Federal Register issue of July 11, 1997 (62 FR 37408).

EFFECTIVE DATE: September 15, 1997.

FOR FURTHER INFORMATION CONTACT: Terry D. Johnson, 202–418–0445; e-mail: Tjohnson@fcc.gov.

SUPPLEMENTARY INFORMATION: This document corrects footnote 23 of the Report and Order in the above-captioned proceeding, which appeared on page 37416 in the **Federal Register** issue of July 11, 1997 (62 FR 37416). Footnote number 23 associated with paragraph 50 erroneously stated that the AM station population was determined using the 1mV/m field strength contour, and it further stated that the FM station population was determined using the 60 dBuV/m contour. For all AM stations, the 0.5 mV/m contour was used. For Class B FM stations, the 54 dBuV/m contour was used. For Class B1 FM stations, the 57 dBuV/m contour was used. For all other FM Classes, the 60 dBuV/m contour was used.

Correction

Therefore, footnote 23 should be corrected to read as follows:

DataWorld MediaXpert Service prepared for NAB a calculation of the signal coverage for each station, and overlaid this data onto 1990 decennial census population data to estimate the population contained within each station's signal coverage area. For each AM station, estimated soil conductivity data was retrieved for each of 360 radial azimuths around the transmitter site, the standard horizontal plane radiation pattern was calculated and any pertinent pattern augmentations applied, and the distance to the 0.5 mV/m field strength contour for each of the 360 radials was calculated using the appropriate propagation curves and the FCC equivalent distance method. For each FM station, terrain averages were calculated from the USGS/DMA 3 arc second terrain database for each of 360 radial azimuths, the HAAT was calculated using the height of the center of radiation AMSL and processed with FM contour calculation software, pertinent directional antenna information was applied, and the distance to the 54 dBuV/m (for Class B stations), 57 dBuV/m (for Class B1 stations), or 60 dBuV/m (for all other classes of station) contour was calculated using the appropriate FCC F[50,50] curves. For both AM and FM, the distance to contour data was applied to population counting software using 1990 census data to determine the total population within each station's coverage area.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–24724 Filed 9–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 95–116; FCC 97–289]

Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The *Second Report and Order* (*Order*) released August 18, 1997 adopts, with minor modifications the recommendations of the North American Numbering Council relating to local number portability administration. The requirements, standards and procedures adopted in this *Order* are needed to give the telecommunications industry clear guidelines as to how to implement long-term local number portability.

DATES: The final rule is effective October 17, 1997. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 17, 1997.

FOR FURTHER INFORMATION CONTACT: Steven Teplitz, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order* adopted August 14, 1997, and released August 18, 1997. The full text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., N.W., Room 239, Washington, D.C. 20554 or at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc97–289.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Regulatory Flexibility Analysis

As required by the Regulatory Flexiblity Act, the *Order* contains a Final Regulatory Flexibility Analysis which is set forth in the *Order.* A brief description of the Final Regulatory Flexibility Analysis follows.

Pursuant to section 604 of the Regulatory Flexibility Act, the Commission performed a comprehensive analysis of the *Second Report and Order* with regard to small entities. This analysis includes: (1) a succinct statement of the need for, and objectives of, the Commission's decisions in the *Second Report and Order*; (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, the final regulatory analysis of the *First Report and Order and Further Notice of Proposed Rulemaking*, 61 FR 38605 (July 25, 1996) (*First Report & Order*) and the supplemental final regulatory analysis of the *First Memorandum Opinion and Order on Reconsideration*, 62 FR 18280 (April 15, 1997) (*First Order on Reconsideration*), and a summary of the Commission's assessment of these issues; (3) a description of and an estimate of the number of small entities to which the *Second Report and Order* will apply; (4) a description of the projected reporting, recordkeeping and other compliance requirements of the *Second Report and Order*, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for compliance with the requirement; and (5) a description of the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes. The requirements and rule adopted in this *Second Report and Order* are necessary to implement the provisions of the Telecommunications Act of 1996.

