

standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

#### 10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This proposed rule does not affect the level of protection provided to human health or the environment because this rule proposes to authorize pre-existing State rules which are no less stringent than existing Federal requirements.

#### List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous materials, Intergovernmental relations, Reporting and recordkeeping requirements.

**Authority:** This notice is issued under the authority of Sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6974(b), and 6991c.

Dated: February 23, 2011.

**Michelle L. Pirzadeh,**

*Acting Regional Administrator, Region 10.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 51, 53, 63, 64

[CC Docket Nos. 95-20, 98-10, WC Docket No. 10-132; FCC 11-15]

#### Review of Wireline Competition Bureau Data Practices, Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission proposes the removal of the narrowband comparably efficient interconnection (CEI) and open network architecture (ONA) reporting requirements that currently apply to the Bell Operating Companies (BOCs) due to a lack of continuing relevance and utility. The Notice of Proposed Rulemaking continues the Commission's examination of its data practices through the Data Innovation Initiative, including identification of data collections that can be eliminated without reducing the effectiveness of the Commission's decision-making process.

**DATES:** Comments are due on or before April 1, 2011 and reply comments are due on or before April 18, 2011. Written comments on the Paperwork Reduction Act proposed or modified information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before May 2, 2011.

**ADDRESSES:** You may submit comments, identified by WC Docket No.10-132, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by *e-mail:* [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or *phone:* (202) 418-0530 or TTY: (202) 418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments with the Secretary, a copy of any comments

on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to [Nicholas\\_A.Fraser@omb.eop.gov](mailto:Nicholas_A.Fraser@omb.eop.gov) or via fax at 202-395-5167.

#### FOR FURTHER INFORMATION CONTACT:

Jeremy Miller at (202) 418-1507, Wireline Competition Bureau, Industry Analysis and Technology Division. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an e-mail to [PRA@fcc.gov](mailto:PRA@fcc.gov) or contact Judith Boley Herman at 202-418-0214.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket Nos. 95-20, 98-10 and WC Docket No. 10-132, adopted and released on February 8, 2011. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via the Internet at <http://www.bcpweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with Section 1.49 and all other applicable Sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the NPRM in order to facilitate our internal review process.

#### Initial Paperwork Reduction Act of 1995 Analysis

This document proposes to eliminate the remaining narrowband BOC-specific CEI and ONA reporting requirements, and seeks comment on this proposal. Subsequent reporting requirements related to the NPRM are not likely, and

if any reporting requirements are later adopted pursuant to this NPRM, it is too speculative at this time to request comment from the OMB or interested parties under Section 3507(d) of the Paperwork Reduction Act, 44 U.S.C. 3507(d). Therefore, if the Commission determines that reporting is required, it will seek comment from the OMB and interested parties prior to any such requirements taking effect. Nevertheless, interested parties are encouraged to comment on whether the elimination of the BOC-specific CEI and ONA reporting requirements is necessary. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we will seek specific comment on how we might “further reduce the information collection burden for small business concerns with fewer than 25 employees.” Nevertheless, interested parties are encouraged to comment on whether elimination of the BOC-specific CEI and ONA reporting requirements is necessary.

## Synopsis of the Further Notice of Proposed Rulemaking

### I. Introduction

1. In the Notice of Proposed Rulemaking, we continue the Commission’s examination of its data practices through the Data Innovation Initiative, including the identification of data collections that can be eliminated without reducing the effectiveness of our decision-making. In this proceeding, we propose the removal of the narrowband comparably efficient interconnection (CEI) and open network architecture (ONA) reporting requirements that currently apply to the Bell Operating Companies (BOCs) due to a lack of continuing relevance and utility, and we seek comment on that proposal.

### II. Background

2. The Commission initiated its Computer Inquiry proceedings more than 40 years ago, and imposed CEI and ONA obligations in the Computer III proceedings over 20 years ago. The Commission has described the origins and development of those dockets elsewhere in detail. The Commission adopted comparably efficient interconnection (CEI), open network architecture (ONA), and other nonstructural requirements as alternatives to the Computer II structural separation requirements for the BOCs.

3. A BOC that complies with the CEI obligations may offer enhanced services on an integrated basis so long as (i) the BOC’s enhanced services operations

take under tariff the basic services it uses in offering enhanced services and (ii) the basic services are made available to other enhanced service providers and users under the same tariffs on an unbundled and functionally equal basis. In addition, the BOC may not discriminate in favor of its own enhanced services operations in providing CEI and must file reports to substantiate that nondiscrimination. BOCs also must post service-specific CEI plans on the Internet (i.e., one CEI plan per service or group of services) that describe and demonstrate how a BOC is providing unaffiliated enhanced service providers with equal access to its basic services by its compliance with nine CEI parameters.

