40 CFR 281.42 (''Requirements for public participation''), which provides that ''Any state administering a program must provide for public participation in the state enforcement process by providing *any one of the following three options*: (emphasis added) (a) Authority that allows intervention analogous to Federal Rule 24(a)(2), and assurance by the appropriate state enforcement agency that it will not oppose intervention under the state analogue to Rule 24(a)(2) on the ground that the applicant's interest is adequately represented by the State. (b) * * * (c) * * *'' The Commonwealth chose the option set forth in 40 CFR 281.42(a) to support its State Program Approval Application. The party submitting the comments stated that ''* * * it is not clear how the affected public is supposed to receive notice when such actions are taken so they may decide whether to exercise their right to intervene'' and suggested that the Commonwealth * * * should be required to publish notice in the Pennsylvania Bulletin whenever a formal enforcement action is commenced and when it is resolved.''

In its application for program approval, the Commonwealth provided an explanation of how its authorities meet the requirements of 40 CFR 281.42(a), but it did not discuss any procedures it may have for public notice of enforcement actions. Such notice is not required for state program approval, as such notice is not a component of Rule 24(a)(2) of the Federal Rules of Civil Procedure. Therefore, the lack of a provision in Pennsylvania's regulations to provide for public notice of enforcement actions and the absence of a related discussion in Pennsylvania's UST State Program Approval Application are not valid reasons for EPA to disapprove Pennsylvania's UST Program.

Summary: Since PADEP is not required to provide for, or explain in its State Program Approval Application, how the public is notified about enforcement actions initiated by the state, EPA has determined that this is no basis for disapproving Pennsylvania's UST program.

Conclusion: Based on the above responses to all of the adverse comments received, EPA sees no basis for disapproving Pennsylvania's UST program pursuant to 40 CFR part 281 and is hereby proceeding with a final determination to approve Pennsylvania's UST program.

Statutory and Executive Order Reviews

This rule will only approve State underground storage tank requirements pursuant to RCRA Section 9004 and imposes no requirements other than those imposed by State law (*see* Supplementary Information, section A. Background). Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

1. *Executive Order 12866: Regulatory Planning Review*—The Office of Management and Budget has exempted this rule from its review under Executive Order 12866. 2. *Paperwork Reduction Act*—This rule will not impose an information collection burden under the Paperwork Reduction Act. 3. *Regulatory Flexibility Act*—After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. 4. *Unfunded Mandates Reform Act*—Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act. 5. *Executive Order 13132: Federalism*—Executive Order 13132 does not apply to this rule because it will not have federalism implications (*i.e.*, substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government). 6. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*—Executive Order 13175 does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes). 7. *Executive Order 13045: Protection of Children from Environmental Health & Safety Risks*—This rule is not subject to Executive Order 13045 because it is not economically significant and it is not based on health or safety risks. 8. *Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*—This rule is not subject to Executive Order 13211 because it is not a significant regulatory action as defined in Executive Order 12866. 9. *National Technology Transfer Advancement Act*—EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, section 12(d) of the National Technology Transfer and Advance Act does not apply to this rule. 10. *Congressional Review Act*—EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective September 11, 2003.

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedures, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This document is issued under the authority of section 9004 of the Resource Conservation and Recovery Act as amended 42 U.S.C. 6991c.

Thomas Voltaggio,

Acting Regional Administrator,

[FR Doc. 03–23164 Filed 9–10–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 03–83; FCC 03–184]

Assessment and Collection of Regulatory Fees for Fiscal Year 2003; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission corrects the *Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order,* adopted on July 21, 2003 and released on July 25, 2003.

DATES: Effective September 11, 2003.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director, (202) 418–0444.

SUPPLEMENTARY INFORMATION: The Office of the Managing Director wishes to make the following correction in our

recently released *Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order* (68 FR 48445 (August 13, 2003). The corrections are as follows:

1. On page 48466, in the third column of § 1.1152, the fee amounts in the first four entries, in the second column of the table, immediately following the 220 MHz Nationwide heading is corrected to read $10.00 instead of $5.00.

Federal Communications Commission

Marlene H. Dortch,

Secretary.

[FR Doc. 03–23131 Filed 9–10–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC 95–185 and 96–98; WT 97–207; FCC 03–215]

Cost-Based Terminating Compensation for CMRS Providers

AGENCY: Federal Communications Commission.

ACTION: Final rule; interpretation.

