

**APPENDIX A - LIST OF PARTIES**

**Comments (filed 6/2/97):**

Association for Local Telecommunications Services (ALTS)  
AT&T Corp. (AT&T)  
Bell Atlantic and NYNEX  
Cincinnati Bell Telephone Company (Cincinnati Bell)  
Cellular Telecommunications Industry Association (CTIA)  
General Services Administration (GSA)  
United States Telephone Association (USTA)  
WorldCom, Inc. (WorldCom)

**Reply Comments (filed 6/17/97):**

AT&T  
BellSouth Corporation (BellSouth)  
Bell Atlantic and NYNEX  
GTE Service Corporation (GTE)  
Sprint Corporation (Sprint)  
WorldCom

**APPENDIX B - FINAL RULES****AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS****PART 52 -- NUMBERING**

Part 52 of Title 47 of the Code of Federal Regulations (C.F.R.) is amended as follows:

1. A new Section 52.26 is added to read as follows:

**§ 52.26 NANC Recommendations on Local Number Portability Administration.**

(a) Local number portability administration shall comply with the recommendations of the NANC as set forth in the report to the Commission prepared by the NANC's Local Number Portability Administration Selection Working Group, dated April 25, 1997 (*Working Group Report*), and its appendices, which are incorporated by reference pursuant to 5 U.S.C. § 552(a), except as follows:

- (1) The regional limited liability companies (LLCs), already established by telecommunications carriers in each of the original Bell Operating Company regions, shall manage and oversee the local number portability administrators, subject to review by the NANC, but only on an interim basis, until the conclusion of a rulemaking to examine the issue of local number portability administrator oversight and management and the question of whether the LLCs should continue to act in this capacity;
- (2) The NANC shall provide ongoing oversight of number portability administration, including oversight of the regional LLCs, subject to Commission review. Parties shall attempt to resolve issues regarding number portability deployment among themselves and, if necessary, under the auspices of the NANC. If any party objects to the NANC's proposed resolution, the NANC shall issue a written report summarizing the positions of the parties and the basis for the recommendation adopted by the NANC. The NANC Chair shall submit its proposed resolution of the disputed issue to the Chief of the Common Carrier Bureau as a recommendation for Commission review. The Chief of the Common Carrier Bureau will place the NANC's proposed resolution on public notice. Recommendations adopted by the NANC and forwarded to the Bureau may be implemented by the parties pending review of the recommendation. Within 90 days of the conclusion of the comment cycle, the Chief of the Common Carrier Bureau may issue an order adopting,

modifying or rejecting the recommendation. If the Chief does not act within 90 days of the conclusion of the comment cycle, the recommendation will be deemed to have been adopted by the Bureau; and

(3) If a telecommunications carrier transmits a telephone call to a local exchange carrier's switch that contains any ported numbers, and the telecommunications carrier has failed to perform a database query to determine if the telephone number has been ported to another local exchange carrier, the local exchange carrier may block the unqueried call only if performing the database query is likely to impair network reliability.

(b) Copies of the *Working Group Report* and its appendices can be obtained from the Commission's contract copier and can be inspected during normal business hours at the following location: 1919 M Street, N.W., Room 239 (FCC Reference Center), Washington, D.C. 20554. The *Working Group Report* and its appendices documents are also available on the Internet at <http://www.fcc.gov/ccb/Nanc/>.

## APPENDIX C -- REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice of Proposed Rulemaking* in this docket (*Notice*).<sup>2</sup> The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. The comments received on the IRFA were discussed in the *First Report & Order's* Final Regulatory Flexibility Analysis (FRFA-First Report & Order), which was incorporated as Appendix C to the *First Report & Order* in this docket.<sup>3</sup> The FRFA-First Report & Order conforms to the RFA.<sup>4</sup> On reconsideration of the *First Report & Order*, parties commented on the FRFA-First Report & Order. The comments received on the FRFA-First Report & Order were discussed in the Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) incorporated into the *First Order on Reconsideration* in this docket.<sup>5</sup> The Supplemental FRFA conforms to the RFA.<sup>6</sup> The Final Regulatory Flexibility Analysis (FRFA-Second Report & Order) is incorporated as an appendix to this *Second Report & Order* in this docket, in which the Commission adopts, to the extent described therein, the recommendations of the North American Numbering Council (NANC) regarding the implementation of local number portability. The *First Report & Order* directed the NANC to make these recommendations and forward them to the Commission, which then requested public comment on the recommendations.<sup>7</sup> The FRFA-

---

<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>2</sup> *Telephone Number Portability*, Notice of Proposed Rulemaking, 10 FCC Rcd 12350, 12376-77 (1995) (*Notice*).

