analyzing the books of account maintained at the Class A level of detail, Commission staff identified $118 million in lobbying costs that the BOCs improperly included in their revenue requirements between 1989 and 1991. *See* Commission Releases Summary of Lobbying Costs Audit Findings, *Common Carrier Action*, Report No. CC 95-65 (rel. Oct. 16, 1995). In contrast, the Class B level of detail aggregates Account 7370 along with seven other accounts into a single account, Account 7300 (Nonoperating Income and Expense). By aggregating eight accounts into a single account, the Class B level of detail does not readily permit the type of analysis necessary to identify possible discrepancies, such as the manner in which carriers record their lobbying expenses, creates a greater likelihood that improper cost allocations will occur and not be detected, and significantly complicates our monitoring and oversight efforts.

assess the impact of our policies on incumbent LECs, and to monitor the development of competition in the telecommunications marketplace. We have long recognized that, for managerial decision-making and other purposes, incumbent LECs maintain their financial records in significantly more detail than that required for Class A carriers in our Part 32 rules.[32] Because incumbent LECs disaggregate their financial records into much greater detail than our Class A requirements, we tentatively conclude that the burden on the largest incumbent LECs resulting from Class A accounting and reporting requirements does not outweigh our needs for collecting financial information. We seek comment on these tentative conclusions to maintain the Class A accounting requirements for the largest incumbent LECs, and, alternatively, on whether there are certain ARMIS reporting requirements we could eliminate or streamline for the largest LECs, as suggested by SBC and Ameritech.

III. PROCEDURAL MATTERS

A. *Ex Parte Presentations*

14. This is a permit-but-disclose proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.[33]

B. *Initial Regulatory Flexibility Analysis*

15. The Regulatory Flexibility Act ("RFA")[34] requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on

[32] We considered the appropriate level of detail for maintaining books of account and reporting the financial and operating data in these books during a comprehensive eight year review of the USOA. *See* Revision of the Uniform System of Accounts and Financial Reporting Requirements for Telephone Companies (Parts 31, 33, 42, and 43 of the FCC's Rules), CC Docket No. 78-196, *Report and Order*, 60 Rad. Reg. 2d. 1111, para. 109-10 (1986) (noting that many carriers maintain more detailed accounting systems than the Class A level for other purposes). In addition, we note that, although greater detail is possible, we decided on policy grounds to refrain from requiring further disaggregation in, for example, the USOA's plant accounts. *Id.* at paras. 113-23; *see also ARMIS Order* at para. 35 (noting that ARMIS collects only a small subset of the Commission's total data requirements).

[33] *See* 47 U.S.C. §§ 1.102, 1.203 and 1.206.

[34] The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA").

a substantial number of small entities."[35] The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[36] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[37] 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").[38]

16. This Notice proposes to eliminate the requirement to file paper versions of ARMIS reports, to reduce the specific reporting requirements on all incumbent LECs that file ARMIS reports, and to further reduce the reporting requirements for certain mid-sized incumbent LECs. Neither the Commission nor SBA has developed a definition of "small entity" specifically applicable to LECs. The closest definition under SBA rules is that for establishments providing "Telephone Communications, Except Radiotelephone," which is Standard Industrial Classification (SIC) code 4813. Under this definition, a small entity is one employing no more than 1,500 persons.[39]

17. We certify that the proposals in this Notice, if adopted, will not have a significant economic impact on a substantial number of small entities. Pursuant to long-standing rules, incumbent LECs with annual operating revenues exceeding the indexed revenue threshold must report financial and operating data to the Commission. This Notice proposes to reduce certain of these reporting requirements and eliminate the subject paper filing requirement. These changes should be easy and inexpensive for incumbent LECs to implement and will not require costly or burdensome procedures. We therefore expect that the potential impact of the proposal rules, if such are adopted, is beneficial and does not amount to a possible significant economic impact on affected entities. If commenters believe that the proposals discussed in the Notice require additional RFA analysis, they should include a discussion of these issues in their comments.

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[35] 5 U.S.C. § 605(b).

[36] *Id.* § 601(6).

[37] *Id.* § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

[38] Small Business Act, 15 U.S.C. § 632.

[39] 13 C.F.R. § 121.201, SIC code 4813.

18. The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this Notice, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration.[40] A copy will also be published in the Federal Register.

