(iii) Clandestine intelligence activities, including commercial espionage.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–20865 Filed 8–15–96; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 94–124; DA 96–1157]

Unlicensed Operation Above 40 GHz; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction to final rule.

SUMMARY: This Erratum contains a correction to the final rule adopted in the *First Report and Order,* which was published Tuesday, April 2, 1996, 61 FR 14500. The rule deals with unlicensed operation above 40 GHz. This correction adds an amendment to Part 15 of Title 47 of the Code of Federal Regulations that was inadvertently omitted from the Report and Order.

EFFECTIVE DATE: May 2, 1996.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Engineering and Technology, (202) 418–2455.

SUPPLEMENTARY INFORMATION:

Background

This erratum adds an amendment to Section 15.245 of the Commission's rules, 47 CFR Section 15.245, as modified in Unlicensed Operation Above 40 GHz, First Report and Order, ET Docket No. 94–124, FCC 95–499 (released December 15, 1996) 61 FR 14500, April 2, 1996, This rule which deals with unlicensed operation above 40 GHz, was published with an omission. After release of this item, the Commission noted that it had omitted the amendment to the regulations concerning the level of spurious emissions appearing above 40 GHz from unlicensed field disturbance sensors.

Need for Correction

As published, this final rule contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication on April 2, 1996, of final rules in ET Docket No. 94–124, which were the subject of FR Doc. 96–7689, is corrected as follows.

PART 15—[CORRECTED]

On page 14503, in the first column, a new amendatory instruction 5a. is added immediately preceding amendatory instruction 6. to read as follows:

5a. Section 15.245 is amended by revising paragraph (b)(1) introductory text to read as follows: § 15.245 *Operation within the bands 902–928 MHz, 2435–2465 MHz, 5785–5815 MHz, 10500–10550 MHz, and 24075–24175 MHz.*

* * * * *

(b)(1) Regardless of the limits shown in the above table, harmonic emissions in the restricted bands below 17.7 GHz, as specified in § 15.205, shall not exceed the field strength limits shown in § 15.209. Harmonic emissions in the restricted bands at and above 17.7 GHz shall not exceed the following field strength limits:

* * * * *

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–20906 Filed 8–15–96; 8:45 am]

BILLING CODE 6712–01–U

47 CFR Part 64

[CC Docket No. 96–61; FCC 96–331]

Implementation of Section 254(g) of the Communications Act of 1934, as Amended

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Pursuant to Section 254(g) of the Communications Act of 1934, which was added by Section 101(a) of the 1996 Telecommunications Act, the Commission adopts a geographic rate averaging rule ''to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas'' and a rate integration rule to require ''that a provider of interstate interexchange services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.'' These rules will ensure that subscribers in rural and high-cost areas will not be charged higher rates for interexchange services than subscribers in urban areas, and that interexchange carriers will offer services to all their service areas—whether rural, high-cost or urban—on the same terms.

EFFECTIVE DATE: September 16, 1996.

FOR FURTHER INFORMATION CONTACT: Sherille Ismail or Neil Fried, Competitive Pricing Division, Common Carrier Bureau, (202) 418–1530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted and released August 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 239), 1919 M St., N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Suite 140, 2100 M Street, N.W., Washington, D.C. 20037.

Regulatory Flexibility Analysis

The Commission promulgates the rules in the Report and Order to implement Section 254(g) of the Communication Act of 1934, as amended by the Telecommunications Act of 1996. The objective of these rules is ''to incorporate the policies of geographic rate averaging and rate integration of interexchange services in order to ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers.''

The Regulatory Flexibility Act defines ''small entity'' to include the definition of ''small business concern'' under the Small Business Act, 15 U.S.C. 632. 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). Our geographic averaging and rate integration rules will apply to all providers of interexchange service. The SBA has not developed a definition of small entities specifically applicable to providers of interexchange service. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to SBA regulations, a telephone communications company other than a radiotelephone company is a small business concern if it has fewer than 1,500 employees.