<sup>3</sup> *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8486-89 (1996) (*First Report & Order*).

<sup>4</sup> See 5 U.S.C. § 604.

<sup>5</sup> *Telephone Number Portability*, First Memorandum Opinion and Order on Reconsideration, CC Docket No. 95-116, FCC 97-94 (rel. March 11, 1997), *further recon. pending*, Appendix D (*First Order on Reconsideration*).

<sup>6</sup> See 5 U.S.C. § 604.

<sup>7</sup> *North American Numbering Council (NANC) Issues Recommendations Regarding The Implementation of Telephone Number Portability; 60 Day Time Period During Which States May Elect To Opt Out of Regional Database System Commences; Common Carrier Bureau Seeks Comments on the NANC's Recommendations*, Public Notice, CC Docket No. 95-116 (rel. May 2, 1997) (NANC Recommendations Phase Public Notice). A

Second Report & Order also conforms to the RFA.<sup>8</sup>

**A. Need for and Objectives of *Second Report and Order***

2. The need for and objectives of the requirements adopted in this *Second Report and Order* are the same as those discussed in the Final Regulatory Flexibility Analysis in the *First Report & Order*.<sup>9</sup> The Commission, in compliance with sections 251(b)(2) and 251(d)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act), adopts requirements and procedures intended to ensure the prompt implementation of telephone number portability with the minimum regulatory and administrative burden on telecommunications carriers. These requirements are necessary to implement the provision in the 1996 Act requiring local exchange carriers (LECs) to offer number portability, if technically feasible. In implementing the statute, the Commission has the responsibility to adopt requirements that will implement most quickly and effectively the national telecommunications policy embodied in the 1996 Act and to promote the pro-competitive, deregulatory markets envisioned by Congress. Congress has recognized that number portability will lower barriers to entry and promote competition in the local exchange marketplace. Specifically, we adopt the recommendations of the NANC regarding the selection of local number portability administrators, the location of regional databases, the overall national architecture and technical specifications for the regional databases, and the duties of local number portability administrators in administering the number portability regional databases.

**B. Summary of Significant Issues Raised By Public Comments in response to the IRFA,<sup>10</sup> FRFA-First Report & Order and Supplemental FRFA**

3. The comments received on the IRFA were discussed in the FRFA-First Report & Order incorporated into the *First Report & Order*.<sup>11</sup> The comments received on the FRFA-First Report & Order were discussed in the Supplemental FRFA incorporated into the

---

copy of the NANC Recommendations Phase Public Notice was published in the Federal Register on May 8, 1997. See 62 Fed. Reg. 25157 (1997).

<sup>8</sup> See 5 U.S.C. § 604.

<sup>9</sup> *First Report & Order*, 11 FCC Rcd at 8486.

<sup>10</sup> For a summary of the IRFA and an analysis of the significant issues raised in response to the IRFA, see *First Report & Order*, 11 FCC Rcd at 8486-87.

<sup>11</sup> *First Report & Order*, 11 FCC Rcd at 8486-89.

*First Order on Reconsideration*.<sup>12</sup> No additional comments were sought or received for purposes of the FRFA-Second Report & Order.

