

carriers to determine the appropriate compensation due.³⁸³ For instance, although current billing records include call detail information, it is unclear whether and to what extent these billing records include carrier identification information. We seek further comment on the extent to which billing information in a transiting situation may be inadequate to determine the appropriate intercarrier compensation due, and we ask carriers to identify possible solutions to the extent that billing problems exist today.³⁸⁴ Specifically, we request comment about whether to impose an obligation on the transiting carrier to provide information necessary to bill, including both the identity of the originating carrier, and the nature of the traffic.³⁸⁵ Parties should explain whether this obligation to exchange information is necessary if we move to a bill-and-keep regime. In the absence of such information, it may be difficult for carriers exchanging traffic indirectly to identify each other and to determine the type and quantity of traffic that they exchange with each other. This may affect not only the exchange of compensation between the parties, but also may hinder the ability to establish direct connections. Parties should address whether such solutions are best implemented by this Commission, industry organizations, or some combination of the two.

2. CMRS Issues

a. The IntraMTA Rule

134. In the *Local Competition First Report and Order*, the Commission stated that traffic to or from a CMRS network that originates and terminates within the same Major Trading Area (MTA)³⁸⁶ is subject to reciprocal compensation obligations under section 251(b)(5), rather than interstate or intrastate access charges.³⁸⁷ The Commission reasoned that, because wireless license territories are federally authorized and vary in size, the largest FCC-authorized wireless license territory, *i.e.*, the MTA, would be the most appropriate local service area for CMRS traffic for purposes of reciprocal compensation under section 251(b)(5).³⁸⁸ Thus, section 51.701(b)(2) of the Commission's rules defines telecommunications

³⁸³For example, VoiceStream complains that it does not always receive the information it needs to bill the originating carrier for traffic it terminates, and asks us to direct tandem switch owners to provide the identity of the carrier to be billed with each call. VoiceStream Reply at 26. VoiceStream claims that the SS7 signaling in use has never been modified to identify and convey in the trunk signaling messages the carrier to be billed. *Id.*

³⁸⁴In the VoIP context, for instance, Level 3 suggests using the Originating Line Information (OLI), also known as ANI II, SS7 call set-up parameter to identify IP-enabled services traffic. See Letter from John T. Nakahata, Counsel for Level 3, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 03-266 and 04-36, at 2-3 (filed Sept. 24, 2004). Moreover, the EPG proposal in this proceeding includes support for a "Truth-in-Labeling" policy. See EPG Proposal at 16-17.

³⁸⁵In certain situations, obligating the transiting carrier to pass on the billing information in its records may not be sufficient. For example, the transiting carrier may be aware of the identity of the originating carrier, based on the facilities over which it receives the traffic, and of the trunk group (local exchange service or exchange access) that carries the traffic, even though that information is not formally recorded in the billing record. Under the ARIC reform proposal, the tandem owner would be responsible for compensation payments in the case of unidentified traffic. See ARIC Proposal at 55.

³⁸⁶The definition of an MTA can be found in section 24.202(a) of the Commission's rules. 47 C.F.R. § 24.202(a).

³⁸⁷*Local Competition First Report and Order*, 11 FCC Rcd at 16014, para. 1036.

³⁸⁸*Id.*

traffic exchanged between a LEC and a CMRS provider that is subject to reciprocal compensation as traffic “that, at the beginning of the call, originates and terminates within the same Major Trading Area.”³⁸⁹

135. The purpose of the intraMTA rule is thus to distinguish access traffic from section 251(b)(5) CMRS traffic. Given our goal of moving toward a more unified regime, we seek comment on whether the Commission should eliminate the intraMTA rule. We note that many of the proposals would eventually eliminate the intraMTA rule and treat CMRS traffic the same as all other wireline traffic for compensation purposes.³⁹⁰ Parties that support maintaining the intraMTA rule or some modification of that rule should address why a CMRS-specific approach is necessary or desirable in light of our goal of adopting a more unified regime. Commenters should also discuss the impact of eliminating the intraMTA rule prior to the adoption of a new unified regime. Parties that advocate eliminating the intraMTA rule should discuss the effect such a change would have on existing compensation arrangements if we maintain separate reciprocal compensation and access charge regimes.

