

- (b) ***
- (c) ***
- (d) ***
- (e) ***
- (f) ***
- (g) *Pooling Administrator (PA)*. The term Pooling Administrator refers to the entity or entities responsible for administering a thousands-block number pool.
- (h) *Contamination*. Contamination occurs when at least one telephone number within a block of telephone numbers is not available for assignment to end users or customers. For purposes of this provision, a telephone number is “not available for assignment” if it is classified as administrative, aging, assigned, intermediate, or reserved as defined in new § 52.15(f)(1) of this part.
- (i) *Donation*. The term “donation” refers to the process by which carriers are required to contribute telephone numbers to a thousands-block number pool.
- (j) *Inventory*. The term “inventory” refers to all telephone numbers distributed, assigned or allocated:
 - (1) To a service provider; or
 - (2) To a pooling administrator for the purpose of establishing or maintaining a thousands-block number pool.

4. Section 52.15 is revised to read as follows:

§ 52.15 Central office code administration.

- (a) ***
- (b) ***
- (c) ***
- (d) ***
- (e) ***
- (f) *Mandatory Reporting Requirements*.

- (1) *Number Use Categories.* Numbering resources must be classified in one of the following categories:
- (i) *Administrative numbers* are numbers used by telecommunications carriers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards.
 - (ii) *Aging numbers* are disconnected numbers that are not available for assignment to another end user or customer for a specified period of time. Numbers previously assigned to residential customers may be aged for no more than 90 days. Numbers previously assigned to business customers may be aged for no more than 360 days.
 - (iii) *Assigned numbers* are numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working but having a customer service order pending. Numbers that are not yet working and have a service order pending for more than five days shall not be classified as assigned numbers.
 - (iv) *Available numbers* are numbers that are available for assignment to subscriber access lines, or their equivalents, within a switching entity or point of interconnection and are not classified as assigned, intermediate, administrative, aging, or reserved.
 - (v) *Intermediate numbers* are numbers that are made available for use by another telecommunications carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer. Numbers ported for the purpose of transferring an established customer's service to another service provider shall not be classified as intermediate numbers.
 - (vi) *Reserved numbers* are numbers that are held by service providers at the request of specific end users or customers for their future use. Numbers held for specific end users or customers for more than 45 days shall not be classified as reserved numbers.
- (2) *Reporting Carrier.* The term "reporting carrier" refers to a telecommunications carrier that receives numbering resources from the NANPA, a Pooling Administrator or another telecommunications carrier.
- (3) *Data Collection Procedures.*
- (i) Reporting carriers shall report utilization and forecast data to the NANPA.
 - (ii) Reporting shall be by separate legal entity and must include company

name, company headquarters address, OCN, parent company OCN(s), and the primary type of business for which the numbers are being used.

- (iii) All data shall be filed electronically in a format approved by the Common Carrier Bureau.

(4) *Forecast Data Reporting.*

- (i) Reporting carriers shall submit to the NANPA a five-year forecast of their yearly numbering resource requirements.
- (ii) In areas where thousands-block number pooling has been implemented:
 - (A) Reporting carriers that are required to participate in thousands-block number pooling shall report forecast data at the thousands-block (NXX-X) level per rate center;
 - (B) Reporting carriers that are not required to participate in thousands-block number pooling shall report forecast data at the central office code (NXX) level per rate center.
- (iii) In areas where thousands-block number pooling has not been implemented, reporting carriers shall report forecast data at the central office code (NXX) level per NPA.
- (iv) Reporting carriers shall identify and report separately initial numbering resources and growth numbering resources.

(5) *Utilization Data Reporting.*

- (i) Reporting carriers shall submit to the NANPA a utilization report of their current inventory of numbering resources. The report shall classify numbering resources in the following number use categories: *assigned, intermediate, reserved, aging, and administrative.*
- (ii) Rural telephone companies, as defined in the Communications Act of 1934, as amended, 47 U.S.C. § 153(37), that provide telecommunications service in areas where local number portability has not been implemented shall report utilization data at the central office code (NXX) level per rate center in those areas.
- (iii) All other reporting carriers shall report utilization data at the thousands-block (NXX-X) level per rate center.

