

FCC, Common Carrier Bureau, Industry Analysis Division, *Telecommunications Provider Locator*, Tables 1–2 (November 2001) (*Provider Locator*).

TRS Providers. Neither the Commission nor the SBA has developed a definition of “small entity” specifically applicable to providers of telecommunications relay services (TRS). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The SBA defines such establishments to be small businesses when they have no more than 1,500 employees. According to the FCC’s most recent data, there are approximately 10 interstate TRS providers, which consist of interexchange carriers, local exchange carriers, state-managed entities, and non-profit organizations. Approximately five or fewer of these entities are small businesses. See National Association for State Relay Administration (NASRA) Statistics. The FCC notes that these providers include several large interexchange carriers and incumbent local exchange carriers. North American Industry Classification System (NAICS) code 513310. Some of these large carriers may only provide TRS service in a small area but they nevertheless are not small business entities. MCI, for example, provides relay service in approximately only 3 states, but is not a small business. Consequently, the FCC estimates that there are fewer than 5 small TRS providers that may be affected by the proposed rules, if adopted.

Payphone Providers. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of pay telephone operators nationwide of which we are aware appears to be the data that we collect annually in connection with the *Telecommunications Provider Locator Report*. According to our most recent data, 936 companies reported that they were engaged in the provision of pay telephone services. Provider Locator at Table 1. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under SBA’s definition. Consequently, we estimate that there are fewer than 936 small

entity pay telephone operators that may be affected by this *Fifth Report and Order*.

Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. *1992 Census*. According to the SBA’s definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent local exchange carriers (LECs). The FCC does not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA’s definition. Consequently, the FCC estimates that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small incumbent LECs. NAICS code 513310.

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.” 15 U.S.C. 632. 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. Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of “small business concerns,” which the RFA incorporates into its own definition of “small business.” See 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret “small business concern” to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. See, e.g.,

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket, 96–98, First Report and Order, 11 FCC Rcd 15499, 16144–45 (1996). We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determination in other, non-RFA contexts. NAICS code 513310.

4. Description of Project Reporting, Recordkeeping and Other Compliance Requirements

The rules require carriers to submit a one-time report, twelve months after publication of this *Fifth Report and Order* in the **Federal Register**, detailing the steps they have taken to comply with the consumer requirements contained herein. Any additional costs incurred as a result of this proceeding should be nominal because the entities affected, including any small businesses, have been in compliance with the *Alternative Plan Order*, and because the reporting requirements is a one-time requirement.

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

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c)(1) through (c)(4).

For the following reasons, no steps need to be taken to minimize the economic impact on small businesses or to consider alternatives to minimize the economic impact on small businesses. First, the requirements in this *Fifth Report and Order* will have minimal impact on small entities because they require actions already being undertaken under the *Alternative Plan*. In this sense, the requirements merely formalize such actions. These actions are as follows: (1) Providing free local calling to a TRS provider from payphones; and (2) submitting a one-time report, to the Commission, 12 months after final rules are adopted in this proceeding regarding the steps that