VI. PROCEDURAL ISSUES

A. Ex Parte Presentations

277. This is a permit but disclose rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.[651]

B. Final Regulatory Flexibility Act

278. As required by the Regulatory Flexibility Act (RFA),[652] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *MAG Notice*.[653] An IRFA also was incorporated into the *1998 Notice* in CC Docket No. 98-77.[654] The Commission sought written public comment on the proposals in the *1998 Notice* and on the MAG plan, including comment on the IRFAs. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended.[655] To the extent that any statement in this FRFA is perceived as creating ambiguity with respect to our rules or statements made in the preceding sections of this Order, the rules and statements set forth in those preceding sections shall be controlling.

1. Need for, and Objectives of, the Rules

279. In this Order, the Commission modifies its interstate access charge and universal service support system for incumbent local exchange carriers (LECs) subject to rate-of-return regulation. Consistent with the mandate of the 1996 Act, this Order is designed to foster competition and efficient pricing in the market for interstate access services, and to create universal service mechanisms that will be secure in an increasingly competitive environment.[656] By simultaneously removing implicit support from the rate structure and replacing it with explicit, portable support, this Order will provide a more equal footing for competitors in local and long distance markets, while ensuring that consumers in all areas of the country, especially those living in high-cost, rural areas, have access to telecommunications services at affordable and reasonably comparable rates. This Order also is tailored to the needs of small and mid-sized local telephone companies serving rural and high-cost areas, and will help provide certainty and stability for such carriers, encourage investment in rural America, and provide important consumer benefits.

280. Examination of the record in this proceeding demonstrates the need for interstate access charge and universal service reform for rate-of-return carriers. Rate-of-return carriers

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[651] *See generally* 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206.

[652] *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) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[653] *MAG Notice*, 16 FCC Rcd at paras. 25-37.

[654] *1998 Notice*, 13 FCC Rcd at paras. 99-113.

[655] *See* 5 U.S.C. § 604.

[656] *See supra*, § I.

receive implicit support for universal service from various sources, including the interstate access rate structure. For example, recovery of non-traffic sensitive costs through per-minute rates creates an implicit support flow from high- to low-volume users of interstate long distance service. Implicit support is incompatible with a competitive market for local exchange and exchange access services. As the Commission noted in 1997, "where rates are significantly above cost, consumers may choose to bypass the incumbent LEC's switched access network, even if the LEC is the most efficient provider. Conversely, where rates are subsidized (as in the case of consumers in high-cost areas), rates will be set below cost and an otherwise efficient provider would have no incentive to enter the market."[657] Rate-of-return carriers have expressed particular concern that high per-minute charges may place them at a disadvantage in competing for high-volume customers, jeopardizing an important source of revenue.[658] In addition, higher rates and implicit subsidies may discourage efficient local and long distance competition in rural areas and limit consumer choice. Although there may not be significant competition in many high-cost, rural areas, rate-of-return carriers are not insulated from competitive pressures.

281. By rationalizing the rate structure for recovery of interstate loop costs, this Order will foster competition for residential subscribers in rural areas by facilities-based carriers. By reducing per-minute switched access rates towards cost-based levels, it will enhance incentives for interexchange carriers to originate service in rural areas and facilitate long distance toll rate averaging. To a large extent, these modifications already have been implemented for the vast majority of subscribers nationwide.

282. At the same time, this Order is tailored to the specific challenges faced by small carriers serving rural and high-cost areas. Although per-minute switched access charges will be reduced for all rate-of-return carriers, they will retain the flexibility to establish rates based on their own costs in the areas they serve, rather than being forced to conform to a prescribed target rate. Rate-of-return carriers will continue to be permitted to set rates based on the authorized rate of return of 11.25 percent. And a new, uncapped universal service support mechanism will provide certainty and stability by ensuring that the rate structure modifications adopted do not affect overall recovery of interstate access costs by rate-of-return carriers. The Order adopts a cautious approach which rationalizes the access rate structure and converts identifiable implicit subsidies to explicit support, without endangering this important revenue stream for rate-of-return carriers.

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

283. The Multi-Association Group (MAG) argued that adoption of its comprehensive proposal for regulatory reform for rate-of-return carriers would benefit small business entities, including small incumbent LECs, interexchange carriers, and new entrants. According to the MAG, its plan would permit small rate-of-return carriers to control their administrative and regulatory burdens by permitting them to analyze and select the type of regulation that best suits their situation. The MAG also asserted that of a modified version of its plan would introduce

[657] *Access Charge Reform Order*, 12 FCC Rcd at 15996 para. 30.

[658] *1998 Notice*, 13 FCC Rcd at 14239-40 para. 2; *see supra*, § III.B.

more uncertainty for small carriers, but it did not provide support for this assertion. However, commenters have raised significant concerns about certain features of the MAG plan, and the Commission was persuaded that some of these concerns have merit, as discussed below.