The most relevant employee data available from the SBA does not enable us to make a meaningful estimate of the number of providers of interexchange service that are small entities because it is based upon a 1992 Census of Transportation, Communications, and Utilities survey from which we can only

calculate the average number of people employed by various-sized telephone entities other than radiotelephone companies. Based on a Commission staff report entitled Long Distant Market Shares: Fourth Quarter, 1995, however, we estimate that approximately 500 carriers provide interexchange service. Some of these carriers are not independently owned and operated, or have more than 1,500 employees. Consequently, we estimate that our geographic averaging and rate integration rules will apply to less than 500 ''small entities.'' We are unable on the present record to estimate with more particularity how many of these entities would be considered small for the purposes of the Regulatory Flexibility Act.

No comments specifically addressed the Commission's initial regulatory flexibility analysis. However, a number of associations that represent, at least to some extent, the interests of small telecommunications providers, generally supported the Commission's proposed rules to implement geographic averaging and rate integration. Other commenters asserted that these rules would harm small regional providers of interexchange service in high-cost areas, arguing that such providers would be unable to compete with nationwide carriers that can charge lower rates by spreading their costs over a larger customer base. A few suggested that subsidies or other support mechanisms might alleviate their concerns. The record in this proceeding does not show that small interexchange service providers will be disproportionately harmed by implementation of rate integration. The practical impact of our rules will be to require all providers of interexchange service, including those that are small entities, to set rates on a geographically averaged and rate-integrated basis.

To comply with our Report and Order, carriers must charge rural and high-cost area customers for interexchange service no more than they charge urban customers, and must charge customers for such services in one state no more than they charge customers in any other state. The Notice of Proposed Rulemaking (NPRM), 61 FR 14717, April 3, 1996, proposed requiring providers of interexchange telecommunications services to file certifications that they were complying with these requirements in the event the Commission decides to mandate permissive detariffing of interexchange services. We will consider later in this proceeding what enforcement mechanisms may be necessary to support geographic averaging and rate integration when the Commission addresses the detariffing issue. We have proposed a requirement that AT&T, Sprint, MCI, IT&E, GTE, and PCI submit preliminary plans no later than February 1, 1997, to achieve rate integration for services provided to Guam, the Northern Marianas, American Samoa, and other offshore points, and final plans no later than June 1, 1997. The preliminary plans need not include rates, but at a minimum should resolve service and rate-band issues. Final plans shall include a rate schedule. Carriers already have in place their own individualized rate schedules, which they have presumably tailored to the areas they provide service. Consequently, carriers' staff preparing the preliminary and final plans will likely need no special skills other than general familiarity with the new rate schedules that these entities are planning, or have chosen, to adopt to comply with the rate averaging and rate integration requirements.

Section 254(g) reflects a congressional determination that the country's higher-cost, lower-volume markets should share in the technological advances and increased competition characteristic of the nation's telecommunications industry as a whole, and that interexchange rates should be provided throughout the nation on a geographically averaged and rate-integrated basis. As noted above, we have decided that the statutory objectives of Section 254(g) require us to apply our rules to all providers of interexchange service, including small ones. We have chosen, however, to allow carriers to offer private line service and temporary promotions on a deaveraged basis. In so doing, we have minimized the impact our rules might otherwise have had, and enable carriers to use such devices to enter new markets.

The Commission considered and rejected several significant alternatives. We could have reduced burdens on small carriers by exempting them from compliance through forbearance. However, we do not believe that forbearing at this time would be consistent with the congressional goals that underlie Section 254(g). We could also have reduced burdens on small carriers by establishing cost-support mechanisms. However, the present record does not justify any such cost-support mechanisms. Accordingly, we decline to adopt these alternative measures for small carriers.

Paperwork Reduction Analysis

We have decided to require AT&T, Sprint, MCI, IT&E, GTE, and PCI to submit preliminary and final plans to achieve rate integration of Guam, the Northern Marianas, and American Samoa by August 1, 1997. These one-time plan requirements constitute new ''collections of information,'' within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. The public burden for these one-time collections of information is estimated as follows:

Title	Hours per response	Annual responses	Burden per carrier
Preliminary rate integration plan	30	1	30 hrs.
Final rate integration plan	40	1	40 hrs.

Total One-Time Annual Burden: 70 hrs.×6 carriers = 420 hrs.

The foregoing estimate includes the time the carriers will need to spend: (1) Reviewing the portions of our Report & Order relevant to the one-time plan requirements; (2) reviewing their current rate schedules; (3) determining what rate adjustments they will need to make to their rate schedules to comply with our rate integration rule; (4) revising their rates in the case of the final plans; and (5) completing and reviewing the collections of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Branch, Paperwork Reduction Project, Washington, D.C. 20554 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, D.C. 20503.