### C. Summary of the FRFA-First Report & Order

4. In the FRFA-First Report & Order, we concluded that incumbent LECs do not qualify as small businesses because they are dominant in their field of operation, and, accordingly, we did not address the impact of our requirements on incumbent LECs.<sup>13</sup> We noted that the RFA generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act.<sup>14</sup> A small business concern is one that (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).<sup>15</sup> According to the SBA's regulations, entities engaged in the provision of telephone service may have a maximum of 1,500 employees in order to qualify as a small business concern.<sup>16</sup> This standard also applies in determining whether an entity is a small business for purposes of the Regulatory Flexibility Act.<sup>17</sup>

5. We did recognize that our requirements may have a significant economic impact on a substantial number of small businesses insofar as they apply to telecommunications carriers other than incumbent LECs, including competitive LECs, as well as cellular, broadband personal communications services (PCS), and covered specialized mobile radio (SMR) providers. Based upon data contained in the most recent census and a report by the Commission's Common Carrier Bureau, we estimated that 2,100 carriers could be affected.<sup>18</sup> We also discussed the reporting requirements imposed by the *First Report & Order*.<sup>19</sup>

---

<sup>12</sup> *First Order on Reconsideration* at Appendix D.

<sup>13</sup> *First Report & Order* at 8487.

<sup>14</sup> *Id.*; 15 U.S.C. § 632.

<sup>15</sup> *First Report & Order*, 11 FCC Rcd at 8487; 15 U.S.C. § 632.

<sup>16</sup> *First Report & Order*, 11 FCC Rcd at 8487; 13 C.F.R. § 121.201.

<sup>17</sup> *First Report & Order*, 11 FCC Rcd at 8487.

<sup>18</sup> *Id.* at 8487-88.

<sup>19</sup> *Id.* at 8488-89.

6. Finally, we discussed the steps we had taken to minimize the impact on small entities, consistent with our stated objectives.<sup>20</sup> We concluded that our actions in the *First Report & Order* would benefit small entities by facilitating their entry into the local exchange market. We found that the record in this proceeding indicated that the lack of number portability would deter entry by competitive providers of local service because of the value customers place on retaining their telephone numbers.<sup>21</sup> These competitive providers, many of which may be small entities, may find it easier to enter the market as a result of number portability, which will eliminate this barrier to entry.<sup>22</sup> We noted that, in general, we attempted to keep burdens on local exchange carriers to a minimum. For example, we adopted a phased deployment schedule for implementation in the 100 largest MSAs, and then elsewhere upon a carrier's request; we conditioned the provision of currently available measures upon request only: we did not require cellular, broadband PCS, and covered SMR providers, which may be small businesses, to offer currently available number portability measures; and we did not require paging and messaging service providers, which may be small entities, to provide any number portability.<sup>23</sup>

#### D. Summary of the Supplemental FRFA

7. *Implementation Schedule.* In the *First Report & Order*, we required local exchange carriers operating in the 100 largest MSAs to offer long-term service provider portability, according to a phased deployment schedule commencing on October 1, 1997, and concluding by December 31, 1998, set forth in Appendix F of the *First Report & Order*.<sup>24</sup> In the *First Order on Reconsideration*, we extended the end dates for Phase I of our deployment schedule by three months, and for Phase II by 45 days. Thus, deployment will now take place in Phase I from October 1, 1997, through March 31, 1998, and in Phase II from January 1, 1998, through May 15, 1998. We also clarified that LECs need only provide number portability within the 100 largest MSAs in switches for which another carrier has made a specific request for the provision of portability. LECs must make available lists of their switches for which deployment has and has not been requested. The parties involved in such requests identifying preferred switches may need to use legal, accounting, economic

---

<sup>20</sup> *Id.*

<sup>21</sup> *See id.* at 8368, 8489.

<sup>22</sup> *See id.* at 8367-68, 8489.

<sup>23</sup> *See id.* at 8489.

<sup>24</sup> *First Report & Order*, 11 FCC Rcd at 8393.

and/or engineering services.<sup>25</sup>

8. In the *First Order on Reconsideration*, we reduced the burdens on rural and smaller LECs by establishing a procedure whereby, within as well as outside the 100 largest MSAs, portability need only be implemented in the switches for which another carrier has made a specific request for the provision of portability. If competition is not imminent in the areas covered by rural/small LEC switches, then the rural or smaller LEC should not receive requests from competing carriers to implement portability, and thus need not expend its resources until competition does develop. By that time, extensive non-carrier-specific testing will likely have been done, and rural and small LECs need not expend their resources on such testing. We noted that the majority of parties representing small or rural LECs specified as the relief sought that we only impose implementation requirements where competing carriers have shown interest in portability. Moreover, our extension of Phases I and II of our deployment schedule may permit smaller LECs to reduce their testing costs by allowing time for larger LECs to test and resolve the problems of this new technology.<sup>26</sup>

