

(i.e., recovery through access or, alternatively, end-user charge) would be decided in a future order after further comment. In the *Numbering Resource Optimization Third Report and Order*, the Commission followed the reasoning of the *LNP Third Report and Order* to conclude that unlike LNP, thousands-block number pooling is access related, and thus recovery of pooling costs through access charges is competitively neutral. AT&T otherwise raises no new evidence or arguments not already considered by the Commission. Accordingly, the Commission declines to reconsider its prior order.

22. Finally, the Commission grants the motion of the California PUC to accept its late filed comments. On its own motion, the Commission also accepts the late filed reply comments of the Texas PUC.

III. Procedural Matters

A. Final Regulatory Flexibility Analysis

23. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Third Order on Reconsideration in CC Docket No. 99–200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99–200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95–116 (Further Notice). The Commission sought written public comment on the proposals in the Further Notice, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the Fourth Report and Order

24. In the Further Notice, we sought public comment on whether we should again extend the local number portability (LNP) requirements to all carriers in the 100 largest Metropolitan Statistical Areas (MSAs), regardless of whether they receive a request to provide LNP. We also sought comment on whether all carriers in the 100 largest MSAs should be required to participate in thousands-block number pooling regardless of whether they are required to be LNP capable. Finally, we sought comment on whether all MSAs included in the consolidated metropolitan statistical areas (CMSAs) should be included on the Commission's list of the 100 largest MSAs.

25. With this Fourth Report and Order in CC Docket No. 99–200 and Fourth Report and Order in CC Docket No. 95–116, we continue efforts to maximize the efficiency with which numbering resources in the North American

Numbering Plan (NANP) are used. We also attempt to continue the implementation of telephone number portability and thousands-block number pooling with the minimum regulatory and administrative burden on telecommunications carriers. In particular, we reaffirm that carriers need only deploy LNP in switches within the 100 largest MSAs for which another carrier has made a specific request for the provision of LNP. We also delegate authority to the state commissions to require carriers operating within the largest 100 MSAs that have not received a specific request for LNP from another carrier to provide LNP, under certain circumstances and on a case-by-case basis. We also conclude that all carriers, except those specifically exempted, are required to participate in thousands-block number pooling in accordance with the national rollout schedule, regardless of whether they are required to provide LNP including covered commercial mobile radio service (CMRS) providers that are not required to deploy LNP until November 24, 2003. We specifically exempt rural telephone companies and Tier III CMRS providers that have not received a request to provide LNP from the pooling requirement. We also exempt from the pooling requirement carriers that are the only service provider receiving numbering resources in the rate center. We also find AT&T's petition for reconsideration of the Commission's decision to permit incumbent local exchange carriers (LECs) to recover the extraordinary costs of thousands-block number pooling through access charges to be untimely and without merit.

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

26. No comments specifically addressed the IRFA. Commenters, however, responded to several issues addressed in the *Further Notice of Proposed Rulemaking* that concern small entities. Generally, commenters from the state commissions support extending the LNP requirement to all carriers in the 100 largest MSAs, regardless of whether there has been a request. Most commenters agree that all carriers in the 100 largest MSAs should be required to participate in thousands-block number pooling regardless of whether they are LNP capable. Several of these commenters suggest that thousands-block number pooling should be as expansive as possible in order to promote efficient and effective numbering resource optimization. Other commenters suggested that an

exemption should be established for small carriers.

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

27. 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 adopted herein. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." The term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, 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 SBA.

28. The most reliable source of information regarding the total number of certain common carriers and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes bi-annually in its Trends in Telephone Service Report. According to data in the most recent report, there are 5,679 interstate carriers. These carriers include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

29. We have included small incumbent LECs 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." 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 Commission analyses and determinations in other, non-RFA contexts.

30. Wired Telecommunications Carriers. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which