

or lease burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's decision includes no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program, except in certain cases where a "Federal intergovernmental mandate" affects an annual Federal entitlement program of \$500 million or more which are not applicable here. Arizona's request for approval of its biosolids management program is voluntary and imposes no Federal mandate within the meaning of the Act. Rather, by having its biosolids management program approved, the State will gain the authority to implement the program within its jurisdiction, in lieu of EPA, thereby eliminating duplicative State and Federal requirements. If a State chooses not to seek authorization for administration of a biosolids management program, regulation is left to EPA. EPA's approval of state programs generally may reduce compliance costs for the private sector, since the State, by virtue of the approval, may now administer the program in lieu of EPA and exercise primary enforcement. Hence, owners and operators of biosolids management facilities or businesses generally no longer face dual Federal and State compliance requirements, thereby reducing overall compliance costs. Thus, today's decision is not subject to the requirements of sections 202 and 205 of the UMRA. The Agency recognizes that small governments may own and/or operate biosolids management facilities that will become subject to the requirements of an approved State biosolids management program. However, small governments that own and/or operate biosolids management facilities are already subject to the requirements in 40 CFR

parts 123 and 503 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once EPA authorizes a State to administer its own biosolids management program and any revisions to that program, these same small governments will be able to own and operate their biosolids management facilities or businesses under the approved State program, in lieu of the Federal program. Therefore, EPA has determined that this document contains no regulatory requirements that might significantly or uniquely affect small governments.

Dated: November 10, 2003.

**Alexis Strauss,**

*Acting Regional Administrator, Region 9.*

[FR Doc. 03-29177 Filed 11-20-03; 8:45 am]

**BILLING CODE 6560-50-P**

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 53**

**[WC Docket No. 03-228; FCC 03-272]**

#### **Section 272(b)(1)'s "Operate Independently" Requirement for Section 272 Affiliates**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document initiates an inquiry regarding the Commission's rules implementing section 272(b)(1) of the Communications Act of 1934, as amended, (the Act) seeking comment on whether the Commission should modify the rules adopted to implement section 272(b)(1)'s "operate independently" requirement. Specifically, the Commission seeks comment on whether the operating, installation, and maintenance (OI&M) sharing prohibition is an overbroad means of preventing cost misallocation or discrimination by Bell operating companies (BOCs) against unaffiliated rivals. It also seeks comment on whether the prohibition against joint ownership by BOCs and their section 272 affiliates of switching and transmission facilities, or the land and buildings on which such facilities are located, should be modified or eliminated.

**DATES:** Comments are due December 8, 2003, and Reply Comments are due December 16, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Christi Shewman, Attorney-Advisor, Wireline Competition Bureau, at (202) 418-1686 or via the Internet at [christi.shewman@fcc.gov](mailto:christi.shewman@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 03-228, FCC 03-272, adopted November 3, 2003, and released November 4, 2003. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). It is also available on the Commission's Web site at <http://www.fcc.gov>.

#### **Synopsis of the Notice of Proposed Rulemaking (NPRM)**

1. In this proceeding, the Commission seeks comment on whether the Commission should modify or eliminate its rules implementing the "operate independently" requirement of section 272(b)(1) of the Act. The Commission's seven years of experience in implementing the Telecommunications Act of 1996 leads it to re-examine the rules designed to ensure that section 272 affiliates "operate independently" as required by the statute. The Commission seeks to determine whether these rules continue to strike an appropriate balance between allowing the BOCs to achieve efficiencies within their corporate structures and protecting ratepayers against improper cost allocation and competitors against discrimination.

2. *Background.* Sections 271 and 272 establish a comprehensive framework governing BOC provision of "interLATA service." Pursuant to section 271, neither a BOC nor a BOC affiliate may provide in-region, interLATA service prior to receiving section 271(d) authorization from the Commission. Section 272 requires BOCs, once authorized to provide in-region, interLATA services in a state under section 271, to provide those services through a separate affiliate until the section 272 separate affiliate requirement sunsets for that particular state. Section 272 imposes structural and transactional requirements on section 272 separate affiliates, including the requirement under section 272(b)(1) to "operate independently" from the BOC.

3. In the *Non-Accounting Safeguards Order*, (62 FR 2927, January 21, 1997), the Commission concluded that the "operate independently" language of section 272(b)(1) imposes requirements