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35 Comm. Reg. (P & F) 509

In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements

CC Docket No. 92-105

FEDERAL COMMUNICATIONS COMMISSION

20 FCC Rcd 5539; 2005 FCC LEXIS 1584; 35 Comm. Reg. (P & F) 509

RELEASE-NUMBER: FCC 05-59

March 14, 2005, Released; March 10, 2005, Adopted

ACTION: [1] SIXTH REPORT AND ORDER**

FILED³

JUDGES:

By the Commission: Chairman Powell issuing a separate statement.

DEC 28 2006

OPINION:

[*5540]

Missouri Public
Service Commission

I. INTRODUCTION

1. In this Order, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act of 2002 (the "Pipeline Safety Act"). n1 This Order implements the Pipeline Safety Act, which provides for the establishment of a nationwide toll-free abbreviated dialing arrangement to be used by state One Call notification systems. n2

n1 Pipeline Safety Improvement Act of 2002, Pub. L. No. 107-355, § 17, 116 Stat. 2985, 3008 (2002) (the "Pipeline Safety Act").

n2 *Id.*

2. A One Call notification system is a communication system established by operators of underground facilities and/or state governments in order to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities. We also address various implementation issues. Specifically, we:
. require One Call Centers to notify carriers of the toll-free or local number **[**2]** the One Call Center uses in order to ensure that callers do not incur toll charges, as mandated by the statute; n3

. allow carriers to use either the Numbering Plan Area (NPA)-NXX or the originating switch to determine the appropriate One Call Center to which a call should be routed; n4

. require the use of 811 as the national abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators within two years after

publication of this Order in the Federal Register; n5 and

. delegate authority to the states, pursuant to section 251(e), to address the technical and operational issues associated with the implementation of the 811 code. n6

n3 See *infra* para. 26. While the function of One Call Centers can vary from state to state, the centers exist to permit anyone who will excavate using mechanized equipment to make one telephone call to give notice of their plans to dig in a specific area before they begin their project. The state's One Call Center then acts as a clearinghouse to inform the owners and operators of underground facilities in the area identified and allows them to mark their facilities to prevent costly and disruptive damage to underground infrastructure. One Call Centers, which cover different geographic areas, are generally accessed by dialing a toll-free or local telephone number. **[**3]**

n4 See *infra* para. 29.

n5 See *infra* paras. 32-34.

n6 See *infra* para. 35; 47 U.S.C. § 251(e)(1).

3. Adopting a national abbreviated dialing code for this purpose will enhance public safety, and strengthen homeland security by streamlining the advance notification of excavation activities. The measures adopted in this Order will reduce disruptions to underground facilities during excavation. **[*5541]** Designation of 811 as the abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators will eliminate the need for each state One Call notification system to utilize different numbers, and therefore increase the public awareness and use of One Call services. Nationwide use of 811 will serve the public interest by minimizing confusion over which number to call before engaging in excavation activities.

4. The 811 abbreviated dialing code shall be deployed ubiquitously by carriers throughout the United States for use by all telecommunications carriers, including wireline, wireless, and payphone service providers that provide access to state One Call Centers. This designation shall be effective **[**4]** thirty days after publication of this Order in the Federal Register.

II. BACKGROUND

A. Pipeline Safety Initiatives

5. In 1998, pursuant to the Transportation Equity Act for the 21st Century, the United States Department of Transportation (DOT) established the One Call notification program to enhance public safety, protect the environment, minimize risks to excavators, and prevent disruption of the nation's vital underground public services by reducing the occurrence of damage to these underground facilities during excavation. n7 States and localities have

used, as part of the One Call system, numbers that contractors or property owners call to access the local One Call Center to notify the center of their intent to excavate. n8 Upon receipt of such notice, the One Call Center transmits this information to the underground facility operators that participate in the One Call program in that area. n9 The facility operators that have underground facilities in the area of the proposed excavation site then arrange for the identification and marking of their facilities. n10

n7 Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, § 6105, 112 Stat. 107 (1998). Under this program, grants are made to states to establish or improve One Call notification systems. *Id.* at § 6105(c). See generally *Petition for Rulemaking of the United States Department of Transportation for the Allocation of a Three-Digit Telephone Number to Access Excavation Damage Prevention (One Call) Services Nationwide*, CC Docket No. 92-105, *Petition for Rulemaking*, at 2-6 (filed Aug. 28, 2003) ("DOT Petition"). **[**5]**

n8 These numbers, as well as a national referral number that callers dial to locate the appropriate One Call number for their local area, are generally toll-free.

n9 DOT Petition at 8. There are seventy One Call Centers in the United States. *Id.* at 4, n.5. Their areas of geographic coverage and telephone numbers are available online at www.digsafely.com/contactlist.htm. *Id.*

n10 DOT Petition at 8.

6. On December 17, 2002, President Bush signed the Pipeline Safety Act into law. n11 The Act, among other things, is designed to strengthen the federal government's support for the One Call program by requiring the DOT, in consultation with the Commission, to "provide for the establishment of a 3-digit nationwide toll-free telephone number system to be used by State one-call notification systems." n12

n11 Pipeline Safety Act, Pub. L. No. 107-355, 116 Stat. 2985.

n12 Pipeline Safety Act § 17. Although a "three-digit" nationwide toll-free number does not exist within the North American Numbering Plan (NANP), we are interpreting the statute to require an abbreviated dialing code to give the Pipeline Safety Act its intended effect. See *Use of N11 Codes and Other Abbreviated Dialing Arrangements, Third Report and Order and Order on Reconsideration*, CC Docket No. 92-105, 15 FCC Rcd 16753, 16755, para. 1 (2000) ("*N11 Third Report and Order*"). The NANP numbers are ten digits in length, and they are in the format NXX-NXX-XXXX, where N is any digit 2-9 and X is any digit 0-9. The first three digits are referred to either as NPAs or area codes. The second three digits are called central office codes. The central office code is used for routing and rating calls. The final four digits are called the line number. NANP numbers typically are dialed on a seven-digit (without the area code) or ten-digit basis. When an abbreviated dialing code, such as 811, is used, the abbreviated dialing code is translated into a ten-digit number. **[**6]**
[*5542]

7. To initiate implementation of the Pipeline Safety Act, the DOT filed a Petition for Rulemaking ("Petition") with the Commission on August 28, 2003, requesting the assignment of a three-digit toll-free telephone number to access One Call centers throughout the country. n13 In its Petition, the DOT specifically requested that the digits "344" (which corresponds to the word "DIG" on telephone keypads/dials) be established as an abbreviated dialing arrangement for this purpose. n14 Alternatively, the DOT requested a substitute mnemonic three-digit number. n15 Subsequently, the DOT indicated that it supports the North American Numbering Council (NANC)'s recommendation to use an N11 code, specifically 811, for access to state One Call Centers. n16

n13 DOT Petition at 2, 15.

n14 *Id.*

n15 *Id.* at n.1, 15.

n16 See DOT Reply at 1-2.

B. North American Numbering Council Recommendation

8. In January 2003, the NANC formed the Abbreviated Dialing for One Call Notification Issue Management Group (DIG IMG) to identify and analyze the impact of employing the various abbreviated dialing arrangements to implement the Pipeline Safety Act. n17 The DIG IMG considered three **[**7]** possible alternatives for a three-digit code to access One Call Centers -- N11 codes, codes using a leading star or number sign, and easily recognizable codes. n18 The DIG IMG provided these recommendations to the NANC on October 29, 2003. n19 Upon reviewing the report, the NANC concluded that the best solution, within the framework of the existing statute, would be to assign an N11 code, specifically 811, to access One Call Centers. n20 The NANC noted that "absent the statutory requirement for a three-digit code, many of [its] members would have recommended use of a single ten-digit toll-free number to implement uniform access to individual state One Call Centers." n21

n17 See Letter to William Maher, Chief, Wireline Competition Bureau, from Robert C. Atkinson, Chair, North American Numbering Council, dated December 4, 2003, at 1 ("NANC Recommendation") (adopting the Report and Recommendation of the Abbreviated Dialing for One Call Notification Issue Management Group, dated October 29, 2003 ("DIG IMG Report")). The NANC is the Commission's federal advisory committee on numbering issues. The Communications Act of 1934, as amended by the 1996 Act, gave the Commission plenary jurisdiction over the NANP within the United States. 47 U.S.C. § 251(e)(1). In general, however, the Commission has worked cooperatively with the NANC, state commissions, and industry to manage numbering resources. **[**8]**

n18 See DIG IMG Report.

n19 *See id.*

n20 NANC Recommendation at 1-2; Letter to William Maher, Chief, Wireline Competition Bureau, from Robert C. Atkinson, Chair, North American Numbering Council, dated May 27, 2004 ("NANC Letter"). The NANC indicated, however, that its preferred solution would be for Congress to amend the statute to provide for the establishment of a toll-free number rather than an abbreviated dialing code to access One Call Centers. The NANC considered the three-digit codes in the alternative. *See* NANC Recommendation at 1-2; NANC Letter.

n21 NANC Recommendation at 2; NANC Letter. [***5543**]

C. Notice of Proposed Rulemaking

9. On May 14, 2004, the Commission released a Notice of Proposed Rulemaking (*Notice*) seeking comment on various abbreviated dialing arrangements, including those considered and recommended by the NANC, that could be used by state One Call notification systems in compliance with the Pipeline Safety Act. n22 In particular, we sought comment on whether an N11 code, a code using a leading star or number sign, or another three-digit number should be assigned to comply with the Pipeline Safety Act. n23 We also sought comment on [****9**] implementation issues such as the integration of existing One Call Center numbers, an appropriate implementation timeframe for each proposed abbreviated dialing arrangement, and whether we should delegate authority to the state commissions to address implementation issues. n24 Our objective in initiating this proceeding was to assess possible abbreviated dialing arrangements to use to access state One Call Centers, while at the same time, seeking to minimize any adverse impact on numbering resources. n25 In this *Order*, we address the comments filed in response to the *Notice*. n26

n22 Abbreviated dialing arrangements are arrangements other than the conventional seven and ten-digit sequences that allow callers to dial fewer digits. *See supra* at n.11. *Use of N11 Codes and Other Abbreviated Dialing Arrangements, Notice of Proposed Rulemaking, CC Docket No. 92-105, 19 FCC Rcd 9173 (2004) ("Notice").*

n23 *See Notice, 19 FCC Rcd at 9177-81, paras. 8-22.*

n24 *Id. at 9181-83, paras. 23-37.*

n25 *Id. at 9174, para. 1.*

n26 We received twenty-nine comments and three reply comments in response to the *Notice*. Appendix A provides the full and abbreviated names of the parties. *See* Appendix A.