SUMMARY: In this document, the Commission responds to an application for review of a May 9, 2001, letter issued jointly by the Wireless Telecommunications Bureau and the Common Carrier Bureau (now the Wireline Competition Bureau) (Joint Letter) in response to a request for clarification of our reciprocal compensation rules. The Commission concludes that the Joint Letter is consistent with the interpretation of the Communications Act that the Commission adopted in the August 1996 Local Competition Order and reflected in the Commission's rules and prior orders and, accordingly, affirms the interpretation of our rules stated therein.

FOR FURTHER INFORMATION CONTACT: Peter Trachtenberg, Wireless Telecommunications Bureau, Policy Division, (202) 418–7369, or via the Internet at *Peter.Trachtenberg@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Order in CC Docket Nos. 95–185 and 96–98, and WT Docket No. 97–207, FCC 03–215, adopted on August 27, 2003, and released on September 3, 2003. The complete text of this Order is available on the Commission's website in the Electronic Comment Filing System and for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. A copy of the Order 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.*

1. On February 2, 2000, Sprint PCS filed a letter and legal memorandum requesting that the Commission confirm and clarify Commercial Mobile Radio Service (CMRS) providers' entitlement to reciprocal compensation for all the additional costs of switching or delivering to mobile customers ''local traffic originated on other networks.'' On April 27, 2001, in the context of seeking comment on a unified intercarrier compensation scheme, the Commission issued the Unified Intercarrier Compensation Notice of Proposed Rulemaking (NPRM), 66 FR 28410, (May 23, 2001), which, among other things, reviewed and sought comment on the application of its current orders and rules regarding asymmetric reciprocal compensation to Local Exchange Carrier (LEC)–CMRS interconnection.

2. On May 9, 2001, WTB and WCB responded to the Sprint PCS Letter, relying on clarifications of the reciprocal compensation rules in the NPRM. The Joint Letter stated that, based on the language of section 252(d)(2)(A) of the Communications Act, CMRS carriers are entitled to the opportunity to demonstrate that their termination costs exceed those of ILECs, that the ''equivalent facility'' language of § 51.701(c) and (d) of the Commission's rules does not require that wireless network components be reviewed on the basis of their relationship to wireline network components or bar a CMRS carrier from receiving compensation for the additional costs that it incurs in terminating traffic on its network if those costs exceed the ILEC's costs, and that if a CMRS carrier can demonstrate that the costs associated with spectrum, cell sites, backhaul links, base station controllers and mobile switching centers vary, to some degree, with the level of traffic that is carried on the wireless network, a CMRS carrier can submit a cost study to justify its claim to asymmetric reciprocal compensation that includes additional traffic sensitive costs associated with those network elements. The Joint Letter also stated that a CMRS carrier is entitled to the tandem interconnection rate under § 51.711(a)(3) of the Commission's rules if it can satisfy a comparable geographic area test, and need not also satisfy a functional equivalency test.

3. On June 8, 2001, SBC submitted an application for review of the Joint Letter contending that the Joint Letter could be read as establishing a broader definition of additional costs for CMRS networks than the Commission previously established for LEC networks and that the Joint Letter improperly read the functional equivalency test out of the rules for purposes of deciding whether a new entrant should be compensated at the tandem interconnection rate.

4. We reaffirm that, under the current rules, a CMRS carrier can seek a compensation rate that includes the traffic-sensitive costs associated with its network elements. We conclude that the Joint Letter correctly addressed the questions raised in the Sprint PCS request.

5. The Joint Letter correctly reflected the Commission's interpretation of section 252(d)(2)(A) of the Act in the Local Competition Order, 61 FR 47284, (September 6, 1996), in stating that, based on the language of section 252(d)(2)(A), carriers are entitled to recover all of their additional forward-looking costs of terminating traffic to the extent they demonstrate such costs. Further, § 51.711(b) of our rules expressly permits connecting carriers, including CMRS carriers, an opportunity to prove that their additional costs justify a higher rate than the rate charged by the incumbent LEC. Such additional costs must be established through a cost study using a forward-looking economic cost model.

6. The Joint Letter also correctly explained that the determination of the additional costs of terminating traffic over a wireless network element does not involve an inquiry into whether the wireless network element is ''equivalent'' to a recoverable wireline element. The term ''equivalent facility'' in §§ 51.701(c) and 51.701(d) of our rules was not intended to preclude the recovery by CMRS carriers of the ''additional costs'' of wireless components that might be regarded as functionally equivalent to wireline elements whose costs are non-recoverable, such as a wireline LEC's local loop. Rather, the term was used to ensure that the costs of non-LEC facilities would be included in transport and termination rates even if such facilities did not precisely track the network facilities architecture of a LEC. Thus, while equivalence does, in part, define what facilities are involved in the function of ''termination,'' it is simply not relevant to determining which of those terminating facilities imposes costs that can be recovered through reciprocal compensation charges.