284. The Commission received a Congressional inquiry from Congressman John D. Dingell, asking that the Commission devote significant staff resources to the MAG proceeding, in particular, and to understanding the unique challenges of service in high-cost areas, in general.[659] The Chairman responded to Congressman Dingell by letter, noting that the Commission has taken numerous measures to lessen the regulatory burdens of small local telephone companies, and is committed to continuing the examination of our rules and processes to ensure that small local telephone companies are provided with appropriate regulatory flexibility. The response also stated that the Commission has attempted to scrutinize carefully the potential impact of proposed regulations on small incumbent telephone companies.[660]

285. The Commission received a Congressional inquiry from Senators Thomas A. Daschle, Craig Thomas, Blanche Lambert Lincoln, Tim Johnson, Tom Harkin, Charles E. Grassley, Byron L. Dorgan, Kent Conrad, and Max S. Baucus, noting that significant legal and market changes had occurred since the MAG plan was developed, including two court decisions regarding universal service.[661] The letter requested that the Commission delay its final decision in the MAG proceeding until all interested parties, including members of Congress, have had an opportunity to comment on any new proposal that the Commission might consider. The Chairman responded to this inquiry by letter, stating that it is the Commission's duty, pursuant to the Administrative Procedures Act, to consider the extensive input received from all interested parties regarding the MAG proposal.[662] The Chairman's response noted that all interested parties have had a substantial opportunity to comment on the MAG plan and on other, related Commission proposals that build on prior reforms for large carriers. The response stated that it was important to proceed expeditiously with access charge and universal service reform for rate-of-return carriers, while continuing to explore other issues raised by the MAG proposal. The Chairman's response noted that a substantial number of interested parties had raised concerns about the wholesale adoption of the MAG proposal and had suggested possible modifications to it. The response also agreed that it is important that the Commission take into account recent court decisions relevant to interpretation of the universal service provisions of the Act.

286. The Commission also received Congressional inquiries from Senator Conrad Burns and Congressman Dennis Rehberg, Congressman Douglas K. Bereuter, Congressman

[659] Letter from Congressman John D. Dingell to Chairman Michael K. Powell, Federal Communications Commission (June 20, 2001).

[660] Letter from Chairman Michael K. Powell, Federal Communications Commission, to Congressman John D. Dingell (Aug. 7, 2001).

[661] Letter from Senators Thomas A. Daschle, Craig Thomas, Blanche Lambert Lincoln, Tim Johnson, Tom Harkin, Charles E. Grassley, Byron L. Dorgan, Kent Conrad, and Max S. Baucus to Chairman Michael K. Powell, Federal Communications Commission (Sept. 28, 2001).

[662] Letters from Chairman Michael K. Powell, Federal Communications Commission, to Senators Thomas A. Daschle, Craig Thomas, Blanche Lambert Lincoln, Tim Johnson, Tom Harkin, Charles E. Grassley, Byron L. Dorgan, Kent Conrad, and Max S. Baucus (Oct. 10, 2001).

John E. Sununu, and Congressman Lee Terry regarding the Commission's consideration of interstate access charge and universal service reform for rate-of-return carriers.[663] They generally expressed concerns about the potential impact of reform on rural telecommunications customers and the companies that serve them, and urged the Commission to seek additional comment before adopting measures other than those proposed in the MAG plan.

287. As discussed above, the Commission believes that it is important to proceed expeditiously with access charge and universal service reform for rate-of-return carriers, while continuing to explore other issues raised by the MAG proposal. The Commission has adopted a cautious approach to reform. The new, uncapped support mechanism it creates will ensure that rate structure changes do not affect small carriers' overall recovery of the costs of interstate access service. In addition, the Order permits carriers to continue to set rates based on the authorized rate of return of 11.25 percent. These measures will promote regulatory stability and encourage investment in rural America. The Commission also is seeking additional comment on a number of issues, including the potential impact of modifications to Long Term Support on membership in the pools, the MAG's incentive regulation proposal for small carriers, and on other means of providing opportunities for rural telephone companies to increase their cost efficiency in ways that will benefit carriers and the communities they serve.

288. The Commission also received general comments related to the needs of small local telephone companies. Examination of the record indicates that rate-of-return carriers are typically small, rural telephone companies concentrated in one area. They generally have higher operating and equipment costs than large, price cap carriers due to lower subscriber density, smaller exchanges, and limited economies of scale. They also rely more heavily on revenues from interstate access charges and universal service support. Numerous commenters argued that, although such carriers may incur costs in the same manner as large carriers, their size, diversity, and regulatory history warrant special consideration in adopting interstate access charge and universal service reforms. The Commission's actions in response to such concerns are discussed in detail below.[664] As an example, the Commission does not require small carriers to conduct cost studies to determine the portion of local switching costs attributable to line ports. Rather, we adopt a proxy of 30 percent.[665]

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

289. 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 rules adopted herein.[666] The

[663] Letter from Senator Conrad Burns and Congressman Dennis Rehberg to Chairman Michael K. Powell, Federal Communications Commission (Oct. 4, 2001); Letter from Congressman Douglas K. Bereuter to Chairman Michael K. Powell, Federal Communications Commission (Oct. 3, 2001); Letter from Congressman John E. Sununu to Chairman Michael K. Powell, Federal Communications Commission (Oct. 3, 2001); Letter from Congressman Lee Terry to Chairman Michael K. Powell, Federal Communications Commission (Oct. 2, 2001).