136. We further invite commenters to discuss how parties should determine which LEC-CMRS calls are subject to reciprocal compensation in the absence of the intraMTA rule. Are wireline local calling areas the appropriate geographic scope for both LEC-originated and CMRS-originated reciprocal compensation calls? Assuming so, how should the end-point of the mobile call be determined? In the *Local Competition First Report and Order*, the Commission suggested that the cell-site in use at the beginning of the call or the point of interconnection might be used as proxies for the location of the mobile caller.³⁹¹ Should these continue to be alternatives in the absence of the intraMTA rule? If not, what other methods exist for determining whether calls are subject to reciprocal compensation or access charges? Should these methods also be used to determine the appropriate intercarrier compensation for calls between two wireline carriers to ensure a unified regime? Can these methods be applied to transited traffic, such that terminating incumbent LECs will be able to distinguish reliably between terminated traffic subject to reciprocal compensation (for which they will charge the CMRS carriers) and access traffic (for which they would presumably charge the IXC)? We seek comment on these questions.

137. We also note that carriers have disagreed regarding the meaning of the existing intraMTA rule. Many rural LECs argue that intraMTA traffic between a rural LEC and a CMRS provider must be routed through an IXC and therefore is subject to access charges, rather than reciprocal compensation.³⁹²

³⁸⁹47 C.F.R. § 51.701(b)(2).

³⁹⁰See, e.g., ARIC Proposal at 35, 37 (describing a mechanism that would apply to all traffic traversing the network); CBICC Proposal at 3 (proposing a plan that eliminates concerns with respect to the intercarrier compensation for CMRS traffic); EPG Proposal at 21-22 (advocating a convergence of the disparate intercarrier rates); Home/PBT Proposal at 13 (supporting unified connection-based rates); ICF Proposal at 46-47 (proposing a default termination rate for CMRS traffic that eventually becomes the uniform rate on July 1, 2008); Western Wireless Proposal at 13 (supporting a four-year transition to bill-and-keep for all traffic).

³⁹¹*Local Competition First Report and Order*, 11 FCC Rcd at 16017-18, para. 1044.

³⁹²See MECA Comments at 37. They explain that, because traffic is routed to and from wireless NXXs located outside of the rural LEC’s local calling scope, it is toll traffic routed via an IXC, and traffic routed to or from an IXC is subject to access charges rather than reciprocal compensation. See, e.g., Letter from Sylvia Lesse, Counsel to the Missouri Companies, to William F. Caton, Acting Secretary, Federal Communications Commission, WT Docket No. 01-316 and CC Docket No. 01-92, Attach. at 6 (filed Mar. 22, 2002) (Missouri Companies Mar. 22 *Ex Parte* Letter); Letter from W.R. England, III, Counsel for Citizen Telephone Company of Missouri, *et al.*, to (continued....)

CMRS providers, however, argue that all CMRS traffic that originates and terminates within a single MTA is subject to reciprocal compensation.³⁹³ In the event that we retain the rule and interpret its scope in the more limited fashion advocated by the rural LECs, should the rule be changed so that all intraMTA traffic to or from a CMRS provider is subject to reciprocal compensation? Under such an approach, would LECs be required to route all such intraMTA traffic to CMRS carriers rather than to IXC, even if dialed on a 1+ basis? We seek comment on the relative merits and drawbacks of such an approach, and ask parties to identify any technical impediments to such routing requirements.