(6) *Reporting Frequency.*

- (i) Reporting carriers shall file forecast and utilization reports semi-annually on or before February 1 for the preceding reporting period ending on December 31, and on or before August 1 for the preceding reporting period ending on June 30. Mandatory reporting shall commence August 1, 2000.
- (ii) State commissions may reduce the reporting frequency for NPAs in their states to annual. Reporting carriers operating in such NPAs shall file forecast and utilization reports annually on or before August 1 for the preceding reporting period ending on June 30, commencing August 1, 2000.
- (iii) A state commission seeking to reduce the reporting frequency pursuant to subsection (ii) of this provision shall notify the Common Carrier Bureau and the NANPA in writing prior to reducing the reporting frequency.

(7) *Access to Data and Confidentiality.* States shall have access to data reported to the NANPA provided that they have appropriate protections in place to prevent public disclosure of disaggregated, carrier-specific data.

(g) *Applications for Numbering Resources.*

- (1) *General Requirements.* All applications for numbering resources must include the company name, company headquarters address, OCN, parent company's OCN(s), and the primary type of business in which the numbering resources will be used.
- (2) *Initial numbering resources.* Applications for initial numbering resources shall include evidence that:
 - (i) The applicant is authorized to provide service in the area for which the numbering resources are being requested; and
 - (ii) The applicant is or will be capable of providing service within sixty (60) days of the numbering resources activation date.
- (3) *Growth numbering resources.*

- (i) Applications for growth numbering resources shall include:
 - (A) A Months-to-Exhaust Worksheet that provides utilization by rate center for the preceding six months and projected monthly utilization for the next twelve (12) months; and
 - (B) The applicant's current numbering resource utilization level for the

rate center in which it is seeking growth numbering resources.

- (ii) The numbering resource utilization level shall be calculated by dividing all *assigned numbers* by the total numbering resources in the applicant's inventory and multiplying the result by 100. Numbering resources activated in the Local Exchange Routing Guide (LERG) within the preceding 90 days of reporting utilization levels may be excluded from the utilization calculation.
 - (iii) All service providers shall maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which it provides telecommunications service.
 - (iv) The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state regulatory commission may affirm or overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination of compliance with the reporting and numbering resource application requirements herein.
- (h) [Reserved]
- (i) *Reclamation of numbering resources.*
- (1) Reclamation refers to the process by which service providers are required to return numbering resources to the NANPA or the Pooling Administrator.
 - (2) State commissions may investigate and determine whether service providers have activated their numbering resources and may request proof from all service providers that numbering resources have been activated and assignment of telephone numbers has commenced.
 - (3) Service providers may be required to reduce contamination levels to facilitate reclamation and/or pooling.
 - (4) State commissions shall provide service providers an opportunity to explain the circumstances causing the delay in activating and commencing assignment of their numbering resources prior to initiating reclamation.
 - (5) The NANPA and the Pooling Administrator shall abide by the state commission's

determination to reclaim numbering resources if the state commission is satisfied that the service provider has not activated and commenced assignment to end users of their numbering resources within six months of receipt.

- (6) The NANPA and Pooling Administrator shall initiate reclamation within sixty days of expiration of the service provider's applicable activation deadline.
- (7) If a state commission declines to exercise the authority delegated to it in this subsection, the entity or entities designated by the Commission to serve as the NANPA shall exercise this authority with respect to NXX codes and the Pooling Administrator shall exercise this authority with respect to thousands-blocks. The NANPA and the Pooling Administrator shall consult with the Common Carrier Bureau prior to exercising the authority delegated to it in this provision.