Summary of Report and Order

1. On February 8, 1996, the ''Telecommunications Act of 1996'' (1996 Act), Public Law No. 104–104, 110 Stat. 56 (1996), became law. Section 101(a) of the 1996 Act adds Section 254(g) of the Communications Act of 1934. Section 254(g) provides that within six months of enactment of the 1996 Act the Commission shall adopt a geographic rate averaging rule ''to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers

in urban areas'' and a rate integration rule to require ''that a provider of interstate interexchange services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.'' In our March 25, 1996, NPRM, we proposed rules to implement Section 254(g). In our Report and Order we establish those rules.

I. Rate Averaging

A. General Rule

2. Although we have consistently endorsed a policy of geographic rate averaging, we have not formally issued a rule requiring carriers to geographically average rates. We adopt the rate averaging rule we proposed in the NPRM that ''the rates charged by all providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas.'' As required under the 1934 Act, as amended, our rule will apply to all providers of interexchange telecommunications services and to all interexchange ''telecommunications services,'' as defined in the 1934 Act. This definition does not create any exception for nonresidential services.

B. Contract Tariffs, Tariff 12 Offerings, Optional Calling Plans, Discounts, Promotions, and Private Line Services

3. Section 254(g) and our geographic rate averaging rule will require carriers to charge subscribers in rural and high-cost areas rates for telecommunications services that are no higher than rates offered to urban subscribers. The Commission's current policy as reflected in AT&T tariffs, however, has permitted AT&T to offer contract tariffs, Tariff 12 offerings, optional calling plans, and temporary promotions, subject to some limitations. Contract tariffs and Tariff 12 offerings generally involve discounts from basic rate schedules. Optional calling plans offer customers discounts from basic rate schedules, subject to terms and conditions specified in the optional calling plan. Temporary promotions involve discounts from basic rate schedules as well as limited sign-up periods for the promotional discount rates. As noted, we have also permitted AT&T to offer private line services at geographically deaveraged rates. AT&T rates for private line services vary from LATA (Local Access and Transport Area) to LATA, continuing pricing practices that AT&T has historically used in setting rates for private line services.

4. The legislative history of Section 254(g) states that Congress intended that section to ''incorporate'' our existing policy concerning geographic rate averaging, and ''that the Commission, where appropriate, could continue to authorize limited exceptions to the general geographic rate averaging policy using the [forbearance] authority provided by new section 10 of the Communications Act.'' Therefore, we will conduct a forbearance analysis to determine whether we should permit IXCs to depart from geographic rate averaging where we have permitted them to do so under current policy.

5. We do not believe that our current policy of allowing carriers to offer contract tariffs and Tariff 12 options conflicts with geographic averaging because we require that these offerings be available to similarly situated customers throughout the carrier's service area. The legislative history to Section 254(g), however, indicates that the conferees viewed contract tariffs and Tariff 12 offerings, at least to some extent, as permissible exceptions to geographic rate averaging that could be authorized through forbearance. Accordingly, our forbearance analysis will encompass contract tariffs and Tariff 12 offerings to ensure that our requirements implementing Section 254(g) are consistent with congressional intent.

6. Section 10 requires the Commission to forbear from applying any provision of the Act if we find that (1) enforcement of such provision unnecessary to ensure that practices in connection with the relevant telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of such provision is unnecessary to protect consumers; and (3) forbearance from applying such provision is consistent with the public interest. In addition, the Commission, in making its public interest determination, must ''consider whether forbearance from enforcing the provision * * * will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services.''

7. We do not believe that permitting carriers to depart from geographic rate averaging to the extent necessary to offer contract tariffs, Tariff 12 offerings, optional calling plans, temporary promotions, and private line services in accordance with our current policy will subject rural and high-cost area customers to unjust or unreasonable, or unjustly or unreasonably discriminatory, rates because: (1) We will continue to require carriers to make these services generally available under our current rules (*e.g.*, contract tariffs and Tariff 12 offerings must be available to similarly situated customers) regardless of their geographic location, and (2) the only ''geographically-specific'' discounts that carriers may offer are temporary promotions. Thus, except for temporary promotions and private line services, interexchange telecommunications service offerings will be available on the same terms throughout a carrier's service area. In addition, we do not believe based on the record that allowing geographically deaveraged private line rates will produce unjust or unreasonable or unjustly or unreasonably discriminatory rates, as it is our current practice and has not raised such concerns. Thus, we find that enforcement of the geographic rate-averaging requirement for contract tariffs, Tariff 12 offerings, optional calling plans, temporary promotions, and private line services is not necessary to ensure that charges, practices, and classifications are just and reasonable and not unjustly and unreasonably discriminatory.

