

preventing the use of best available science; (3) insisting on preclearance of a scientific product for purposes other than providing advance notification or opportunity to review for technical merit; (4) suppressing, altering or delaying the release of a scientific product for any reason other than technical merit or providing advance notification; (5) removing or reassigning scientific personnel for any reason other than performance, conduct or budgetary constraints; (6) using scientific products that are not representative of the current state of scientific knowledge and research (for example because of a lack of appropriate peer review, poor methodology, or flawed analyses) to inform decision making and policy formulation; or (7) misrepresenting the underlying assumptions, uncertainties, or probabilities of scientific products. This is not intended to be an exhaustive list.

⁹ Differences of scientific opinion are not necessarily inappropriate influence.

¹⁰ See Federal Research Misconduct Policy, 65 FR 76260, 76262 (Dec. 6, 2000); see also <https://ori.hhs.gov/definition-research-misconduct>.

¹¹ Public Law 112–199 § 110.

¹² 5 U.S.C. 2302(b)(8).

¹³ See Health Extenders, Improving Access to Medicare, Medicaid, and CHIP, and Strengthening Public Health Act of 2022, Public Law 117–328, Division FF, Title II, Section 2321 (Jan 3, 2023) and Chips and Science Act, Public Law 117–167, Title VI, Subtitle D, Section 10631 (Aug 9, 2022). OSTP guidance and relevant HHS policies to implement this legislation are forthcoming at the time of publication of this policy.

¹⁴ HHS Grants Policy Statement, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Resources and Technology, Office of Grants, January 1, 2007. Available at: <https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgsps107.pdf>.

¹⁵ HHS Grants Policy Administration Manual Version 1.02. November 13, 2023.

¹⁶ 45 CFR 75.372.

¹⁷ Presidential Memorandum for the Heads of Executive Departments and Agencies on Increasing Access to the Results of Federally Funded Scientific Research. Available at: https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/ostp_public_access_memo_2013.pdf.

¹⁸ Presidential Memorandum for the Heads of Executive Departments and Agencies on Ensuring Free, Immediate, and Equitable Access to Federally Funded Research. Available at: <https://www.whitehouse.gov/wp-content/uploads/2022/08/08-2022-OSTP-Public-Access-Memo.pdf>.

¹⁹ This provision is further outlined in the United States Office of Government Ethics Standards of Conduct and 18 U.S.C. 208 as Applied to Official Social Media Use. Available at: [https://oge.gov/web/oge.nsf/News+Releases/EAE37A7DA3C38BF38525894700775339/\\$FILE/LA-23-03%20The%20Standards%20of%20Conduct%20and%2018%20U.S.C.%20%20C2%20A7%20208%20as%20Applied%20to%20Official%20Social%20Media%20Use.pdf](https://oge.gov/web/oge.nsf/News+Releases/EAE37A7DA3C38BF38525894700775339/$FILE/LA-23-03%20The%20Standards%20of%20Conduct%20and%2018%20U.S.C.%20%20C2%20A7%20208%20as%20Applied%20to%20Official%20Social%20Media%20Use.pdf).

²⁰ Memorandum to Designated Agency Ethics Officials on The Standards of Conduct

as Applied to Personal Social Media Use.

Available at: [https://www.oge.gov/web/oge.nsf/0/195DAE83D38EF6A9852585BA005BEC69/\\$FILE/LA-15-03-2.pdf](https://www.oge.gov/web/oge.nsf/0/195DAE83D38EF6A9852585BA005BEC69/$FILE/LA-15-03-2.pdf).

²¹ Office of Management and Budget. “Final Information Quality Bulletin for Peer Review.” **Federal Register**. Doc. 05–769. Available at: <https://www.federalregister.gov/documents/2005/01/14/05-769/final-information-quality-bulletin-for-peer-review>.

²² 5 U.S.C. 7513, 4303.

²³ Commissioned Corps Directive 111.02.

²⁴ Subject to the limitations and requirements as to participation in foreign talent programs outlined in I.12–13 of this policy.