[664] *See supra*, § IV.B.2.b.

[665] *See id.*.

[666] 5 U.S.C. § 604(a)(3).

RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction."[667] 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 appropriate to its activities.[668] 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.[669]

290. We have included small incumbent carriers in this 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."[670] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent carriers are not dominant in their field of operation because any such dominance is not "national" in scope.[671] We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

291. *Local Exchange Carriers*. Neither the Commission nor the SBA has developed a specific definition for small providers of local exchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[672] According to the most recent *Trends in Telephone Service* data, 1,335 incumbent carriers reported that they were engaged in the provision of local exchange services.[673] We do not have data specifying the number of these carriers that are either dominant in their field of operations, 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 local exchange carriers that would qualify as small business concerns under the SBA's definition. Of this number, 13 entities are price cap carriers not subject to rules adopted herein. Consequently, we estimate that 1,335 or fewer providers of local exchange service are small entities that may be affected by the rules.

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[667] 5 U.S.C. § 601(6).

[668] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 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."

[669] 15 U.S.C. § 632.

[670] 5 U.S.C. § 601(3).

[671] *See* Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to Chairman William E. Kennard, Federal Communications Commission (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* 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).

[672] *Id.*

[673] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 5.3 (August 2001) (*FCC Trends in Telephone Report*).

292. *Competitive Local Exchange Carriers.* Neither the Commission nor the SBA has developed a specific definition of small providers of local exchange service. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[674] According to the Commission's *Trends in Telephone Service* data, 349 companies reported that they were engaged in the provision of either competitive access provider services or competitive LEC services.[675] The Commission does not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of competitive LECs that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 349 providers of local exchange service are small entities that may be affected by the rules.

293. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[676] According to the most recent *Trends in Telephone Service* data, 204 carriers reported that their primary telecommunications service activity was the provision of interexchange services.[677] 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 IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 204 or fewer small entity IXCs that may be affected by the rules.

294. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[678] According to the most recent Trends in Telephone Service data, 349 CAPs/competitive local exchange carriers and 60 other local exchange carriers reported that they were engaged in the provision of competitive local exchange services.[679] 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 CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 349 or fewer small entity CAPs and 60 or fewer other local exchange carriers that may be affected.

[674] 13 C.F.R. § 121.201, NAICS codes 51331, 51333, and 51334.

[675] *FCC Trends in Telephone Report*, Table 5.3.

[676] 13 CFR 121.201, NAICS codes 51331, 51333, and 51334.

[677] *FCC Trends in Telephone Report*, Table 5.3.

[678] 13 C.F.R. s 121.201, NAICS codes 51331, 51333, and 51334.

[679] *FCC Trends in Telephone Report*, Table 5.3.

295. *Wireless Telephony.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to wireless telephony including cellular, personal communications service (PCS) and Specialized Mobile Radio (SMR) telephony carriers. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[680] According to the most recent Trends in Telephone Report data, 806 carriers reported that they were engaged in the provision of either cellular service, PCS services, or SMR services, which are placed together in the data.[681] Of these 806 carriers, 323 reported that they have 1,500 or fewer employees.[682] 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 wireless telephone carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 806 or fewer small wireless telephony service carriers that may be affected.

296. 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.[683] 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.[684] These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA.[685] 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.[686] 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 entity PCS providers as defined by the SBA and the Commission's auction rules.

297. The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of

[680] 13 C.F.R. s 121.201, NAICS code 513322.

[681] *FCC Trends in Telephone Report*, Table 5.3.

[682] *Id.*

[683] *See Amendment of Parts 20 and 24 of the Commission's Rules - Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap*, WT Docket No. 96-59, Report and Order, FCC 96-278, paras. 57-60 (rel. Jun. 24, 1996), 61 Fed. Reg. 33859 (July 1, 1996); *see also* 47 C.F.R. § 24.720(b).

[684] *See Amendment of Parts 20 and 24 of the Commission's Rules -- Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap,* WT Docket No. 96-59, Report and Order, FCC 96-278, para. 60 (1996).

[685] *See, e.g., Implementation of Section 309(j) of the Communications Act -- Competitive Bidding*, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-84 paras. 115-117 (1994).