8. Enforcement of the geographic rate-averaging requirement for these services is also not necessary to protect consumers because these service offerings are generally beneficial to consumers. For example, promotions, optional calling plans, and discounts facilitate introduction of new and beneficial services to consumers. Indeed, we are particularly concerned that carriers will cease to offer such service offerings, to the clear detriment of all consumers, unless carriers are permitted to offer them for a limited time on a narrower scale than throughout their entire service areas. We believe that the limited scope and nature of promotions offered on a geographically specific basis will protect consumers and that, to the extent that these service offerings promote new services, consumers will benefit, including rural customers. We also believe that it is not necessary to apply geographic averaging to private line services, contract tariffs, and Tariff 12 offerings to protect residential consumers because these services are normally provided to businesses. Business consumers benefit from these services because in many cases the services are provided at discounted rates. Thus, we conclude that enforcement of the geographic rate-averaging requirement for contract tariffs, Tariff 12 options, optional calling plans, temporary promotions, and

private line services is not necessary to protect consumers.

9. Finally, we believe that forbearance from applying the geographic rate averaging requirement to the extent permitted under our rules is consistent with the public interest. We come to this conclusion because we believe that allowing deaveraged rates, such as for temporary promotions, will ultimately benefit consumers by encouraging widespread offerings of new services. Moreover, it has been our practice to allow these exceptions to our existing policy, and we have no reason to believe this current practice is contrary to the public interest. In addition, excepting these specific types of service offerings from the geographic rate averaging requirement will continue to stimulate competition for customers among interexchange carriers. Limited departures from geographic rate averaging, such as for private line services and temporary promotions available only in some areas, are often designed to spur, or respond to, competition. For example, interexchange carriers often offer promotional discounts as a response to competition within the interexchange market. For these reasons, we conclude that limited forbearance from applying the geographic rate averaging requirement to contract tariffs, Tariff 12 offerings, temporary promotions, and private line services is consistent with the public interest.

10. Accordingly, we forbear from applying Section 254(g), consistent with the intent of Congress, to the extent necessary to permit carriers to depart from geographic rate averaging to offer contract tariffs, Tariff 12 offerings, optional calling plans, temporary promotions, and private line services in accordance with our policy as previously applied to AT&T. As with current policy, we will require carriers to offer the same basic service package to all customers in their service areas, and permit carriers to offer contract tariffs, Tariff 12 offerings, and optional calling plans provided they are available to all similarly situated customers, regardless of their geographic location. We will permit carriers to offer promotions that may be ''geographically limited,'' provided that the promotions are temporary, as discussed further below.

11. These requirements are fully consistent with the Commission's past practices. Contrary to the claims of some IXCs, we have not in the past exempted from our geographic rate averaging policy entire groups of services, such as contract tariffs, negotiated arrangements, or optional calling plans, where carriers offer discounted rates on a permanent or long-term basis. The record is clear, in fact, that we have required optional calling plans to be generally available throughout a carrier's service area and prohibited geographic restrictions in contract tariffs because a service package that is available to only one customer ''unreasonably discriminates among similarly situated customers,'' and is therefore unlawful. The only type of geographic restriction in a contract tariff that we have permitted is one that is necessary because of technical limitations imposed by a LEC's switching equipment or billing capabilities, or where the underlying basic service is limited.

