The NPL is Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of North Dakota have determined that the Site, as remediated, poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: April 1, 1997.

FOR FURTHER INFORMATION CONTACT: Erna Acheson Waterman, Site Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Mail Stop 8EPR–SR, Denver, Colorado 80202–2466, (303) 312–6762.

SUPPLEMENTARY INFORMATION: The Site to be deleted from the NPL is: Minot Landfill Superfund Site, Ward County, North Dakota.

A Notice of Intent to Delete for this Site was published December 26, 1996 (61 FR 67975). The closing date for comments on the Notice of Intent to Delete was January 27, 1997. No comments have been received.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as a list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future. Section 300.425 (e)(3) of the NCP. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental Protection, Superfund, Hazardous waste.

Dated: March 5, 1997.

Jack W. McGraw,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the Site, ''Minot Landfill'', Minot County, North Dakota.

[FR Doc. 97–8086 Filed 3–31–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80–286; FCC 97–30]

Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On February 3, 1997, the Commission adopted a Report and Order (''Order'') adopting a recommended decision by the Federal-State Joint Board regarding permanent rules to govern the procedures that incumbent local exchange carriers (ILECs) use for allocating Other Billing and Collecting (OB&C) expenses between the intrastate and interstate jurisdictions. Specifically, the Joint Board recommended that OB&C expenses be divided equally among three services: Interstate toll; intrastate toll; and local exchange, with two thirds of the OB&C expenses thus allocated to the state jurisdiction, and one third allocated to the interstate jurisdiction. In cases in which an ILEC provides no interstate billing and collecting for an interexchange carrier (IXC), the Joint Board recommended an automatic reduction of the interstate assignment to five percent to cover the cost of billing the federal Subscriber Line Charge (SLC). The intended effect is to adopt the Joint Board's recommendations and implement new rules regarding the separations procedures applicable to OB&C expenses.

DATES: May 1, 1997.

FOR FURTHER INFORMATION CONTACT: Lynn Vermillera, Attorney/Advisor, Accounting and Audits Division, Common Carrier Bureau, (202) 418–0852.

SUPPLEMENTARY INFORMATION: In this proceeding, we establish permanent rules that satisfy our stated goals that the permanent rules (1) reflect principles of cost causation, (2) not be unnecessarily burdensome to implement and administer, (3) be simple to audit, and (4) be certain and predictable in their effect.

Regulatory Flexibility Analysis

In the *NPRM* (60 FR 30059, June 7, 1995) Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, *Notice of Proposed Rulemaking*, 10 FCC Rcd 7013 (1995)), the Commission certified that the Regulatory Flexibility Act (RFA) of 1980 did not apply to this rulemaking because the rules it proposed to adopt in this proceeding would not have a significant impact on a substantial number of small businesses. The Commission's RFA in this Report and Order (Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, *Report and Order*, CC Docket No. 80–286, FCC 97–30 (1997)) conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Public Law 104–121, 110 Stat. 847 (1996).

Need for and Objectives of the Proposed Rules

To reflect the fact that their facilities are used for both intrastate and interstate communication, ILECs must allocate their costs and expenses between the state and interstate jurisdictions. Prior to 1987, the rules for jurisdictional separation of OB&C expenses required ILECs to determine the amount of time spent billing for interstate services and for intrastate services. In 1987, the Commission adopted, at the recommendation of the Federal-State Joint Board, a new apportionment formula based on the number of users billed by each ILEC for specific interstate and intrastate services. Because the new system led to unpredictable results, and because carriers had difficulty administering the new formula (as evidenced by waiver requests), in 1988 the Commission reinstated, on an interim basis, a portion of the allocation rules that were in effect prior to 1987. In this proceeding, we are establishing permanent rules that satisfy our stated goals that the permanent rules (1) reflect principles of cost causation, (2) not be unnecessarily burdensome to implement and administer, (3) be simple to audit, and (4) be certain and predictable in their effect.