9. In the *First Order on Reconsideration*, we rejected several alternatives put forth by parties that might impose greater burdens on small entities and small incumbent LECs. We rejected requests to accelerate the deployment schedule for areas both within and outside the 100 largest MSAs. We also rejected the procedures proposed by some parties that would require LECs to file waiver requests for their specific switches if they believe there is no competitive interest in those switches, instead of requiring LECs to identify in which switches of other LECs they wish portability capabilities. The suggested waiver procedures would burden the LEC from whom portability is requested with preparing and filing the petition for waiver. In addition, a competing carrier that opposes the waiver petition would be burdened with challenging the waiver. In contrast, under the procedure we establish, the only reporting burden on requesting carriers is to identify and request their preferred switches. Carriers from which portability is being requested, which may be small incumbent LECs, only incur a reporting burden if they wish to lessen their burdens further by requesting more time in which to deploy portability. Finally, we clarified that CMRS providers, like wireline providers, need only provide portability in requested switches, both within and outside the 100 largest MSAs.<sup>27</sup>

---

<sup>25</sup> *First Order on Reconsideration* at D-10 - D-12.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

**E. Description and Estimates of the Number of Small Entities Affected by this *Second Report and Order***

10. For the purposes of this *Second Report and Order*, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.<sup>28</sup> 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 SBA.<sup>29</sup> SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities with fewer than 1,500 employees.<sup>30</sup>

11. The requirements adopted in this *Second Report and Order* governing regional databases to be utilized for long-term number portability apply to all LECs, including incumbent LECs as well as new LEC entrants, and also apply to interexchange carriers, cellular, broadband PCS, and covered SMR providers. According to the SBA definition, incumbent LECs do not qualify as small businesses because they are dominant in their field of operation. Accordingly, we will not address the impact of these requirements on incumbent LECs.

12. Our actions in this *Second Report & Order* will generally benefit small entities by facilitating their entry into the local exchange market. The record in this proceeding indicates that the lack of number portability would deter entry by competitive providers of local service because of the value customers place on retaining their telephone numbers.<sup>31</sup> This *Second Report and Order* adopts the technical and operational standards and procedures needed to implement local number portability. Competitive providers, many of which may be small entities, may find it easier to enter the market as a result of number portability, which will eliminate this barrier to entry.<sup>32</sup> We note that, in general, we attempted to keep

---

<sup>28</sup> See 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632).

<sup>29</sup> 15 U.S.C. § 632. See, e.g., *Brown Transport Truckload, Inc. v. Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).

<sup>30</sup> 13 C.F.R. § 121.201.

<sup>31</sup> See *First Report & Order* at 8368, 8489.

<sup>32</sup> See *id.* at 8367-68, 8489.

burdens on local exchange carriers to a minimum.

13. Our requirements, however, may have a significant economic impact on a substantial number of small businesses insofar as they apply to telecommunications carriers other than incumbent LECs. In particular, the requirements may have such an impact upon new entrant LECs, as well as cellular, broadband PCS, and covered SMR providers. These impacts are discussed further below.

14. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.<sup>33</sup> This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, cellular carriers, mobile service carriers, broadband PCS providers, and covered SMR providers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated."<sup>34</sup> For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to tentatively conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent local exchange carriers.

#### 1. Common Carrier Services and Related Entities

15. According to the *Telecommunications Industry Revenue: Telecommunications Relay Service Fund Worksheet Data (TRS Worksheet)*,<sup>35</sup> there are 2,847 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 toll service, providers of telephone exchange service, and resellers.

---

<sup>33</sup> United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1992 Census).

<sup>34</sup> 15 U.S.C. § 632(a)(1).