(j) *Sequential Number Assignment.*

- (1) All service providers shall assign all available telephone numbers within an opened thousands-block before assigning telephone numbers from an uncontaminated thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a specific customer request. This requirement shall apply to a service provider's existing numbering resources as well as any new numbering resources it obtains in the future.
- (2) A service provider that opens an uncontaminated thousands-block prior to assigning all available telephone numbers within an opened thousands-block should be prepared to demonstrate to the state commission:
 - (i) A genuine request from a customer detailing the specific need for telephone numbers; and
 - (ii) The service provider's inability to meet the specific customer request for telephone numbers from the available numbers within the service provider's opened thousands-blocks.
- (3) Upon a finding by a state commission that a service provider inappropriately assigned telephone numbers from an uncontaminated thousands-block, the NANPA or the Pooling Administrator shall suspend assignment or allocation of any additional numbering resources to that service provider in the applicable NPA until the service provider demonstrates that it does not have sufficient numbering resources to meet a specific customer request.

5. Part 52 is revised by adding new section 52.20:

§ 52.20 Thousands-block number pooling.

- (a) *Definition.* Thousands-block number pooling is a process by which the 10,000

numbers in a central office code (NXX) are separated into ten sequential blocks of 1,000 numbers each (thousands-blocks), and allocated separately within a rate center.

(b) *General Requirements.* Pursuant to the Commission's adoption of thousands-block number pooling as a mandatory nationwide numbering resource optimization strategy, all carriers capable of providing local number portability (LNP) must participate in thousands-block number pooling where it is implemented and consistent with the national thousands-block number pooling framework established by the Commission.

(c) *Donation of thousands-blocks.*

- (1) All service providers required to participate in thousands-block number pooling shall donate thousands-blocks with less than ten percent contamination to the thousands-block number pool for the rate center within which the numbering resources are assigned.
- (2) All service providers required to participate in thousands-block number pooling shall be allowed to maintain at least one thousands-block per rate center, even if the thousands-block is less than ten-percent contaminated, as an initial block or footprint block.
- (3) Telephone numbers assigned to customers of service providers from donated thousands-blocks that are contaminated shall be ported back to the donating service provider.

(d) *Thousands-Block Pooling Administrator.*

- (1) The Pooling Administrator shall be a non-governmental entity that is impartial and not aligned with any particular telecommunication industry segment, and shall comply with the same neutrality requirements that the NANPA is subject to under this part.
- (2) The Pooling Administrator shall maintain no more than a six-month inventory of telephone numbers in each thousands-block number pool.

Appendix B

Final Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act (RFA),⁶⁰⁸ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice*.⁶⁰⁹ The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. There were no comments received on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.⁶¹⁰

2. *Need for and Objectives of this Report and Order.* In the *Notice* we sought public comment on how best to create national standards for numbering resource optimization. In doing so, the primary objective was to (1) ensure sufficient access to numbering resources for all service providers that need them to enter into or to compete in telecommunications markets; (2) avoid, or at least delay, exhaust of the NANP and the need to expand the NANP; (3) minimize the negative impact on consumers; (4) impose the least cost possible, in a competitively neutral manner, while obtaining the highest benefit; (5) ensure that no class of carrier or consumer is unduly favored or disfavored by our numbering resource optimization efforts; and (6) minimize the incentives for building and carrying excessively large inventories of numbers.

3. In this *Report and Order* we adopt administrative and technical measures that will allow us to monitor more closely the way numbering resources are used within the NANP. Specifically, we adopt a mandatory data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently. In addition, we adopt a system for allocating numbers in blocks of one thousand, rather than ten thousand, wherever possible (“thousands-block number pooling”), and establish a plan for national rollout of thousands-block number pooling. Furthermore, we adopt numbering resource reclamation requirements to ensure the return of unused numbers to the NANP inventory for assignment to other carriers. We also mandate sequential assignment of numbering resources within thousands blocks to facilitate reclamation and the establishment of thousands-block number pools.