[10] III. DISCUSSION**

A. Abbreviated Dialing Arrangements

1. Designation of 811 as a National Abbreviated Dialing Code

10. *Background.* In the *Notice*, we sought comment on whether to use an N11 code for access to One Call Centers. n27 Specifically, we sought comment on the NANC's recommendation to assign 811 for [*5544] this purpose. n28 We also asked commenters to address whether we should incorporate the One Call access service into an existing N11 code, such as 311 or 511, to preserve the remaining unassigned N11 codes. n29 The NANC expressed concern that shared use could cause caller confusion, misrouted calls, and deployment delay. n30 We requested commenters that advocated shared use of an existing N11 code to propose solutions to mitigate the concerns expressed by the NANC. n31

n27 *Notice*, 19 FCC Rcd at 9177-78, paras. 9-10. N11 codes are service codes that enable callers to access special services by dialing only three digits. Thus, the network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit dialing sequence and route the call accordingly. Because there are eight possible N11 codes (211, 311, 411, 511, 611, 711, 811, 911), N11 codes are among the scarcest of numbering resources under the Commission's jurisdiction. To date, the Commission has assigned five N11 codes (211, 311, 511, 711, and 911). See The Use of N11 Codes and Other Abbreviated Dialing Arrangements, First Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 5572 (1997) (*N11 First Report and Order*) (assigned 311 for non-emergency police and other governmental services); The Use of N11 Codes and Other Abbreviated Dialing Arrangements, Second Report and Order, 15 FCC Rcd 15188 (2000) (assigned 711 for telephone relay services for the hearing impaired); N11 Third Report and Order, 15 FCC Rcd at 16753 (assigned 211 for information and referral services and 511 for travel and information services); The Use of N11 Codes and Other Abbreviated Dialing Arrangements, Fourth Report and Order and Third Notice of Proposed Rulemaking, 15 FCC Rcd 17079 (2000) (assigned 911 as the national emergency number). In addition, 411, 611 and 811 are widely used by carriers, but have not been assigned by the Commission for nationwide use. See www.nanpa.com. [*11]

n28 *Id.* As noted above, the NANC indicated, however, that its preferred solution would be for Congress to amend the statute to provide for the establishment of a toll-free number rather than an abbreviated dialing code to access One Call Centers. The NANC considered the three-digit codes in the alternative. See *supra* n.20.

n29 *Notice*, 19 FCC Rcd at 9178, para. 10.

n30 DIG IMG Report at 16.

n31 *Notice*, 19 FCC Rcd at 9178, para. 10.

11. The majority of commenters agree with the NANC's recommendation that the best solution, within the framework of the existing statute, would be to assign an N11 code, specifically 811, for access to One Call Centers. n32 These commenters assert that 811 will

have little impact on customer dialing patterns and is less costly to implement compared to the other alternatives. n33 Certain commenters also specifically opposed the shared use of an existing N11 code. n34 They assert that shared use of an existing N11 code could discourage consumers from calling the One Call Center and cause caller confusion, thus, reducing the effectiveness of the centers. n35

n32 See AGA Comments at 2; AOPL at 1; BellSouth Comments at 6; Cingular Comments at 4-6; CTIA Comments at 1-3; MCI Comments at 1-3; Qwest Comments at 2-3; SBC Comments at 1-2; Sunoco Comments at 1; Verizon Comments at 3; SBC Reply at 1-2; DOT Reply at 1-2 (changing its position to support the use of an N11 code, specifically 811, rather than 344 ("DIG")). *But see* APCC at 1-3 (requesting that payphone service providers be excluded from the mandate to assign a three-digit code to the One Call notification system.); CPUC Comments at 2-4; City Comments at 2-6. **[**12]**

n33 See AGA Comments at 2; AOPL at 1; BellSouth Comments at 6; Cingular Comments at 4-6; CTIA Comments at 1-3; MCI Comments at 1-3; Qwest Comments at 2-3; SBC Comments at 1-2; Sunoco Comments at 1; Verizon Comments at 3; SBC Reply at 1-2.

n34 See AOPL at 2; Cingular Comments at 6; City Comments at 2; CGA Comments at 2; NGA Comments at 2. *But see* CPUC at 5-6 (recommending use of the 311 code as an alternative to 811); DOT Reply at 3.

n35 See *generally* AOPL at 2; Cingular Comments at 6; City Comments at 2; CGA Comments at 2; NGA Comments at 2; Sunoco Comments at 2.

12. *Discussion.* In this Order, we conclude that an N11 code is the best solution, within the framework of the statute, for access to One Call Centers. Thus, consistent with the statutory mandate, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act. n36 In so doing, we reject the other options considered by the NANC and posed in the *Notice*. n37 We agree with commenters that other alternatives **[**13]** - codes using a leading star or number sign, e.g. *344 or # 344 and an Easily Recognizable Code (ERC), such as 344 - are impractical, costly to implement, and could delay the availability of a national One Call number for **[*5545]** years. n38 Moreover, dialing arrangements in the format of *XXX or #XXX, in as much as these codes include three digits following the leading star or number sign, do not comply with the statute's requirement to utilize a nationwide "three-digit number" to access One Call Centers. n39 We believe that 811 will have less impact on customer dialing patterns and can be implemented without the substantial cost and delay of switch development required with the other proposed alternatives. n40 We also agree with the DOT that the special nature of an N11 code makes the 811 code amenable to a public education campaign linking it to One Call Centers. n41 We reject APCC's request to exempt payphone service providers from this requirement. n42 In contrast to the Act's clear mandate of a *nationwide* toll-free three-digit code for access to One Call Centers, APCC provides no credible argument for an exemption. n43 The Act does not provide any exemptions from this requirement, **[**14]** and we decline to do so here. n44

n36 See Pipeline Safety Act § 17.

n37 See DIG IMG Report; *Notice*, 19 FCC Rcd 9173. We also conclude that a ten-digit toll-free number does not comply with the Pipeline Safety Act's mandate to use a "three-digit" telephone number. See Pipeline Safety Act § 17.

n38 See *supra* n.33. ERCs are Numbering Plan Areas (NPAs) or area codes designating special services, e.g., 888 for toll-free service. They are three digits in length. The second and third digits of an ERC are the same (e.g., 344). The NANPA has assigned certain area codes as ERCs. A list of all available and assigned Area Codes is found at www.nanpa.com. Although the 344 NPA has not yet been allocated, there are NPAs in which 344 is assigned as a central office code (NXX). DIG IMG Report at 8.

n39 See Pipeline Safety Act § 17.

n40 See *supra* n.33.

n41 See DOT Reply at 1-2

n42 See APCC Comments at 2-4.

n43 *Id.*; Pipeline Safety Act § 17 (emphasis added).

n44 See Pipeline Safety Act § 17. We agree with APCC that Section 276 of the 1996 Act does not exempt payphone calls made to One Call Centers from that statute's requirement that payphone service providers be "fairly compensated." See 47 U.S.C. § 276(b)(1). Therefore, coin calls made from a payphone to a One Call Center should be paid in accordance with that payphone's established coin rate, and coinless calls made from a payphone to a One Call Center should be compensated in accordance with the Commission's payphone compensation rules. See 47 C.F.R. §§ 64.1300 *et seq.*; see also FRFA, *infra*, at Section D. **[**15]**

13. Although we recognize that using 811 depletes the quantity of remaining N11 codes assignable for other purposes, using an N11 code to access One Call Centers will consume fewer numbering resources than certain other alternative abbreviated dialing arrangements. n45 Additionally, the use of an N11 code to access One Call services follows the existing conventions for abbreviated dialing already familiar to customers. n46 The N11 architecture is an established abbreviated dialing plan that is recognized by switch manufacturers and the public at large. n47 Most significantly, using an N11 code such as 811 satisfies the legislative mandate for a three-digit nationwide number. n48

n45 *See supra* n.33.

n46 *Id.*

n47 *Id.*

n48 *See* Pipeline Safety Act § 17.