Summary of Significant Issues Raised by the Public Regarding Regulatory Flexibility

There is some concern over what might be perceived by some as a likely shift of OB&C expenses to the interstate jurisdiction, with the possible result that ILECs could either lose money on billing and collection, or lose their IXC billing and collecting contracts altogether. The argument suggested that a shift of OB&C expenses to the interstate jurisdiction might keep small ILECs from providing billing and collection services to IXCs, and convenient single-source billing to end users. In particular the Commission was urged to consider how this might affect small ILECs, and was suggested further that non-price cap companies should have the option of either using whatever fixed allocator is adopted, or user counts, or relative use among service categories. The Joint Board, however, thought and we concur, the likelihood of ILECs being unable to recover a large amount of their billing and collection expenses, or of their losing the IXCs' billing and collection business altogether, had been greatly exaggerated. The Joint Board therefore recommended that we not adopt the suggestion that non-price cap companies be allowed to choose among several methodologies in allocating their OB&C expenses. The Joint Board also stated that, under its recommended procedures, ILECs that lose their IXC OB&C customers (or that never handled billing and collecting for IXCs) need only allocate five percent of OB&C expenses to the interstate jurisdiction to cover the cost of billing the federal SLC.

The Joint Board's recommendation included the preference for waivers of the fixed allocation for OB&C expenses over an automatic adjustment mechanism expressed by some of the state Commissioners. It was argued that waivers were preferable to a specific alternative procedure, because the waiver process would be flexible and sensitive to individual circumstances. If, contrary to the Joint Board's expectation, a pattern of waiver requests developed indicating that non-price cap ILECs might need other separations rules for allocation of OB&C expenses, the Joint Board suggested the Commission refer that issue, and the record accumulated through the waiver process, to it for consideration.

We concur with the Joint Board's reasoning. As we have said, if IXCs discontinue employing ILECs as their billing agents, other developments, such as the IXCs competing with ILECs in local service markets, will probably influence their decision much more than this change to our allocation rules. If market forces or these rules do in fact cause an ILEC to lose all IXC billing and collecting business, that carrier will allocate only five percent of its OB&C expenses to the interstate jurisdiction to cover the cost of billing the SLC. PaPUC's suggestion that small ILECs choose among three different procedures could be burdensome to administer, difficult to audit, and have uncertain and unpredictable effects, and would therefore be a disproportionate response to a speculative concern. If a pattern of waiver requests indicates that non-price cap ILECs need other rules for the allocation of OB&C expenses, the record accumulated through the waiver process could form a record for the Joint Board's consideration. We believe, however, that the new rules will not cause significant IXC abandonment of their billing relationship with ILECs, but rather will simplify the needlessly complex procedures currently in use, and thus reduce the burden on carriers.

Description and Estimates of the Number of Small Entities to Which Rules Will Apply

For the purposes of this Order, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have fewer than 1,500 employees. We first discuss generally the total number of small telephone companies falling within both of those SIC categories. Then, we discuss the number of small businesses within the two subcategories, and attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

We have found incumbent LECs to be ''dominant in their field of operation'' since the early 1980's, and we consistently have certified under the RFA that incumbent LECs are not subject to regulatory flexibility analyses because they are not small businesses. We have made similar determinations in other areas. We recognize SBA's special role and expertise with regard to the RFA, and intend to continue to consult with SBA outside the context of this proceeding to ensure that the Commission is fully implementing the RFA. Although we are not persuaded on the basis of this record that our prior practice has been incorrect, we will, nevertheless, include small incumbent LECs in this FRFA to remove any possible issue of RFA compliance.

Total Number of Telephone Companies Affected

Many of the decisions and rules adopted herein may have a significant effect on a substantial number of the small telephone companies identified by SBA. The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by this Order.

Local Exchange Carriers

Neither the Commission nor SBA has developed a definition of small providers of local exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

Interexchange Carriers

Neither the Commission nor SBA has developed a definition of small entities specifically applicable to IXCs (SIC 4813). The closest applicable definition is for telephone carriers other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that we collect annually in connection with TRS. According to our most recent data, 97 companies reported that they were engaged in the provision of interexchange service. Although it seems certain that some of these carriers are not independently owned and operated, or have fewer than 1500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Tentatively, we conclude that there are fewer than 97 small IXCs that may be affected by the permanent OB&C separations rules.