²⁵ 2010 Memorandum from the White House Office of Science and Technology Policy on Scientific Integrity. Available at: <https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/scientific-integrity-memo-12172010.pdf>.

²⁶ See <https://oig.hhs.gov/fraud/whistleblower/>. Employees can also contact their OpDiv/StaffDiv’s office of Equal Employment Opportunity (“EEO”) for information regarding retaliation based on protected EEO activity or discrimination, or the Office of Special Counsel for information regarding retaliation based on whistleblowing. Additionally, although encouraged to use the process detailed herein, employees may also disclose wrongdoing to their supervisor or another individual higher up in management, the HHS OIG, the Office of Special Counsel, or to Congress. PHSCC officers should also refer to CCD 121.06, “Protected Communications,” CCD 111.01, “Equal Opportunity,” and CCI 211.03, “Equal Opportunity.”

²⁷ <https://oig.hhs.gov/fraud/report-fraud/before-you-submit/>.

Dated: October 28, 2024.

Katherine N. Bent,

Associate Deputy Assistant Secretary, Office of Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

[FR Doc. 2024–25810 Filed 11–22–24; 8:45 a.m.]

BILLING CODE 4150–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[WCB: CC Docket No. 80–286; FCC 24–118; FR ID 262275]

Jurisdictional Separations and Referral to the Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) extends, for up to an additional six years, the freeze of the jurisdictional separations category relationships and cost allocation factors

(together, separations rules) for rate-of-return incumbent local exchange carriers (LECs). Further extending the freeze, which is set to expire on December 31, 2024, will enable the Commission to continue to work with the Federal-State Joint Board on Jurisdictional Separations (Joint Board) to determine the future of these rules. The Commission declines to provide carriers an opportunity to unfreeze their current category relationships and refers to the Joint Board to consider whether comprehensive reform is needed at this time or if the Commission should allow these rules to become obsolete over time and whether a permanent freeze is warranted, and if so, whether carriers still using separations should be given the chance to unfreeze their category relationships every few years.

DATES: Effective November 25, 2024.

FOR FURTHER INFORMATION CONTACT:

Marv Sacks, Pricing Policy Division of the Wireline Communications Bureau, at (202) 418–2017 or via email at marvin.sacks@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Report and Order, in CC Docket No. 80–286, FCC 24–118, adopted and released on November 13, 2024. The full text of this document may be obtained from the following internet address: <https://docs.fcc.gov/public/attachments/FCC-24-118A1.pdf>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov, or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). This action arises from a Further Notice of Proposed Rulemaking and Order, FCC 24–71, released on July 1, 2024; 89 FR 58692 (July 19, 2024).

Synopsis

I. Introduction

1. In this Report and Order, the Commission extends, for up to an additional six years, the freeze of the separations rules for rate-of-return incumbent LECs. In light of sweeping technological and regulatory changes in the marketplace and the resulting ongoing transition from traditional telephone service to broadband-based voice services, the separations rules play a substantially diminished role in allocating costs between the interstate and intrastate jurisdictions. This extension of the separations rules freeze will enable the Commission to continue to work with the Joint Board to determine the future of these rules, which were last revised more than 35

years ago in a vastly different telecommunications marketplace. We decline, however, to provide carriers an opportunity to change their current category relationships.

2. Given the technological and regulatory changes that have occurred over the past three and a half decades and the compliance burdens that the separations rules impose on the limited and declining number of small rural carriers still subject to them, we also refer to the Joint Board for their consideration the question of whether comprehensive reform is needed at this time or if the Commission should allow these rules to become obsolete over time. Because repeated freeze extensions of the separations rules have yet to produce substantive changes to these rules and consume limited government and industry resources, we also refer to the Joint Board the issue of whether a permanent freeze is warranted and, if so, whether carriers still using separations should be given the chance to unfreeze their category relationships every few years.

II. Background

3. *Jurisdictional Separations Process.* Rate-of-return incumbent LECs use their networks and other resources to provide both interstate and intrastate telecommunications and other services. To prevent the recovery of the same costs from both the interstate and intrastate jurisdictions, the separations rules require that rate-of-return incumbent LECs divide their costs and revenues between the respective jurisdictions. These jurisdictional separations rules were designed to ensure that rate-of-return incumbent LECs apportion the costs of their regulated services between the interstate or intrastate jurisdictions in a manner that reflects the relative use of their networks to provide interstate or intrastate telecommunications services.