4. *Description and Estimate of the Number of Small Entities That May Be Affected by this Report and Order.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if

⁶⁰⁸ 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).

⁶⁰⁹ See *Notice*, 14 FCC Rcd at 10433-34.

⁶¹⁰ See 5 U.S.C. § 604.

adopted.⁶¹¹ The Regulatory Flexibility Act defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act.⁶¹² 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 SBA.⁶¹³

5. In this FRFA, we have considered the potential impact of this *Report and Order* on all users of telephone numbering resources. The small entities possibly affected by these rules include wireline, wireless, and other entities, as described below. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4,812 (Radiotelephone Communications) and 4,813 (Telephone Communications, Except Radiotelephone) to be small entities having no more than 1,500 employees.⁶¹⁴ In the FRFA to the *Universal Service Order*, we described and estimated in detail the number of small entities that would be affected by the new universal service rules.⁶¹⁵ Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition are not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term "small ILECs" to refer to any ILECs that arguably might be defined by the SBA as "small business concerns."⁶¹⁶

6. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator: Interstate Service Providers Report (Locator)*.⁶¹⁷ These carriers include, *inter alia*, local exchange carriers,

⁶¹¹ 5 U.S.C. § 603(b)(3).

⁶¹² *Id.* at § 601(3).

⁶¹³ *Id.* at § 632.

⁶¹⁴ 13 C.F.R. § 121.201.

⁶¹⁵ Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, 12 FCC Rcd 8776, 9227-9243 (1997) (*Universal Service Order*), as corrected by Federal-State Joint Board on Universal Service, *Erratum*, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *appeal pending sub nom. Texas Office of Public Utility Counsel v. FCC and USA*, No. 97-60421 (5th Cir. 1997).

⁶¹⁶ See 13 C.F.R. § 121.201, SIC code 4813. Since the time of the *Local Competition* decision, 11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476 (Aug. 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on such ILECs.

⁶¹⁷ FCC, *Carrier Locator: Interstate Service Providers* at 1-2. This report lists 3,604 companies that provided interstate telecommunications service as of December 31, 1997 and was compiled using information from Telecommunications Relay Service (TRS) Fund Worksheets filed by carriers (Jan. 1999).

competitive local exchange carriers, interexchange carriers, competitive access providers, satellite service providers, wireless telephony providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

7. *Total Number of Companies Affected.* The U.S. Bureau of the Census (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.⁶¹⁸ This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, personal communications services providers, covered specialized mobile radio providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated."⁶¹⁹ 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 is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the proposed rules, if adopted.

8. *Local Service Providers.* There are two principle providers of local telephone service; ILECS and competitive local service providers. 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.⁶²⁰ According to data set forth in the *FCC Statistics of Communications Common Carriers (SOCC)*, 34 ILECs have more than 1,500 employees.⁶²¹ We do 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 ILECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,376 ILECs are small entities that may be affected by the proposed rules, if adopted.

9. 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."⁶²² The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of

⁶¹⁸ U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) (*1992 Census*).

⁶¹⁹ See generally 15 U.S.C. § 632(a)(1).

⁶²⁰ *Id.*

⁶²¹ *SOCC* at Table 2.9.

⁶²² 5 U.S.C. § 601(3).

operation because any such dominance is not "national" in scope.⁶²³ 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 determinations in other, non-RFA contexts.

10. *Competitive Local Service Providers.* This category includes competitive access providers (CAPs), competitive local exchange providers (CLECs), shared tenant service providers, local resellers, and other local service providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive local service providers. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.⁶²⁴ According to the most recent *Locator* data, 145 carriers reported that they were engaged in the provision of competitive local service.⁶²⁵ We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number of competitive local service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 145 small entity competitive local service providers that may be affected by the proposed rules, if adopted.