[686] FCC News, Broadband PCS, D, E and F Block Auction Closes, No. 71744 (rel. Jan. 14, 1997).

the three previous calendar years.[687] In the context of both the 800 MHz and 900 MHz SMR, a definition of "small entity" has been approved by the SBA. These fees 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 no more than $15 million.

298. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[688] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).[689] We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[690] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

299. *Fixed Microwave Services.* Microwave services include common carrier,[691] private-operational fixed,[692] and broadcast auxiliary radio services.[693] At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not defined a small business specifically with respect to microwave services. For purposes of this FRFA, we utilize the SBA's definition applicable to radiotelephone companies--*i.e.*, an entity with no more than 1,500 persons.[694] We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

300. *39 GHz Licensees.* The Commission defined "small entity" for 39 GHz licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[695] An additional classification for "very small business" was added and is

[687] 47 C.F.R. § 90.814(b)(1).

[688] The service is defined in § 22.99 of the Commission's Rules. 47 C.F.R. § 22.99.

[689] BETRS is defined in §§ 22.757 and 22.759 of the Commission's Rules. 47 C.F.R. §§ 22.757, 22.759.

[690] 13 C.F.R. § 121.201, NAICS codes 513321, 513322, and 51333.

[691] 47 C.F.R. §§ 101, *et seq.* (formerly Part 21 of the Commission's Rules).

[692] Persons eligible under Parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. *See* 47 C.F.R. Parts 80, 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[693] Auxiliary Microwave Service is governed by Part 74 of the Commission's rules. *See* 47 C.F.R. Part 74. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[694] 13 C.F.R. § 121.201, NAICS codes 513321, 513322, and 51333.

[695] *See In the Matter of Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Band*, Report and Order, 12 FCC Rcd 18600 (1997).

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.[696] These regulations defining "small entity" in the context of 39 GHz auctions have been approved by the SBA. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses.

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

301. Pursuant to the Order, all rate-of-return carriers will be required to modify their access tariffs to comply with the new SLC caps, to become effective on January 1, 2002, July 1, 2002, and July 1, 2003. This function would be performed by NECA for those carriers that participate in the NECA common line pool, as most small carriers do.[697] Those rate-of-return carriers filing their own tariffs also would have to make a tariff filing to reflect the access charge modifications.

302. The CCL charge will be removed from the common line rate structure of rate-of-return carriers as of July 1, 2003. From July 1, 2002 to June 30, 2003, rate-of-return carriers may impose a transitional CCL charge on all switched access minutes to recover, for each residential and single-line business line in their study area, the difference between the residential SLC and the lesser of $6.50 or their average cost per line.[698]

303. All rate-of-return carriers will be required to modify their access tariffs by reallocating line port costs from local switching to the common line category.[699] To ease the burden of implementing this rate structure modification on small rate-of-return carriers, we will permit them to shift 30 percent of their local switching costs to the common line category in lieu of conducting a cost study.[700] Carriers electing this cost study approach must base their costs studies on geographically-averaged costs, and submit the cost study in support of the tariff filing relying on the cost study. Once a rate-of-return carrier has performed a cost study to support its tariff, it may rely on that cost study for subsequent tariff filings.

304. We require rate-of-return carriers to recover through a separate end-user charge the costs of ISDN line ports and line ports associated with other services that exceed the costs of a line port used for basic analog service.[701]

305. We require rate-of-return carriers to reallocate the costs recovered from the transport interconnection charge (TIC) to all other access categories.[702] NECA will be required

[696] *Id.*

[697] *See supra*, § IV.A.2.a.

[698] *See id.* at § IV.A.2.d.

[699] *See id.* at § IV.B.2.b.

[700] *See id.*

[701] *See id.*

[702] *See id.* at § IV.B.2.c.

to establish for carriers that participated in the NECA pool during the tariff year ending June 30, 2001, an individual carrier dollar limit based on its traffic volumes and the TIC rate for the twelve-month period ending June 30, 2001. Each carrier that was not in the pool during the tariff year ending on June 30, 2001, must determine its TIC limit and report it to NECA for purposes of administering future pool membership changes.

306. We permit, but do not require, rate-of-return carriers to establish the following local switching and transport rate elements: a flat charge for dedicated trunk port costs; a flat charge for the costs of DS1/voice grade multiplexers associated with terminating dedicated trunks at analog switches; a per-minute charge for shared trunk ports and any associated DS1/voice grade multiplexer costs; a flat charge for the costs of trunk ports used to terminate dedicated trunks on the serving wire center side of the tandem switch; individual charges for multiplexer costs associated with tandem switches; and a separate per-message call setup charge.[703]

307. We require rate-of-return carriers that use general purpose computers to provide non-regulated billing and collection services to allocate a portion of their GSF costs to the billing and collection category.[704] To accommodate the fact that rate-of-return carriers are not required to maintain separate land, buildings, office furniture, and general purpose computer investment accounts, we only require these carriers to apply the modified Big Three Expense Factor used by price cap carriers to the general purpose computer investment detail to determine the amount to be allocated to billing and collection. Carriers also may use the general purpose computer investment amount they develop for a period of three years. Carriers whose billing and collection activities are performed exclusively by service bureaus will not be subject to these requirements. Many small carriers use service bureaus exclusively to perform billing and collection services and, therefore, will not be affected by these requirements.