138. For instance, we recognize that the current Commission rules may require that intraMTA calls dialed on a 1+ basis be routed through IXCs. Specifically, section 51.209 of the Commission's rules requires LECs to implement toll dialing parity through a presubscription process that permits a customer to select a carrier to which all designated calls on a customer's line will be routed automatically.³⁹⁴ Should this rule be changed? We ask parties to explain what technical or network changes would be needed if all intraMTA CMRS traffic were routed to CMRS providers. We also seek comment on whether, in the alternative, all intraMTA calls can be made subject to reciprocal compensation without requiring LECs to alter the routing of their originated traffic. We ask parties supporting a particular approach to address any other Commission rules that may be implicated.

b. Negotiation of Interconnection Agreements

139. As the Commission recognized in the *Intercarrier Compensation NPRM*, CMRS providers typically interconnect indirectly with smaller LECs via a BOC tandem.³⁹⁵ In this scenario, a CMRS provider delivers the call to a BOC tandem, which in turn delivers the call to the terminating LEC. The indirect nature of the interconnection has enabled CMRS providers to send traffic to rural LECs with which they have no interconnection agreement or other compensation arrangement.³⁹⁶ Rural carriers in these circumstances have argued that they should not be required to terminate traffic without

(Continued from previous page)

Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 01-92, 96-45, and 95-116, at 2 (filed Oct. 31, 2003) (Citizen Oct. 31 *Ex Parte* Letter). See also Letter from Glenn H. Brown, Counsel to Great Plains Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, Attach. at 8 (filed Sept. 23, 2003) (stating that the local exchange is the incumbent LEC's local service area rather than the MTA). They further argue that calls dialed on a 1+ basis must be routed to the presubscribed IXC under existing equal access rules. See, e.g., Missouri Companies Mar. 22 *Ex Parte* Letter, at 6; Citizen Oct. 31 *Ex Parte* Letter, at 3.

³⁹³See Mid-Missouri Cellular Comments at 4; ALLTEL Reply at 10; Arch Wireless Reply at 7; AT&T Wireless Reply at 27; CTIA Reply at 11; Nextel Reply at 2; PCIA Reply at 12; Sprint Reply at 14; Triton Reply at 7; VoiceStream Reply at 33.

³⁹⁴47 C.F.R. § 51.209(b).

³⁹⁵See *Intercarrier Compensation NPRM*, 16 FCC Rcd at 9643, para. 91 n.148. See also Nextel Comments at 10-11; Triton PCS Comments at 13; MSTG Reply at 2; *T-Mobile USA, Inc. et al. Petition for Declaratory Ruling: Lawfulness of Incumbent Local Exchange Carrier Wireless Termination Tariffs*, CC Docket Nos. 01-92, 95-185, 96-98, Petition of T-Mobile, *et al.* (filed Sept. 6, 2002) (T-Mobile Petition), at 2. Comments and replies filed in response to the T-Mobile Petition will be identified as "T-Mobile Comments" and "T-Mobile Reply."

³⁹⁶See Alliance of Incumbent Rural Independent Telephone and Independent Alliance Reply at 6-7; MITG Reply at 6; MSTG Reply at 7.

compensation, and have sought compensation through various means.³⁹⁷ While many CMRS providers express willingness to enter into compensation agreements, they also assert that the cost of engaging in a negotiation and arbitration process with small incumbent LECs is often prohibitive due to the small amount of traffic at issue in each individual negotiation.³⁹⁸

140. We seek comment on what measures we might adopt to reduce the costs associated with establishing compensation arrangements. We recognize that a formal negotiation and arbitration process could impose significant burdens on the parties. One possible alternative to the negotiation and arbitration process would be to establish national terms and rates for LEC-CMRS interconnection, perhaps available only where traffic volume between the two carriers is *de minimis*. We seek comment on the merits and drawbacks of this approach, on whether it would provide a better option than the section 252 process, and on how the terms and rates would be determined and applied. Alternatively, we seek comment on whether we can and should authorize states to establish uniform terms or master agreements for interconnection between CMRS providers and small incumbent LECs within the state. We also invite parties to comment on measures or procedures we could adopt to make the negotiation and arbitration process more efficient, such as measures to promote the consolidation of cases.