11. *Providers of Toll Service.* The toll industry includes providers of interexchange services (IXCs), satellite service providers and other toll service providers, primarily resellers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of toll service. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.⁶²⁶ According to the most recent *Locator* data, 164 carriers reported that they were engaged in the provision of toll services.⁶²⁷ We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 164 small entity toll providers that may be affected by the proposed rules, if adopted.

⁶²³ 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 concern," 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 C.F.R. § 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, *First Report and Order*, 11 FCC Rcd 15499, 16144-45 (1996).

⁶²⁴ 13 C.F.R. § 121.201, SIC code 4813.

⁶²⁵ *Locator* at 1-2.

⁶²⁶ 13 C.F.R. § 121.201, SIC code 4813.

⁶²⁷ *Locator* at 1-2.

12. *Resellers.* This category includes toll resellers, operator service providers, pre-paid calling card providers, and other toll service providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.⁶²⁸ According to the most recent *Locator* data, 405 carriers reported that they were engaged in the resale of telephone service.⁶²⁹ We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 405 small entity resellers that may be affected by the proposed rules, if adopted.

13. *Wireless Telephony and Paging and Messaging.* Wireless telephony includes cellular, personal communications service (PCS) or specialized mobile radio (SMR) service providers. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees, or to providers of paging and messaging services. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.⁶³⁰ According to the most recent *Locator* data, 732 carriers reported that they were engaged in the provision of wireless telephony and 137 companies reported that they were engaged in the provision of paging and messaging service.⁶³¹ We do not have data specifying the number of these carriers that are not independently owned or operated, and thus are unable at this time to estimate with greater precision the number that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 732 carriers are engaged in the provision of wireless telephony and fewer than 137 companies are engaged in the provision of paging and messaging service.

14. *Cable and Pay Television Service Providers.* The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating \$11 million or less in revenue annually.⁶³² This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than \$11 million in revenue.⁶³³

⁶²⁸ 13 C.F.R. § 121.201, SIC code 4813.

⁶²⁹ *Locator* at 1-2.

⁶³⁰ 13 C.F.R. § 121.201, SIC code 4813.

⁶³¹ *Locator* at 1-2.

⁶³² 13 C.F.R. § 121.201, SIC code 4841.

⁶³³ 1992 *Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4841 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

15. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.⁶³⁴ Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.⁶³⁵ Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

16. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."⁶³⁶ The Commission has determined that there are 66,000,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 660,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate.⁶³⁷ Based on available data, we find that the number of cable operators serving 660,000 subscribers or less totals 1,450.⁶³⁸ We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000,⁶³⁹ and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total of 66,000,000 subscribers, and we have based our fee revenue estimates on that figure.

17. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.*⁶⁴⁰ This Report and Order mandates the following information collection: All carriers that receive numbering resources from the NANPA (code holders), or that receive

⁶³⁴ 47 C.F.R. § 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of \$100 million or less. Implementation of Sections of the 1992 Cable Act: Rate Regulation, *Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393 (1995), 60 FR 10534 (Feb. 27, 1995).

⁶³⁵ Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

⁶³⁶ 47 U.S.C. § 543(m)(2).

⁶³⁷ 47 C.F.R. § 76.1403(b).

⁶³⁸ Paul Kagan Associates, Inc., *Cable TV Investor*, *supra*.

⁶³⁹ We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.1403(b) of the Commission's rules. See 47 C.F.R. § 76.1403(d).

⁶⁴⁰ See also Notice, 14 FCC Rcd at 10433, for an Initial Paperwork Reduction Act analysis.

numbering resources from a pooling administrator in thousands-blocks (block holders), must report forecast and utilization data to the NANPA on a semi-annual basis.⁶⁴¹ All carriers, except rural telephone companies as defined by the Communications Act of 1934, as amended,⁶⁴² must report their utilization data at the thousands-block level per rate center.⁶⁴³ Rural telephone companies in areas where local number portability has not been implemented may report their utilization data at the NXX per rate center level. Forecast data will be reported at the thousands-block per rate center level in pooling NPAs, and in non-pooling NPAs at the NXX per NPA level.⁶⁴⁴ Furthermore, carriers not participating in thousands-block number pooling must report their utilization rate along with the months to exhaust worksheet at the time they request additional numbering resources.

