8. Section 1.1166 paragraph (a) is revised to read as follows:

§ 1.1166 Waivers, reductions and deferrals of regulatory fees.

* * * * *

(a) Requests for waivers, reductions or deferrals will be acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission.

(1) If the request for waiver, reduction or deferral is accompanied by a fee payment, the request must be submitted to the Commission's lockbox bank at the address for the appropriate service set forth in §§ 1.1152 through 1.1156 of this subpart.

(2) If no fee payment is submitted, the request should be filed with the Commission's Secretary.

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[FR Doc. 01–17114 Filed 7–10–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 53

[CC Docket No. 96–149; FCC 01–140]

Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document summarized the Remand Order reaffirming the Commission's conclusion in the Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended (Non-Accounting Safeguards Order published January 21, 1997 at 62 FR 2927), that the term ''interLATA service'' used in section 271 encompasses interLATA information services as well as interLATA telecommunications services.

DATES: Effective July 11, 2001.

FOR FURTHER INFORMATION CONTACT: Brent Olson, Deputy Chief, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Remand, CC Docket No. 96–149, FCC 01–140, adopted April 23, 2001 and released April 27, 2001. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC.

Synopsis

1. Section 271 of the Communications Act of 1934, as amended (Communications Act or Act), states that neither a Bell operating company (BOC) nor its affiliate may provide ''interLATA services'' except as set forth in that section. In the Non-Accounting Safeguards Order, the Commission concluded that the term ''interLATA services'' as used in section 271 encompasses interLATA telecommunications services and interLATA information services. Following the Commission's reconsideration of other aspects of the Non-Accounting Safeguards Order, the Bell Atlantic telephone companies (now known as the Verizon telephone companies) and US WEST, Inc. (now known as Qwest Communications International Inc.) (collectively, Petitioners) petitioned for judicial review of the Commission's determination that interLATA information services fall within the scope of interLATA services. Because the arguments advanced by the Petitioners in their appellate brief had not been raised in the administrative proceeding, the Commission moved for a voluntary remand to consider further the issues raised by the Petitioners. The D.C. Circuit granted the Commission's motion.

2. In this Order on Remand, the Commission examines the scope of the term ''interLATA services'' and reaffirms the Commission's conclusion in the Non-Accounting Safeguards Order that the term ''interLATA services'' as used in section 271 encompasses interLATA information services as well as interLATA telecommunications services. As summarized, the Commission finds that conclusion the most reasonable given the statutory language, structure, and history. The Commission also finds that its 1998 Universal Service Report to Congress is not inconsistent with this conclusion. A BOC therefore may provide interLATA information services only in accordance with the provisions of section 271.

3. Our conclusion reaffirms the longstanding view of the federal courts and this Commission that limitations on BOC provision of interLATA extend to interLATA information services. The D.C. Circuit examined precisely this question within the contours of the MFJ and explicitly rejected claims by some BOCs that information service cannot also constitute the provision of interLATA telecommunications in the context of the MFJ's interLATA prohibition. The Commission also reached this same conclusion in the Non-Accounting Safeguards Order, finding that an information service that contains a bundled interLATA telecommunications component includes ''telecommunications'' between points located in different LATAs, and thereby satisfies the statutory definition of an ''interLATA service.''

4. Even though, under the Communications Act of 1934, as amended, the terms ''information service'' and ''telecommunications service'' are mutually exclusive, each is a subset of the broader term ''interLATA services'' insofar as each type of service involves telecommunications that cross LATA boundaries. Indeed, this matter apparently was so clear in 1996 that the BOCs themselves urged the same construction of the statutory language. In a reversal of their prior position, the Petitioners claimed that the statutory language ''clearly'' requires precisely the opposite of what they previously asserted was the ''clear'' meaning. We reject their latest position as contrary to the Act's text, structure, history, and purpose.

I. Statutory Language

5. Whether section 271's restriction on the BOC's provision of interLATA services includes interLATA information services depends on the statutory language.

A. Is the InterLATA Restriction in Section 271(a) Governed by a Plain Meaning Interpretation?

6. The BOCs contend that a straightforward reading of the Act's definitions shows that a BOC that provides an information service via telecommunications cannot also be deemed to be providing an ''interLATA,'' which is defined as a form of telecommunications. We conclude that the relevant statutory definitions, either separately or in combination, do not clearly indicate whether ''interLATA services'' in section 271 includes or excludes information services. Rather, we find that including interLATA information

services within the scope of ''interLATA services'' in section 271 is the interpretation that most reasonably fits with the statutory language.