4. Jurisdictional separations is the third step in a four-step cost-based regulatory rate-making process. First, a rate-of-return carrier records its costs and revenues in various accounts using the Uniform System of Accounts prescribed by the Commission's part 32 rules. Second, the carrier divides the costs in these accounts between regulated and nonregulated activities in accordance with the Commission's part 64 rules, a step that helps ensure that the costs of nonregulated activities will not be recovered through regulated interstate rates. Third, the carrier separates the regulated costs and revenues between the interstate and intrastate jurisdictions using the Commission's part 36 jurisdictional

separations rules. Finally, the carrier apportions the interstate regulated costs among the interexchange services and the rate elements that form the basis for its cost-based interstate rates. Carriers subject to rate-of-return regulation perform this apportionment in accordance with the Commission's part 69 rules.

5. To comply with the Commission's cost-based ratemaking rules, rate-of-return incumbent LECs must perform annual cost studies that include jurisdictional separations. The cost studies directly assign or allocate the regulated costs and revenues to various part 36 categories. Amounts in categories that are used exclusively for either interstate or intrastate communications are directly assigned to the appropriate jurisdiction. Costs that fall in categories that support both interstate and intrastate services are divided between the jurisdictions using allocation factors developed in accordance with part 36 that reflect relative use or a fixed percentage.

6. In addition to being used for developing cost-based rates, separations is also used as part of the process to determine universal service support. The administrator of the federal universal service support program, the Universal Service Administrative Company, uses separations categorization results for calculating high-cost loop support for certain legacy support carriers. In addition, some states use separations results to determine the amount of intrastate universal service support and to calculate regulatory fees, and some states perform intrastate rate-of-return ratemaking using the assigned or allocated intrastate costs.

7. *Attempts at Separations Reform and Separations Freezes.* In 1997, recognizing that "changes in the law, technology, and market structure of the telecommunications industry" necessitated a thorough reevaluation of the jurisdictional separations process, the Commission initiated a proceeding to comprehensively reform the separations rules. At the same time, pursuant to section 410(c) of the Communications Act of 1934, as amended (the Communications Act), the Commission referred the matter of jurisdictional separations reform to the Joint Board for a recommended decision.

8. In 2000, the Joint Board—comprised of both State and Federal members—issued a recommendation that the Commission freeze the part 36 category relationships and jurisdictional allocation factors pending resolution of comprehensive reform. In 2001, the

Commission adopted an order concluding that a freeze would stabilize the separations process pending reform by minimizing any impact of cost shifts on separations results due to circumstances—such as the growth of internet usage, new technologies, and local competition—not contemplated by the rules. The Commission also determined that a freeze would simplify the separations process by eliminating the need for many separations cost studies until separations reform was implemented. Accordingly, the Commission froze all carriers' part 36 jurisdictional allocation factors at the percentages the carriers were using at that time, and allowed rate-of-return carriers to voluntarily freeze their category relationships, enabling each carrier to determine whether such a freeze would be beneficial "based on its own circumstances and investment plans." Thus, at a minimum, rate-of-return carriers' jurisdictional allocation factors are frozen at the December 31, 2000 level, which allows these carriers to avoid the considerable burdens associated with conducting the traffic studies otherwise needed to comply with the rules for allocating investments and expenses between the intrastate and interstate jurisdictions.

9. The Commission specified that the 2001 freeze would last five years or until the Commission completed comprehensive separations reform, whichever came first. The Commission also concluded that, prior to the expiration of the five-year period, the Commission would, in consultation with the Joint Board, determine whether the freeze period should be extended, explaining that "the determination of whether the freeze should be extended at the end of the five-year period shall be based upon whether, and to what extent, comprehensive reform of separations has been undertaken by that time." Since 2001, the Commission has extended the separations freeze eight times, for periods ranging from one year to six years, with the most recent extension expiring on December 31, 2024.