12. As stated, we believe that temporary promotions benefit consumers because they facilitate the introduction of new services. We have permitted temporary promotions in the past for these reasons, and believe that Congress intended us to continue to do so. We conclude, however, that ''temporary'' promotions should, in fact, be temporary and not the basis for repeated offerings by carriers. Before AT&T was found nondominant for purposes of interexchange service, we proposed to keep promotional rates outside of price caps as long as they were offered for no longer than 90 days. Further, we find that a 90-day period in which customers may receive discounted rates as part of a promotion is sufficient time for a targeted promotional offering to attract interest in new or revised services, but not so long as to undermine our geographic rate averaging requirement. Accordingly, even though AT&T has tariffed longer promotions in the past, we believe this length of time for temporary promotions not available throughout a carrier's service area best implements the statutory mandate for geographic averaging. Further, rather than specifying a range of permissible combinations of sign-up and discount periods, we believe that specifying a single time period for promotional discounts will facilitate administration of Section 254(g) and our implementing rules.

13. We will therefore permit carriers, as part of temporary promotions not available throughout a carrier's service area, to offer discounted promotional rates for no more than 90 days. We will not at this time establish limits on the duration of sign-up periods for promotions, but we expect them to be relatively brief. We can review at a later time specific carriers' practices in this regard if necessary. We also expect that carriers' temporary promotions will not, when viewed over a number of years, reflect a pattern of undue discrimination against rural or high-cost areas. Thus, we expect that, viewed over time, temporary promotions will be offered in rural and high-cost areas, as well as to urban customers. We find it unnecessary to adopt advertising requirements concerning discounts and promotions. We believe that consumers will be protected as long as long-term discounts and promotions are available to all similarly situated customers throughout a carrier's service area.

C. Forbearance in Competitive Conditions

14. We are not persuaded that we should establish an exception to our general rate averaging rule based on the existence of competing regional carriers that may be able to offer lower rates for interexchange services because of lower access charges or other costs. To establish such an exception we would need to forbear under Section 10 of the 1934 Act. As noted previously, we must forbear from applying any provision of the 1934 Act, as amended, when (1) enforcement of that provision is unnecessary to ensure that the relevant charges and practices are just and reasonable and not unjustly or unreasonably discriminatory; (2) enforcement of that provision is unnecessary to protect consumers; and (3) forbearance from applying the provision is consistent with the public interest.

15. Commenters have failed to justify this exception under Section 10 because they have based their claims entirely on generalized assertions of the alleged need for a competitive exception to geographic averaging requirements. With respect to the first prong of the forbearance test, we believe that establishing a broad exception to Section 254(g) for low-cost regions entails a substantial risk that many subscribers in rural and high cost areas may be charged more than subscribers in other areas. Accordingly, we cannot conclude that enforcing our rate averaging requirements is unnecessary to ensure just and reasonable and nondiscriminatory charges for subscribers. We also see no basis in the record to conclude that it is unnecessary to enforce Section 254(g) to ensure protection of consumers. We are concerned that widespread deaveraged rates for interexchange services could produce unreasonably high rates for some subscribers. Further, commenters have not made a persuasive case that our geographic rate averaging requirement may compel them to abandon service in some areas. Finally,

we believe that, as part of our initial implementation of Section 254(g), it is not in the public interest to create the broad exception urged by commenters. Accordingly, we conclude that commenters have not justified forbearance to create a competitive exception to geographic rate averaging. We also will not forbear from enforcing our rate averaging policy against nondominant carriers. We note that Congress knew at the time the 1996 Act was passed that all IXCs were nondominant and we find that Congress would not have required us to adopt rules to implement geographic rate averaging if it had intended us to abandon this policy with respect to all IXCs so soon after enactment.

16. We are also not persuaded that we should forbear for smaller carriers serving high-cost areas on the grounds that they might have difficulty competing against nationwide carriers. These carriers have provided only conclusory allegations of harm and have not shown that they will be unable to compete with larger carriers in a rate-averaged environment, much less that they have satisfied all three of the requirements set forth in Section 10 for exercise of our forbearance authority. Thus, these carriers, like the nationwide carriers, have failed to justify forbearance on this record.

17. We also reject AT&T's suggestion that we delay implementing Section 254(g) until access charges are lower and more cost based. We believe that Congress was fully aware of geographic differences in access charges when it adopted Section 254(g), and intended us to require geographic rate averaging even under these conditions. Moreover, nothing in the text or legislative history of Section 254(g) suggests that the Congress intended to delay implementation of the geographic rate averaging requirement.