c. Rating of CMRS Traffic

141. It is standard industry practice for telecommunications carriers to compare the NPA/NXX codes of the calling and called party to determine the proper rating of a call.³⁹⁹ As a general matter, a call is rated as local if the called number is assigned to a rate center within the local calling area of the originating rate center. If the called number is assigned to a rate center outside the local calling area of the originating rate center, it is rated as a toll call. These local calling areas are established or approved by state commissions.⁴⁰⁰

142. Although rating of calls based on a comparison of the NPA/NXX codes is standard

³⁹⁷See, e.g., Frontier and Citizens T-Mobile Comments at 7; ICORE T-Mobile Comments at 5, 7; Michigan Rural Incumbent Local Exchange Carriers T-Mobile Comments at 3; Minnesota Independent Coalition T-Mobile Comments at 1-2; NTCA T-Mobile Comments at 2-3; Rural ILECs T-Mobile Comments at 7-8; Rural Iowa Independent Telephone Association T-Mobile Comments at 6. See also, generally, T-Mobile Petition.

³⁹⁸See, e.g., AT&T Wireless T-Mobile Comments at 3; Triton PCS T-Mobile Comments at 6-7. Some small LECs have also asserted that negotiations are not cost-justified for the amount of traffic at issue. See Montana LECs T-Mobile Comments at 6; TCA T-Mobile Comments at 2. But see Rural ILECs T-Mobile Comments at 7 (asserting that volume of traffic is significant in proportion to the total traffic for small incumbent LECs); Frontier & Citizens T-Mobile Comments at 4 (amount of CMRS-to-rural incumbent LEC traffic is significant and growing).

³⁹⁹See *Starpower Communications, LLC v. Verizon South Inc.*, EB-00-MD-19, Memorandum Opinion and Order, 18 FCC Rcd 23625, 23633, para. 17 (2003). One commenter suggests, however, that use of NPA/NXX codes to determine proper rating is not as widespread a practice among rural carriers as it is among the larger LECs. See Independent Rural Telephone Companies Alliance/Independent Alliance R&R Comments at 7-8 (describing arrangements to provide other carriers with local calling scopes on a case-by-case basis).

⁴⁰⁰See *Local Competition First Report and Order*, 11 FCC Rcd at 16013-14, para. 1035 (stating that state commissions have the authority to determine what geographic areas are considered “local areas” for purposes of applying reciprocal compensation obligations, consistent with the state commissions’ historical practice of defining local service areas). In establishing local calling areas, state commissions consider a number of factors, including community interests and the impact on toll revenues.

industry practice, it may be possible for an originating LEC to change its switch translations so that a call to an NPA/NXX assigned to a rate center that is local to the originating rate center must be dialed on a 1+ basis and rated as a toll call, rather than a local call. Under such circumstances, a call made to what appears to be a local number would be routed to an IXC and the calling party would be billed for a toll call. A LEC may have the incentive to engage in this practice for a variety of reasons, including increased access revenue, reduced reciprocal compensation payments, and less significant transport obligations. Alternatively, LECs may engage in such practices pursuant to a state requirement.⁴⁰¹

143. We note that petitions have been filed seeking to clarify a LEC's current obligations with regard to the rating and routing of calls to wireless numbers that are associated with the LEC's rate center.⁴⁰² We seek comment on whether we should modify any part of the existing rating obligations of carriers. Are there any rating issues unique to CMRS providers or is this a concern for other types of competitive carriers? We recognize that attempts to address some of the rating issues may raise the question of whether preemption of state commission jurisdiction over the retail rating of intrastate calls and the definition of local calling areas is necessary.⁴⁰³ Parties supporting preemption should comment on the source of the Commission's authority to preempt and the reasons why preemption of retail rating is warranted in this context. Parties also should comment on whether blanket preemption is necessary or whether such action should be considered on a case-specific basis.