B. Do InterLATA Services as Used in Section 271(a) Encompass Only Separate Offerings of Telecommunications?

7. In the BOCs' view, the ''telecommunications'' referenced in the definition of ''interLATA service'' must comprise a separate offering to the customer and cannot be an input in the offering of an information or other service. Such an interpretation, however, is not supported in the statute because ''interLATA service'' does not require that the telecommunications aspect of such a service be provided directly to end-users rather than as a component in an unbundled offering. It suffices under the broad ''interLATA services'' definition that the information service is conveyed via telecommunications that is interLATA in nature.

C. What Impact Does the Commission's Previous Interpretation of the Term ''Provide,'' as Used in Section 271(a), Have on the Scope of the Term ''InterLATA Services?''

8. The term ''provide'' in section 271 must be construed in the context of the unique terms, structure, history, and purposes of that section. Use of the term ''provide'' in section 271(a) therefore must be considered in light of that section's dual purposes of preventing the BOCs from using bottleneck local facilities to discriminate in favor of their owned or leased interLATA facilities and giving the BOCs maximum incentive to open their local markets to competition. Thus, section 271's use of ''provide'' should be read to apply to information services that include interLATA transmission components.

II. Statutory Structure

9. Our conclusion that interLATA services encompass information services permits a uniform application of the terms and structure of sections 271 and 272. Section 271(g) explicitly exempts some information services from the interLATA services restriction in section 271(a). By exempting these services, the statute presupposes that ''incidental interLATA services'' are a subset of the broader category of interLATA services to which the restriction applies. If information services identified in section 271(g), when conveyed via interLATA telecommunications, were not also ''interLATA services,'' it would have been unnecessary for Congress to exempt them from section 271(a)'s restriction.

10. The BOC's claim that Congress enacted certain provisions of section 271(g) as mere ''extra, unnecessary assurance'' that certain specified information services were not intended to be included within section 271(a)'s interLATA service restriction even though, under the BOC's rationale, such services should already be excluded from the section 271(a) restriction, under the plain meaning of section 271(a). This argument is flawed in multiple respects. First, it fails to interpret the statutory language in a manner that gives meaning to each word. Moreover, the BOC's argument conflicts with section 271(h), which states that the exceptions in section 271(g) are to be narrowly construed. Finally, the BOC's position would cause tension between section 271 and certain provisions of section 272, which requires the BOCs to provide both interLATA telecommunications services and interLATA information services through a separate affiliate.

III. Statutory Purpose and History

11. Allowing the BOCs immediately to provide information services across LATA boundaries would reduce the BOC's incentive to comply with the Section 271 market-opening requirements. We find no evidence that Congress intended to blunt the effectiveness of this incentive by excluding BOC provision of in-region, interLATA information services from the restrictions of section 271.

A. MFJ Precedent

12. Prior to the 1996 Act, the service offerings of the BOCs were governed by the consent decree, commonly known as the Modification of Final Judgment or MFJ, that settled the Department of Justice's antitrust suit against AT&T and required the divestiture of the BOCs. The MFJ prohibited the BOCs from entering certain lines of business, including interexchange (i.e., long distance) services and information services (provided on either an interLATA or intraLATA basis). Although the district court overseeing the decree eventually lifted the restriction on providing information services within a LATA, in the *Gateway Services Appeal* the court left intact the MFJ's ''core'' interLATA restrictions, which prevented the BOCs from providing information services on an interLATA basis.

B. Legislative History and Purpose

13. The 1996 Act enacted market-opening mechanisms to remove impediments to competition and give all carriers an opportunity to provide local services. Section 271 established a process for the BOCs to gain entry into the long distance market. However, Congress chose to maintain the MFJ's restriction on BOC provision of in-region, interLATA services until the BOC's local markets are open to competition.

14. In enacting the 1996 Act, Congress modified the interLATA restriction explicitly to allow the immediate provision of out-of-region interLATA services. The BOCs claim that this action somehow shows that Congress also intended to lift the MFJ's restriction on interLATA transmission of information services. However, nothing in the 1996 Act or its legislative history suggests that Congress intended to overrule the Gateway Services Appeal. We are not persuaded that Congress would preserve the in-region, interLATA restriction using language similar to that used in the decree yet intend a result sharply divergent from the D.C. Circuit's interpretation of that restriction. To the contrary, when Congress intended to modify the MFJ's restrictions, as in the case of out-of-region interLATA services, it did so explicitly.

15. We disagree with the BOCs that our construction of section 271 undermines Congress's goal of ''opening all telecommunications markets to competition.'' Congress did not seek to achieve the market-opening aspects of the 1996 Act by permitting the BOCs to provide interLATA immediately. We also reject the BOC's argument that treating interLATA information services as interLATA services will somehow subject information service providers to regulation as common carriers. The BOC's argument ignores the Act's distinction between ''telecommunications'' and ''telecommunications service.'' We also are not persuaded that the current state of the law results in a competitive disadvantage for the BOCs.