II. State Authority

18. We conclude that Congress intended the states to play an active role in enforcing Section 254(g) with respect to intrastate geographic rate averaging. The Senate Report states that ''States shall continue to be responsible for enforcing [intrastate geographic rate averaging], so long as the State rules are not inconsistent with'' the regulations the Commission adopts. We believe that intrastate rate structures that are based on reasonable mileage bands will meet this requirement because that is the method traditionally used by carriers to offer geographically averaged rates. We will not, however, permit states to establish special rate zones within states absent forbearance by the Commission because we believe that would result in geographically deaveraged rates in violation of Section 254(g). Section 254(g) requires that rates be no higher in any rural or high-cost area than they are in any urban area. To the extent that AT&T proposes to associate some, but not all, rural areas with certain urban areas, we presume that some rural areas will experience higher rates than some urban areas, in violation of the statute.

III. Rate Integration

A. General Rule

19. Section 254(g) also requires the Commission to promulgate a rate integration rule requiring that ''a provider of interstate interexchange services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.'' The Commission has a well-established policy of rate integration. Since 1972, the Commission has required any carrier that provides domestic interstate interexchange service between the contiguous forty-eight states and various offshore points to integrate its rates pursuant to a plan to integrate the carrier's rates and services for offshore points with its rates for similar services on the mainland. In 1976, the Commission required carriers that offered message toll, private line, and specialized services to or from Alaska, Hawaii, Puerto Rico, and the Virgin Islands to integrate their rates for those services into the rate structures and uniform mileage rate patterns applicable to the mainland. This policy required IXCs to lower their rates in the newly integrated areas to levels comparable to those prevailing in the mainland for interexchange calls of similar distance, duration, and time of day. To implement the statutory requirements of Section 254(g), we will adopt the rate integration rule we proposed in the NPRM that ''a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.'' As with geographic rate averaging, this rule will incorporate our existing policies. This rule will apply to all domestic interstate interexchange telecommunications services as defined in the 1996 Act, and all providers of such services. As with our geographic rate averaging policy, carriers may comply with this rule by establishing reasonable mileage bands for calls.

20. We are not persuaded that we must forbear from requiring carriers to comply with rate integration, either generally or in competitive conditions, for the same reasons discussed with respect to geographic rate averaging. Our rate integration policy has integrated offshore points into the domestic interstate interexchange rate structure so that the benefits of growing competition for interstate interexchange telecommunications services, as well as regulatory and other developments concerning interstate services, are available throughout our nation. Furthermore, absent forbearance, the statute requires us to incorporate our 1976 Integration of Rates and Services Order requiring geographic rate integration.

21. We are also not persuaded that we should forbear from applying rate integration to smaller carriers serving high-cost areas on the grounds that they might have difficulty competing against nationwide carriers. These carriers have provided only conclusory allegations of harm and have not shown that they will be unable to compete with larger carriers in a rate-integrated environment, much less that they have satisfied all three of the requirements for exercise of our forbearance authority. Thus, these carriers have failed to make a showing on this record justifying forbearance.

22. We believe that AMSC, despite its arguments to the contrary, is required by the plain terms of the 1996 Act to integrate the rates charged for its offshore service into the rate structure for its mainland rates. Further, as with rate averaging, we interpret Section 254(g) to extend to all providers of interexchange service the rate integration policy that previously was applied only to AT&T. AMSC's services would appear to fall within the definition of interstate interexchange telecommunications services subject to Section 254(g). A Bureau decision referred to by AMSC permitted an AMSC tariff to take effect without any finding of lawfulness; it did not establish any policy of excluding AMSC services from rate integration. Accordingly, we reject AMSC's arguments on this issue.

B. U.S. Territories and Possessions

23. In the NPRM, we noted that ''State'' is defined in the Communications Act to include U.S. territories and possessions. Thus, in making the Section 254(g) rate integration provision applicable to interstate interexchange services provided between ''states,'' as defined in the Communications Act, 47 U.S.C. 153(40), Congress made rate integration applicable to interexchange services provided to all U.S. possessions and

territories, including Guam, the Northern Marianas, and American Samoa. Further, rate integration applies to all interstate interexchange telecommunications services as defined in the Communications Act, 47 U.S.C. 153(22), 153(46). Accordingly, under our rate integration rule implementing 254(g), providers of interexchange service to these points must do so on an integrated basis with services they provide to other states.