III. PROCEDURAL MATTERS

A. Supplemental Initial Regulatory Flexibility Analysis

144. As required by the Regulatory Flexibility Act of 1980, as amended ("RFA"),⁴⁰⁴ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Intercarrier Compensation NPRM.⁴⁰⁵ The Commission sought written public comment on reforming the existing intercarrier compensation regime,⁴⁰⁶ on alternate approaches to reforming that regime, on whether those alternate approaches will encourage efficient use of and investment in the telecommunications network,⁴⁰⁷ on whether they will

⁴⁰¹For example, on December 22, 2003, ASAP Paging, Inc. (ASAP) filed a petition requesting that the Commission preempt an order of the Public Utility Commission of Texas (Texas Commission) that required toll treatment of calls to ASAP's local numbers, as well as certain provisions of the Texas Public Utility Regulatory Act and certain Texas Commission substantive rules. *See Pleading Cycle Established for Petition of ASAP Paging, Inc. for Preemption of the Public Utility Commission of Texas Concerning Retail Rating of Local Calls to CMRS Carriers*, WC Docket No. 04-6, Public Notice, 19 FCC Rcd 936 (2004) (ASAP Paging Petition Public Notice).

⁴⁰²*See Comment Sought on Petitions for Declaratory Ruling Regarding Intercarrier Compensation for Wireless Traffic*, CC Docket No. 01-92, Public Notice, 17 FCC Rcd 19046 (2002); ASAP Paging Petition Public Notice.

⁴⁰³*See* ASAP Paging Petition Public Notice.

⁴⁰⁴*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).

⁴⁰⁵*Intercarrier Compensation NPRM*, 16 FCC Rcd at 9611 para. 1.

⁴⁰⁶*Id.* at 9658 para. 134.

⁴⁰⁷*Id.* at 9658 para. 135.

solve interconnection problems,⁴⁰⁸ and on the extent to which they are administratively feasible.⁴⁰⁹ The Inter-carrier Compensation NPRM also sought comment on the IRFA.⁴¹⁰ The Commission received extensive comment in response to the Inter-carrier Compensation NPRM,⁴¹¹ including several comments addressing the IRFA directly.⁴¹²

145. With this Further Notice, the Commission continues the process of inter-carrier compensation reform. The Commission has prepared this present Supplemental Initial Regulatory Flexibility Analysis ("Supplemental IRFA") of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Further Notice. This Supplemental IRFA conforms to the RFA.⁴¹³ Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments on the Further Notice provided in paragraph 214. To the extent that any statement in this Supplemental IRFA is perceived as creating ambiguity with respect to Commission rules or statements made in sections of this Further Notice that precede this Supplemental IRFA, the rules and statements set forth in those preceding sections are controlling. The Commission will send a copy of this entire Further Notice, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration ("SBA").⁴¹⁴ In addition, this Further Notice and the Supplemental IRFA (or summaries thereof) will be published in the Federal Register.⁴¹⁵

1. Need for, and objectives of, the proposed rules

146. The Commission's goal in this proceeding is to reform the current inter-carrier compensation regimes and create a more uniform regime that promotes efficient facilities-based competition in the marketplace.⁴¹⁶ As discussed above, the Commission believes that this goal will be served by creating a technologically and competitively neutral inter-carrier compensation regime that is consistent with network developments. It is also critical that this regime be implemented in a manner that will provide regulatory certainty, limit the need for regulatory intervention,⁴¹⁷ and preserve universal service.⁴¹⁸

⁴⁰⁸*Id.* at 9658 para. 134.

⁴⁰⁹*Id.*

⁴¹⁰*Id.* at 9657 para. 131.

⁴¹¹*See infra* at Appendix A.

⁴¹²*See* NECA Comments at 17; NTCA Comments at 23; and SBA Reply at 12-14.

⁴¹³*See* 5 U.S.C. § 604.

⁴¹⁴*See id.* § 604.

⁴¹⁵*Id.*

⁴¹⁶*See supra* para. 31.

⁴¹⁷*See supra* para. 33.

⁴¹⁸*See supra* para. 32.