C. *Paperwork Reduction Act*

19. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on information collections contained in this Public Notice, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due at the same time as other comments on this Public Notice. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

D. *Comment Filing Procedures*

20. Interested parties may file comments no later than **August 20, 1998**. Reply comments may be filed no later than **September 4, 1998**. All pleadings should reference CC Docket No. 98-117. Parties are requested to file the original and six copies of all pleadings to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, DC, 20554; one copy should also be submitted to Anthony Dale, Accounting Safeguards Division, Common Carrier Bureau, FCC, 2000 L Street, Suite 201, Washington, DC 20554, and one copy with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800. All pleadings will be made available for public inspection and copying in the Accounting Safeguards Division public reference room, 2000 L Street, N.W., Suite 812, Washington, DC 20554.

IV. ORDERING CLAUSES

21. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4, 11, 201-205, 215, 218, 219, 220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 161, 201-205, 215, 218, 219, 220, and 403 a NOTICE OF PROPOSED RULEMAKING IS ADOPTED.

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[40] 5 U.S.C. § 605(b).

22. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this NOTICE OF PROPOSED RULEMAKING, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

Appendix A

Rows and Columns Proposed for Elimination from the ARMIS 43-04 Access Report

	Reason for Removal	Rows / Columns
		(Rows)
1.	Separate reporting of equal access costs is no longer required.	10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 90, 91, 92, 93
2.	In conflict with order on direct assignment	999, 1004, 1210, 1211, 1391, 1419, 1521, 5020, 5021, 5070, 5071
3.	Transition to relative DEM allocator for COE category 3 completed December 31, 1992	1214, 1215, 1216, 1217, 1219
4.	TWX service no longer provided	1241, 1242, 1243, 1281, 1282, 1283, 1334, 1340, 1341, 1351, 1352, 1360
5.	Payphone investment is deregulated	1422, 1423, 1424, 5032, 5033
6.	Transition from SPF to 25% Gross Allocator completed December 31, 1992	1427, 1456, 1457, 1458
7.	User methodology for OB&C expense allocation no longer applies	7240, 7241, 7242, 7243, 7244, 7247, 7251, 7252, 7253, 7254, 7255, 7256, 7257, 7258
8.	Common line transitional support expired in 1993/94	9000
		(Columns)
9	Inside wire and payphone costs are deregulated	e, f
10.	Separate reporting of equal access costs is no longer required.	k

For descriptions of the rows and columns see:
www.fcc.gov/ccb/armis/documents/4304/PROCEDRS/RPTPROC/4304P97.PDF
For the 43-04 form see:
www.fcc.gov/ccb/armis/documents/4304/PROCEDRS/FORM/4304F97.PDF

Glossary of Terms

COE - Central Office Equipment: Items of telephone plant that include switching equipment, operator systems equipment and transmission equipment as well as the common and power equipment required to facilitate their use.

DEM - Dial Equipment Minutes: An allocation factor which apportions local switching equipment investment between the state and interstate operations based on the relative holding time, in minutes, during which the equipment is in actual use for completed state vs. interstate calls.

OB&C - Other Billing and Collecting: the term given in Part 36 to the portion of the Revenue Accounting job function which includes the salary and miscellaneous expenses incurred in the preparation of monthly bills, the application of of service orders to billing records, station statistical work, controlling record work and the preparation of revenue reports.

SPF - Subscriber Plant Factor: An allocation factor formerly employed in the jurisdictional separations process to apportion subscriber exchange plant investment between the state and interstate operations.

TWX - Teletypewriter Exchange: A switched, teletypewriter service no longer provided nor maintained by the LEC industry.

Appendix B

Rows and Columns Proposed for Elimination
from the ARMIS 43-01 Annual Summary Report

Reason for Removal		Rows / Columns
	(Rows)	
1.	Separate reporting of equal access costs is no longer required.	1110, 1610
2.	Common line transitional support expired in 1993/94	1980
	(Columns)	
3	Inside wire and payphone costs are deregulated.	i, j
4.	Separate reporting of equal access costs is no longer required.	o

For descriptions of the rows and columns see:
www.fcc.gov/ccb/armis/documents/4301/PROCEDRS/RPTPROC/4301P97.PDF
For the 43-01 form see:
www.fcc.gov/ccb/armis/documents/4301/PROCEDRS/FORM/4301F97.PDF