24. We believe that the resolutions the Guam/Northern Marianas Working Group adopted July 9, 1996, regarding rate integration for Guam and the Northern Marianas provide a reasonable framework to guide carriers towards implementing rate integration. Thus, a carrier should establish rates for services provided to Guam and the Northern Marianas consistent with the rate methodology it employs for services it provides to other states. Similarly, to the extent that a provider of interexchange service offers optional calling plans, contract tariffs, discounts, promotions, and private line services to its subscribers on the mainland, it should use the same ratemaking methodology and rate structure when offering those services to its subscribers in Guam or the Northern Marianas.

25. We also agree with the Working Group that cost support and universal service issues should be addressed in the first instance by the Universal Service Joint Board. Guam has specifically raised these issues in CC Docket No. 96–45. Accordingly, we will address those issues in the context of any Joint Board recommendation. For purposes of our decision, however, we do not view establishment of cost-support mechanisms as a precondition of rate integration. Nor have they been justified on the present record. Thus, we reject requests that we establish, or further consider, any cost-support mechanisms in this docket.

26. The Working Group resolutions urge that rate integration for services provided to Guam and the Northern Marianas should take place concurrently with, or shortly after, the inclusion of Guam and the Northern Marianas into the North American Numbering Plan, the implementation of Feature Group D service, and the Guam Telephone Authority's (GTA's) revision to its access charge structure. All three events are expected to occur by July 1, 1997. We do not view these developments as preconditions for rate integration of services provided to these points. Rather, the statute requires rate integration regardless of whether these developments occur. However, we believe that these developments will facilitate rate integration. Inclusion of Guam and the Northern Marianas in the North American Numbering Plan (NANP) will help carriers integrate them into their nationwide service plans. Implementation of Feature Group D will provide subscribers with high-quality equal access to providers of interexchange service serving Guam. Revision of access charges by GTA will help providers of interexchange service set final rate schedules for service to and from Guam. Accordingly, we require providers of interexchange service to integrate services offered to subscribers in Guam and the Northern Marianas with services offered in other states no later than August 1, 1997.

27. We additionally require that carriers submit preliminary plans to achieve rate integration no later than February 1, 1997, and final plans no later than June 1, 1997. These plans will permit the Commission to review progress toward achieving rate integration, as required by the 1996 Act. The preliminary plans need not include rates, but at a minimum should resolve service and rate-band issues. Final plans shall include a rate schedule. Carriers may integrate these points by expanding mileage bands, adding mileage bands, offering postalized rates, or other means that achieve rate integration. We also require that any rate changes between the adoption date of this Report and Order and August 1, 1997, must be consistent with achieving rate integration by August 1, 1997. We also believe that it would facilitate resolution of any further regulatory issues concerning rate integration for these points if the Common Carrier Bureau addresses them in the first instance. Accordingly, we will delegate to the Chief, Common Carrier Bureau, authority to resolve any issues concerning carriers' plans for rate integration for these offshore points.

28. We reject GTE's view that Section 254(g) does not require its Micronesian Telecommunications Corp. subsidiary to integrate rates with other GTE affiliates. The statute mandates that the Commission require rate integration among all states, territories, and possessions, and this goal is best achieved by interpreting ''provider'' to include parent companies that, through affiliates, provide service in more than one state. Moreover, nothing in the record supports a finding that Congress intended to allow providers of interexchange service to avoid rate integration by establishing or using their existing subsidiaries to provide service in limited areas. Thus, we determine that GTE, for the purposes of Section 254(g), constitutes a ''provider'' of interexchange services within the meaning of that section, and that it must integrate rates across affiliates. Accordingly, we require GTE to comply with the same timetable and requirements as the other carriers serving the Northern Marianas and Guam.

29. We reject the contentions of PCI and IT&E that they are not subject to the rate-integration obligation. As noted, Section 254 applies to all providers of interexchange service. Therefore, PCI & IT&E must provide Guam and the Northern Marianas service on a rate-integrated basis. Based on the present record, however, there is insufficient evidence to evaluate whether PCI's and IT&E's rates for service originating in Guam and the Northern Marianas comply with Section 254(g). Consequently, we will also require PCI and IT&E to abide by the same timetable and requirements as the other carriers serving the Northern Marianas and Guam. They may demonstrate with more particularity that their current rates comply with rate integration when they submit their plans.