14. We share the concerns of commenters regarding the shared use of an existing N11 code, such as 511 (which is currently used for travel and information services) or 311 (which is currently used for non-emergency police and other governmental services). n49 In this instance, due to the volume of calls **[*5546]** received by state One Call Centers, shared use of an existing N11 code could result in customer confusion **[**16]** and misrouting when dialing a shared N11 code. n50 Thus, excavators could be deterred from using the notification system, thereby reducing the effectiveness of the One Call Centers. n51 The Common Ground Alliance (CGA) estimates that the One Call Centers currently receive approximately 15 million calls annually. n52 It also estimates that 40 percent of the incidents where underground facilities are damaged were caused by those who did not call before digging. n53 CGA contends that the incoming call volume to One Call Centers over the next few years may well exceed 20 million calls. n54 Thus, integration of state One Call Centers with existing N11 systems may also increase implementation costs while adding unnecessary complexity to the One Call notification program. Further, shared use of an existing N11 code for access to state One Call Centers could also delay deployment due to the need to reach agreement with the existing users of the N11 code to be integrated and national advertising efforts to educate users on the shared use of the N11 code. For these reasons, we reject the use of an existing N11 code as opposed to the approach adopted in this Order.

n49 *See supra* n.35. **[**17]**

n50 *Id.*

n51 *Id.*

n52 The Common Ground Alliance is a non-profit organization formed in 1999 by DOT's Office of Research and Special Programs Administration and industry stakeholders to identify measures to protect the underground infrastructure during excavation activity, and to promote the use of industry best practices. *See* DOT Petition at 11-12.; *see also* www.commongroundalliance.com; CGA Comments at 2; AOPL at 2; Sunoco at 2.

n53 CGA Comments at 2.

n54 *Id.*

2. Other Abbreviated Dialing Arrangements Considered in the Notice

a. Rejection of 344 as the Abbreviated Dialing Code for One Call Notification

15. *Background.* In the *Notice*, we sought comment on the DOT's initial proposal to establish the digits "344" or any other mnemonic three-digit dialing arrangement for access to One Call Centers. n55 We tentatively concluded that because 344 corresponds to an ERC, an abbreviated dialing code in the format of an ERC or other area code would be inconsistent with our numbering resource optimization policies by potentially rendering eight million North American Numbering Plan (NANP) telephone numbers unusable. n56 We specifically **[**18]** sought comment on the technical and operational issues raised by the NANC and whether there are existing measures that can address these issues. n57 We also sought comment as to the extent switch development or replacement may be needed and the impact this will have on nationwide implementation. n58

n55 *Notice*, 19 FCC Rcd at 9180-81, paras. 18-20; DOT Petition at 2, 15. We note that, subsequently, in its reply comments filed on DOT indicated that it supports the NANC's recommendation to use an N11 code, specifically 811, for access to state One Call Centers. DOT Reply at 1-2.

n56 *Notice*, 19 FCC Rcd at 9180, para. 18; see *supra* n.38.

n57 *Notice*, 19 FCC Rcd at 9181, para. 19.

n58 *Id.* at para. 20.

16. The majority of commenters argue that the use of an ERC for access to state One Call Centers is not a viable option to comply with the statute. n59 These commenters contend that implementation of an **[*5547]** ERC would be extremely complicated and expensive because 344 is a working central office code in many area codes in the nation. n60 They also assert that using an ERC would not **[**19]** be in the public interest because assignment of an NPA as an abbreviated dialing code would further accelerate NANP exhaust. n61

n59 See BellSouth at 6-7; Bench Comments at 3-4; CPUC Comments at 6-7; Cingular at 5; Qwest Comments at 3; Verizon Comments at 4; Qwest Comments at 3-5; Verizon Reply at 1. *But* see AT&T at 7-9 (supports assigning 344 for One Call access rather than depleting a scarce and essential N11 resource); NUCA Comments at 1-2; City Comments at 1.

n60 See BellSouth at 6-7; Bench Comments at 3-4; CPUC Comments at 6-7; Cingular at 5; Qwest Comments at 3; Verizon Comments at 4; Qwest Comments at 3-5; Verizon Reply at 1.

n61 *Id.*

17. *Discussion.* We conclude that an abbreviated dialing code in the format of an ERC or other area code would be inconsistent with our numbering resource optimization policies by rendering approximately eight million NANP telephone numbers unusable. n62 We agree with commenters that the selection of an ERC for this purpose would not be in the public interest because it would accelerate NANP exhaust. n63 Further, the establishment of 344 as an abbreviated dialing code may cause customer confusion and frustration for **[**20]** customers by misrouting callers to the One Call Center where 344 is a working NXX code. n64 Additionally, from a technical perspective, some switches would require either replacement or development work that could delay the capability of using the 344 code as a three-digit number for a number of years. n65 For example, Verizon comments that vendor development for the affected switches would require new technical specifications, code preparation, installation, testing, and release of generic software release prior to distribution. n66 In light of these technical and practical challenges, we do not establish 344 as the One Call abbreviated dialing code.

n62 *Notice*, 19 FCC Rcd at 9179, para. 15.

n63 *See supra* n.60.

n64 *See id.*

n65 DIG IMG Report at 11.

n66 Verizon Comments at 4-5.

b. Rejection of Codes Using a Leading Star or Number Sign for One Call Notification

18. *Background.* In the *Notice*, we sought comment on whether a code with a leading star or number sign, in the format of either *XXX or #XXX, should be used to access One Call Centers. n67 We sought comment on the extent to which using a code with a leading **[**21]** star or number sign will either promote or discourage exhaust of the NANP numbers. n68 We asked parties to discuss any existing **[*5548]** measures that can mitigate or alleviate the limitations with using a leading star or number sign. n69 We also sought comment on whether calls from wireless customers to One Call Centers should continue to be permitted because of the effort that has gone into wireless implementation of # 344 (# DIG). n70

n67 *Notice*, 19 FCC Rcd at 9179-80, paras. 14-16. The leading star and number signs serve as network control characters to speed up connections. DIG IMG Report at 6. Vertical Service Codes (VSCs) are codes that use a leading star. *Id.* Specifically, VSCs are customer-dialed codes that allow customers to access features and services provided by telecommunications service providers. Services that rely on VSCs include call forwarding,

n73 See AOPL at 1; BellSouth at 7-8; Cingular Comments at 6-7; CTIA Comments at 2-3; Gainey Comments at 1; Peterson Comments at 1; Sunoco Comments at 1; *see also* AT&T at 7-8. *But see* DOT Reply at 3.

n74 *See generally* AOPL at 1; BellSouth at 7-8; Cingular Comments at 6-7; CTIA Comments at 2-3; Gainey Comments at 1; Peterson Comments at 1; Sunoco Comments at 1; *see also* AT&T at 7-8. [****24**]

n75 AT&T Comments at 7-8.

n76 CTIA Comments at 2-3.

n77 DOT Reply at 3.

n78 *Id.*

21. *Discussion.* We agree with commenters that the use of a code with a leading star or number sign, in the format of either *XXX or #XXX, for access to One Call Centers would be too difficult and costly to implement. n79 Most significantly, as indicated above, such a dialing arrangement does not comply with the statute's requirement to utilize a nationwide "three-digit number" to access One Call Centers. n80 Moreover, this abbreviated dialing arrangement would not achieve the uniformity mandated by the Pipeline Safety Act since all users would not be dialing the same sequence if the code selected includes a star or number sign. n81 A single nationwide abbreviated dialing code for access to One Call Centers will provide the certainty and reliability required for maximum usage and benefits of One Call services. n82 Additionally, many telephone systems use the star and number signs for feature access. n83 Thus, reprogramming these systems may not always be feasible and will involve considerable customer expense. n84 Further, some switching systems may not be capable of processing access [****25**] codes using a leading star or number sign in the dialing sequences; and the necessary switch development would delay the full implementation of the One Call functionality. n85 Based on the record before us, we conclude that *XXX and # XXX are impractical for use as the national One Call access code and we will not assign a code using a leading star or number sign for access to One Call Centers.

n79 *See supra* n.71.

n80 *See infra* para. 12; Pipeline Safety Act § 17.

n81 *See supra* n.71; DIG IMG Report at 7-8.

automatic callback, and customer-originated trace. The number key has generally been used to stop any switch timing protocol so that the call is immediately processed and for control in telephone systems, such as voicemail. The number key is also used by Operator Services switching systems to re-originate a credit card call with the same billing information used in the proceeding call. It is also used for control in telephone systems, such as voicemail. There is no dialed equivalent to the number sign character since, unlike the star character, the number sign is not used in the dialing sequence. **[**22]**

n68 *Notice*, 19 FCC Rcd at 9179, para. 14.

n69 *Id.* at 9179-80, para. 16.

n70 *Id.* at 9192, para. 15. In 1999, the National Telecommunications Damage Prevention Council, concluding that there was a need for an abbreviated dialing arrangement for contacting local One Call Centers, particularly for mobile phone users, selected # 344 as the abbreviated dialing arrangement. See Letter to Members of the Abbreviated Dialing for One-Call Notification Issue Management Group from Michael D. McCrary, Chair, NTDPC, dated July 18, 2003 (NTDPC Letter). See www.ntdpc.com. Since that time, some wireless carriers have begun implementation of # 344.

19. All commenters opposing the use of a code with a leading star or number sign cite the same reasons raised by the NANC in its report. n71 Specifically, commenters and the NANC assert that using a code with a leading star or number sign for access to One Call Centers will involve considerable customer expense and may delay implementation due to the necessary switch development and reprogramming of the systems. n72

n71 See AOPL at 1; BellSouth at 7-8; Bench Comments at 3; Cingular Comments at 6-7; CPUC Comments at 5; CTIA Comments at 2-3; Gainey Comments at 1; Peterson Comments at 1; Qwest Comments at 5-6; Sunoco Comments at 1; DIG IMG Report at 6-8. **[**23]**

n72 *See id.*

20. While commenters are not in favor of using a code with a leading star or number sign for access to One Call Centers, most commenters support continued use of # 344 (#DIG) in the wireless sector. n73 They acknowledge the efforts of wireless service providers and are concerned that discontinuing the use of # 344 for wireless calls will negate such efforts. n74 For example, AT&T asserts that discontinuing the use of # 344 will require a re-education process for users who have been using # 344 and additional expense for the participating carriers. n75 CTIA contends that # 344 provides a valuable alternative for those excavators who are already familiar with # 344. n76 However, DOT opposes the continued use of # 344. n77 DOT argues that it is essential that a single national number is used for access to One Call Centers because it provides a nationwide identity that will provide certainty and reliability required for maximum usage and benefits. n78

n82 *See id.*

n83 DIG IMG Report at 8.

n84 *Id.*

n85 *Id.*

22. Although we recognize the efforts undertaken in the implementation of # 344 by some wireless carriers, we disagree with those commenters who advocate the continued and indefinite use of # 344 for access to One Call Centers. n86 We agree with DOT that a single nationwide abbreviated dialing code for access to One Call Centers will provide the certainty and reliability required for maximum usage and benefits of One Call services as intended by Congress. n87 As discussed above, the # 344 abbreviated dialing arrangement does not **[*5549]** comply with the statute's requirement to utilize **[**26]** a nationwide "three-digit number" to access One Call Centers and the statutory mandate that dialing be uniform across the nation. n88 The use of different abbreviated dialing codes for access to state One Call Centers, even if such codes are made available in addition to 811, likely will result in customer confusion as the public use both wireless and wireline telephones. n89 Wireless carriers that currently use # 344 shall transition to 811 pursuant to the implementation requirements discussed below.

n86 *See supra* n.73.

n87 *See* DOT Reply at 3.

n88 *See* Pipeline Safety Act § 17.

n89 *See* DOT Reply at 3.