308. Rate-of-return carriers electing to disaggregate their Interstate Common Line Support must submit a detailed description of their disaggregation plan, including information that will enable competitors to verify and reproduce the algorithm used to determine zone support levels, and a geographic description and map of each such zone with the Commission, the relevant state regulatory agency, and USAC.[705] This is not a new compliance requirement because carriers would have to file the above-stated materials in order to disaggregate other forms of high-cost support pursuant to the *Rural Task Force Order*.

309. Rate-of-return carriers seeking Interstate Common Line Support will be required to file on an annual basis their projected common line revenue requirement for each study area in which they operate.[706] Average schedule companies will not be required to submit common line revenue requirements, but instead will be required to submit information that USAC determines is necessary in order for it to calculate common line revenue requirements for average schedule companies. To enable USAC to begin distributing Interstate Common Line Support to carriers

[703] *See id.* at § IV.B.2.d.

[704] *See id.* at § IV.C.1.

[705] *See id.* at § IV.D.2.b.

[706] *See id.*

on July 1, 2002, carriers will be required to submit projected common line revenue requirements for July 1, 2002, to June 30, 2003, by March 31, 2002. Carriers will be permitted to submit corrections to their projected common line revenue requirements until April 10, 2002.[707] After April 10, 2002, any corrections to projected common line revenue requirements shall be made in the form of true-ups using actual cost data. Rate-of-return carriers will be required to submit projected common line revenue requirements for subsequent years on the same schedule.

310. To ensure that Interstate Common Line Support amounts reflect a carrier's actual common line costs, rate-of-return carriers will be required to update projected common line cost data with actual costs on an annual basis.[708] Average schedule companies will not be required to calculate or submit their actual costs. Rate-of-return carriers also will be permitted to update their actual cost data on a quarterly basis.

311. Consistent with rules adopted in the *Rural Task Force Order*, rate-of-return carriers will file their line counts with USAC, by disaggregation zone and customer class, in accordance with the schedule in sections 36.611 and 36.612 of our rules.[709] Line count data for rural rate-of-return carrier study areas in which a competitive eligible telecommunications carrier has not begun providing service will be filed on an annual basis. Line count data will be filed on a regular quarterly basis upon competitive entry in rural rate-of-return carrier study areas. Non-rural rate-of-return carriers currently are required to file line count data on a quarterly basis regardless of whether a competitor is present and that requirement will not change. Competitive eligible telecommunications carriers will file their line counts with USAC, by disaggregation zone and customer class on a quarterly basis, in accordance with the schedule in section 54.307 of our rules.[710]

312. Carriers seeking Interstate Common Line Support must file a certification with the Commission and USAC.[711] These requirements will create additional reporting requirements, but such reporting is necessary to ensure compliance with section 254(e) of the Act.[712]

313. We require all incumbent local exchange carriers, including rate-of-return carriers, to recover universal service contributions only through end user charges. Rate-of-return carriers that choose to impose end-user charges for the recovery of universal service contributions must make corresponding reductions in their access charges to avoid double recovery.[713]

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[707] *See id.*

[708] *See id.*

[709] *See id.*; 47 C.F.R. §§ 36.611 and 36.612.

[710] *See supra*, § IV.D.2.d; 47 C.F.R. § 54.307.

[711] *See supra*, § IV.D.2.b.

[712] *See id.* at § IV.D.2.c.

[713] *See id.*

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

314. The Commission has taken numerous steps to minimize significant economic impact on small entities of the interstate access charge and universal service reforms adopted in this Order. Overall, the Commission's approach is tailored to the specific challenges faced by small local telephone companies serving rural and high-cost areas. Although per-minute switched access charges will be reduced for all rate-of-return carriers, these carriers will retain the flexibility to establish rates based on their own costs in the areas they serve, rather than being forced to conform to a prescribed target rate. Rate-of-return carriers will continue to be permitted to set rates based on the authorized rate of return of 11.25 percent. And the new, uncapped support mechanism created by this Order will provide certainty and stability by ensuring that the rate structure modifications we adopt do not affect overall recovery of interstate access costs. The Order adopts a cautious approach which rationalizes the access rate structure and converts identifiable implicit subsidies to explicit support, without endangering this important revenue stream for rate-of-return carriers.