30. Although carriers serving American Samoa are required to provide service on a rate-integrated basis, American Samoa has stated that it believes that rates for services provided to American Samoa are already rate integrated. Nevertheless, we will also direct providers of interexchange service serving American Samoa to submit plans for American Samoa in order to ensure that they will comply with the statute. To the extent services are provided to other U.S. possessions and territories by carriers subject to Section 254(g), the record does not reflect what carriers serve some of these points, such as Wake Island and Midway Island, or whether service is provided in special ways, such as in cooperation with military authorities, that might affect provision of service on a rate-integrated basis to these points. Accordingly, we are directing the Common Carrier Bureau to investigate service arrangements for these points and to take such steps as are necessary to assure compliance with Section 254(g) by August 1, 1997.

31. We also believe that AT&T's concerns about termination of foreign traffic in Guam, the Northern Marianas, and American Samoa do not justify delaying rate integration. Our decision to extend rate integration to Guam is intended to benefit U.S. consumers. We do not by this decision, however, affect the classification or treatment of the underlying costs of facilities between these offshore points and other U.S.

points for purposes of interconnection arrangements with foreign carriers.

32. Our requirement that carriers implement rate integration by August 1, 1997, complies with Section 254(g). That section requires us to adopt rules requiring rate integration for Guam, the Northern Marianas and American Samoa by August 8, 1996. We do not read this provision as mandating rate integration for all points by that date. Instead, we interpret the statute to permit a reasonable transition period for the offshore points to which our rate integration policy is being applied for the first time.

IV. AT&T's Commitments

33. The rules we adopt in this proceeding will require AT&T to provide interexchange service at geographically averaged and integrated rates. We believe these requirements incorporate the Commission's existing rate averaging and rate integration policies and, thus, should supersede the commitments AT&T made in the AT&T Reclassification proceeding concerning rate averaging and rate integration. Accordingly, we release AT&T from its commitments to continue to comply with the Commission's orders regarding rate integration and to file any tariff containing a geographically deaveraged rate on five business days' notice. We do not release AT&T from its more specific commitments concerning Hawaii and Alaska. AT&T is still affirmatively bound by the rules we establish in this Report and Order, and by our prior opinions, rules, and orders on geographic rate averaging and rate integration, which the rules incorporate.

Ordering Clauses

Accordingly, it is ordered That pursuant to authority contained in sections 1, 4(i), 10, 201–205, 214(e), 215 and 254(g) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 160, 201–205, 214(e) and 254(g), Part 64 of the Commission's rules are amended as set forth below.

It is further ordered That the policies, rules and requirements set forth herein are adopted.

It is further ordered That the policies, rules and requirements adopted herein shall be effective September 16, 1996.

It is further ordered That with respect to interexchange services provided between any U.S. state, territory or, possession and Guam, the Northern Marianas, or American Samoa, AT&T, GTE, MCI, Sprint, PCI, and IT&E shall: (1) Submit to the Commission no later than February 1, 1997, preliminary plans to achieve rate integration by August 1, 1997, with respect to those points; and (2) submit to the Commission no later than June 1, 1997, final plans to achieve rate integration by August 1, 1997, with respect to those points.

It is further ordered That AT&T is released from the commitments it made in the AT&T Reclassification proceeding concerning rate averaging and rate integration, as described herein.

It is further ordered That the Chief, Common Carrier Bureau, is delegated authority to resolve any regulatory issues concerning implementation of rate integration for offshore points consistent with this Report and Order. The Common Carrier Bureau is directed to investigate service arrangements for offshore points and to take such steps as are necessary to ensure compliance with Section 254(g), by August 1, 1997, for such offshore points.

List of Subjects in 47 CFR Part 64

Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. Subpart R is added to Part 64 to read as follows:

Subpart R—Geographic Rate Averaging and Rate Integration

§ 64.1801 Geographic rate averaging and rate integration.

Authority: 47 U.S.C. §§ 151, 154(i), 201–205, 214(e), 215 and 254(g).

Subpart R—Geographic Rate Averaging and Rate Integration

§ 64.1801 Geographic rate averaging and rate integration.

(a) The rates charged by providers of interexchange telecommunications services to subscribers in rural and high-cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas.

(b) A provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each U.S. state at rates no higher than the rates charged to its subscribers in any other state.

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