23. We also reject CTIA's claim that we lack the authority to prohibit wireless carriers from continuing to use # 344 as an alternative to 811. n90 As indicated above, the Communications Act of 1934, as amended by the 1996 Act, gave the Commission exclusive jurisdiction over the NANP within the United States. n91 This jurisdiction over the NANP extends to administration of the NANP to ensure that numbering resources of the NANP are administered in a fair and efficient manner. The establishment of **[*5550]** all dialing patterns is included as part of numbering administration **[**27]** over the NANP. n92 Thus, the Commission has the authority to prohibit the continued use of # 344. n93

n90 *See* CTIA *Ex Parte* at 2.

n91 *See supra* n.17; 47 U.S.C. § 251(e).

n92 See also People of the State of New York & Public Service Commission of the State of New York v. Federal Communications Commission, 267 F.3d 91, 104-106 (2d Cir. 2001) (holding that the Federal Communications Commission had jurisdiction to promulgate a rule pertaining to local telephone dialing patterns for the City of New York under the Communications Act of 1934).

n93 See *id.*; 47 U.S.C. § 251(e).

B. Implementation Issues

1. Integration of Existing One Call Center Numbers

24. *Background.* The Pipeline Safety Act expressly mandates use of a three-digit *toll-free* number to access State One Call Centers. n94 In the *Notice*, we sought comment on methods to ensure that calls to One Call Centers are toll-free. n95 We specifically sought comment on the NANC's recommendation that each One Call Center provide a toll-free number, which can be an 8YY number or any number **[**28]** that is not an IntraLATA toll call from the area to be served, so that callers do not incur toll charges. n96 We also sought comment on whether the dialing sequence should be the same for all providers or whether existing abbreviated dialing sequences should be allowed to continue. n97

n94 Pipeline Safety Act § 17 (emphasis added).

n95 *Notice*, 19 FCC Rcd at 9181-82, para. 21.

n96 *Id.*; DIG IMG Report at 10.

n97 *Notice*, 19 FCC Rcd at 9181-82, para. 21. For example, currently, wireless customers may dial 611 or *611 for repair while wireline users may dial 611 for customer service.

25. All commenters that filed comments on this issue support the integration of an abbreviated dialing arrangement into an existing One Call Center toll-free or local number. n98 They assert that this will not only save time and money invested in advertising the existing One Call Center numbers but will also ensure that such calls are toll-free. n99

n98 AGA Comments at 2; NGA Comments at 2; CTIA Comments at 4; SBC Reply at 3-4.

n99 See AGA Comments at 2; see also NGA Comments at 2; CTIA Comments at 4; SBC Reply at 3-4. **[**29]**

26. *Discussion.* To ensure that calls to One Call Centers are toll-free, we conclude that One Call Centers shall provide to carriers its toll-free number, which can be an 8YY number, or

any number that is not an IntraLATA n100 toll call, from the area to be served for use in implementing 811. n101 Thus, when a caller dials 811, the carriers will translate 811 into the appropriate number to reach the One Call Center. This requirement will both simplify call routing and ensure that callers do not incur toll charges, as mandated by the statute. n102 As discussed above, other existing abbreviated dialing sequences shall be discontinued, because the use of other existing abbreviated dialing sequences in addition to 811 does not **[*5551]** comply with the statutory mandate that dialing be uniform across the nation. n103

n100 IntraLATA refers to telecommunications services that originate and terminate in the same Local Access and Transport Area (LATA).

n101 See DIG IMG Report 10; AGA Comments at 2; NGA Comments at 2; CTIA Comments at 4; SBC Reply at 3-4.

n102 See Pipeline Safety Act § 17.

n103 See *supra*. paras. 22-23.

2. Originating Switch Location

27. *Background.* **[*30]** In establishing a framework for its evaluation of various abbreviated dialing arrangements to implement the Pipeline Safety Act, the NANC proposed that for wireline-originated calls, the originating NPA-NXX would determine the One Call Center to which the call is sent. n104 For wireless-originated calls, the NANC proposed that the originating Mobile Switch Center would determine the One Call Center to which the call is sent. n105 In the *Notice*, we sought comment on these proposals. n106

n104 DIG IMG Report at 5.

n105 *Id.*

n106 *Notice*, 19 FCC Rcd at 9182, para. 22.

28. All commenters that filed comments on this issue support the NANC's recommendation to allow carriers to use either the NPA-NXX or the originating switch to determine the appropriate One Call Center to which a call should be routed. n107 They contend that providing carriers flexibility to select which method best suits their needs will help to ensure that calls will be routed to the appropriate One Call Center. n108

n107 See AGA Comments at 2; BellSouth Comments at 10-11; NGA Comments at 2; CTIA Comments at 4; SBC Reply at 2-3.

n108 SBC Reply at 2-3; see *also* AGA Comments at 2; BellSouth Comments at 10-11; NGA Comments at 2; CTIA Comments at 4. **[**31]**

29. *Discussion.* We direct carriers to use either the NPA-NXX or the originating switch to determine the appropriate One Call Center to which a call should be routed. For wireline-originated calls, the originating switch location or the NPA-NXX will determine the One Call Center to which the call is sent. n109 For wireless-originated calls, the originating Mobile Switch Center will determine the One Call Center to which the call is sent. n110 This approach allows all carriers the flexibility to utilize the most efficient and cost-effective method for routing calls to appropriate state One Call Center and is competitively neutral.

n109 See DIG IMG Report at 5.

n110 *Id.*

3. Implementation Period

30. *Background.* In the *Notice*, we sought comment on several issues relating to how much time carriers should be given to implement a new national abbreviated dialing code. n111 Specifically, we sought

n111 *Notice*, 19 FCC Rcd at 9182, para. 23.

31. comment on how long the implementation period for each proposed abbreviated dialing arrangement should be. n112 We asked parties to comment on all of the steps that carriers must undertake **[**32]** to prepare the network for use of the three abbreviated dialing arrangements proposed in the *Notice* to route properly **[*5552]** such calls to the One Call Centers. n113 We also sought comment on what time limit should be given to carriers to vacate any existing uses, if an unassigned N11 code, such as 811, were selected to access One Call Centers. n114 Further, we specifically sought comment on the technical and operational issues that should be considered when determining the time period for implementation that would allow carriers to prepare for use of the proposed abbreviated dialing arrangement that was adopted. n115 We also sought comment on the NANC's recommendation that we allow carriers one to two years to prepare the network to support One Call notification to existing One Call Centers. n116 Additionally, we sought comment on whether the period for implementation should be uniform or variable and based on local conditions and whether, pursuant to section 251(e), we should delegate authority to the states to establish the timeframe for implementation and how best to engage states in the implementation process. n117

n112 *Id.*

n113 *Id.*

n114 *Id.*

n115 *Id.* **[**33]**

n116 *Id.* at para. 24.

n117 *Id.* at 9183, para 25.

32. *Discussion.* With regard to how much time carriers will need to implement 811, we find that, based on the record before us, two years from publication of this Order in the Federal Register is a reasonable time period for implementing 811. n118 Most commenters generally agree that two years is a sufficient period for implementing an N11 code, specifically 811, for access to One Call Centers. n119 Thus, we conclude that calls to One Call Centers using an abbreviated dialing code must use 811 as the national abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators on or before two years from publication of this Order in the Federal Register. n120 We defer to the expertise of the carriers, in cooperation with the individual states, to develop and determine the most appropriate technological means of implementing 811 access to One Call services, as dictated by their particular network architectures.

n118 See *infra* n.119.

n119 See AGA Comments at 3; CPUC Comments at 8; CTIA Comments at 5-6; MCI Comments at 2; SBC Reply at 2-4; Verizon Comments at 4; Verizon Reply at 1. Some commenters propose a one to three year timeframe (See AGA Comments at 3; Verizon Reply at 1), while others propose one or two years (See MCI Comments at 2; CPUC at 8; CTIA Comments at 5-6; SBC Comments at 2-4). **[**34]**

n120 We will not, as BellSouth suggests, delay beginning the implementation clock until there has been an official request to use the designated code for One Call access. BellSouth Comments at 9-10. The Act mandates that a *nationwide* toll-free three-digit code is established for access to state One Call Centers. Pipeline Safety Act § 17 (emphasis added). Thus, such requirement applies to all carriers on a nationwide basis and is not dependent upon whether there has been a request for such service. As indicated above, most commenters suggest an implementation period of no more than two years. See *supra* n.119. In the event carriers need additional time to implement 811, they should seek appropriate relief.