18. We require all carriers, except rural telephone companies, to maintain internal records of their numbering resources for all 13 categories (5 major, and 8 subcategories) as defined in Section C. Carriers are to maintain this data for a period of not less than 5 years.⁶⁴⁵

19. *Other Compliance Requirements.* None.

20. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* We have concluded that the cost of data collection will be minimized if done electronically.⁶⁴⁶ Although we have stated that all carriers must report their forecast and utilization data electronically, we have provided for more than one method. Large and mid-size carriers may submit by electronic file transfer similar to FTP. Smaller carriers may file using a NANPA-developed spreadsheet format via Internet-based online access. Very small carriers may fax their data submissions to the NANPA. We find it reasonable to allow any carrier whose forecast and utilization data has not changed from the previous reporting period to simply refile the prior submission or indicate that there has been no change since the last reporting.⁶⁴⁷

21. *Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules.* None.

22. *Report to Congress.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement

⁶⁴¹ See *supra* ¶ 40.

⁶⁴² 47 U.S.C. § 153(37).

⁶⁴³ See *supra* ¶ 70.

⁶⁴⁴ See *supra* ¶ 73.

⁶⁴⁵ See *supra* ¶ 62.

⁶⁴⁶ See *supra* ¶ 53.

⁶⁴⁷ See *supra* ¶ 42.

Fairness Act of 1996.⁶⁴⁸ In addition, the Commission will send a copy of this *Report and Order* to the Chief Counsel for Advocacy of Small Business Administration. A copy of this *Report and Order* (or summary thereof) will also be published in the Federal Register.⁶⁴⁹

⁶⁴⁸ See 5 U.S.C. § 801(a)(1)(A)

⁶⁴⁹ See 5 U.S.C. § 604(b).

Appendix C

Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act (RFA),⁶⁵⁰ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this *Further Notice*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Further Notice* provided above in section VIII. The Commission will send a copy of the *Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.⁶⁵¹ In addition, the *Further Notice* and IRFA (or summaries thereof) will be published in the Federal Register.

2. *Need for and Objectives of the Proposed Rules.* The Commission is issuing this *Further Notice* to seek public comment on (a) what specific utilization threshold carriers not participating in thousands-block number pooling should meet in order to request growth numbering resources; (b) whether state commissions should be allowed to set rate-center based utilization thresholds based on criteria that we establish; (c) whether covered CMRS carriers should be required to participate in thousands-block number pooling immediately upon expiration of the LNP forbearance period on November 24, 2002, or whether a transition period should be allowed; and (d) how a market-based allocation system for numbering resources could be implemented. We also seek to obtain the following: (a) cost studies that quantify the incremental costs of thousands-block number pooling; (b) cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling; and (c) cost studies that take into account the cost savings associated with thousands-block number pooling in comparison to the current numbering practices that result in more frequent area code changes.

3. In doing so, we seek to (1) ensure that the limited numbering resources of the NANP are used efficiently; (2) protect customers from the expense and inconvenience that result from the implementation of new area codes; (3) forestall the enormous expense that will be incurred in expanding the NANP, and (4) ensure that all carriers have the numbering resources they need to compete in the rapidly growing telecommunications marketplace.

4. *Legal Basis.* The proposed action is authorized under sections 1, 4(i) and (j), 201, 208, and 251 of the Communications Act of 1934, as amended.⁶⁵²

⁶⁵⁰ 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).

⁶⁵¹ See 5 U.S.C. § 603(a).

⁶⁵² 47 U.S.C. §§ 151, 154(i), 154(j), 201 and 251(e).