

*Notice of Proposed Rulemaking.* In compliance with the RFA, this present FRFA supplements the FRFA contained in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* to the extent that changes to that Order adopted here on reconsideration require changes in the conclusions reached in the FRFA.

#### 1. Need for and Objectives of the Order

27. The Commission issues this Order to ensure that enhanced Lifeline and Link-Up support is targeted to only the most underserved segments of our Nation. The Commission takes this action as part of its implementation of the Act's mandate that "[c]onsumers in all regions of the Nation \* \* \* have access to telecommunications and information services \* \* \*." In this Order, we affirm that the framework adopted by the Commission for resolution of ETC designations on tribal lands provides a reasonable means to facilitate the expeditious resolution of such requests, while balancing the respective federal, state, and tribal interests. In addition, we conclude that the definition of "reservation" for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* despite the Bureau of Indian Affairs' (BIA) subsequent modification of that definition for purposes of its direct assistance programs. We also clarify the Commission's rules regarding the qualification criteria for enhanced Lifeline and Link-Up service.

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

28. We received no comments directly in response to the IRFA in this proceeding. However, we reconsider our conclusion that Link-Up support should offset a portion of the costs of a wireless handset. Pending resolution of the issues presented in the *Tribal Stay Order*, we also conclude that carriers seeking designation as an ETC on "near reservation" areas must follow the procedures established for non-tribal designations in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*.

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

29. In the FRFA at paragraphs 162–178 of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, we described and estimated the number of small entities

that would be affected by the new universal service rules and amendments for low-income consumers residing on tribal lands. The rule amendments adopted herein apply to the same entities affected by the rules adopted in that order. We therefore incorporate by reference paragraphs 162–178 of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*.

#### 4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

30. The actions taken herein will require carriers seeking designation as an ETC on near reservation areas to file such requests with the relevant state commission. Pending resolution of the issues presented in the *Tribal Stay Order and Further Notice of Proposed Rulemaking*, only in those instances where a carrier provides the Commission with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation will we consider section 214(e)(6) designation requests from carriers serving near reservation areas.

#### 5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

31. In this Order, we confirm that the definition of "reservation" for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. This decision will not result in a significant economic impact on small entities. We also conclude that Link-Up support should not offset any costs of a wireless handset. Given that Link-Up support is a one-time reduction in the eligible consumer's connection charge, we do not believe that this decision will result in a significant economic impact on any small wireless entities.

#### 6. Report to Congress

32. The Commission will send a copy of this Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Order, including the 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 Register**. *See* 5 U.S.C. 604(b).

#### VI. Ordering Clauses

33. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 214(e), and 254 of the

Communications Act of 1934, as amended, and 254, and § 1.429 of the Commission's rules, this Order on Reconsideration and Report and Order is adopted.

34. It is further ordered that the captioned petitions for reconsideration of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* are denied, to the extent discussed herein.

35. It is further ordered that the petition for reconsideration of the National Telephone Cooperative Association, filed on September 5, 2000, is granted, to the extent discussed herein.

36. It is further ordered that the petition for reconsideration of the South Dakota Independent Telephone Coalition, filed on September 5, 2000, is granted in part and denied in part, to the extent discussed herein.

37. It is further ordered that part 54 of the Commission's rules, is amended as set forth, effective August 15, 2003.

38. 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.

#### List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**Ruth A. Dancy,**

*Special Assistant to the Secretary.*

#### Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

#### PART 54—UNIVERSAL SERVICE

■ 1. The authority citations continue to read as follows:

**Authority:** 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

■ 2. Amend § 54.400 by revising paragraph (e) and the note to paragraph (e) to read as follows:

#### § 54.400 Terms and definitions.

\* \* \* \* \*

(e) *Eligible resident of Tribal lands.* An "eligible resident of Tribal lands" is a "qualifying low-income consumer," as defined in paragraph (a) of this section, living on or near a reservation. A "reservation" is defined as any federally recognized Indian tribe's reservation,