Separate Statement of Commissioner Harold W. Furchtgott-Roth

In re: Notice of Proposed Rulemaking: 1998 Biennial Regulatory Review – Review of ARMIS Reporting Requirements

I support adoption of this Notice of Proposed Rulemaking and the initiation of this proceeding. In my view, any reduction of unnecessary regulatory burdens is beneficial. The amount of detailed information that is required to be reported under our Automated Reporting Management Information System ("ARMIS") is inordinate and should be reduced. Over the last few months, I have repeatedly expressed my concern with the Commission's cumbersome accounting and reporting requirements. To the extent this item proposes the elimination of hundreds of entries related to equal access, inside wire, and payphone investment for all incumbent LECs and additional relief to some of the mid-sized carriers, I am all for it.

But, while I support today's efforts, I am disappointed by the Commission's preliminary conclusion that the reporting burden imposed on the largest incumbent LECs by the Class A level of detail for their ARMIS reports does not outweigh the need for collecting this financial information. The item briefly discusses the costs to the large incumbent LECs of maintaining these reporting requirements, concluding that LECs already maintain their books in significantly more detail. In contrast, for example, I would point to SBC Communications' Petition for Section 11 Biennial Review in which they conclude that, on annual basis, ARMIS "requires in excess of 23,000 hours for SBC."[41] I appreciate that the Commission has asked for comment on this conclusion, and I encourage the parties who would continue to be required to follow the Class A ARMIS reporting requirements to comment on the specific burdens that these requirements impose. In particular, I would encourage parties to comment on the Commission's tentative conclusion that the Class A level of detail is "critical," especially in light of the fact that many of these monitoring reports were introduced to ensure that price cap regulation did not reduce service quality and investment in network infrastructure. Have these reports indicated a decline in service quality or network investment? Moreover, in today's competitive marketplace with such rapid technological advances, are these concerns still relevant? I would also encourage parties to comment on the duplicative nature of many of these requirements with other publicly available reports such as a companies' 10-K's or annual financial reports. I hope that parties comment on how SBC Communications' Petition that the part 32 rules be eliminated altogether and that carriers be allowed to use Generally Accepted Accounting Principles ("GAAP"), and how Ameritech's proposal that all carriers be allowed to use the Class B accounting requirements by the end of

[41] Petition for Section 11 biennial Review, filed by SBC Communications, Inc., May 8, 1998 at 13.

1999 would affect the ARMIS requirements. I also hope parties incorporate proposals by BelllSouth for revising the ARMIS reports.

I am convinced that the current regulatory mechanisms -- and certainly the level of detail which they require -- are no longer necessary in today's increasingly competitive environment. We must develop a more forward-looking blueprint to guide the transition from regulation to competition. As I have stated previously, regulation is merely designed, to the extent possible, to replicate a competitive marketplace, but any form of regulation is an imperfect surrogate for full-fledged competition.

In addition, this item should not be mistaken for complete compliance with Section 11 of the Communications Act. As I have explained previously, the FCC is not planning to "review *all* regulations issued under this Act . . . that apply to the operations or activities of any provider of telecommunications service," as required under Subsection 11(a) in 1998 (emphasis added). *See generally 1998 Biennial Regulatory Review -- Review of Computer III and ONA Safeguards and Requirements*, 13 FCC Rcd 6040 (released Jan. 30, 1998). Nor has the Commission issued general principles to guide our "public interest" analysis and decision-making process across the wide range of FCC regulations.

In one important respect, however, the FCC's current efforts are more ambitious and difficult than I believe are required by the Communications Act. Subsection 11(a) -- "Biennial Review" -- requires only that the Commission "*determine* whether any such regulation is no longer necessary in the public interest" (emphasis added). It is pursuant to Subsection 11(b) -- "Effect of Determination" -- that regulations determined to be no longer in the public interest must be repealed or modified. Thus, the repeal or modification of our rules, which requires notice and comment rule making proceedings, need not be accomplished during the year of the biennial review. Yet the Commission plans to complete roughly thirty such proceedings this year.

I encourage parties to participate in these thirty rule making proceedings. I also suggest that parties submit to the Commission -- either informally or as a formal filing -- specific suggestions of rules we might determine this year to be no longer necessary in the public interest as well as ideas for a thorough review of all our rules pursuant to Subsection 11(a).

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