IV. Universal Service Report to Congress

16. Finally, the BOCs contend that our conclusion that the term ''interLATA services'' in section 271 includes interLATA information services is inconsistent with statements the Commission made in a 1998 Universal Service Report to Congress. The BOCs rely heavily on certain statements read in isolation and taken out of context to suggest that the terms ''information services'' and ''telecommunications'' are mutually exclusive. That language, however, is properly interpreted as

distinguishing between information services and telecommunications services, both of which include and use telecommunications.

17. In fact, the Report to Congress recognized that in cases in which an information service provider owns the underlying transmission facilities, and engages in data transport over those facilities in order to provide an information service, one could argue that the information service provider is ''providing'' telecommunications to itself by furnishing raw transmission capacity for its own use. Although the Commission does not currently require such information service providers to contribute to universal service mechanisms, the Commission indicated that it might be appropriate to reexamine that result. Moreover, the Commission examined the services provided by information service providers in general, leaving room for a different conclusion in specific situations.

List of Subjects in 47 CFR Part 53

Communications common carriers, Telecommunications, Bell operating companies.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–17168 Filed 7–10–01; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 990416100–9256–02; I.D. 031999C]

RIN 0648–AL18

Pacific Halibut Fisheries; Local Area Management Plan for the Halibut Fishery in Sitka Sound; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correcting amendment.

SUMMARY: This document amends the final regulations published in the **Federal Register** on September 29, 1999, containing the geographic coordinates of Cape Edgecumbe, which is one of the boundary points of the Local Area Management Plan (LAMP) for the halibut fishery in Sitka Sound in the Gulf of Alaska.

DATES: Effective July 11, 2001.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: The final regulations that are the subject of these corrections were published on September 29, 1999. Those regulations implemented the Sitka Sound LAMP, which is intended to address user conflicts resulting from decreased availability of Pacific halibut within Sitka Sound, an area defined in the implementing regulations at § 300.63(d)(1) of the Code of Federal Regulations. In a recent review of this regulation, NMFS discovered a typographical error in the geographic coordinates of Cape Edgecumbe, one of the points describing the boundary of Sitka Sound within which the LAMP management measures apply.

Need for Correction

As published, § 300.63(d)(1)(i) correctly identifies Cape Edgecumbe as the starting point for the southwestern boundary of Sitka Sound, but incorrectly states that Cape Edgecumbe is located at 57°59′54″ N. lat., 135°51′27″ W. long., a geographic position that is one full degree (60 nautical miles) north of the true location of Cape Edgecumbe. This action amends section 300.63(d)(1)(i) and its associated Figure 1 to Subpart E by correctly describing the geographic coordinates of Cape Edgecumbe at 56°59′54″ N. lat., 135°51′27″ W. long.

Classification

The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately correct the published coordinates of Cape Edgecumbe will eliminate a potential source of confusion as to its location and the boundary of the Sitka Sound LAMP area and constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Similarly, as this action does not change the designation of Cape Edgecumbe as one of the points describing the boundary of Sitka Sound and does not substantively alter the area within which the LAMP management measures apply, the Assistant Administrator for Fisheries, NOAA, waives the 30-day delay in effective date pursuant to 5 U.S.C. 553(d).

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Accordingly, 50 CFR part 300 is corrected by making the following correcting amendment:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

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

Authority: 16 U.S.C. 773-773k.

2. Remove ''57°59′54″'' and replace it with ''56°59′54″'' in the following places:

(a) In § 300.63(d)(1)(i) and

(b) In Figure 1 to Subpart E–Sitka Sound Local Area Management Plan Boundaries b. Coordinates, under heading Southern Boundaries, paragraph (1).

Dated: July 3, 2001.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 01–17369 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010618159–01; I.D. 051101A]

RIN 0648–AO92

Fisheries of the Northeastern United States; Summer Flounder Fishery; Framework Adjustment 2

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 2 to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan (FMP). This final rule modifies the mechanism for specifying the annual management measures for the summer flounder recreational fishery by implementing a management system that will either constrain the recreational summer flounder fishery to coastwide management measures or allow states to customize summer flounder recreational management measures. The intent of this action is to establish a management system that allows states to customize recreational management measures while still meeting overall FMP objectives.

DATES: Effective July 29, 2001.

ADDRESSES: Copies of Framework Adjustment 2 to the Summer Flounder, Scup and Black Sea Bass FMP, its