Description of Projected Reporting, Record Keeping and Other Compliance Requirements of the Rules

The Commission's Part 36 rules apply to all incumbent local exchange carriers. This order reduces current reporting, record keeping or other compliance requirements, because carriers, including small ILECs, will no longer be required to segregate expenses assigned to the OB&C classification on the basis of the number of users of various services. We anticipate that carriers, including small ILECs, will need to devote less staff time to comply with these permanent rules than was needed to comply with the interim rules. No new skills are required to comply with these rules.

Steps Taken to Minimize Impact on Small Entities Consistent With Stated Objectives

The Joint Board recommended a fixed-factor plan that was consistent with our stated objectives that the permanent rules be easy to implement and administer, simple to audit, and certain and predictable in their effect. As we explain in paragraph 22 above, the Joint Board recommended that we not adopt the PaPUC's suggestion that non-price cap companies be allowed to choose among several methodologies for allocating their OB&C expenses, because the Joint Board thought the likelihood of ILECs being unable to recover a large amount of their OB&C expenses, or of their losing their IXC OB&C customers, had been greatly exaggerated. We agree that having small ILECs choose among three different procedures would be needlessly complex to administer, difficult to audit, and unpredictable in result, and we consider such a complicated approach to be an excessive precaution against a speculative concern. We do, however, entertain waiver petitions for good cause shown,and if a pattern of waiver petitions develops that indicates, contrary to our expectation, that these rules are not satisfactory in regard to small ILECs, the waiver requests could form a basis for the Joint Board to recommend a solution tailored to any problem that is revealed. We also note that the Joint Board found greater support among commenters for waivers than for the alternative procedures we suggested in the NPRM.

Significant Alternatives Considered and Rejected

The Joint Board considered and rejected an allocation procedure based on relative-use measurements. The Joint Board reasoned that measuring use produced results no more indicative of cost causation than applying a fixed factor, and that our other goals—ease of administration, auditability, and predictable results—were best met by adopting a fixed allocation factor. The Joint Board considered the contention of some parties that a measured-use method would be more convenient because it was self-adjusting, and that changing separations procedures was itself burdensome, but was persuaded by other commenters, including all the participating state public utility commissions, that the convenience of allocating OB&C expenses by a fixed factor outweighed these considerations and best met our goals.

After determining to recommend allocation by fixed factor, the Joint Board considered all the possible factors set forth for its consideration by this Commission and by parties. The Joint Board took the approach that any plan that called for it to revise its 1987 view that there are three essential services (local exchange service, intrastate toll service, and interstate toll service) bore the burden of convincing the Joint Board of its superiority, and no plan overcame that challenge. We consider the Joint Board's approach reasonable. The Joint Board considered the argument that it should choose a factor that would result in an allocation to the interstate jurisdiction similar to that arrived at by using the interim rules, but rejected that approach because the results produced by the interim rules bear no special relation to cost causation that would justify their use as a benchmark.

Report to Congress

The Secretary shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this Final Regulatory Flexibility Analysis shall also be published in the **Federal Register**.

Summary of Report and Order

The expenses ILECs incur in preparing and rendering end user customer bills, and in accounting for revenues generated by those bills, are categorized as OB&C expenses. Most of the OB&C expenses are allocated to nonregulated activities, and, except for the cost of billing and collecting the SLC, ILECs recover them through untariffed charges.

Prior to 1987, the rules for jurisdictional separation of OB&C expenses required ILECs to measure the amount of time they spent billing for interstate services and for intrastate services. In 1987, the Federal-State Joint Board in CC Docket No. 80–286 recommended, and we adopted, an interstate apportionment formula that replaced this method with one based on counting the number of users billed by each ILEC for specific interstate and intrastate services. This formula established an upper bound of thirty-three percent and a lower bound of five percent for the interstate assessment of OB&C expenses.