Synopsis of Second Report and Order

Introduction

1. On June 27, 1996, the Commission adopted the *First Report and Order and Further Notice of Proposed Rulemaking*, 61 FR 38605 (July 25, 1996) (*First Report & Order*) in this docket. The *First Report & Order* established rules designed to implement section 251(b) of the Communications Act of 1934, as amended (the Act), which requires all local exchange carriers (LECs) to offer, ''to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.'' 47 U.S.C. § 251(b)(2). Among other things, in the *First Report & Order*, the Commission directed the North American Numbering Council (NANC) to make recommendations regarding specific aspects of local number portability implementation. The NANC forwarded its recommendations to the Commission on May 1, 1997, in a report from its Local Number Portability Administration Selection Working Group, dated April 25, 1997 (*Working Group Report*).

2. In this *Second Report & Order*, the Commission adopts the recommendations of the NANC as set forth in the *Working Group Report*, with the modifications discussed below. Specifically, we (1) adopt the NANC's recommendation that seven regional number portability databases be established coinciding with the boundaries of the seven original Bell Operating Company (BOC) regions; (2) adopt the NANC's recommendation that Lockheed Martin IMS (Lockheed Martin) and Perot Systems, Inc. (Perot Systems) serve as the administrators for the regional number portability databases; (3) adopt the technical and operational standards proposed by the NANC for the provision of number portability by wireline carriers; (4) require that the carrier immediately preceding the terminating local exchange carrier be responsible for ensuring that number portability databases are queried; (5) permit LECs to block calls that have not been queried when failure to do so is likely to impair network reliability; (6) direct the NANC to complete and submit to the Commission recommendations on the sharing of numbering information between the regional number portability database administrators and the North American Numbering Plan Administrator; (7) direct the NANC to develop standards and procedures regarding the provision of number portability by CMRS providers; (8) adopt, on an interim basis only, the NANC's recommendation that the regional limited liability companies (LLCs), already established by carriers in each of the original BOC regions, manage and oversee the local number portability administrators, subject to review by the NANC; (9) direct the NANC to provide national-level oversight of local number portability administration; and (10) adopt the NANC's recommendation that the Commission create a committee to oversee number portability deployment in the top 100 Metropolitan Statistical Areas.

Discussion

Local Number Portability Databases

Geographic coverage of number portability databases: 3. *Databases By BOC Region*. We adopt the NANC's recommendation that a Number Portability Administration Center database be established for each of the original BOC regions so as to cover, collectively, the 50 states, the District of Columbia and the U.S. territories in the North American Numbering Plan Area. Deploying number portability databases by BOC region will: (1) build on the efforts of the LLCs, which already have chosen local number portability database administrators in each of the original BOC regions; (2) make use of the technical and organizational experience of the state-sponsored associations and workshops; and (3) minimize the cost and complexity of use of the databases by the BOCs. Moreover, we find it significant that, according to the NANC, industry fora at all levels have agreed to the designation of BOC territories as the appropriate Number Portability Administration Center coverage areas. We conclude that establishing a database for each of the original BOC regions would serve the public interest.

4. We decline, at this time, to grant CBT's request that it be allowed to select one regional Number Portability Administration Center for purposes of fulfilling its number portability responsibilities. We find that the current record is insufficient to make a finding that granting CBT's request will not raise technical difficulties with respect to local number portability implementation or have negative financial consequences for carriers responsible for conducting the queries necessary to route calls to the proper terminating carrier. Because the record on this issue is insufficient for us to make a determination whether the benefits to CBT of granting its request outweigh the potential harm to other carriers, we decline to make such a determination at this time. Instead, we direct the NANC to review CBT's request and to make a recommendation to the Commission, on or before December 15, 1997. Specifically, we direct the NANC to address the question of whether LECs with contiguous operating areas that overlap more than one number portability database region should be allowed to select a single Number Portability Administration Center.