147. The current intercarrier compensation system is governed by a complex set of federal and state rules.⁴¹⁹ This system applies different cost methodologies to similar services based on traditional regulatory distinctions that may have no bearing on the cost of providing service, are not tied to economic or technical differences between services,⁴²⁰ and are increasingly difficult to maintain.⁴²¹ These regulatory distinctions provide an opportunity for regulatory arbitrage activities, and distort the telecommunications markets at the expense of healthy competition.⁴²²

148. The current intercarrier compensation system also does not take into account recent developments in service offerings, including bundled local and long distance services⁴²³, and voice over Internet Protocol (VoIP) services.⁴²⁴ These developments blur traditional industry and regulatory distinctions among various types of services and service providers, making it increasingly difficult to enforce the existing regulatory regimes.⁴²⁵ Additionally, the current intercarrier compensation system does not account for recent developments in telecommunications infrastructure. The existing intercarrier compensation regimes are based largely on the recovery of switching costs through per-minute charges.⁴²⁶ As a result of developments in telecommunications infrastructure, it appears that most network costs, including switching costs, result from connections to the network rather than usage of the network itself.⁴²⁷ Finally, developments in consumer control over telecommunications services bring into question the assumption that calling parties receive 100 percent of the benefits from a telephone call, a fundamental premise of the current intercarrier compensation regimes.⁴²⁸

149. The Commission received several intercarrier compensation reform proposals in response to the NPRM.⁴²⁹ In this Further Notice, the Commission seeks comment on numerous legal issues it must consider as part of intercarrier compensation reform, whether it adopts one of these proposals or develops a separate approach. Specifically, the Commission seeks comment on whether the cost standards proposed satisfy the requirements of the Act,⁴³⁰ on the possible exercise of its forbearance authority,⁴³¹

⁴¹⁹See *supra* para. 5.

⁴²⁰See *supra* para. 15.

⁴²¹See *supra* paras. 5, 15.

⁴²²See *supra* para. 15.

⁴²³See *supra* para. 19.

⁴²⁴See *supra* para. 20.

⁴²⁵See *supra* para. 21.

⁴²⁶See *supra* para. 23.

⁴²⁷See *supra* para. 23.

⁴²⁸See *supra* para. 27.

⁴²⁹See *supra* note 79.

⁴³⁰See *supra* para. 65.

⁴³¹See *supra* paras. 74-77.

and on the appropriate role of state regulation in the intercarrier compensation reform process.⁴³² The Commission also seeks comment on proposed changes to current interconnection rules.⁴³³

150. Further, the Commission seeks comment on its obligation to provide cost-recovery mechanisms,⁴³⁴ the need, if any, for new cost-recovery mechanisms, the appropriate level of different types of cost recovery mechanisms including end-user charges and universal service,⁴³⁵ and on the impact of replacing access charges with other types of cost recovery mechanisms.⁴³⁶ The Commission also seeks comment on the whether price cap and rate-of-return LECs must be treated equally with regard to cost recovery mechanisms, whether such treatment would be competitively neutral,⁴³⁷ and the appropriate role for state cost recovery mechanisms.⁴³⁸ Additionally, the Commission seeks comment on how best to transition from the current regime to unified intercarrier compensation regime.⁴³⁹ Finally, the Commission seeks comment on additional issues stemming from intercarrier compensation reform including transit service obligations,⁴⁴⁰ the appropriate treatment of intraMTA CMRS traffic,⁴⁴¹ interconnection agreement negotiation obligations,⁴⁴² and routing and rating of CMRS calls.⁴⁴³

2. Legal Basis

151. The legal basis for any action that may be taken pursuant to this *Further Notice* is contained in sections 1-5, 7, 10, 201-05, 207-09, 214, 218-20, 225-27, 251-54, 256, 271, 303, 332, 403, 405, 502 and 503 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-55, 157, 160, 201-05, 207-09, 214, 218-20, 225-27, 251-54, 256, 271, 303, 332, 403, 405, 502, and 503 and sections 1.1, 1.421 of the Commission's rules, 47 C.F.R. §§ 1.1, 1.421

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules will Apply

152. The RFA directs agencies to provide a description of, and, where feasible, an estimate of

⁴³²See *supra* paras. 78-82.