Although we had expected that the new procedures would result in reduced interstate assignments, it became apparent that the new procedures would have the opposite effect, at least in some cases. In 1988, this unanticipated result, combined with the difficulty carriers had administering the new formula (as evidenced by waiver requests), led us, on reconsideration, to reinstate on an interim basis a portion of the allocation rules that were in effect prior to 1987. On May 4, 1995 we adopted a Notice of Proposed Rulemaking (*NPRM*) (60 FR 30059, June 7, 1995) in which we proposed replacing those interim rules with permanent rules for allocating OB&C expenses between the jurisdictions.

The Order adopts the Joint Board's finding that nearly all OB&C expenses are joint or common with respect to the individual services appearing on customer bills, and that there is no method of allocating these joint and common expenses that reflects cost causation better than a fixed allocator does. The Joint Board explained that a carrier's ability to attribute costs to individual services largely depends on the nature of the costs, i.e., on whether the costs are incremental, joint, or common. If a cost is incurred solely for a particular service, that cost is ''incremental'' with respect to the service. The Joint Board observed, however, that the costs of some shared facilities and operations are not incremental with respect to the individual services they support, and referred to such non-incremental costs as joint or common.

Moreover, the Order adopts the Joint Board's determination that most OB&C expenses are not incremental but rather are joint and common expenses, and as such are ill-suited to a measured-use method of allocation, because such measurements are not based on cost causation. As the Joint Board recommended, the Order adopts of a fixed allocation factor for OB&C expenses, because a fixed allocator would be easier to administer, easier to audit, and more certain and predictable in its effect than allocators based on usage measurements. Furthermore, as the Joint Board reasoned, a simple fixed allocator should be less expensive for ILECs to implement than procedures requiring time-consuming separations studies.

The Joint Board recommended that ''assignment of these [OB&C] costs should reflect the three basic services for which the ILECs render bills: local, state toll and interstate toll.'' The Joint Board also stated that it saw no justification for departing from the established industry benchmark of allocating five percent of OB&C expenses to cover the cost of billing the SLC, and explained that allocating the larger share called for in some of the plans would consume an unreasonably high percentage of the total SLC revenue. The Joint Board anticipated, however, that the five percent assignment will be used only by those ILECs that do not perform billing functions for one or more IXC.

The Joint Board acknowledged that dividing the allocation of OB&C expenses equally among interstate toll, intrastate toll, and local service may in at least some cases increase the allocation to the interstate jurisdiction, and that some commenters from the ILEC industry viewed this increased allocation to interstate as a drawback. The Joint Board did not, however, view this possible increase in the allocation to the interstate jurisdiction as a defect in its recommendation. In response to comments that the advent of competition may disrupt the traditional billing relationship between ILECs and IXCs, the Joint Board noted that the circumstances of individual ILECs are likely to vary significantly, and declined to speculate on the effect of local competition on the billing activities of ILECs. The Joint Board stated that, under its recommended procedures, ILECs that lose their IXC OB&C customers (or that never handled billing and collecting for IXCs) should allocate five percent of OB&C expenses to the interstate jurisdiction to cover the cost of billing the federal SLC.

The Joint Board expressed skepticism in regard to the concern of some ILECs that, rather than pay ILECs for any increased interstate allocation, the IXCs would stop using the ILECs as billing agents altogether. The Joint Board noted that the IXCs must bill their customers in some manner, and asserted that sharing the OB&C expense with the ILECs, rather than bearing the entire billing expense themselves, would continue to be an attractive option for cost-conscious and highly competitive IXCs. The Joint Board also discounted the concern of some ILECs that, because ILECs provide billing and collecting services to IXCs under fixed contractual arrangements, they would not be able to recover the increased allocation of OB&C expenses to interstate unless they could successfully renegotiate contracts with their IXC customers. The Joint Board observed that the ILECs are free to renegotiate their contracts with IXCs, and foresaw a one-third allocation to the interstate jurisdiction causing, at worst, a temporary decline in the profitability of some ILECs' billing operations. The Joint Board found that the likelihood of ILECs being unable to recover a large amount of their billing and collection expenses, or of their losing the IXCs' billing and collection business altogether, had been greatly exaggerated. Therefore the Joint Board recommended that we not adopt the suggestion of the Pennsylvania Public Utility Commission (PaPUC) that non-price cap companies be allowed to choose among a fixed-factor, a user-count, or a relative-use methodology in allocating their OB&C expenses. The Joint Board noted, however, that if cases occur where the effect of the allocation rules on an ILEC would be unduly harsh, the ILEC could file a petition for waiver.