5. *U.S. Territories.* We adopt the NANC's recommendation that each U.S. territory in the North American Numbering Plan be permitted to choose one of the seven regional databases for purposes of implementing number portability. Because of their various locations, the U.S. territories are not included within any BOC's territory, nor do they collectively comprise another, separate region. The NANC's recommendation that each territory choose a particular regional database provides a reasonable alternative to creating additional Number Portability Administration Center regions that are much smaller than the Number Portability Administration Center regions that are based on BOC regions.

6. We further find that allowing the U.S. territories to select the regional database they will use to provide number portability will not significantly change the size or complexity of any one database or otherwise undermine the public interest benefits of the regional database system. Accordingly, we hereby direct each U.S. territory to: (1) select a regional database that carriers in that territory will use to provide number portability; and (2) notify the Commission and the NANC in writing regarding this selection within 45 days of the release of this order. Each territory's selection of a particular database is final.

Selection of database administrators: 7. We adopt the NANC's recommendation that Lockheed Martin serve as local number portability database administrator for the Northeast, Mid-Atlantic, Midwest and Southwest regions, and that Perot Systems serve as the local number portability database administrator for the Southeast, Western and West Coast regions. As noted above, the *First Report & Order* directed the NANC to select one or more local number portability database administrators that are independent, non-governmental entities that are not aligned with any particular telecommunications industry segment. We find that the criteria utilized by the NANC in reviewing and evaluating the selection process employed by the various service providers at the regional level were sufficient to ensure that the local number portability database administrators ultimately recommended meet the Commission's requirements. We further note that no party to the proceeding objects to the selections. We, however, may review and, if necessary, modify our approval of the recommended local number portability administrators in the event that negotiations between Lockheed Martin or Perot Systems and the LLCs do not result in completed master contracts for each region.

8. We also adopt the NANC's recommendations that (1) LLCs be allowed to elect to have the local number portability database administrator for separate regions serve those regions using the same platform; and (2) database administrators be allowed to create ''virtual Number Portability Administration Centers.'' We reiterate our conclusion that, absent technical advances or other changed circumstances, it would not be in the public interest for number portability to be provided in this manner. We clarify, however, that our prohibition on the

establishment of one national database does not preclude local number portability database administrators from using the same computer hardware or software to store, utilize or provide access to multiple databases by, for example, separating regional databases stored on the same computer or system of computers by means of database partitions. We underscore, however, that the Chief of the Common Carrier Bureau retains delegated authority to take appropriate action regarding any existing or potential problems associated with serving one or more regions using the same database platform.

Number of database administrators: 9. By the time the NANC submitted its recommendations to the Commission, the seven regional LLCs had independently selected two separate database administrators: Lockheed Martin and Perot Systems. For that reason, the NANC concluded it was unnecessary to address whether more than one administrator should be required. We find that the NANC acted reasonably in assessing whether having two administrators would be appropriate, and thus we decline to disturb this result. Further, we agree, for the reasons given by the NANC, that there are clear advantages to having at least two experienced number portability database administrators that can compete with and substitute for each other, thereby promoting cost-effectiveness and reliability in the provision of Number Portability Administration Center services. While we recognize the likely benefits of having at least two administrators, we do not, at this time, adopt a requirement that two or any other number of entities serve as local number portability database administrators.

General duties of database administrators: 10. We adopt the NANC's recommendations regarding the general duties of the local number portability database administrators. The NANC defined these duties based on input from the industry at the national, regional and state levels, and none of the commenting parties objects to them. These duties also appear to be consistent with the types of activities the Commission tentatively concluded would be necessary to deploy long-term number portability. For example, the Commission tentatively concluded that costs for long-term portability would be attributable to the ''development and implementation of the hardware and software for the database,'' to the ''maintenance, operation, security, administration, and physical property associated with the database,'' and to the ''uploading, downloading, and querying'' associated with the database. Moreover, the duties appear to be reasonably comprehensive, so as to enable the number portability administrators to implement the architecture and technical specifications developed by the NANC, and neither the Commission nor the parties has identified any record evidence that indicates a need to adopt general duties in addition to those recommended by the NANC. We also note that the NANC based these general duties on the more specific duties described in the Functional Requirements Specification (Functional Requirements Specification or FRS) and Interoperable Interface Specification (Interoperable Interface Specification or IIS) and that the NANC's description of the underlying specific duties in the FRS and IIS as ''standard functions'' suggests that both the specific and general duties the NANC recommends are noncontroversial.