10. In 2009, the Commission made another referral to the Joint Board, asking it to consider comprehensive jurisdictional separations reform as well as "an interim adjustment of the current jurisdictional separations freeze." In 2018, the Commission referred to the Joint Board two specific interim issues for consideration pending comprehensive reform. These issues included exploring the possibility of amending separations rules to acknowledge that certain carriers are no longer bound by them, as well as

updating existing recordkeeping requirements to align with the current applicability of separations rules. To date, the Joint Board has yet to submit a recommended decision on any interim adjustments or comprehensive separations reform.

11. *2024 Further Notice of Proposed Rulemaking and Order*. On July 1, 2024, the Commission released a Further Notice of Proposed Rulemaking (89 FR 58692; July 19, 2024), inviting comment on its proposal to extend the separations freeze for another six years, given “the limited options available to the Commission under the current circumstances.” The Commission expressed its desire to continue working with the Joint Board and sought comment on its proposed finding that the benefits of an extension far outweigh the potential harm carriers could face if the freeze was not extended, permitting “the long-fallow and outdated separations rules to take effect on January 1, 2025.”

12. In the Order (89 FR 58631; July 19, 2024) that accompanied the Further Notice of Proposed Rulemaking, the Commission renewed the prior referrals to the Joint Board, including both the 1997 and 2009 comprehensive reform referrals and the 2018 interim reform measures referral. The Commission explained that it renewed these referrals in light of the need to achieve reform of the separations rules, given their declining applicability as a result of substantial telecommunications market and federal-state regulatory framework changes since these referrals were first made.

13. Four of the five parties that filed comments or reply comments in this proceeding unconditionally support a six-year or longer freeze extension, and the other commenter stated it would support “a two-year extension or any longer extension endorsed by the majority of the members of the Separations Joint Board.” The four State members, which make up a majority of the Joint Board, made such an endorsement, supporting the proposed six-year freeze in an *ex parte* filing. The State members explained that “all three FCC Commissioners on the Joint Board, including the Chair [Commissioner Starks], voted to propose a six year extension,” and the State members “agree with the federal members of the board that a six-year extension is appropriate.”

III. Discussion

14. We extend the freeze on Part 36 category relationships and jurisdictional allocation factors up through December 31, 2030, if necessary. We find this

extension will best serve the public interest. The record unanimously demonstrates that an extension of the separations freeze beyond its scheduled December 31, 2024 expiration date will provide stability to carriers and further the Commission’s ability to work with the Joint Board to consider how best to address the antiquated separations rules in today’s telecommunications landscape. In determining the extension timeframe, we find that the record supports an extension of up to six additional years unless, after receipt of a Joint Board recommended decision on its referrals, the Commission adopts an order acting on the recommended decision sooner than December 31, 2030.

15. To fully address the future course of the separations rules, we also refer to the Joint Board three additional issues for their consideration in conjunction with the other pending referral issues. First, we ask the threshold question of whether comprehensive reform is even necessary any longer given current market conditions and the fact that the need for separations rules is naturally diminishing while the burden of complying with any new set of rules, were they to be reformed, would be substantial. Second, we refer to the Joint Board the question of whether a permanent freeze is warranted at this time. If so, we finally ask whether carriers still using separations should be given an opportunity, offered periodically, to unfreeze their category relationships.

A. Further Extending the Separations Freeze

16. We find that, based on the record and the fast approaching expiration of the current freeze extension on December 31, 2024, it is imperative to extend the freeze before it expires. All commenters agree that a continuation of the freeze is necessary, and the majority unconditionally support at least a six year extension. Consistent with precedent, the Commission has determined that freeze extensions—which essentially maintain the status quo—are within the scope of the original referral to the Joint Board for a recommended decision in 2001 and has extended the freeze several times without making an additional referral. Instead, the Commission has typically consulted with and received letters supporting freeze extensions from State members of the Joint Board prior to acting. The Commission’s actions here are consistent with NARUC’s and the State members’ position.