In the *NPRM*, we suggested that the proposed fixed allocation methods might require an adjustment mechanism that would be triggered if IXCs substantially reduced their use of ILEC billing and collecting services. The *NPRM* suggested two possible adjustment triggers. The first would permit an adjustment, or recourse to an alternative procedure, if an ILEC lost 50 percent of its existing interstate toll billing and collecting operations. The second would use the ILEC's loss of its largest IXC customer for billing services to activate the alternative allocation procedure. Under either procedure, the Commission could adjust the fixed allocator to take into account the decrease in the ILEC's interstate toll billing and collecting operations. The Joint Board, however, found little support from commenters for the proposed automatic adjustment mechanism to a fixed-factor allocation system, and therefore recommended that we not adopt a specific automatic adjustment mechanism at this time. The Joint Board explained that if, contrary to its expectation, a pattern of waiver requests developed indicating that non-price cap ILECs appear to need other separations rules for allocation of OB&C expenses, we could refer that issue, and the record accumulated through the waiver process, to the Joint Board for consideration.

We believe that adoption of these rules will further our goal of simplifying the separations process. In its Recommended Decision, the Joint Board carefully considered the nature of OB&C expenses, explained why a fixed factor is the most sensible approach to allocating these expenses among services and between the jurisdictions, and explained its recommendation that OB&C expenses be allocated equally among local exchange service, intrastate toll service, and interstate toll service. We also adopt as our own the Joint Board's reasoning in support of its recommendations.

We agree with the Joint Board's characterization of OB&C expenses as joint and common expenses. In the NPRM, we suggested that postage costs constitute a substantial portion of OB&C costs, and that such costs are not directly attributable to any individual service, because several pages containing many itemized charges can be included in a customer's bill without increasing the postage charge. In addition, because the same group of employees perform the billing and collecting function for various services, segregation of their work by services is difficult and of doubtful usefulness. We agree, therefore, with the Joint Board that there is no method of allocating these joint and common expenses that reflects cost causation better than a fixed allocator does, and other considerations such as predictability and ease of administration strongly militate in favor of using a fixed factor. The Joint Board's recommended methodology is clear and straightforward, and will be predictable in its effect, and will also be easier to administer and to audit than the current rules. Thus the Joint Board's recommendations fully satisfy the criteria for permanent rules for allocating OB&C expenses that we set forth in the NPRM.

In the 1988 Reconsideration Order (53 FR 33010) (August 29, 1988), we said that ''[a]lthough these [OB&C] costs are fixed, only a specific and decreasing portion of the expenses in this category are related to interstate services [and] the reduction in the amount of billing and collecting the LECs perform on behalf of the [IXCs] should be reflected in reduced interstate assignments.'' We now believe that statement rested on faulty analysis. The Joint Board has correctly stated that nearly all the costs associated with OB&C are joint and common with respect to the services billed. In contrast to incrementally incurred costs, which are by nature specific, the interstate portion of these joint and common costs cannot meaningfully be described as ''specific and decreasing.'' Because the causation of joint and common costs is not attributable to individual services, no economic reason exists for concluding that a ''reduction in the amount of billing and collecting the LECs perform on behalf of IXCs should be reflected in reduced interstate assignments'' unless, of course, the service is no longer billed at all. We are further persuaded that noneconomic considerations of fairness and convenience do not, in the case of allocating OB&C expenses, call for adoption of a usage-based surrogate for measurable cost causation. The nature of OB&C expenses, which are unrelated to such possible surrogates for measurable cost causation as facilities investment or subscriber use, makes the option of allocating the costs equally among the billed services particularly attractive in this case.