Technical and Operational Standards

Uniform national standards: 11. We agree with the NANC that the adoption of uniform Functional Requirements Specification, Interoperable Interface Specification, Provisioning Process Flows, policy for the porting of reserved and unassigned numbers, and compliance and change management processes would provide significant advantages for the implementation of local number portability. We conclude that uniform national standards in this area will promote efficient and consistent use of number portability methods and numbering resources on a nationwide basis, ensure the interoperability of networks, and facilitate the ability of carriers to meet number portability implementation deadlines. We further conclude that uniform national standards should minimize expenditure of time and resources, maximize use of local number portability resources for all companies, produce timely and cost effective offers of local number portability related products, enable switch vendors to spread their costs over a larger base of customers, eliminate the need to develop several different versions of number portability software, and improve service quality for carriers providing service in multiple regions. Furthermore, uniform national standards will allow vendors to develop standard products rather than multiple versions of hardware and software necessary to implement local number portability based on regional differences, resulting in more timely and cost effective product offerings for local service providers.

Specific technical standards: 12. We conclude that the NANC's recommended technical and operational standards are consistent with the Commission's performance criteria for implementing local number portability. In adopting the standards as currently set forth in the *Working Group Report* and its appendices as a framework for implementation of local number portability, we recognize that ongoing changes to these specifications and processes likely will be needed as the industry gains operational experience in implementing long-term number portability. We urge the industry, working under the auspices of the NANC, to maintain, update and modify the technical and operational standards as necessary, and to establish a long-term compliance process for service providers and local number portability administrators.

13. *Number Portability Administration Center Service Management System Provisioning Process Flows (Provisioning Process Flows).* We adopt the Provisioning Process Flows as set forth in Appendix E to the *Working Group Report* and recommended by the NANC as industry standards for use in each Number Portability Administration Center region.

14. We conclude that the uniform standards for Provisioning Process Flows proposed by the NANC are essential to the efficient deployment of local number portability across the nation. In particular, we find that uniform Provisioning Process Flows will help ensure that communication between and among service providers (using local Service Management Systems) and local number portability administrators (using Number Portability Administration Center Service Management Systems) proceed in a clear and orderly fashion so that number portability requests are handled in an efficient and timely manner. We note that no commenter opposed adoption of these standard Provisioning Process Flows. We direct the NANC to make recommendations regarding future modifications to the Commission as necessary.

15. *Number Portability Administration Center Service Management System Standards—Functional Requirements Specification.* We adopt the NANC's recommendation that local number portability administrators and any entity directly connecting to the Number Portability Administration Center Service Management System be required to use

the Number Portability Administration Center Service Management System Functional Requirements Specification as described in the *North American Numbering Council—Functional Requirements Specification—Number Portability Administration Center—Service Management System*, Version 1.1, dated May 5, 1997 (*NANC FRS*). The *NANC FRS* will serve as an industry standard for use in developing and maintaining the Number Portability Administration Center Service Management System in each of the seven Number Portability Administration Center regions.

16. The *NANC FRS* was developed primarily to support the provisioning of wireline number portability. The NANC has not fully considered or developed distinct number portability requirements applicable to CMRS providers. Therefore, modifications to the *NANC FRS* may be required to support wireless number portability. We direct the NANC to recommend modifications to the *NANC FRS* as necessary to support wireless number portability.

17. *Number Portability Administration Center Service Management System Standards—Interoperable Interface Specification.* We adopt the NANC's recommendation that the local number portability administrators and any entity directly connecting to the Number Portability Administration Center Service Management System use the Number Portability Administration Center Service Management System Interoperable Interface Specification as described in the *North American Numbering Council—Interoperable Interface Specification—Number Portability Administration Center—Service Management System*, Version 1.0, dated April 7, 1997 (*NANC IIS*). The *NANC IIS* will serve as an industry standard for use in developing and maintaining the Number Portability Administration Center Service Management System interfaces in each of the seven Number Portability Administration Center regions.