315. The Commission also has taken steps to minimize the administrative burdens imposed on small carriers as a result of access charge and universal service reform. The Order does not create a separate non-primary residential line SLC cap. Instead, it applies the same SLC cap to primary and non-primary residential lines, concluding that this approach will simplify the common line rate structure and avoid the administrative costs associated with administering the distinction.[714] The Order also provides that a separate cost showing to justify residential and single-line business SLC cap increases above $5.00 will not be required for rate-of-return carriers, concluding that such a requirement is unnecessary and would create undue administrative burdens.[715] The Order provides that rate-of-return carriers may deaverage SLC rates in accordance with universal service support disaggregation plans established pursuant to the *Rural Task Force Order*, a measure which will minimize administrative burdens on small carriers, as well as confusion among competitive carriers, by ensuring that carriers do not have multiple overlapping zones within their services for universal service support and SLC rates, as well as providing the flexibility necessary to accommodate the diversity among small local telephone companies.[716]

316. To ease the burden on small local telephone companies of reallocating line port costs from local switching to the common line category, carriers will be permitted to shift 30 percent of their local switching costs to the common line category in lieu of conducting a cost study.[717] A carrier conducting a cost study may use the results in future tariff filings.

317. The Order permits, but does not require, rate-of-return carriers to establish a number of local switching and transport rate elements, concluding that these rate structure modifications should be optional to avoid undue administrative burdens on small rate-of-return

[714] *See id.* at § IV.A.2.a.

[715] *See id.*

[716] *See id.* at § IV.A.2.d.

[717] *See id.* at § IV.B.2.b.

carriers, and to allow carriers to make individual determinations as to whether the costs of establishing new rate elements are warranted by the potential efficiency gains.[718]

318. To accommodate the fact that rate-of-return carriers are not required to maintain the account detail that provides separate land, buildings, office furniture, and general-purpose computer investment detail in order to implement the allocator adopted for price cap carriers for GSF costs, we only require them to apply the modified Big Three Expense Factor used by price cap carriers to general purpose computer investment to determine the amount to be allocated to the billing and collection category, thereby removing costs of non-regulated activities from the regulated rate base.[719] We also permit rate-of-return carriers to use the general purpose computer investment amount they develop for a period of three years. This procedure recognizes the limitations of the accounting system and the administrative burdens of developing further disaggregated investment detail. Rate-of-return carriers whose billing and collection activities are performed exclusively by service bureaus will continue to allocate GSF pursuant to section 69.307(c) of our rules, which specifically addresses the situation in which rate-of-return carriers obtain all billing and collection services they provide to interexchange carriers from unregulated affiliates or from unaffiliated third parties.[720]

319. The Order does not require rate-of-return carriers to recover marketing expenses through the common line recovery mechanisms, reasoning that determination of the costs to be reallocated would be more difficult for small carriers than for large, price cap carriers because small carriers are not required to keep more detailed Class A accounts, and that the costs in question represent only a small portion of rate-of-return carriers' interstate access revenues.[721]

320. The Order generally adopts the same plan for disaggregation and targeting of Interstate Common Line Support as recently adopted for intrastate high-cost support for rural carriers, which will result in minimal additional administrative burdens for carriers that elect to disaggregate their support.[722] Rate-of-return carriers choosing to disaggregate their Interstate Common Line Support must submit a detailed description of the disaggregation plan, including information that will enable competitors to verify and reproduce the algorithm used to determine zone support levels, and a geographic description and map of each such zone with the Commission, the relevant state regulatory agency, and USAC, as discussed further below. These geographic descriptions and zone maps are identical to the ones that carriers must submit pursuant to the requirements of the *Rural Task Force Order*, and thus create no additional reporting requirements.

321. The Order limits as much as possible the filing requirements associated with the new Interstate Common Line Support mechanism, generally requiring carriers to file the

[718] *See id.* at § IV.B.2.d.

[719] *See id.* at § IV.C.1.

[720] *See* 47 C.F.R. § 69.307(c).

[721] *See id.* at § IV.C.2.

[722] *See id.* at § IV.D.2.b.

minimum amount of information necessary for the proper functioning of the mechanism.[723] Consistent with their average schedule status, average schedule companies will not be required to submit common line revenues requirements, but instead will be required to submit information that USAC determines is necessary in order for it to calculate common line revenue requirements for average schedule companies. Additionally, rural rate-of-return carriers and their competitors are required to file line count data on a quarterly basis only upon competitive entry by an eligible telecommunications carrier. The data that will be filed is similar to data that small carriers already prepare and submit to NECA to enable them to develop rates and operate the common line pool, but differs in important respects. The Order permits small carriers to file quarterly "true ups" to enable carriers that experience unforeseen costs to file actual cost data and receive increased per-line amounts of Interstate Common Line Support. The true-up option allows carriers to avoid over- or under-payment and to obtain the correct level of support for their particular revenue requirements.