Thus we also find the factor chosen by the Joint Board—one third each to local exchange service, intrastate toll service, and interstate toll service—to be reasonable. The Joint Board saw no reason to depart from the tripartite division of services into local exchange, intrastate toll, and interstate toll that it recommended in 1987, stating that, ''Neither the three alternatives proposed in the Notice nor the fixed-factor proposals made by * * * [various commenters], surpass the simplicity or clarity of the three-way division we recommended in 1987 or otherwise offer benefits that induce us to depart from that position.'' We agree that the other possible factors that we and the commenters suggested do not improve on the three-way division recommended by the Joint Board. We also agree with the Joint Board that, for ILECs that do no billing or collecting for IXCs, there is no justification for departing at this time from the established industry benchmark of five percent as an appropriate allocation to cover the costs of billing the federal SLC.

We do not find troubling the possibility that the new rules for allocating OB&C expenses may increase some ILECs' allocation to the interstate jurisdiction. We recognize that ILECs may wish to renegotiate IXC contracts that were based on the interim rules. Like the Joint Board, however, we find exaggerated the concern of some ILECs that, rather than pay a minor increase in OB&C expenses, IXCs will prefer to take on the entire cost of running a billing operation themselves. If IXCs discontinue employing ILECs as their billing agents, we think that other developments, such as the IXCs competing with ILECs in local service markets, will influence the IXCs' decisions in this regard much more than will this change to our OB&C expense allocation rules. If market forces or these rules do in fact cause an ILEC to lose all IXC billing and collecting business, that ILEC will no longer be required to allocate a third of its OB&C expenses to the interstate jurisdiction, but instead will allocate only five percent of its OB&C expenses to the interstate jurisdiction to cover the cost of billing the SLC.

We also agree with the Joint Board's rejection of PaPUC's suggestion that small ILECs choose among three different allocation procedures. We conclude that PaPUC's proposal would be burdensome to administer, difficult to audit, and could have uncertain and unpredictable effects, and would therefore be a disproportionate response to a speculative concern.

If unforeseen circumstances cause these or any of our rules to place an undue burden on specific carriers, those carriers may seek a waiver. We believe, however, for the reasons state above, that the new rules will not cause significant IXC abandonment of their billing relationship with ILECs, but rather will simplify the needlessly complex separations procedures currently in use, and will therefore reduce the administrative burden on carriers.

Ordering Clauses

Accordingly, pursuant to Sections 1, 4(i), 220, 221(c) and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 220, 221(c), and 410(c).

It is ordered That the recommendations of the Federal-State Joint Board in CC Docket No. 80–286 ARE ADOPTED.

It is further ordered That, pursuant to Sections 1, 4(i), 220, and 221(c) and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 220, and 221(c), Part 36 of the Commission's Rules and Regulations, is amended as shown below.

List of Subjects in 47 CFR Part 36

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

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 36 of Title 47 of the Code of Federal Regulations is amended as follows:

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

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

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

2. Section 36.380 is amended by revising paragraphs (b) and (c) to read as follows:

§ 36.380 Other billing and collecting expense.

* * * * *

(b) Local exchange carriers that bill or collect from end users on behalf of interexchange carriers shall allocate one third of the expenses assigned this classification to the interstate jurisdiction, and two thirds of the expenses assigned this classification to the state jurisdiction.

(c) Local exchange carriers that do not bill or collect from end users on behalf of interexchange carriers shall allocate five percent of the expenses assigned this classification to the interstate jurisdiction, and ninety-five percent of the expenses assigned this classification to the state jurisdiction.

[FR Doc. 97–8113 Filed 3–31–97; 8:45 am]

BILLING CODE 6712–01–P