17. *Process Considerations*. Section 410(c) of the Communications Act

contemplates a Joint Board recommendation on the pending comprehensive reform referral before the Commission moves forward on comprehensive separations reform. All parties that submitted filings in the record, including the Joint Board’s new State members, generally agree with the Commission’s assessment that recent changes to the composition of the Joint Board, the complex nature of the work required to develop comprehensive recommendations for separations reform, and the fact that the current freeze expires at the end of this calendar year have combined to leave limited and insufficient time within which the Joint Board could develop and advance recommended decisions and the Commission could act on such recommendations. This Joint Board has recently seated several new members who are just beginning their opportunity to delve into the complicated issues inherent in determining the future of the separations rules. Extending the freeze will provide the Commission and the Joint Board the additional time necessary to engage in the work to achieve our goals, and commenters unanimously agree on the importance of extending the freeze.

18. *Benefits Outweigh the Costs*. We continue to find, based on the record here, that an extension of the freeze provides numerous benefits to carriers and is essential to avoid imposing significant costs and burdens on carriers that otherwise would be subject to the rules. Commenters point out that extending the freeze would provide “a measure of consistency and reliability of revenues.” Additionally, according to commenters, the Commission’s regulatory initiatives “have changed the way that rural consumers obtain voice and data services, as they increasingly transition to wholly interstate broadband only services in place of traditional regulated voice services,” which makes reinstating the old separations cost studies for these carriers difficult to justify. Further, commenters indicate that the allocation between interstate and intrastate services naturally balances out as carriers switch to broadband only services, and thus the cost of continuing the use of frozen category relationships and allocation factors for those carriers is not significant. In short, maintaining the current separations regime provides stability to carriers.

19. In contrast, the costs to carriers of complying with part 36 rules if the freeze is allowed to expire are significant. The Commission has consistently found that letting the freeze expire would impose considerable

burdens on carriers, particularly smaller rural carriers, and create undue instability. In extending the most recent freeze in 2018, the Commission explained that lifting the freeze and reinstating the separations rules after an absence of more than two decades, would make it extremely difficult, if not impossible, for most carriers to perform all of the studies needed to remain in full compliance. Parties in this proceeding confirm that is still the case. Commenters confirm that application of the rules would require substantial training and investment by rural incumbent LECs, and could cause significant disruptions to regulated rates, cost recovery, and other operating conditions when applying the outdated separations rules to today's operations. Indeed, we agree with NECA that "[r]emoval of the current freeze would necessitate . . . resources that would better be utilized to deploy advanced networks and provide service to consumers." Thus, we continue to find that extension of the freeze is in the public interest.

20. *Length of the Freeze Extension.* We find that our proposed extension of up to six years is most appropriate under the circumstances and supported by the record. In fact, certain commenters would support an even longer extension. When the Commission extended the freeze for six years in 2018, it concluded that this time period best balances the competing considerations of a longer or shorter extension period. Commenters support an extension that is sufficient to "allow the Commission, the Federal-State Joint Board on Separations, and industry stakeholders time to determine the most effective way to address future separations issues." The Commission has previously explained that a six-year extension enables the Joint Board to focus on solving the complex issues versus the Commission's experience in granting a series of short-term separations extensions in the past. We find that this is particularly true today. Indeed, as several new members of the Joint Board are beginning to engage with the question of how to effectively address separations issues in line with a modern public communications network, all Federal and State members of the Joint Board agree that six years is the appropriate timeframe for an extension.

21. The only commenter, NARUC, that proposed a shorter than six-year extension did so with the caveat that it would also support "any longer extension endorsed by the majority members" of the Joint Board. The State members of the Joint Board, which

constitute the majority of the Joint Board, have endorsed a six-year extension, thus satisfying NARUC's caveat, and making support in the record to a six-year freeze extension unanimous. As the State members note, "all three FCC Commissioners [that are also members of] the Joint Board, including the Chair, voted to propose a six year extension."