33. Although the Commission has allowed the local use of unassigned N11 codes, it has recognized that this use must be discontinued on short notice. n121 Accordingly, we reject THG's argument to allow the continued use of 811 for commercial purposes until a qualified entity applies for and **[*5553]** develops the capability to put the code into use for One

Call access. n122 The record indicates that the 811 code, while not formally allocated by a Commission order, is being used in **[**35]** several jurisdictions for other purposes. For example, 811 is used in some areas to allow customers to make free repair calls and as a 911 test code. n123 Specifically, in some of its states, SBC uses 811 as a test code for 911 prior to "turning up" new 911 trunk groups. n124 SBC asserts therefore that designing a new code for testing will take some time because SBC must be able to test new 911 trunk groups to ensure they operate correctly. n125 SBC also currently uses 811 in Connecticut for its business offices. n126 Thus, in certain states, implementing the 811 solution will require time and effort.

n121 See N11 First Report and Order, 12 FCC Rcd at 5597, para 41.

n122 See THG Comments at 2-4; see also NTCA Comments at 2-3. THG offers consulting services to communications companies and other companies that use their services. THG Comments at 1. Specifically, THG's clients are commercial entities that use N11 codes to provide information services to the public on a commercial basis. *Id.* We further address THG's concerns regarding the possible economic impact of our policies adopted herein on small entities in the Final Regulatory Flexibility Analysis (FRFA). See Appendix B. **[**36]**

n123 See APCC Comments at 3; SBC Comments at 2-4.

n124 SBC Comments at 3.

n125 *Id.*

n126 *Id.*

34. APCC also notes that many independent payphone service providers currently use 811 to allow the general public to make free repair calls from payphones. n127 APCC argues that it would be costly to implement 811 because it would require payphones to be reprogrammed and a change of signage informing payphone users of the new repair code. n128 We agree with SBC that where 811 has been used by customers for other purposes, changing the use of that number will require more robust customer education. n129 Additionally, changes to phone books, methods and procedures, and systems will require significantly more time where 811 was previously used for other purposes. n130 For the foregoing reasons, we believe two years provides a reasonable transition period to clear the 811 abbreviated dialing code of any other existing uses, provide customer education, and ensure that there is no unreasonably abrupt disruption of the existing uses.

n127 APCC Comments at 3.

n128 *Id.*

n129 See SBC Comments at 3.

n130 *Id.*

35. We recognize that states have unique **[**37]** knowledge that will assist in implementing the transition to the One Call Center access set forth in this Order. We therefore delegate authority to the state commissions, pursuant to section 251(e), to address the technical and operational issues associated with the implementation of 811. n131 In delegating authority to the state commissions to address the technical and operational issues, state commissions should also consider whether a carrier may need additional time to implement 811 due to such technical and/or operational difficulties. We agree with MPSC that state commissions are in the best position to address issues associated with implementing the abbreviated dialing arrangement because many of the One Call Centers were developed by, or under the auspices of, the state commissions. n132 For example, Qwest suggests that states be involved in mediating **[*5554]** issues associated with customer contention in areas where multiple call centers request service in the same geographical area and be delegated authority to assess the qualifications of One Call Centers. n133 We agree. We defer to the expertise of the states to address and resolve such issues. However, we decline to delegate authority **[**38]** to the state commissions, as suggested by CPUC, to establish the implementation period. n134 We agree with SBC that the statute calls for a nationwide solution and that allowing states to establish the implementation period would not meet this mandate. n135 Therefore, as discussed above, we have established a two year period for implementing 811 as the national abbreviated dialing code for access to state One Call Centers. n136

n131 47 U.S.C. § 251(e); see *supra* n.17.

n132 MPSC Comments at 5-6.

n133 Qwest Comments at 9.

n134 See CPUC Comments at 8.

n135 SBC Comments 6-7.

n136 See *supra* paras. 32-34.

IV. PROCEDURAL MATTERS

A. Regulatory Flexibility Analysis

36. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), n137 an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice*. n138 The Commission

sought written public comment on the proposals in the *Notice*, including comment on the IRFA. n139 The Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) for this *Order*, set forth at Appendix B.

n137 See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-12, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996). **[**39]**

n138 *Notice*, 19 FCC Rcd at 9187-9202.

n139 *Id.* at 9187, para. 2.

B. Paperwork Reduction Act Analysis

37. This *Order* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small businesses with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

C. Further Information

38. Alternative formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 voice, (202) 418-7365 TTY, or bmillin@fcc.gov. This *Order* can also be downloaded in Microsoft Word and ASCII formats at <<http://www.fcc.gov/ccb/universalservice/highcost>>.

39. For further information, contact Regina Brown at (202) 418-0792 in the Telecommunications Access Policy Division, Wireline Competition Bureau.

[*5555]

V. ORDERING CLAUSES

40. Accordingly, IT **[**40]** IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 4(j), 201-205, 214, 254, and 403 of the Communications Act of 1934, as amended, this *Order* IS ADOPTED.

41. IT IS FURTHER ORDERED that, pursuant to section 251(e)(3) of the Communications Act of 1934, as amended, 47 U.S.C. § 251(e)(3), 811 IS ASSIGNED as the national abbreviated dialing code to be used exclusively for access to Once Call Centers, effective thirty days after publication of this *Order* in the Federal Register.

42. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Secretary

CONCURBY: POWELL

CONCUR:
[*5575]

SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL

Re: The Use of N11 Codes and Other Abbreviated Dialing Arrangements, Sixth Report and Order

Damage from excavation activities can cause crippling outages to the nation's energy supply, communications networks, law enforcement agencies, hospitals, air traffic **[*41]** control operations, emergency response providers, and military bases. The "One Call" system was instituted as a means by which contractors and the public can alert the proper authorities to imminent excavation work, thereby avoiding potential service interruptions and safety hazards. The Congress found One Call notifications so integral to public safety that it directed the Commission and the Department of Transportation to establish a single One Call number to enhance the system's effectiveness. Today's action carries out this Congressional mandate.

Better, more efficient communication regarding excavations means saved lives and dollars as well as a more secure homeland, and 811 makes that a reality. I call on industry stakeholders to increase public awareness of the One Call notification system and promote the use of the new nationwide 811 One Call number.

APPENDIX:
APPENDIX A

List of Parties Filing Comments in Response to the Notice of Proposed Rulemaking

Comments

1. American Gas Association (AGA)
2. American Petroleum Institute and the Association of Oil Pipe Lines (AOPL)
3. American Public Communications Council (APCC)
4. AT&T Corp. (AT&T)
5. BellSouth Corporation (BellSouth)
- [*42]** 6. Bench, David H. (Bench)
7. California Public Utilities Commission and the People of the State of California (CPUC)
8. Cingular Wireless LLC (Cingular)
9. City of New York (City)
10. Common Ground Alliance (CGA)
11. Explorer Pipeline Company (Explorer)
12. Gainey, Vernon (Gainey)
13. KeySpan Energy (KeySpan)
14. MCI, Inc. (MCI)
15. Michigan Public Service Commission (MPSC)
16. National Telecommunications Cooperative Association (NTCA)
17. National Utility Contractors Association (NUCA)

18. North American Numbering Council (NANC)
19. Northeast Gas Association (NGA)
20. Peterson, Ron (Peterson)
21. Qwest Communications, Inc. (Qwest)
22. SBC Communications (SBC)
23. Sunoco Pipeline L.P. (Sunoco)
24. THG Consultants LLP (THG)
25. United States Department of Transportation (DOT)
26. Utility Notification Center of Colorado (UNCC)
27. Verizon telephone companies (Verizon)
28. Wireless Association (CTIA)
29. Wright, Stephen H. (Wright)

Reply Comments

1. SBC Communications (SBC)
2. United States Department of Transportation (DOT)
3. Verizon telephone companies (Verizon)

Ex Partes

1. Wireless Association (CTIA)
2. Verizon telephone companies (Verizon)

APPENDIX B

FINAL [43] REGULATORY FLEXIBILITY ANALYSIS**

(REPORT AND ORDER)

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), n140 an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (*Notice*). n141 The Commission sought public comments on the proposals in the *Notice*, including comment on the IRFA. n142 The comments received are discussed below. n143 This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. n144

n140 See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

n141 See Use of N11 Codes and Other Abbreviated Dialing Arrangements, Notice of Proposed Rulemaking, CC Docket No. 92-105, 19 FCC Rcd 9173, 9187 (2004) ("*Notice*").

n142 The Commission received twenty-nine comments and three reply comments in response to the *Notice*. Appendix A provides the full and abbreviated names of the parties. See Appendix A.

n143 See *Order, infra* para. 41. [**44]

n144 See 5 U.S.C. § 604.

A. Need for, and Objectives of, the Proposed Rules

2. In this *Order*, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act of 2002 (the "Pipeline Safety Act"). n145 This Order implements the Pipeline Safety Act, which provides for the establishment of a nationwide toll-free abbreviated dialing arrangement to be used by state One Call notification systems. n146

n145 Pipeline Safety Act, Pub. L. No. 107-355, § 17, 116 Stat. 2985, 3008.

n146 *Id.*

3. A One Call notification system is a communication system established by operators of underground facilities and/or state governments in order to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities. We also address various implementation issues. Specifically, we require One Call Centers n147 to notify carriers of the toll-free or local number the One Call Center uses in **[**45]** order to ensure that callers do not incur toll charges, as mandated by the statute. n148 We also allow carriers to use either the Numbering Plan Area (NPA) NXX or the originating switch to determine the appropriate One Call Center to which a call should be routed. n149 Further, we require the use of 811 as the national abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators within two years after publication of this *Order* in the Federal Register. n150 We also delegate authority to the states, pursuant to section 251(e), to address the technical and operational issues associated with the implementation of the 811 code. n151

n147 See *Order*, *supra* n.3.

n148 See *Order*, *supra* para. 26.

n149 See *Order*, *supra* para. 29.

n150 See *Order*, *supra* paras. 32-34.

n151 See *Order*, *supra* para. 35; 47 U.S.C. § 251(e)(1).