18. The *NANC IIS* was developed primarily to support wireline number portability. The NANC has not fully considered or developed unique wireless number portability requirements. Therefore, modifications to the *NANC IIS* may be required to support wireless number portability. As discussed more fully below, we direct the NANC to recommend modifications to the *NANC IIS* as necessary to support wireless number portability.

19. *Policy for the Porting of Reserved and Unassigned Numbers and Compliance Process.* We adopt the NANC's recommendations relating to the porting of reserved and unassigned numbers developed and documented in Appendix D to the *Working Group Report.* Specifically, the NANC recommends that customers should be allowed to port telephone numbers that they have reserved under a legally enforceable written agreement but that have not been activated. The NANC further recommends that such reserved numbers: (1) be treated as disconnected telephone numbers when the customer is disconnected or when the service is moved to another service provider and the reserved numbers are not ported to subsequent service providers; and (2) may not be used by another customer. The Working Group's Architecture Task Force points out that implementation of the capability to port reserved numbers may require modifications to operational support systems and may not be available initially. The NANC also recommends that service providers not be allowed to port unassigned numbers unless and until there is an explicit authorization for such porting from a regulator with appropriate jurisdiction.

20. In adopting the NANC's recommendation for the porting of reserved and unassigned numbers policy, we direct the NANC to monitor the implementation of this policy, and make appropriate recommendations to the Commission, including, if deemed necessary by the NANC, guidelines for administering ported unassigned numbers that are no longer reserved by the customer that originally ported them.

21. We also conclude that the NANC has recommended a reasonable process for enforcing compliance with the policy pertaining to the porting of reserved and unassigned numbers. If a service provider finds that it is disadvantaged by instances of non-compliance with the policy for the porting of reserved and unassigned numbers by another service provider, the NANC recommends several courses of action. First, the aggrieved service provider may contact the service provider with which it has a dispute to resolve the issue through informal negotiations. Should these efforts prove unsuccessful, the aggrieved service provider may bring the issue to the regional LLC for resolution via the LLC's dispute resolution process, to the NANC, to the state public utilities commission, or to other bodies as deemed appropriate by the service provider.

22. *Change Management Process.* We adopt the NANC's recommendations concerning the change management process. We agree with the NANC that it is important that a neutral entity oversee the change management process, so that: (1) there is consistency in the submission and consideration of changes to the architectural, technical and operational specifications and procedures; (2) uniform processes are implemented; and (3) no individual carriers or industry segments are disadvantaged. We find that the NANC's proposed change management process will enable the industry to make changes to the architectural, technical and operational specifications and procedures in a timely and uniform manner. The role of the regional LLCs in managing changes to the number portability technical and operational specifications, however, is subject to our planned review of the role of the regional LLCs in implementing long-term number portability. We direct the NANC to continue its oversight of architectural, technical and operational change management processes and to make additional recommendations to the Commission as necessary. In the event the NANC is dissolved at some point in the future, we will, at that time, either establish or select an oversight body to perform the change management functions now delegated to the NANC.

23. We also adopt the NANC's recommendations as presented in Appendix D to the *Working Group Report*, with the exception of the NANC's recommendation on the blocking of default routed calls.

24. *N–1 Call Routing.* The NANC recommends that the carrier in the call routing process immediately preceding the terminating carrier, designated the ''N–1'' carrier, be responsible for ensuring that database queries are performed. We adopt the NANC's recommendation that the N–1 carrier be responsible for ensuring that databases are queried, as necessary, to effectuate number portability. The N–1 carrier can meet this obligation by either querying the number portability database itself or by arranging with another entity to perform database queries on behalf of the N–1 carrier.