B. Declining To Allow a One-Time Category Relationships Unfreeze

22. We decline to grant carriers another one-time option to unfreeze category relationships. Unfreezing category relationships would allow carriers to allocate regulated investments and expenses among the part 36 separations categories/sub-categories based on fresh cost studies. Relatedly, we also decline to grant carriers an option to freeze category relationships. We find that there is insufficient basis in the record to support a need to modify the separations freeze by providing carriers with either of these additional options. Only two commenters proposed possible modifications to the freeze. In 2018, the Commission granted rate-of-return carriers with frozen category relationships a one-time opportunity to unfreeze them going forward. Only three carriers took advantage of that opportunity then and the limited record here suggests a similar result would occur were we to adopt that same option now.

23. We are not persuaded, based on the record, that there is a need to provide an unfreeze option at this time, particularly in light of other opportunities the Commission has provided over the past several years that enabled rate-of-return carriers to opt out of the separations process partially or altogether. For example, since 2018, 348 rate-of return carriers have accepted the Commission's offers to receive model-based Alternative Connect America Cost Model (A-CAM) or fixed high cost universal service support and transition certain business data services (BDS) from rate-of-return to incentive regulation. More generally, as a result of the Commission's intercarrier compensation and universal service reforms, many carriers are no longer subject to cost-based regulation or the separations rules for any of their services. To the extent rate-of-return carriers believe they have a need to address problems or inaccuracies caused by frozen category relationships based on old data, they may seek a waiver of the category relationships freeze rules, as carriers have in the past.

24. As for adopting a new freeze option, either alone or coupled with an unfreeze option, we would also require a more developed record before determining whether to permit carriers that did not freeze their category relationships in 2001 to freeze them or permit carriers that elected to freeze category relationships in 2001 to unfreeze and then refreeze them. In 2001, "[f]ewer than 100 rate-of-return incumbent carriers elected to freeze their category relationships." In 2018, the Commission declined to allow companies to unfreeze and then refreeze their category relationships, explaining that, based on the record at that time, this option risked the possibility of gamesmanship. Although one commenter suggests procedures that possibly could prevent gamesmanship or double-recovery, the record lacks sufficient information to accurately assess the benefits and drawbacks of adopting these options today.

25. In any event, our referral below to the Joint Board includes the question of whether periodic opportunities to unfreeze category relationships are necessary in conjunction with our referral regarding a potential permanent freeze. The Joint Board's recommendation on this issue will provide valuable input to taking future action that give carriers opportunities to recalibrate their category relationships.

C. Joint Board Referrals

26. Both the Commission and commenters have acknowledged that comprehensive reform is an arduous undertaking that would involve revising complex ratemaking rules and numerous Universal Service Fund (USF) programs that rely on the current separations framework. This task is further complicated by the fact that, after more than two decades since the Commission made the original referral of comprehensive reform to the Joint Board, regulatory agencies and the industry have substantially reduced personnel and resources with the expertise to conduct and evaluate full-scale cost studies. In the meantime, regulatory changes and consumer demand have transformed the telecommunications industry from one that was largely reliant on cost-based ratemaking to one where only a small and declining fraction of small rural carriers are still required to use separations to set their rates and calculate USF support. A small subset of rate-of-return carriers are the only remaining carriers required to comply with these rules. As a result of the Commission's intercarrier compensation rate reforms, offers of fixed model-based

A-CAM support programs, and the ongoing technological transition from traditional voice services to broadband, the number of rate-of-return carriers subject to the separations rules have been ever decreasing. Based on internal staff analysis, there are currently, out of approximately 1,107 rate-of-return carriers, only about 247 carriers that receive cost-based USF support and make the full use of separations to set end-user common line, BDS, and Consumer Broadband-Only Loop service rates, as well as to determine the level of USF support.

27. To save carriers, particularly small carriers, from the burden of having to conduct all of the cost studies needed for full compliance with the separations rules, the separations freeze has been extended eight times over the past 23 years. However, these small carriers may face the same, if not a heavier, burden of complying with any potentially revised cost allocation methodology if the Joint Board were to develop a recommended decision on comprehensive reform and the Commission were to adopt it. We agree with concerns in the record by present and past commenters that compliance with comprehensive reform would “necessitate the hiring or retraining of staff—assuming commercial expertise can even be found to do so—and revising of internal procedures in ways that could overwhelm [the small carriers’] operations.” Thus, there is evidence in the record indicating that the expediency of comprehensively reforming the separations rules may have lost its urgency or value over the past 23 years.