4. We believe that adopting a nationwide abbreviated dialing code for this purpose will enhance public safety, and strengthen homeland security by streamlining the advance

notification of excavation activities. The measures adopted in this *Order* **[**46]** will reduce disruptions to underground facilities during excavation. Designating 811 as the abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators will eliminate the need for each state One Call notification system to utilize different numbers, and therefore increase the public awareness and use of One Call services. Nationwide use of 811 will also serve the public interest by minimizing confusion over which number to call before engaging in excavation activities.

5. The 811 abbreviated dialing code shall be deployed ubiquitously by carriers throughout the United States for use by all telecommunications carriers, including wireline, wireless, and payphone service providers that provide access to state One Call Centers. n152 The designation of 811 for access to state One Call Centers shall be effective thirty days after publication of this *Order* in the Federal Register. n153

n152 See *Order*, *supra* para. 4.

n153 *Id.*

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

6. In the IRFA, we indicated that we would consider any proposals made to minimize any significant economic **[**47]** impact on small entities. n154 We received no comments directly in response to the IRFA. However, NTCA and THG filed general comments regarding the possible impact of the implementation of an N11 code on small business entities. n155 Specifically, NTCA asserted that, although implementing 811 as the abbreviated dialing code for accessing the state One Call notification system will not cause its member companies any technical hardships; it will involve some costs and difficulties due to the need to modify switches. n156 While NTCA did not provide detailed information on implementation costs, NTCA contended that the burdens associated with implementation of the 811 code would have a greater impact on smaller companies with limited staffing and a smaller subscriber base. n157 THG argued that if an unassigned N11 code is selected to access One Call Centers, then existing commercial uses of this code should continue for commercial purposes until a qualified entity applies for develops the capability to put the code into use for One Call access. n158 THG is concerned that, where an unassigned N11 code is selected for One Call access, small businesses engaged in commercial activities may **[**48]** be adversely affected and the public deprived of an existing service. n159 The steps taken to minimize economic impact on small entities are discussed below. n160

n154 *Notice*, 19 FCC Rcd at 9203, para. 37.

n155 See NTCA Comments; THG Comments.

n156 See NTCA Comments at 1-3. NTCA is the industry association representing rural telecommunications providers. NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent

local exchange carriers and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended. NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities. NTCA Comments at n.1.

n157 *Id.* at 2.

n158 *See Order, infra* para. 33; THG Comments at 2-3. THG offers consulting services to communications companies and companies that use such services of such companies. THG Comments at 1. THG clients are commercial entities that have used N11 codes to provide information services to the public on a commercial basis. *Id.* [****49**]

n159 *Id.* at 4.

n160 *See infra* paras. 40-44.

C. Description and Estimate of the Number of Small Entities to which the Rules Will Apply

7. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules. n161 The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." n162 In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. n163 A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). n164

n161 5 U.S.C. § 603(b)(3).

n162 5 U.S.C. § 601(6).

n163 5 U.S.C. § 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." [****50**]

n164 15 U.S.C. § 632.

a. Telecommunications Service Entities

(i) Wireline Carriers and Service Providers

8. We have included small incumbent local exchange carriers in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." n165 The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope. n166 We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

n165 *Id.*

n166 Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small-business concern," which the RFA incorporates into its own definition of "small business." See 15 U.S.C. § 632(a); 5 U.S.C. § 601(3). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. See 13 C.F.R. § 121.102(b). **[**51]**

9. *Incumbent Local Exchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. n167 According to Commission data, n168 1,337 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our action.

n167 13 C.F.R. § 121.201, NAICS code 517110.

n168 FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, Page 5-5 (May 2004) (hereinafter "Trends in Telephone Service"). This source uses data that are current as of October 22, 2003.

10. *Competitive Local Exchange Carriers, Competitive Access Providers, "Shared-Tenant Service Providers," and "Other **[**52]** Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. n169 According to Commission data, n170 609 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 carriers, an estimated

458 have 1,500 or fewer employees and 151 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 35 carriers have reported that they are "Other Local Service Providers." Of the 35, an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that **[**53]** may be affected by our action.

n169 13 C.F.R. § 121.201, NAICS code 517110.

n170 "Trends in Telephone Service" at Table 5.3.

11. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. n171 According to Commission data, n172 133 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 127 have 1,500 or fewer employees and six have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by our action.

n171 13 CFR § 121.201, NAICS code 517310.

n172 "Trends in Telephone Service" at Table 5.3.

12. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. n173 According to Commission data, n174 625 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 590 have 1,500 or fewer **[**54]** employees and 35 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

n173 13 CFR § 121.201, NAICS code 517310.

n174 "Trends in Telephone Service" at Table 5.3.

13. *Payphone Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. n175 According to Commission data, n176 761 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 757 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the

majority of payphone service providers are small entities that may be affected by our action.

n175 13 CFR § 121.201, NAICS code 517110.

n176 "Trends in Telephone Service" at Table 5.3.

14. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard **[**55]** specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. n177 According to Commission data, n178 261 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXC's are small entities that may be affected by our action.

n177 13 C.F.R. § 121.201, NAICS code 517110.

n178 "Trends in Telephone Service" at Table 5.3.

15. *Operator Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. n179 According to Commission data, n180 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 22 have **[**56]** 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of OSP's are small entities that may be affected by our action.

n179 13 C.F.R. § 121.201, NAICS code 517110.

n180 "Trends in Telephone Service" at Table 5.3.

16. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. n181 According to Commission data, n182 37 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by our action.

n181 13 C.F.R. § 121.201, NAICS code 517310.

n182 "Trends in Telephone Service" at Table 5.3.

(ii) Wireless Telecommunications Service Providers

17. *Wireless Service Providers.* **[**57]** The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging" n183 and "Cellular and Other Wireless Telecommunications." n184 Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category, total, that operated for the entire year. n185 Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more. n186 Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category Cellular and Other Wireless Telecommunications, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. n187 Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. n188 Thus, under this second category and size standard, the majority of firms can, again, be considered small.

n183 13 C.F.R. § 121.201, NAICS code 513321. **[**58]**

n184 13 C.F.R. § 121.201, NAICS code 513322.

n185 U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513321 (issued October 2000).

n186 *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1000 employees or more."

n187 U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513322 (issued October 2000).

n188 *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1000 employees or more."

18. *Cellular Licensees.* The SBA has developed a small business size standard for wireless firms within the broad economic census category "Cellular and Other Wireless

Telecommunications." n189 Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category Cellular and Other Wireless **[**59]** Telecommunications firms, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year. n190 Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. n191 Thus, under this category and size standard, the great majority of firms can be considered small. According to the most recent *Trends in Telephone Service* data, 719 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service, or Specialized Mobile Radio Telephony services, which are placed together in the data. n192 We have estimated that 294 of these are small, under the SBA small business size standard. n193

n189 13 C.F.R. § 121.201, NAICS code 513322.

n190 U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513322 (issued October 2000).

n191 *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1000 employees or more." **[**60]**

n192 FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, page 5-5 (August 2003).

n193 *Id.*

19. *Common Carrier Paging.* The SBA has developed a small business size standard for wireless firms within the broad economic census categories of "Cellular and Other Wireless Telecommunications." n194 Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category, total, that operated for the entire year. n195 Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more. n196 Thus, under this category and associated small business size standard, the great majority of firms can be considered small. In the Paging *Third Report and Order*, we developed a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. n197 A "small business" is an entity that, together **[**61]** with its affiliates and controlling principals, has average gross revenues not exceeding \$ 15 million for the preceding three years. Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$ 3 million for the preceding three years. n198 The SBA has approved these small business size standards. n199 An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. n200 Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. According to the most recent *Trends*

in Telephone Service, 433 carriers reported that they were engaged in the provision of paging and messaging services. n201 Of those, we estimate that 423 are small, under the SBA approved small business size standard. n202

n194 13 C.F.R. § 121.201, NAICS code 513322.

n195 U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513321 (issued October 2000).

n196 *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1000 employees or more." **[**62]**

n197 *Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service*, PR Docket No. 89-552, Third Report and Order and Fifth Notice of Proposed Rulemaking, 12 FCC Rcd 10943, 11068-70, paras. 291-295 (1997).

n198 See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from A. Alvarez, Administrator, SBA (Dec. 2, 1998).

n199 *Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems*, Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, paras. 98-107 (1999).

n200 *Id.* at 10085, para. 98.

n201 "Trends in Telephone Service" at Table 5.3.

n202 *Id.*

20. *Wireless Communications Services*. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services auction. A "small business" is an **[**63]** entity with average gross revenues of \$ 40 million for each of the three preceding years, and a "very small business" is an entity with average gross revenues of \$ 15 million for each of the three preceding years. The SBA has approved these small business size standards. n203 The Commission auctioned geographic area licenses in the wireless communications services. In the auction, there were seven winning bidders that qualified as "very small business" entities, and one that qualified as a "small business"

entity.

n203 See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from A. Alvarez, Administrator, Small Business Administration (December 2, 1998).

21. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted earlier, the SBA has developed a small business size standard for "Cellular and Other Wireless Telecommunications" services. n204 Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. n205 According to the most recent *Trends in Telephone* **[**64]** Service data, 719 carriers reported that they were engaged in the provision of wireless telephony. n206 We have estimated that 294 of these are small under the SBA small business size standard.

n204 13 C.F.R. § 121.201, NAICS code 513322.

n205 *Id.*

n206 "Trends in Telephone Service" at Table 5.3.