25. The efficient provisioning of number portability requires that all carriers know who bears responsibility for performing queries, so that calls are not dropped because the carrier is uncertain who should perform the database query, and so that carriers can design their networks accordingly or arrange to have database queries performed by another entity. Consistent with our finding in the *First Memorandum Opinion and Order on*

Reconsideration, 62 FR 18280 (April 15, 1997) (*First Order on Reconsideration*), we conclude that the Location Routing Number system functions best if the N–1 carrier bears responsibility for ensuring that the call routing query is performed. Under the Location Routing Number system, requiring call-terminating carriers to perform all queries may impose too great a burden on terminating LECs. In addition, obligating incumbent LECs to perform all call routing queries could impair network reliability.

26. We note, however, that the requirement that the N–1 carrier be responsible for ensuring completion of the database query applies only in the context of Location Routing Number as the long-term number portability solution. In the event that Location Routing Number is supplanted by another method of providing long-term number portability, we may modify the call routing process as necessary. We note further that if the N–1 carrier does not perform the query, but rather relies on some other entity to perform the query, that other entity may charge the N–1 carrier, in accordance with guidelines the Commission will establish to govern long-term number portability cost allocation and recovery.

27. *Default Routing.* The NANC recommends that we permit carriers to block ''default routed calls'' coming into their networks. A ''default routed call'' situation would occur in a Location Routing Number system as follows: when a call is made to a telephone number in an exchange with any ported numbers, the N–1 carrier (or its contracted entity) queries a local Service Management System database to determine if the called number has been ported. If the N–1 carrier fails to perform the query, the call is routed, *by default*, to the LEC that originally serviced the telephone number. The original LEC, which may or may not still be serving the called number, can either query the local Service Management System and complete the call, or ''block'' the call, sending a message back to the caller that the call cannot be delivered. The NANC found that compelling LECs to query all default routed calls could impair network reliability, and that allowing carriers to block default routed calls coming into their networks is necessary to protect against overload or congestion that could result from an inordinate number of calls being routed by default to the original LEC. In light of these network reliability concerns, we will allow LECs to block default routed calls, but only in specific circumstances when failure to do so is likely to impair network reliability.

28. In the *First Report & Order*, we required CMRS providers to have the capability of querying number portability database systems in order to deliver calls from their networks to ported numbers anywhere in the country by December 31, 1998. We established this deadline so that CMRS providers would have the ability to route calls from their customers to a wireline customer who has ported his or her number, by the time a substantial number of wireline customers have the ability to port their numbers between wireline carriers. Under this deployment schedule, the initial deployment of long-term local number portability for wireline carriers will occur prior to the date by which CMRS providers must be able to perform database queries. During this period, CMRS providers are not obligated by our rules to perform call routing queries or to arrange for other entities to perform queries on their behalf. Thus, if wireline LECs are allowed to block default routed calls, calls originating on wireless networks (to the extent that the CMRS provider is the N–1 carrier) could be blocked. For this reason, we will only allow LECs to block default routed calls when performing database queries on default routed calls is likely to impair network reliability. We also require LECs to apply this blocking standard to calls from all carriers on a nondiscriminatory basis. In the event that a CMRS or other service provider believes that a LEC is blocking calls under circumstances unlikely to impair network reliability, such service provider may bring the issue before the NANC. We direct the NANC to act expeditiously on these issues. Although CMRS providers are not responsible for querying calls until December 31, 1998, we urge them to make arrangements with LECs as soon as possible to ensure that their calls are not blocked. We note that if a LEC performs database queries on default routed calls, the LEC may charge the N–1 carrier, pursuant to guidelines the Commission will establish regarding long-term number portability cost allocation and recovery.

29. *Disconnected Ported Numbers.* The NANC also recommends that when a ported telephone number is disconnected, that telephone number be released or ''snapped-back'' to the original service provider assigned the NXX. We find this NANC recommendation reasonable and the result of industry-wide consensus. Accordingly, we adopt the recommendation. We ask the NANC to prepare recommendations to clarify the policy if it determines that there is confusion among the industry regarding its application.

