

11. *Final Rules.* As required by the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the **Federal Register** summary of the *Further Notice*. The Commission sought written public comments on the proposals in the *Further Notice* including comments on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Rules

12. *Final Rules.* This Order fulfills the commitment the Commission undertook in the *Further Notice* to examine the need to amend our payphone compensation rules, and responds to a court remand of an earlier attempt by the Commission to remedy problems with the rules.

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

13. There were no comments raised that specifically addressed the IRFA. Nonetheless, the agency considered the potential impact of the rules proposed in the IRFA on small entities and reduced the compliance burden for all small entities in order to reduce the economic impact of the rules enacted herein on such entities.

Description and Estimate of the Number of Small Entities to Which the Actions Taken Will Apply

14. *Final Rules.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. 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 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 Small Business Administration (SBA).

15. *Incumbent Local Exchange Carriers.* Neither the Commission nor the SBA has developed a specific definition of small providers of incumbent local exchange services. The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the most recent *Telephone Trends Report* data, 1,335 incumbent local exchange carriers reported that

they were engaged in the provision of local exchange services. Of these 1,335 carriers, 1,037 reported that they have 1,500 or fewer employees and 298 reported that, alone or in combination with affiliates, they have more than 1,500 employees. The Commission does not have data specifying the number of these carriers that are either dominant in their field of operations or are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of incumbent local exchange carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that 1,037 or fewer providers of local exchange service are small entities that may be affected by the rules and policies adopted herein.

16. *Competitive Local Exchange Carriers.* Neither the Commission nor the SBA has developed a specific definition for small providers of competitive local exchange services. The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's *Telephone Trends Report* data, 349 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 349 companies, 297 reported that they have 1,500 or fewer employees and 52 reported that, alone or in combination with affiliates, they have more than 1,500 employees. The Commission does not have data specifying the number of these carriers that are either dominant in their field of operations or are not independently owned and operated, and thus is unable at this time to estimate with greater precision the number of competitive local exchange carriers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 297 providers of competitive local exchange service are small entities that may be affected by the rules.

17. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access providers (CAPS). The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's most recent *Telephone Trends Report* data,

349 CAPs or competitive local exchange carriers and 60 other local exchange carriers reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 349 competitive access providers and competitive local exchange carriers, 297 reported that they have 1,500 or fewer employees and 52 reported that, alone or in combination with affiliates, they have more than 1,500 employees. Of the 60 other local exchange carriers, 56 reported that they have 1,500 or fewer employees and 4 reported that, alone or in combination with affiliates, they have more than 1,500 employees. Consequently, the Commission estimates that there are 297 or fewer small entity CAPS and 56 or fewer other local exchange carriers that may be affected by the rules.

18. *Local Resellers.* SBA has developed a definition for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's most recent *Telephone Trends Report* data, 87 companies reported that they were engaged in the provision of local resale services. Of these 87 companies, 86 reported that they have 1,500 or fewer employees and one reported that, alone or in combination with affiliates, it had more than 1,500 employees. Consequently, the Commission estimates that there are 86 or fewer local resellers that may be affected by the rules.

19. *Toll Resellers.* The SBA has developed a definition for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's most recent *Telephone Trends Report* data, 454 companies reported that they were engaged in the provision of toll resale services. Of these 454 companies, 423 reported that they have 1,500 or fewer employees and 31 reported that, alone or in combination with affiliates, they have more than 1,500 employees. Consequently, the Commission estimates that there are 423 or fewer toll resellers that may be affected by the rules.

19. *Payphone Service Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to payphone service providers (PSPs). The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers. Under that SBA definition, such a business is