

evidence that Congress disapproved of a caller-pays methodology. For this reason, the Commission tentatively concluded in this NPRM that it should not adopt a "caller-pays" methodology. The Commission seeks comment on this tentative conclusion.

12. Nevertheless, the Commission seeks comment on whether circumstances have changed such that it is now appropriate to reconsider a caller-pays approach to payphone compensation. In fact, in the *Third Report and Order*, the Commission concluded that it should monitor the advance of call blocking technology and other marketplace developments before reconsidering a caller-pays approach. As noted in the NPRM, consumers using dial-around services from payphones may be billed by their interexchange carriers at rates higher than both the default compensation rate and the local coin call rate. Thus the convenience of coinless calling may come at a high price to the consumer. The Commission asks parties to provide information about what service providers charge customers for dial-around and other coinless payphone services. More generally, the Commission seeks comment on how it should analyze the costs and benefits of the Commission policy of prescribing a dial-around compensation rate to be paid by service providers to payphone operators in lieu of a caller-pays system. Finally, the Commission seeks comment on Commission authority to allow advance consumer payment for use of payphones. In particular, does 47 U.S.C. 226(e) permit the Commission to conclude that the Commission need not prescribe compensation apart from advance payment by the consumer? Is so, what factual findings or policy goals would support such a conclusion?

Initial Paperwork Reduction Act Analysis

13. This NPRM contains either proposed or modified information collections. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Comments must be identified as responses to the Initial Paperwork Reduction Act Analysis. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due 60 days from the date of publication of this NPRM in the **Federal Register**. Comments should

address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Initial Regulatory Flexibility Act Analysis

14. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rule(s) proposed in this Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA.

15. This present IRFA conforms to the RFA, as amended. *See* 5 U.S.C. 604. The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The Commission will send a copy of this NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 604(b).

Need for, and Objectives of, the Proposed Rules

16. In adopting section 276 in 1996, Public Law No. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. 276), Congress mandated *inter alia* that the Commission "establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone * * *." In this NPRM, the Commission decided to reexamine the default payphone compensation rate the Commission prescribed in 1999. The overall objective of this proceeding is to evaluate whether changes are necessary to the current default rate of compensation for dial-around calls originating at payphones, in order to ensure that payphone service providers are fairly compensated, promote payphone competition, and promote the widespread deployment of payphone services. The NPRM seeks comment on

specific issues related solely to the level of dial-around compensation.

Legal Basis

17. The proposed action is supported by 47 U.S.C. 151, 152, 154(i)-(j), 201, 226 and 276, as well as 47 CFR 1.1, 1.48, 1.411, 1.412, 1.415, 1.419, and 1.1200-1216.

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

18. The RFA directs agencies to provide a description of, and an estimate of, the number of small entities that may be affected by the rule(s) proposed herein, where feasible. 5 U.S.C. 604(a)(3). The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. 601(6). In addition, 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 more appropriate to its activities. 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. 632). Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). 5 U.S.C. 632. Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the **Federal Register**."

19. *Small Incumbent Local Exchange Carriers*. We have included small incumbent local exchange carriers 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." 5 U.S.C. 601(3). 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