30. *High Volume Call-In Networks.* The Working Group's Architecture Task Force did not reach consensus on how to provide local number portability to high volume call-in networks. Currently, a service provider may move a customer's telephone number(s) to a high volume call-in network when the service provider determines that the customer regularly generates large volumes of terminating traffic over a short period of time, so that the surge in telephone calls will not overload the network. A high volume call-in network allows all such customers to be assigned numbers in an NPA–NXX (*e.g.*, 213–520) dedicated for high volume call-in. Switches in the network can be designed to segregate traffic for high volume call-in numbers and route it via trunk groups that are dedicated to the network and do not overflow to other trunk groups. The dedicated trunks are engineered to handle a particular traffic load and, in this way, traffic volumes are limited, and traffic to high calling volume numbers cannot congest the network.

31. The Location Routing Number method for local number portability requires a database query to be performed on calls to portable NPA-NXXs before route selection takes place. If high volume call-in network numbers are portable, they could generate large volumes of queries that could congest the Service Control Points. Also, if a high volume call-in network number is ported and a location routing number is returned in the database response, the call will not be routed via trunks dedicated to high volume call-in networks. This congestion can in turn affect other services and compromise the design of high volume call-in network networks.

32. We find that additional study is necessary before we allow porting of numbers to high volume call-in networks. We, therefore, urge the industry, under the auspices of the NANC, to study this matter further and prepare recommendations on how best to incorporate high volume call-in networks into the local number portability scheme. We direct the NANC to continue to examine this matter and make recommendations to the Commission.

Numbering Information Sharing

33. We acknowledge and applaud the steps already taken by the NANC to coordinate its efforts with those of the Industry Numbering Committee to develop a work plan and guidelines to

implement number pooling, and we direct the NANC to continue to work with the Industry Numbering Committee and any other industry bodies it deems appropriate in developing numbering information sharing guidelines. We also direct the NANC to address the needs of CMRS providers to ensure that number conservation efforts do not unfairly discriminate against such carriers. We further direct the NANC to make recommendations to the Commission as necessary to develop guidelines for numbering information sharing.

Number Portability and CMRS Providers

34. We recognize the significant time constraints imposed on the NANC for the development of recommended standards and procedures so that wireline carriers can meet the Commission's implementation schedule, which commences October 1, 1997. We are also aware that under our number portability deployment schedule, CMRS providers are not required to have the capability of querying number portability database systems in order to deliver calls from their networks to ported numbers until December 31, 1998 and are not required to have the ability to port numbers until June 30, 1999. We, therefore, conclude that it was reasonable for the NANC to defer making recommendations at this time with respect to the implementation of local number portability by CMRS providers. Our adoption of the NANC's recommendations set forth in its May 1, 1997 transmittal, however, should not be viewed in any way as an indication that we believe our plan for implementing local number portability is complete. The industry, under the auspices of the NANC, will probably need to make modifications to local number portability standards and processes as it gains experience in implementing number portability and obtains additional information about incorporating CMRS providers into a long-term number portability solution and interconnecting CMRS providers with wireline carriers already implementing their number portability obligations.

35. We find that adoption of the current NANC recommendations should not be deferred pending resolution of all wireless concerns. While delaying implementation of number portability until all wireless concerns are fully addressed might result in an easier transition to a number portability environment for CMRS providers, we believe that such delay would be contrary to the public interest because a far greater number of wireline customers could not, during the period of delay, switch local providers without also changing telephone numbers. At the same time, we recognize that it will probably be necessary to modify and update the current local number portability standards and procedures in order to support wireless number portability. Thus, we direct the NANC to develop standards and procedures necessary to provide for CMRS provider participation in local number portability. We further direct the NANC to present its wireless recommendations to the Commission as soon as possible, but not later than nine months after the release of this *Second Report & Order*. CMRS providers will need clear guidelines as to how to query the Service Management System databases to determine proper call routing, as well as how to implement wireless number portability. The NANC must also consider other issues of concern to CMRS providers, such as how to account for differences between service area boundaries for wireline versus wireless services and how to implement number portability in a roaming environment. In revising local number portability standards to incorporate the concerns of the wireless industry, the NANC should remain cognizant of the goals of ensuring the interoperability of networks and nondiscrimination as applied to CMRS providers. In particular, in making its recommendations, the NANC is to ensure that CMRS providers are not unfairly disadvantaged by virtue of the fact that wireline number portability is being implemented before number portability for CMRS providers.