28. Some commenters suggest that the Joint Board should assess whether “the separations framework . . . is better viewed as transitioning itself organically toward an eventual sunset, rather than something in need of fundamental reform and revision.” Other commenters also question “the relevance and need for jurisdictional separations processes and rules.” NECA asserts that “[i]n this environment [of naturally transitioning to broadband only services], it makes little sense to reinstate traditional separations rules.” NTCA believes that technological transitions, consumer demand and regulatory reforms have “moot[ed] the need for sweeping separations reform by enacting changes of their own accord.” We agree that the current separations rules may have the effect of promoting and encouraging the transition from traditional voice-only telephone lines to standalone broadband or VoIP services. In fact, we also acknowledge that revamped, comprehensive reform of separations

rules may actually encourage carriers to cling to the old technology.

29. *Clarifying the Scope of the Prior Comprehensive Reform Referral.* Although the scope of the 1997 referral is quite broad—asking the Joint Board to explore questions ranging from specific comprehensive reform proposals to questions on “whether separations rules are still needed during the transition from a regulated to a competitive marketplace”—we find it appropriate to specifically reiterate a prior referral question and ask the Joint Board to consider, in particular, whether it should still pursue comprehensive reform especially given the diminishing relevance of the separations rules. Accordingly, we ask the Joint Board for a recommended decision on whether comprehensive reform is still in the public interest when the industry is naturally transitioning away from legacy technologies and cost-based ratemaking, and the burdens of compliance with any revised separations rules would be significant for the limited number of small carriers still subject to the separations rules.

30. *Referral of Considering a Permanent Freeze Extension.* Given the record emphasis by commenters advocating for a longer than six-year freeze or even a freeze of unlimited duration, we refer to the Joint Board the question of whether a permanent freeze of the separations rules is appropriate at this time. As we have explained, over the past 23 years, the Commission has gone through eight full rulemaking cycles to continually extend the freeze; this current proceeding is its ninth such rulemaking. The Commission has never permitted the freeze to expire because allowing it to lapse would reinstate overnight obsolete rules, and would impose undue instability, disruption, and administrative burdens on affected carriers. We agree with commenters that these “repeated short-term extensions consume valuable and limited government and industry resources.” Accordingly, we find that exploring the possibility of a permanent freeze is warranted.

31. This referral to the Joint Board to consider a permanent freeze is particularly relevant in light of our referral to the Joint Board on whether the separation rules still need to be reformed. If the Joint Board decides that comprehensive reform of the separations rules is no longer necessary, and the separations rules should be allowed to become obsolete through technological transitions and regulatory reforms, then a permanent freeze appears to be prudent. Accordingly, we ask the Joint Board for a recommended

decision on whether it would be in the public interest to adopt a permanent freeze of the separations rules while it considers the future course of the separations rules and framework.

32. In addition, if the Joint Board recommends a permanent separations freeze, we ask the Joint Board to assess whether the Commission should allow carriers to unfreeze their category relationships, and if so, consider related questions—such as whether this should be a one-time opportunity or an option that is extended every few years, and whether or not these carriers should be permitted to refreeze their category relationships. We recognize that if the Joint Board recommends, and the Commission adopts, a permanent separations freeze, some carriers may have a greater need to adjust their category relationships to provide more accurate data for categorizing their investments, and we look forward to the Joint Board’s input.

IV. Procedural

33. *Paperwork Reduction Act.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

34. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

35. *Final Regulatory Flexibility Certification (FRFC).* The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” The two statutorily mandated criteria to be applied in determining the need for RFA analysis are (1) whether the adopted rules would have a significant economic effect, and (2) if so, whether the economic effect would directly affect a substantial number of small entities. In this FRFC, the Commission has determined that extending the

separations rules freeze will not have a significant economic impact on a substantial number of small entities.