322. The Order streamlines the Part 69 waiver requirement for introduction of new services by rate-of-return carriers, concluding that streamlined filing requirements will eliminate unnecessary administrative burdens on small carriers.[724]

323. The Commission considered a number of significant alternatives in this proceeding. The Commission sought comment on the MAG plan, a comprehensive proposal addressing numerous issues facing rate-of-return carriers, including access charge reform and universal service support, on January 5, 2001, stating its intention to fully and expeditiously consider the MAG plan. Based on the significant concerns about features of the MAG plan raised by commenters, the Commission has determined that adoption of the plan in its entirety would not benefit consumers or service the public interest.[725] For example, the Commission determined that the MAG's proposals that certain access charge reforms be optional, and that only those carriers electing the MAG incentive regulation proposal be eligible for new, explicit universal service support to replace implicit support in access charges, are inconsistent with the mandate of the 1996 Act and could preclude many small carriers from fully participating in interstate access charge reform, leading to increased access rate disparities among local telephone companies that is not in the public interest.

324. The Commission also has considered proposals for adoption of a target rate for the per-minute access charges of rate-of-return carriers, either on an optional or a mandatory basis.[726] The Commission rejects these proposals and concludes that none of these proposals is supported by cost data and that the non-prescriptive, market-based approach to access charge reform adopted in the Order is more consistent with the competitive and universal service goals of the 1996 Act. The comments filed in this proceeding indicate a wide variation in cost patterns, density, and other operational characteristics among rate-of-return carriers. The access charge reform approach adopted in this Order accommodates this diversity by reallocating costs

[723] *See id.*

[724] *See id.* at § IV.D.2.d.

[725] *See id.* at § I.

[726] *See id.* at § IV.B.2.a.

and removing implicit support to create more efficient rate structures, while allowing carriers to establish rates based on their own costs.

325. The Commission also considered and rejected proposals by some commenters for the establishment of a presubscribed interexchange carrier charge, or PICC, a flat, monthly charge assessed on the interexchange carrier with which an end user is presubscribed, for rate-of-return carriers in lieu of raising SLCs for rate-of-return carriers and/or removing the CCL charge from the common line rate structure.[727] The Commission concludes that a PICC should not be introduced into the common line rate structure of rate-of-return carriers. Establishment of a PICC would force interexchange carriers to recover the cost of the PICC from all of their customers, and contribute to rate disparities between the two groups of carriers, thereby increasing the burden on interexchange carriers of compliance with the geographic rate averaging and rate integration requirements of section 254(g).

326. The Commission also considered and rejected the imposition of a cap on the explicit interstate support mechanism established in this Order, concluding that a cap is not appropriate under the circumstances.[728] Many rate-of-return carriers are small, rural carriers that serve high-cost regions. Small carriers generally are more dependent on their interstate access charge revenue streams and universal service support than large carriers and, therefore, more sensitive to disruption of those streams. The absence of a cap will ensure that the rate structure modifications adopted in this Order do not affect the overall recovery of interstate loop costs by small carriers.

6. Report to Congress

327. The Commission will send a copy of this Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[729] In addition, the Commission will send a copy of this Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Order and FRFA (or summaries thereof) will also be published in the Federal Register.[730]

C. Paperwork Reduction Act Analysis

328. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act, and will go into effect upon announcement in the Federal Register of OMB approval.

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[727] *See id.* at § IV.A.2.d.

[728] *See id.* at § IV.D.2.a.

[729] *See* 5 U.S.C. § 801(a)(1)(A).

[730] *See* 5 U.S.C. § 604(b).

D. Initial Regulatory Flexibility Analysis

329. As required by the Regulatory Flexibility Act (RFA),[731] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the proposals in this Further Notice.

1. Need for, and Objectives of, the Proposed Rules

330. The Commission consistently has expressed its commitment to providing incentives for smaller telephone companies to become more efficient and innovative. As proposed, however, the MAG incentive plan does not appear to provide incentives for cost efficiency gains that will benefit consumers through lower rates and improved services. The Further Notice seeks additional comment on the MAG incentive plan, and on other means of providing opportunities for rate-of-return carriers to increase their efficiency and competitiveness in the interstate access services market in a manner that would benefit both rate-of-return carriers and their customers. Among other things, the Further Notice seeks comment on the establishment of one or more X-factors, ways to insure that adequate investment and service quality levels are maintained, and whether any incentive regulation adopted by the Commission for small carriers should be optional.[732]

331. The Further Notice also seeks comment on extending additional pricing flexibility to rate-of-return carriers,[733] on the continued need for the "all-or-nothing" rule, which provides that if an individual rate-of-return carrier or study area converts to price cap regulation, all of its affiliates or study areas must also do so, except for those using average schedules,[734] and on the Commission's tentative conclusion that LTS should be merged with Interstate Common Line Support as of July 1, 2003, after which participation in the NECA common line pool will not be required for receipt of universal service support.[735] These proposals are intended to enhance the competitiveness of rate-of-return carriers and to ensure that the Commission's rules continue to be consistent with conditions in the telecommunications marketplace.

2. Legal Basis

332. This rulemaking action is supported by sections 4(i), 4(j), 201-205, 254, and 403 of the Communications Act of 1934, as amended.[736]

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[731] *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) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[732] *See supra*, § V.A.2.