4. Unlike CEI plans, ONA plans apply to enhanced services generally and impose more specific and comprehensive unbundling requirements on the BOCs, not unlike Section 251’s facilities unbundling obligations. Through ONA, BOCs must separate key components of their basic services into “basic service elements,” and make those components, or building blocks, available to unaffiliated enhanced service providers to build new services regardless of whether the BOC’s affiliated enhanced services operations use these unbundled components. In refining its rules for filing ONA plans, the Commission subsequently categorized the BOCs’ “basic service elements” into four groups, which the BOCs are required to make available to information services providers. In a subsequent order, the Commission also determined that certain operations support systems (OSS) capabilities—namely service order entry and status; trouble reporting and status; diagnostics, monitoring, testing, and network reconfiguration; and traffic data collection—are ONA services under the Commission’s ONA rules. Finally, the ONA rules contain certain procedural requirements governing the amendment of ONA plans. These procedures allow information service providers to request and receive new ONA services and impose various annual, semi-annual, and quarterly reporting requirements.

5. As part of its 1998 Biennial Review, the Commission sought comment on the interplay between the safeguards and terminology established in the Telecommunications Act of 1996 and the Computer III regime, including the continued application of the Computer III safeguards to BOC provision of enhanced services. In 2001, the Common Carrier Bureau invited parties to update and refresh the record in these

proceedings, 66 FR 1506, March 15, 2001.

6. In 2005, the Commission relieved the BOCs from CEI and ONA obligations with respect to wireline broadband Internet access services offered by facilities-based providers in the Wireline Broadband Internet Access Services Order, 70 FR 60222, October 17, 2005. In 2006, Verizon obtained additional relief from Computer Inquiry requirements when its petition for forbearance regarding enterprise broadband services was deemed granted by operation of law without a vote by the Commission, pursuant to Section 10 of the Act. In 2007, the Commission forbore from applying the Computer III and other BOC-specific Computer Inquiry rules to any of AT&T’s broadband information services to provide AT&T parity with Verizon. The Commission concluded, among other things, that application of the Computer III CEI and ONA requirements unnecessarily constrains how AT&T may offer its broadband transmission services to its enterprise customers, and that removal would promote competitive market conditions by increasing the competitive pressure on all enterprise service providers. The Commission subsequently extended the same relief to Qwest.

7. In 2010, as part of the agency’s reform agenda to improve its fact-based, data-driven decision making, the Wireline Competition Bureau (Bureau) initiated an examination of its data practices to improve the way the Commission collects, uses and disseminates data. The Bureau solicited and received recommendations with regard to four issues: (1) The utility and rationale for each of its existing data collections; (2) additional data that commenters believe the Bureau needs to inform Commission policymaking activities; (3) how it may improve collection and analysis processes for existing collections; and (4) how it may improve dissemination of reports and analyses it produces.

### III. Discussion

8. We propose to eliminate the remaining narrowband BOC-specific CEI and ONA reporting requirements, and seek comment on this proposal. In its comments, Verizon asserts that these obligations can increase the BOCs’ costs of providing information services, and that there is no reason for any of these requirements to continue. AT&T asks the Bureau to determine whether the benefits of the data collected outweigh the burdens associated with its collection, and seeks the elimination of these requirements. No commenter or

reply commenter in this docket argues for the retention of any of the BOC-specific CEI and ONA reporting requirements.

9. The record supports this proposal. No commenter to the WCB Data Innovation Initiative Public Notice has identified any utility to any service provider for the reports and filings that BOCs must generate to comply with CEI and ONA, and since the Commission does not rely on any of these submissions in the course of its decision making, we propose elimination of these remaining Computer III requirements. Further, in both the 2006 and 2008 Biennial Review proceedings, where the BOCs sought elimination of the CEI and ONA reporting requirements pursuant to Section 11 of the Act, no commenter voiced any opposition to their elimination or advocated in support of their continued application.

#### IV. Procedural Matters

##### A. Ex Parte Presentations

10. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in Section 1.1206(b) of the Commission’s rules.

##### B. Comment Filing Procedures

11. Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All pleadings are to reference CC Docket Nos. 95–20, 98–10 and WC Docket No. 10–132. Comments may be filed using: (1) The Commission’s Electronic Comment Filing System (ECFS), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two

additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street, SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. The filing hours are 8 a.m. to 7 p.m.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

12. Parties should send a copy of each filing to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, or by e-mail to [CPDCopies@fcc.gov](mailto:CPDCopies@fcc.gov). Parties shall also serve one copy with the Commission’s copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

13. Filings and comments will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. They may also be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone: (202) 488–5300, fax: (202) 488–5563, or via e-mail <http://www.bcpiweb.com>.

#### V. Ordering Clauses

14. Accordingly, *it is ordered that*, pursuant to Sections 1, 2, 4, 10, 11, 201–205, 251, 271, 272, 274–276, and 303(r)

of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 160, 161, 201–205, 251, 271, 272, 274–276, and 303(r) the Notice of Proposed Rulemaking *is adopted*.

15. *It is further ordered that* the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

#### Initial Regulatory Flexibility Analysis

16. The Regulatory Flexibility Act of 1980, as amended (RFA), 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 a substantial number of small entities.” The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). SBA defines small telecommunications entities as those with 1,500 or fewer employees. This proceeding pertains to the BOCs which, because they would not be deemed a “small business concern” under the Small Business Act and have more than 1,500 employees, do not qualify as small entities under the RFA. Therefore, we certify that the proposals in this Notice of Proposed Rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities.

17. The Commission will send a copy of the Notice of Proposed Rulemaking, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. This initial certification will also be published in the **Federal Register**.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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