36. The purpose of the current extension of the freeze is to allow the Commission and the Joint Board additional time to consider the future course of the separations rules and process in light of changes in the law, technology, and market structure of the telecommunications industry without creating the undue instability and administrative burdens that would occur were the Commission to eliminate the freeze. Implementation of the freeze extension will ease the administrative burden of regulatory compliance for LECs, including small incumbent LECs. The freeze has eliminated the need for all incumbent LECs, including incumbent LECs with 1500 employees or fewer, to complete certain annual studies formerly required by the Commission's rules. The effect of the freeze extension is to reduce a regulatory compliance burden for small incumbent LECs, by abating the aforementioned separations studies and providing these carriers with greater regulatory certainty.

37. Accordingly, based on our application of the two statutorily mandated criteria to the new extension of the freeze adopted in this Order, which essentially maintains the status quo, we certify that the rules and/or policy changes adopted in this Order will not have a significant economic impact on a substantial number of small entities.

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

39. *Contact Person.* For further information regarding this proceeding, please contact Marv Sacks, Pricing Policy Division, Wireline Competition Bureau, 45 L Street NE, Washington, DC 20554, (202) 418-2017, or marvin.sacks@fcc.gov.

40. *Effective Date.* We find good cause to make the extension of the separations freeze effective immediately upon publication of a summary of this Report and Order in the **Federal Register**. The current freeze is scheduled to expire on December 31, 2024, and making the freeze extension effective immediately upon publication is necessary to ensure that the separations freeze remains in place without interruption. Further, as the rules we adopt in this Report and

Order maintain the current status quo for all affected parties, we find that ensuring the separations freeze remains uninterrupted outweighs any benefit that might accrue from an effective date later than the date of publication in the **Federal Register**.

V. Ordering Clauses

41. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, 410, and part 36 of the Commission's rules, 47 CFR part 36, this Report and Order *is adopted*.

42. *It is further ordered* that, pursuant to the authority contained in sections 1, 4(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, 410, and Part 36 of the Commission's rules, 47 CFR part 36, *is amended*.

43. *It is further ordered* that, pursuant to the authority contained in sections 1, 4(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, 410, the amendments to 47 CFR part 36 shall be effective on the date of publication of a summary of this Report and Order in the **Federal Register**.

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

45. *It is further ordered* that the Office of the Managing Director, Performance Program Management, *shall send* a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 36

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone, Uniform System of Accounts.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Final Rules

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

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

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

Authority: 47 U.S.C. 151, 152, 154(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, 410, and 1302 unless otherwise noted.

§§ 36.3, 36.123 through 36.126, 36.141, 36.142, 36.152, 36.154 through 36.157, 36.191, 36.212, 36.214, 36.372, 36.374, 36.375, and 36.377 through 36.382 [Amended]

■ 2. In the following sections, remove the date "December 31, 2024" and add in its place the date "December 31, 2030" wherever it appears:

- a. Section 36.3(a) through (c), (d) introductory text, and (e);
- b. Section 36.123(a)(5) and (6);
- c. Section 36.124(c) and (d);
- d. Section 36.125(h) and (i);
- e. Section 36.126(b)(5) and (6), (c)(4), (e)(4), and (f)(2);
- f. Section 36.141(c);
- g. Section 36.142(c);
- h. Section 36.152(d);
- i. Section 36.154(g);
- j. Section 36.155(b);
- k. Section 36.156(c);
- l. Section 36.157(b);
- m. Section 36.191(d);
- n. Section 36.212(c);
- o. Section 36.214(a);
- p. Section 36.372;
- q. Section 36.374(b) and (d);
- r. Section 36.375(b)(4) and (5);
- s. Section 36.377(a) introductory text, (a)(1)(ix), (a)(2)(vii), (a)(3)(vii), (a)(4)(vii); (a)(5)(vii), and (a)(6)(vii);
- t. Section 36.378(b)(1);
- u. Section 36.379(b)(1) and (2);
- v. Section 36.380(d) and (e);
- w. Section 36.381(c) and (d); and
- x. Section 36.382(a).

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