[733] *See id.* at § V.B.2.

[734] *See id.* at § V.C.2.

[735] *See id.* at § V.D.

[736] 47 U.S.C. §§ 154(i), 154(j), 201-205, 254, and 403.

3. Description and Estimate of the Number of Small Entities to Which the Notice will Apply

333. As discussed above in the Final Regulatory Flexibility Analysis (FRFA), the Commission's action in this Order affects local exchange carriers, competitive local exchange carriers, interexchange carriers, competitive access providers, cellular licensees, broadband Personal Communications Services, Rural Radiotelephone Service, Specialized Mobile Radio, fixed microwave services, and 39 GHz licensees.[737] This Initial Regulatory Flexibility Act potentially will affect the same entities discussed in the FRFA, and we incorporate the descriptions of those entities by reference.

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

334. The Further Notice explores options for developing an alternative regulatory structure that would be available to those rate-of-return carriers electing it. It considers the widely varying operating circumstances of rate-of-return carriers, the implications of competitive and intrastate regulatory conditions on the options available, and the need to facilitate and ensure the deployment of advanced services in rural America. If adopted, alternative regulation may require additional recordkeeping. For example, carriers could be required to file cost studies with this Commission or other appropriate state agency detailing annual revenues, revenues per study area, and effective per-line support for each universal service zone.[738] The Further Notice also addresses the continued need for the Commission's all-or-nothing rule, and the appropriate degree and timing of pricing flexibility for small rate-of-return carriers. Repeal or modification of the all-or-nothing rule might allow carriers to depool and deaverage rates within study areas by filing their own common line tariffs.[739]

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

335. 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.[740]

336. The proposals in the Further Notice could have varying positive or negative impacts on rate-of-return carriers, including any such small carriers. Many of the proposals involve elective options, so that a small entity should be able to assess the potential impacts as

[737] *See supra*, § VI.A.

[738] *See id.* at § V.A.2.

[739] *See id.* at § V.C.2.

[740] 5 U.S.C. § 603(c).

part of its decision-making process. Public comments are welcomed on modifications to the proposals contained in the Further Notice that would reduce any potential impacts on small entities. Specifically, suggestions are sought on different compliance or reporting requirements that would take into account the resources of small entities; clarification, consolidation, or simplification of compliance and reporting requirements for small entities that would be subject to the rules; and whether waiver or forbearance from the rules for small entities would be feasible or appropriate. How would the establishment of one or more X-factors impact small carriers?[741] How can we insure that adequate investment and service quality levels are maintained?[742] How would the adoption of an alternative regulation plan affect rate-of-return carriers, and how would a low-end adjustment affect such plan?[743] Should we retain, repeal, or modify our "all-or-nothing rule"?[744] How would potential modification or repeal affect smaller carriers?[745] Finally, what would be the impact on small carriers of eliminating LTS as a separate, pooling-restricted universal service support mechanism?[746] Comments should be supported by specific economic analysis.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

337. None.

E. Comment Filing Procedures

338. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments 30 days or fewer from publication in the Federal Register, and reply comments 60 days or fewer from publication in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[747]

339. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to

[741] *See supra*, § V.A.2.

[742] *See id.*

[743] *See id.*

[744] *See id.* at § V.C.2.

[745] *See id.*

[746] *See id.* at § V.D.

[747] *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address." A sample form and directions will be sent in reply.

340. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

341. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Competitive Pricing Division, Common Carrier Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket numbers, in this case CC Docket Nos. 00-256 and 96-45), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CYB402, Washington, D.C. 20554.

342. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, DC, 20554. This document also may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail **qualexint@aol.com**.

VII. ORDERING CLAUSES

343. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4, 201-205, 214, 218-220, 254, 303(r), 403, 405, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 214, 218-220, 254, 303(r), 403, 405, and 410, this Second Report and Order in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166 IS ADOPTED.

344. IT IS FURTHER ORDERED that Part 54 of the Commission's rules, 47 C.F.R. Part 54, IS AMENDED as set forth in Appendix A hereto, effective 30 days after their publication in the Federal Register. The collections of information contained within are contingent upon approval by the Office of Management and Budget.

345. IT IS FURTHER ORDERED that Part 69 of the Commission's rules, 47 C.F.R. Part 69, IS AMENDED as set forth in Appendix A hereto, effective 30 days after their publication in the Federal Register.

346. IT IS FURTHER ORDERED that section 65.101 of the Commission's rules, 47 C.F.R. § 65.101, IS STAYED.

347. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

348. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 201-205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 201-205, 254, and 403, this Further Notice of Proposed Rulemaking in CC Docket No. 00-256 IS ADOPTED.

349. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Further Notice of Proposed Rulemaking in CC Docket No. 00-256, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Magalie Roman Salas
Secretary