⁴³³See *supra* para. 92.

⁴³⁴See *supra* paras. 99-100.

⁴³⁵See *supra* paras. 101-02.

⁴³⁶See *supra* para. 106.

⁴³⁷See *supra* paras. 107-11.

⁴³⁸See *supra* paras. 114-15.

⁴³⁹See *supra* paras. 116-19.

⁴⁴⁰See *supra* paras. 128-30.

⁴⁴¹See *supra* paras. 135-38.

⁴⁴²See *supra* paras. 139-40.

⁴⁴³See *supra* para. 143.

the number of small entities that may be affected by rules adopted herein.⁴⁴⁴ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁴⁴⁵ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁴⁴⁶ A “small business concern” is one that: 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).⁴⁴⁷

153. In this section, we further describe and estimate the number of small entity licensees and regulatees that may also be indirectly affected by rules adopted pursuant to this *Further Notice*. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be the data that the Commission publishes in its *Trends in Telephone Service* report.⁴⁴⁸ The SBA has developed small business size standards for wireline and wireless small businesses within the three commercial census categories of Wired Telecommunications Carriers,⁴⁴⁹ Paging,⁴⁵⁰ and Cellular and Other Wireless Telecommunications.⁴⁵¹ Under these categories, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, we discuss the total estimated numbers of small businesses that might be affected by our actions.

154. *Wired Telecommunications Carriers*. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.⁴⁵² According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year.⁴⁵³ Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more.⁴⁵⁴ Thus, under this

⁴⁴⁴5 U.S.C. § 604(a)(3).

⁴⁴⁵5 U.S.C. § 601(6).

⁴⁴⁶5 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.”

⁴⁴⁷15 U.S.C. § 632.

⁴⁴⁸FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Trends in Telephone Service*, Table 5.3 (May 2002) (*Trends in Telephone Service*).

⁴⁴⁹13 C.F.R. § 121.201, North American Industry Classification System (NAICS) code 517110.

⁴⁵⁰*Id.* § 121.201, NAICS code 517211.

⁴⁵¹*Id.* § 121.201, NAICS code 517212.

⁴⁵²13 C.F.R. § 121.201, NAICS code 517110.

⁴⁵³U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 5, NAICS code 517110.

⁴⁵⁴*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.”

size standard, the majority of firms can be considered small.

155. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.⁴⁵⁵ According to Commission data, 1,310 carriers reported that they were incumbent local exchange service providers.⁴⁵⁶ Of these 1,310 carriers, an estimated 1,025 have 1,500 or fewer employees and 285 have more than 1,500 employees.⁴⁵⁷ In addition, according to Commission data, 563 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services.⁴⁵⁸ Of these 563 companies, an estimated 472 have 1,500 or fewer employees and 91 have more than 1,500 employees.⁴⁵⁹ In addition, 37 carriers reported that they were “Other Local Exchange Carriers.”⁴⁶⁰ Of the 37 “Other Local Exchange Carriers,” an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees.⁴⁶¹ Consequently, the Commission estimates that most providers of local exchange service, competitive local exchange service, competitive access providers, and “Other Local Exchange Carriers” are small entities that may be affected by the rules and policies adopted herein.

156. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.⁴⁶² According to Commission data, 281 companies reported that they were interexchange carriers.⁴⁶³ Of these 281 companies, an estimated 254 have 1,500 or fewer employees and 27 have more than 1,500 employees.⁴⁶⁴ Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules and policies adopted herein.

157. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or

⁴⁵⁵13 C.F.R. § 121.201, NAICS code 517110.

⁴⁵⁶*Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, Table 5.3 (May 2004) (*Trends in Telephone Service*).

⁴⁵⁷*Id.*

⁴⁵⁸*Id.*

⁴⁵⁹*Id.*

⁴⁶⁰*Id.*

⁴⁶¹*Id.*

⁴⁶²13 C.F.R. § 121.201, NAICS code 517110.

⁴⁶³*Trends in Telephone Service*, Table 5.3.

⁴⁶⁴*Id.*