

received a number of petitions for reconsideration in response to the *Third Report and Order*. Certain comments received are discussed below, including two received in response to the IRFA. The instant *Order* addresses issues raised in those reconsideration petitions and other petitions. This associated Supplemental Final Regulatory Flexibility Analysis (SFRFA) reflects revised or additional information to that contained in the FRFA. This SFRFA is thus limited to matters raised in response to the *Third Report and Order* and addressed in the instant *Order*. This SFRFA conforms to the RFA.

A. Need for and Objectives of This Order and the Rules Adopted Herein

23. Section 258 prohibits any telecommunications carrier from submitting or executing an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service. This practice, known as "slamming," distorts the telecommunications market by enabling companies that engage in fraudulent activity to increase their customer and revenue bases at the expense of consumers and law-abiding companies. In this *Order*, we address certain issues raised in petitions for reconsideration of the *Second Report and Order* and *Further Notice of Proposed Rulemaking*, the *First Order on Reconsideration*, and the *Third Report and Order*. Specifically, in this *Order* we modify the drop-off rule to allow the sales agents of certain carriers to remain on the line during the Third Party Verification (TPV). We also discuss small business concerns with respect to this rule. We exempt "multi-line and/or multi-location business customers" from our rule imposing a 60-day limit on the amount of time an Letter of Agency (LOA) may be considered valid. We decline to hold Interexchange Carriers (IXCs) liable for slamming pursuant to section 258 when the unauthorized carrier change was the result of an LEC mistake, and LECs must verify carrier change requests made by a customer directly to the LEC according to our verification rules. We no longer require carriers that provide telephone exchange service and/or telephone toll service to periodically submit to the Commission allegations of slamming. We do not require a subscriber to identify, either in LOAs or third party verifications, the identity of the displaced carrier. This *Order* also contains a Further Notice of Proposed Rulemaking, in which we propose several additional modifications to our carrier change rules. Specifically, we

seek comment on rule modifications with respect to third party verifications.

B. Summary of Significant Issues Concerning Small Entities

24. Two commenters responded directly to the IRFA: Voicelog and SBA. VoiceLog filed a Petition for Partial Stay and Reconsideration of the *Third Report and Order*. VoiceLog argues that that drop-off rule is overbroad, impractical, and unenforceable and is not competitively neutral with respect to other third party verification methods. The SBA argues that the Commission adopted the drop-off rule without raising the issue in an IRFA and that the Commission did not solicit comment on compliance costs and alternatives in either the *Second Report and Order* or the *Third Report and Order*. In response to VoiceLog's arguments, the Commission modified the drop-off requirement to balance the independence of the third party verification with the concerns of those smaller carriers. The Regulatory Flexibility concerns of VoiceLog and SBA are discussed in paragraphs 44–45 of the *Third Report and Order*.

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

25. 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 proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act. Under the Small Business Act, 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). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations.

26. The definition of "small governmental jurisdiction" is one with populations of fewer than 50,000. There are approximately 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures

available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that ninety-six percent, or about 81,600, are small entities that may be affected by our rules.

27. We have included small incumbent LECs in this 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., wireline telecommunications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

28. *Incumbent Local Exchange Carriers*. Neither the Commission nor the SBA has developed a specific small business size standard for providers of incumbent local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 1,329 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services. Of these 1,329 carriers, an estimated 1,024 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, we estimate that the majority of providers of local exchange services are small entities that may be affected by the rules and policies adopted herein.

29. *Competitive Local Exchange Carriers*. Neither the Commission nor the SBA has developed a specific small business size standard for providers of competitive local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 532 companies reported that they were engaged in the provision of either competitive access