<sup>35</sup> Federal Communications Commission, CCB, Industry Analysis Division, *Telecommunications Industry Revenue: TRS Fund Worksheet Data*, Tbl. 1 (Average Total Telecommunications Revenue Reported by Class of Carrier) (December 1996) (*TRS Worksheet*).

16. *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.<sup>36</sup> According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons.<sup>37</sup> 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 LECs. We do not have information on the number of 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, we estimate that there are fewer than 2,295 small telephone communications companies other than radiotelephone companies.

17. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.<sup>38</sup> The most reliable source of information regarding the number of LECs nationwide is the data that we collect annually in connection with the *TRS Worksheet*. According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services.<sup>39</sup> We do not have information on the number of carriers that are not independently owned and operated, nor what carriers have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small incumbent LECs.

18. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone

---

<sup>36</sup> 1992 Census at Firm Size 1-123.

<sup>37</sup> 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4812.

<sup>38</sup> 13 C.F.R. § 121.201, SIC Code 4813.

<sup>39</sup> *TRS Worksheet*.

communications companies except radiotelephone (wireless) companies.<sup>40</sup> The most reliable source of information regarding the number of IXC's nationwide is the data that we collect annually in connection with the *TRS Worksheet*. According to our most recent data, 130 companies reported that they were engaged in the provision of interexchange services.<sup>41</sup> We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus we are unable at this time to estimate with greater precision the number of IXC's that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 130 small entity IXC's.

## 2. Wireless and Commercial Mobile Services

19. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.<sup>42</sup> According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons.<sup>43</sup> The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and requirements adopted in this *Second Report and Order*.

20. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The closest applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies (SIC 4812). The most reliable source of information regarding the number of cellular services carriers nationwide of which we are aware appears to be the data that the

---

<sup>40</sup> 13 C.F.R. § 121.201, SIC 4813.

<sup>41</sup> *TRS Worksheet*.

<sup>42</sup> *1992 Census at Firm Size 1-123*.

<sup>43</sup> 13 C.F.R. § 121.201, SIC Code 4812.

Commission collects annually in connection with the *TRS Worksheet*.<sup>44</sup> According to the most recent data, 792 companies reported that they were engaged in the provision of cellular services.<sup>45</sup> 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 cellular services carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 792 small cellular service carriers.

21. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.<sup>46</sup> For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.<sup>47</sup> These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F.<sup>48</sup> However, licenses for blocks C through F have not been awarded fully; therefore, there are few, if any, small businesses currently providing PCS services. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by the SBA and the Commission's auction rules.

22. *SMR Licensees.* Pursuant to 47 C.F.R. § 90.814(b)(1), the Commission has defined "small entity" in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than \$15 million in the three

---

<sup>44</sup> *TRS Worksheet*.

<sup>45</sup> *Id.*

<sup>46</sup> See *Amendment of Parts 20 and 24 of the Commission's Rules -- Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap*, Report and Order, FCC 96-278, WT Docket No. 96-253, ¶¶ 57-60 (rel. June 24, 1996) (*Amendment of Parts 20 and 24 Order*); see also 47 C.F.R. § 24.720(b).

<sup>47</sup> See *Amendment of Parts 20 and 24 Order* at ¶ 60.

<sup>48</sup> FCC News, *Broadband PCS, D, E and F Block Auction Closes*, No. 71744 (rel. Jan. 14, 1997).

previous calendar years. This definition of a "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA.<sup>49</sup> The requirements adopted in this *Second Report and Order* may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than \$15 million. We assume, for purposes of this FRFA-Second Report & Order, that all of the extended implementation authorizations may be held by small entities, which may be affected by the decisions and requirements adopted in this *Second Report and Order*.

23. The Commission's auctions for geographic area licenses in the 900 MHz SMR band concluded in April of 1996. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the requirements adopted in this *Second Report and Order* includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of this FRFA-Second Report & Order, that all of the licenses may be awarded to small entities who, thus, may be affected by the decisions in this *Second Report and Order*.