22. *Broadband Personal Communications Service*. The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of \$ 40 million or less in the three previous calendar years. n207 For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$ 15 million for the preceding three calendar years." n208 These standards defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. n209 No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There **[**65]** were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. n210 On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. In addition, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

n207 See Amendment of Parts 20 and 24 of the Commission's Rules -- Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT Docket No. 96-59, Report and Order, 11 FCC Rcd 7824 (1996); see also 47 C.F.R. § 24.720(b). **[**66]**

n208 See Amendment of Parts 20 and 24 of the Commission's Rules -- Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT Docket No. 96-59, Report and Order, 11 FCC Rcd 7824 (1996).

n209 See, e.g., Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5332 (1994).

n210 FCC News, Broadband PCS, D, E and F Block Auction Closes, No. 71744 (released January 14, 1997). See also Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, Second Report and Order, 12 FCC Rcd 16436 (1997).

23. *Narrowband Personal Communications Services.* To date, two auctions of narrowband PCS licenses have been conducted. For purposes of the two auctions that have already been held, "small businesses" were entities with average gross revenues for the prior three calendar years of \$ 40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 **[**67]** were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order*. n211 A "small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$ 40 million. A "very small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$ 15 million. The SBA has approved these small business size standards. n212 In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future actions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined.

[68]** The Commission assumes, for purposes of this analysis, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

n211 Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS, Docket No. ET 92-100, Docket No. PP93-253, Second Report and Order and Second Further Notice of Proposed Rulemaking, 15 FCC Rcd 10456 (2000).

n212 See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from A. Alvarez,

Administrator, Small Business Administration (December 2, 1998).

24. *220 MHz Radio Service -- Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a **[**69]** small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the small business size standard under the SBA rules applicable to "Cellular and Other Wireless Telecommunications" companies. This category provides that a small business is a wireless company employing no more than 1,500 persons. n213 According to the Census Bureau data for 1997, only 12 wireless firms out of a total of 1,238 such firms that operated for the entire year, had 1,000 or more employees. n214 If this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard.

n213 13 CFR § 121.201, NAICS code 513322.

n214 U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization), Table 5, NAICS code 513322 (issued October 2000)."

25. *220 MHz Radio Service -- Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new **[**70]** service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, we adopted a small business size standard for "small" and "very small" businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. n215 This small business size standard indicates that a "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$ 15 million for the preceding three years. n216 A "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed \$ 3 million for the preceding three years. The SBA has approved these small business size standards. n217 Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. n218 In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area Licenses. Of the 908 licenses auctioned, 693 were sold. n219 Thirty-nine small businesses won licenses in the first 220 MHz auction. The **[**71]** second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses. n220

n215 *220 MHz Third Report and Order*, 12 FCC Rcd 10943, 11068-70, paras. 291-295 (1997).

n216 *Id.* at 11068-70, para. 291.

n217 See letter to D. Phythyon, Chief, Wireless Telecommunications Bureau, Federal

Communications Commission, from A. Alvarez, Administrator, Small Business Administration (January 6, 1998).

n218 See generally Public Notice, "220 MHz Service Auction Closes," Public Notice, 14 FCC Rcd 605 (1998).

n219 See, e.g., Public Notice, "FCC Announces It is Prepared to Grant 654 Phase II 220 MHz Licenses After Final Payment is Made," 14 FCC Rcd 1085 (1999).

n220 Public Notice, "Phase II 220 MHz Service Spectrum Auction Closes," 14 FCC Rcd 11218 (1999).

26. *800 MHz and 900 MHz Specialized Mobile Radio Licenses.* The Commission awards "small entity" and "very small entity" bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and **[**72]** 900 MHz bands to firms that had revenues of no more than \$ 15 million in each of the three previous calendar years, or that had revenues of no more than \$ 3 million in each of the previous calendar years, respectively. n221 These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$ 15 million. One firm has over \$ 15 million in revenues. The Commission assumes, for purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small or very small entities in the 900 MHz SMR auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small or very small entities won 263 licenses. In the 800 MHz **[**73]** auction, 38 of the 524 licenses won were won by small and very small entities. Consequently, the Commission estimates that there are 301 or fewer small entity SMR licensees in the 800 MHz and 900 MHz bands that may be affected by the rules and policies adopted herein.

n221 47 CFR § 90.814(b)(1).

27. *700 MHz Guard Band Licensees.* In the 700 MHz Guard Band Order, we adopted a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. n222 A "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$ 15 million for the preceding three years. Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$ 3 million for the preceding three years. An auction of 52 Major Economic Area licenses commenced on September 6, 2000, and closed on September 21, 2000. n223 Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses **[**74]** that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small

business that won a total of two licenses. n224

n222 *See Service Rules for the 746-764 MHz Bands, and Revisions to Part 27 of the Commission's Rules*, WT Docket No. 99-168, Second Report and Order, 65 FR 17599 (2000).

n223 *See generally* Public Notice, "220 MHz Service Auction Closes," Report No. WT 98-36 (Wireless Telecommunications Bureau, Oct. 23, 1998).

n224 Public Notice, "700 MHz Guard Band Auction Closes," DA 01-478 (released Feb. 22, 2001).

28. *Rural Radiotelephone Service*. The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. n225 A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System. n226 The Commission uses the SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," *i.e.*, an entity employing no more than 1,500 persons. n227 There are **[**75]** approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

n225 The service is defined in § 22.99 of the Commission's Rules, 47 C.F.R. § 22.99.

n226 BETRS is defined in §§ 22.757 and 22.759 of the Commission's Rules, 47 C.F.R. §§ 22.757 and 22.759.

n227 13 C.F.R. § 121.201, NAICS code 513322.

29. *Air-Ground Radiotelephone Service*. The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. n228 We will use SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," *i.e.*, an entity employing no more than 1,500 persons. n229 There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA small business size standard.

n228 The service is defined in § 22.99 of the Commission's Rules, 47 C.F.R. § 22.99.

n229 13 CFR § 121.201, NAICS codes 513322.

30. *Fixed Microwave Services*. Fixed microwave services **[**76]** include common carrier, n230 private operational-fixed, n231 and broadcast auxiliary radio services. n232 At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private

operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category "Cellular and Other Telecommunications," which is 1,500 or fewer employees. n233 The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies **[**77]** adopted herein. We noted, however, that the common carrier microwave fixed licensee category includes some large entities.

n230 See 47 C.F.R. §§ 101 *et seq.* (formerly, Part 21 of the Commission's Rules) for common carrier fixed microwave services (except Multipoint Distribution Service).

n231 Persons eligible under parts 80 and 90 of the Commission's Rules can use Private Operational-Fixed Microwave services. See 47 C.F.R. Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

n232 Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. See 47 C.F.R. Part 74. This service is available to licensees of broadcast stations and to broadcast and cable network entities. Broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile television pickups, which relay signals from a remote location back to the studio. **[**78]**

n233 13 CFR § 121.201, NAICS code 513322.

31. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. n234 There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for "Cellular and Other Wireless Telecommunications" services. n235 Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. n236

n234 This service is governed by Subpart I of Part 22 of the Commission's Rules. See 47 C.F.R. §§ 22.1001-22.1037.

n235 13 C.F.R. § 121.201, NAICS code 513322.

n236 *Id.*

32. *39 GHz Service.* The Commission created a special small business size standard for 39 GHz licenses -- an entity that has average gross revenues of \$ 40 million or less in the three previous calendar years. n237 An additional size standard for "very small business" is: an entity that, together with affiliates, has average gross revenues of not more than \$ 15 million **[**79]** for the preceding three calendar years. n238 The SBA has approved these small business size standards. n239 The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and policies adopted herein.

n237 *See Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands*, ET Docket No. 95-183, Report and Order, 63 Fed.Reg. 6079 (Feb. 6, 1998).

n238 *Id.*

n239 *See Letter to Kathleen O'Brien Ham, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from Aida Alvarez, Administrator, SBA* (Feb. 4, 1998).

33. *Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and ITFS.* Multichannel Multipoint Distribution Service systems, often referred to as "wireless cable," transmit video programming to subscribers using the microwave frequencies of the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS). n240 **[**80]** In connection with the 1996 MDS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of less than \$ 40 million in the previous three calendar years. n241 The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas. Of the 67 auction winners, 61 met the definition of a small business. MDS also includes licensees of stations authorized prior to the auction. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating \$ 12.5 million or less in annual receipts. n242 According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. n243 Of this total, 1,180 firms had annual receipts of under \$ 10 million and an additional 52 firms had receipts of \$ 10 million or more but less than \$ 25 million. Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein. This SBA small business size standard also appears **[**81]** applicable to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. n244 Thus, we tentatively conclude that at least 1,932 licensees are small businesses.

n240 *Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing*

Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, MM Docket No. 94-131 and PP Docket No. 93-253, Report and Order, 10 FCC Rcd 9589, 9593, para. 7 (1995).

n241 47 C.F.R. § 21.961(b)(1).

n242 13 C.F.R. § 121.201, NAICS code 513220.

n243 U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)", Table 4, NAICS code 513220 (issued October 2000).

n244 In addition, the term "small entity" within SBREFA applies to small organizations (nonprofits) and to small governmental jurisdictions (cities, counties, towns, townships, villages, school districts, and special districts with populations of less than 50,000). 5 U.S.C. §§ 601(4)-(6). We do not collect annual revenue data on ITFS licensees. [****82**]

34. *Local Multipoint Distribution Service*. Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. n245 The auction of the 1,030 LMDS licenses began on February 18, 1998 and closed on March 25, 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than \$ 40 million in the three previous calendar years. n246 An additional small business size standard for "very small business" was added as an entity that, together with its affiliates, has average gross revenues of not more than \$ 15 million for the preceding three calendar years. n247 The SBA has approved these small business size standards in the context of LMDS auctions. n248 There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, we conclude that the number of small LMDS licenses consists [****83**] of the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers.

n245 See *Local Multipoint Distribution Service, Second Report and Order*, 12 FCC Rcd 12545 (1997).

n246 *Id.*

n247 *Id.*

n248 See Letter to Dan Phythyon, Chief, Wireless Telecommunications Bureau, FCC, from Aida Alvarez, Administrator, SBA (Jan. 6, 1998).

