

with the Joint Board that we should not create a subcategory of ETC for rural wireless carriers.

#### *L. Technical and Service Quality Standards*

24. The Commission agrees with the Joint Board and the vast majority of commenters that we should not impose technical or service quality standards as a condition to receive universal service support. The Commission is not persuaded that there is a need to adopt federal technical and service quality standards at this time. In response to the *Notice of Proposed Rulemaking*, no commenter provided specific examples of states that lack jurisdiction over certain carriers or service quality problems that would necessitate a federal standard. Based on the record before us in this proceeding, the Commission finds no reason to supplant the states' role of implementing and enforcing technical and service quality standards.

#### *M. Equal Access*

25. The Joint Board was unable to reach agreement on whether equal access should be added to the list of supported services. Consequently, the *Recommended Decision* presented the arguments of the Joint Board members in favor of and opposed to adding equal access to the definition of supported services. Comments received in response to the *Notice of Proposed Rulemaking* were similarly split.

26. Parties in favor of adding equal access argue all ETCs that receive high cost support in a particular area should be required to provide comparable services. Specifically, they argue regulatory parity requires wireless ETCs to provide equal access, because the majority of incumbent LEC/ETCs offer it. Additionally, these parties assert that the current definition of supported services, when combined with the Commission's policies for calculating competitive ETC high-cost support, provides advantages to wireless ETCs. Specifically, they allege wireless ETCs receive a windfall when they receive support based on the incumbent ETC's costs, as these costs include the cost of providing equal access, a service not provided by wireless ETCs. The parties also argue that competition in high-cost areas will be enhanced with equal access requirements for universal service support, and that consumers will benefit. Furthermore, they assert that when considering the totality of the circumstances and the four section 254 criteria for determining what services should be supported, equal access should be added to the list of supported

services. Finally, they argue that section 332(c)(8) of the Act does not prevent the Commission from requiring CMRS carriers to provide equal access in order to receive universal service funds. They contend this provision only prevents the Commission from requiring CMRS carriers to provide equal access as a general condition of mobile service.

27. Parties in opposition to adding equal access to the list of supported services assert that the costs of adding equal access to the list of supported services would hinder competitive ETCs from entering or continuing to serve some geographic areas. These parties also claim that the addition to the list of supported services would be inconsistent with the congressional intent of section 332(c)(8) of the Act, and would not further the competitive goals of the Act. Finally, they argue that equal access fails to meet the section 254(c) statutory criteria.

28. Because critical arguments in favor of adding equal access are related to the ETC designation process and the calculation of support for competitive ETCs, both of which are within the scope of the *Portability Proceeding*, the Commission makes no decision regarding equal access at this time. The Commission agrees with commenters like Verizon Wireless and T-Mobile that some of the arguments raised in favor of adding equal access are directly related to the methodology for calculating universal service support provided to competitive ETCs.

Given the scope of the *Portability Proceeding*, the Commission believes that a determination regarding equal access would be premature at this time. For example, if the Commission were to determine that competitive ETCs' support should be based on their own costs, as opposed to incumbents', many of the arguments for adding equal access could be moot. Accordingly, the Commission defers consideration of this issue pending resolution of the *Portability Proceeding*.

29. We note that the outcome of the Commission's pending proceeding examining the rules relating to high-cost universal service support in competitive areas could potentially impact, among other things, the support that competitive ETCs may receive in the future. As such, the Commission recognizes that any grant of competitive ETC status pending completion of that proceeding will be subject to whatever rules are established in the future. The Commission intends to proceed as expeditiously as possible to address the important and comprehensive issues that are being raised.

### **III. Procedural Issues**

#### *A. Final Regulatory Flexibility Act Analysis*

##### **1. Need for, and Objectives of, the Report and Order**

30. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking*. The Commission sought written public comment on the proposals in the *Notice of Proposed Rulemaking*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

31. In this Order, the Commission adopts the Joint Board's recommendations to retain the existing list of services supported by universal service. Accordingly, the Commission do not adopt any changes to our universal service rules or reporting burdens.

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

32. The Commission did not receive any comments in response to the IRFA.

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

33. The Commission did not adopt or modify any rules in this Order.

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

34. There are no new or changed reporting requirements adopted in this Order.

##### **5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternative Considered**

35. Because no rules are adopted or modified in this Order, there are no economic impacts created by this Order.

##### **6. Report to Congress**

36. The Commission will send a copy of this Order, including the FRFA analysis, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of this Order, including this FRFA analysis, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Order and FRFA analysis (or summaries thereof) also will be published in the **Federal Register**.

#### *B. Paperwork Reduction Act Analysis*

37. The action contained herein has been analyzed with respect to the