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

24. There are several reporting requirements imposed by the *Second Report and Order* that are likely to require the services of persons with technical expertise to prepare the reports. Most of these reporting requirements, however, are imposed on the NANC, a

---

<sup>49</sup> See *Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool*, PR Docket No. 89-553, Second Order on Reconsideration and Seventh Report & Order, 11 FCC Rcd 2639, 2693-702 (1995); *Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band*, PR Docket No. 93-144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995).

federal advisory committee, as opposed to a "small entity" within the meaning of the RFA.<sup>50</sup> In particular, the Commission directs the NANC to present its recommendation regarding the provision of number portability by wireless carriers within nine months of the release of the *Second Report and Order*. Further, the NANC is directed to review the request of Cincinnati Bell Telephone that it be allowed to select one of the regional number portability databases for purposes of fulfilling its number portability responsibilities and to make a recommendation to the Commission by December 15, 1997. Moreover, as part of its general oversight of the local number portability administrators, the NANC is directed to submit recommendations concerning local number portability to the Commission from time to time. Following the adoption of a recommendation regarding the administration of number portability, the NANC is directed to issue a written report to the Commission summarizing the positions of the parties and the basis for the recommendation adopted by the NANC.<sup>51</sup> In addition, pursuant to the *Second Report & Order*, each U.S. territory (*i.e.*, Puerto Rico, U.S. Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands) is directed to: (1) select a regional database that carriers in that territory will use to provide number portability; and (2) notify the Commission and the NANC in writing regarding this selection within 45 days of the release of the *Second Report and Order*. There are no significant reporting, recordkeeping or other compliance requirements imposed by this *Second Report and Order* on other entities.

**G. Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered**

25. The Commission's actions in this *Second Report and Order* will benefit small entities by facilitating their entry into the local exchange market. The record in this proceeding indicates that the lack of number portability would deter entry by competitive providers of local service because of the value customers place on retaining their telephone numbers.<sup>52</sup> These competitive providers, many of which may be small entities, may find it easier to enter the market as a result of number portability which will eliminate this barrier to entry.<sup>53</sup>

26. In general in this docket, we have attempted to keep burdens on local

---

<sup>50</sup> See 5 U.S.C. § 601(3); Small Business Act, 15 U.S.C. § 632; 5 U.S.C. § 601(5).

<sup>51</sup> See *Second Report and Order*, Sections III.D.3, III.A.1.c, III.E.3.

<sup>52</sup> See *First Report & Order*, 11 FCC Rcd at 8368.

<sup>53</sup> See *First Report & Order*, 11 FCC Rcd at 8367-68.

exchange carriers to a minimum. The regulatory burdens we have imposed are necessary to ensure that the public receives the benefit of the expeditious provision of service provider number portability in accordance with the statutory requirements. We believe that the *Second Report & Order* furthers our commitment to minimizing regulatory burdens on small entities. For example, the NANC had recommended that we allow LECs to block calls whenever a carrier transmitting a call to a terminating LEC fails to query the number portability database to determine if a number has been ported. This recommendation would have required carriers transmitting calls to terminating LECs to reconfigure their networks to perform database queries or to pay another entity to perform a database query on their behalf. Permitting LECs to block unqueried calls could have negatively affected CMRS providers, who are not required to query calls or make arrangements to do so until December 31, 1998. We, therefore, only allow terminating LECs to block calls, when failure to do so is likely to impair network reliability.<sup>54</sup> The volume of calls transferred to terminating LECs by small entities is unlikely to reach a level that could impair network reliability. As a result, terminating LECs are unlikely to block calls handled by small entities. Furthermore, carriers can make arrangements with other entities to perform database queries on their behalf. Based on the record before us, we do not find that any of the recommendations we adopt in the *Second Report & Order* will have a disproportionate impact on small entities.

27. Report to Congress: The Commission will send a copy of the *Second Report & Order*, including the FRFA-Second Report & Order, in a report to be sent to Congress pursuant to the Small Business Regulatory Fairness Act of 1996.<sup>55</sup> A copy of the *Second Report & Order* and this FRFA-Second Report & Order (or summary thereof) will also be published in the Federal Register and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.<sup>56</sup>

---

<sup>54</sup> See *Second Report and Order* at ¶ 76.

<sup>55</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>56</sup> See 5 U.S.C. § 604(b).