35. *218-219 MHz Service*. The first auction of 218-219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a \$ 6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than \$ 2 million in annual profits each year for the previous two years. n249 In the *218-219 MHz Report and Order and Memorandum Opinion and Order*, we established a small business size standard for a "small business" as an entity that, together with its affiliates and persons or entities **[**84]** that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed \$ 15 million for the preceding three years. n250 A "very small business" is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed \$ 3 million for the preceding three years. n251 We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218-219 MHz spectrum.

n249 *Implementation of Section 309(j) of the Communications Act -- Competitive Bidding*, PP Docket No. 93-253, Fourth Report and Order, 59 Fed.Reg. 24947 (May 13, 1994).

n250 *In the Matter of Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218-219 MHz Service*, WT Docket No. 98-169, Report and Order and Memorandum Opinion and Order, 64 Fed.Reg. 59656 (Nov. 3, 1999).

n251 *Id.*

36. *24 GHz -- Incumbent Licensees*. This analysis may affect incumbent licensees who were relocated **[**85]** to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of "Cellular and Other Wireless Telecommunications" companies. This category provides that such a company is small if it employs no more than 1,500 persons. n252 According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. n253 Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. n254 Thus, under this size standard, the great majority of firms can be considered small. These broader census data notwithstanding, we believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent n255 and TRW, Inc. It is our understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

n252 13 C.F.R. § 121.201, NAICS code 513322.

n253 U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Employment Size of Firms Subject to Federal Income Tax: 1997," Table 5, NAICS code 513322 (issued Oct. 2000). **[**86]**

n254 *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more."

n255 Teligent acquired the DEMS licenses of FirstMark, the only licensee other than TRW in the 24 GHz band whose license has been modified to require relocation to the 24 GHz band.

37. *24 GHz -- Future Licensees.* With respect to new applicants in the 24 GHz band, the small business size standard for "small business" is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of \$ 15 million. n256 "Very small business" in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding \$ 3 million for the preceding three years. n257 The SBA has approved these small business size standards. n258 These size standards will apply to the future auction, if held.

n256 *In the Matter of Amendments to Parts 1,2, 87 and 101 of the Commission's Rules to License Fixed Services at 24 GHz, Report and Order, 15 FCC Rcd 16934, 16967 (2000); see also 47 C.F.R. § 101.538(a)(2). [**87]*

n257 *In the Matter of Amendments to Parts 1,2, 87 and 101 of the Commission's Rules to License Fixed Services at 24 GHz, Report and Order, 15 FCC Rcd 16934, 16967 (2000); see also 47 C.F.R. § 101.538(a)(1).*

n258 See Letter to Margaret W. Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from Gary M. Jackson, Assistant Administrator, SBA (July 28, 2000).

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

38. In the IRFA, we invited comment on any possible costs associated with the abbreviated dialing arrangement ultimately chosen to comply with the Pipeline Safety Act. n259 We received five general, non-IRFA comments in response to this issue. Commenters support the NANC's recommendation that the cost of implementing a One Call service should not be an unfunded mandate. n260 Qwest asserts that, although past N11 deployments have not typically involved federal cost recovery, state regulatory commissions are not uniform in the way in which they resolve cost recovery matters associated with N11 deployments. n261 Specifically, APCC contends that [**88] if payphone service providers are not excluded from the statutory mandate, then they should also be compensated for such calls. n262

n259 See *Notice*, 19 FCC Rcd at 9202, para. 35.

n260 See DIG IMG Report at 11; APCC Comments at 3-4; NTCA Comments at 1-3; Qwest Comments at 10-11; SBC Comments at 6; Verizon Reply at 2; Verizon *Ex Parte*. For example, SBC estimates that the implementation of the 811 code will cost SBC approximately \$ 1.5 million dollars for switch translations, network testing, and other network-related costs. The information technology work required will cost approximately \$ 750,000 to \$ 1 million dollars, and customer education will cost approximately \$ 500,000 to \$ 750,000. SBC Comments at 6.

n261 See Qwest Comments at 10-11.

n262 See APCC Comments at 3-4.

39. While we recognize that there may be some costs associated with implementation of the 811 code, we have not specified parameters for cost recovery in this *Order*. The Pipeline Safety Act did not provide for federal financial support as part of the mandate for a nationwide abbreviated dialing arrangement for access to One Call Centers. n263 Therefore, **[**89]** we find that the Congressional mandate and benefits of a national N11 code assignment, specifically 811, outweigh any concerns regarding cost recovery on the federal level. These issues are most appropriately addressed by the state and local governments. As indicated above, we believe that state commissions are in the best position to address issues associated with implementing 811 because many of the One Call Centers were developed by, or under the auspices of, the state commissions. n264

n263 See Pipeline Safety Act § 17. We agree with APCC that Section 276 of the 1996 Act does not exempt payphone calls made to One Call Centers from that statute's requirement that payphone service providers be "fairly compensated." See 47 U.S.C. § 276(b)(1). Therefore, coin calls made from a payphone to a One Call Center should be paid in accordance with that payphone's established coin rate, and coinless calls made from a payphone to a One Call Center should be compensated in accordance with the Commission's payphone compensation rules. See 47 C.F.R. §§ 64.1300 *et seq.*

n264 See *Order*, *supra* para. 35.

E. Steps Taken to Minimize Significant **[90]** Economic Impact on Small Entities, and Significant Alternatives Considered**

40. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. n265

n265 5 U.S.C. § 603(c).

41. In adopting 811 as the national abbreviated dialing code for access to One Call Centers, we have taken steps to minimize the impact on small entities. The overall objective of this proceeding was to assess possible abbreviated dialing arrangements to use to access state One Call Centers as mandated by the Pipeline Safety Act, while at the same time, seeking to minimize any adverse impact on **[**91]** numbering resources. n266 We, therefore, sought comment on various abbreviated dialing arrangements, including those considered and recommended by the NANC, that could be used by state One Call notification systems in compliance with the Pipeline Safety Act while at the same time minimizing, to the extent possible, any adverse impact on numbering resources, including any impact on small entities. n267

n266 *See Order, supra* para. 9.

n267 *Id.*

42. After reviewing the comments and considering the possible abbreviated dialing arrangements that could be used by state One Call notification systems in compliance with the Pipeline Safety Act, we conclude that an N11 code is the best solution, within the framework of the statute, for access to One Call Centers. n268 Thus, consistent with the statutory mandate, we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Act. n269 We agree with commenters that the other proposed alternatives - codes using a leading star or number sign, e.g. *344 or # **[**92]** 344, and the establishment of an ERC, such as 344, as an abbreviated dialing code are impractical, costly to implement, and could delay the availability of a national One Call number for years. n270 Moreover, this abbreviated dialing arrangement would not achieve the uniformity mandated by the Pipeline Safety Act since all users would not be dialing the same sequence if the code selected includes a star or number sign. n271 We believe that 811 will have less impact on customer dialing patterns and can be implemented without the substantial cost and delay of switch development required with other proposed alternatives. n272

n268 *See Order, supra* para. 12.

n269 *Id.*

n270 *Id.*

n271 *Id.*

n272 *Id.*

43. Although we recognize that using 811 depletes the quantity of remaining N11 codes assignable for other purposes, using an N11 code to access One Call Centers will consume fewer numbering resources than certain other alternative abbreviated dialing arrangements. n273 Additionally, the use of an N11 code to access One Call services follows the existing conventions for abbreviated dialing already familiar to customers. n274 The N11 architecture is an established **[**93]** abbreviated dialing plan that is recognized by switch manufacturers and the public at large. n275 Most significantly, using an N11 code such as 811 satisfies the legislative mandate for a three-digit nationwide number. n276

n273 *See Order, supra* para. 13.

n274 *Id.*

n275 *Id.*

n276 *Id.*; *see* Pipeline Safety Act § 17.

44. Further, although the Commission has allowed the local use of unassigned N11 codes, it has recognized that this use must be discontinued on short notice. n277 Accordingly, in this *Order*, we reject THG's proposed alternative that would have allowed the continued use of 811 for commercial purposes until a qualified entity applies for and develops the capability to put the code into use for One Call access. n278 In order to minimize the impact of our action, including the impact on small business entities, we provide a two year period, from publication of this *Order* in the Federal Register, for implementing the 811 code. n279 Based on the record before us, we believe two years from publication of this *Order* in the Federal Register is a reasonable time period for implementation of 811. n280 The alternative of not providing for a **[**94]** transition period was considered but rejected because we believe a transition period is necessary to provide all telecommunications carriers, including wireline, wireless, and payphone service providers, sufficient time to make the necessary network modifications or upgrades, as well as integrate existing One Call notification systems, thus minimizing any adverse or unfair impact on smaller entities. n281 In addition, this transition period will give carriers time to clear this number of any other existing uses, provide customer education, and ensure that there is no unreasonably abrupt disruption of the existing uses. n282

n277 *See N11 First Report and Order, 12 FCC Rcd at 5597, para 41.*

n278 *See Order, supra* para. 33; THG Comments at 2-4.

n279 *See Order, supra* paras. 32-34.

n280 *See id.* at para. 32.

n281 *Id.* at paras. 32-34.

n282 *Id.* at para. 34.

F. Publication of FRFA

45. The Commission will send a copy of the *Order*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Order* and FRFA (or summaries thereof) will also be published in the Federal **[**95]** Register. n283

n283 See 5 U.S.C. § 604(b).