36. CTIA reports that it and other industry groups are currently developing technical solutions for implementing wireless number portability. We direct the NANC to monitor these industry efforts and to make recommendations to the Commission for modifications to the various technical and operational standards as necessary for CMRS providers to efficiently implement number portability and to allow CMRS providers to interconnect with a wireline number portability environment.

Local Number Portability Oversight Procedures

37. We adopt, with certain modifications, the NANC's recommendations regarding the oversight and management of the local number portability administrators. Specifically, we adopt, on an interim basis, the NANC's recommendation that the LLCs provide immediate oversight and management of the local number portability administrators. The LLCs should serve in this role until the Commission concludes a rulemaking to examine the issue of local number portability administrator oversight and management including, but not limited to, the question of whether the LLCs should continue to act in this capacity. The Commission will initiate such a rulemaking no later than June 30, 1998. In addition, we adopt the NANC's recommendation that it provide ongoing general oversight of number portability administration, including oversight of the individual LLCs, subject to Commission review. We also adopt the NANC's recommendation that the Commission create a committee, chaired by the Chief of the Common Carrier Bureau, to oversee number portability deployment in the top 100 MSAs.

38. *Oversight by the LLCs*. We conclude that, at least in the short term, the LLCs should provide immediate oversight for the regional local number portability administrators. Specifically, we conclude that: (1) there are advantages to allowing LLCs to provide immediate oversight of the local number portability administrators; (2) we have no basis for concluding that the LLCs will not treat all carriers fairly; and (3) the record regarding local number portability administrator oversight does not permit us to conclude that other proposals would be preferable to LLC oversight.

39. We agree with the NANC that there will likely be a need to modify some requirements to permit database system enhancements and other modifications as local number portability is deployed throughout each region. Without a single entity to oversee such modifications in each region, local number portability administrators would likely be faced with varied, if not conflicting, proposals from the carriers utilizing the database regarding how the modifications should be implemented. The need for the local number portability administrator to reconcile such varied proposals, in turn, could potentially delay the administrator from making necessary modifications.

40. We conclude that the LLCs are the entities that are best able to provide immediate oversight of the local number portability administrators at this time. Because the LLCs were responsible for negotiating the master contracts with their respective local number portability administrators, each LLC is the entity with the greatest expertise regarding the structure and operation of the database for its region. Therefore, with respect to each region, using an entity other than

the LLC to provide immediate oversight of the local number portability administrator would waste the LLC's valuable expertise and run the risk that necessary modifications to the database system may be delayed.

41. Bell Atlantic and other parties object to LLC oversight and management of the local number portability administrators based primarily on the fact that, because new entrants will outnumber incumbent LECs in each region, the new entrants that belong to the individual LLCs will be able to outvote the incumbent LEC members if they so choose. They suggest that, with respect to decisions that do not require unanimity by the LLCs, new entrant members of an LLC could vote in ways that give new entrants competitive advantages over incumbent LECs in the provision of number portability.

42. Any decision making process that operates on the basis of majority votes runs the risk that the group will decide to take action that disadvantages some members. Requiring unanimity for all oversight decisions, however, could make such oversight a cumbersome, time-consuming process. In light of the concerns expressed by incumbent LECs, we adopt the NANC's recommendation that LLCs provide immediate oversight of the local number portability administrators, but such oversight shall be on an interim basis. Specifically, the LLCs may serve in this role only until such time as the Commission concludes further proceedings to examine the issue of local number portability administrator oversight and management in general and, in particular, the question of whether the LLCs should continue to act in this capacity. The Commission will initiate such further proceedings no later than June 30, 1998. We note that Phase I of the Commission's long-term number portability implementation schedule will be completed March 31, 1998. We believe, therefore, that initiating a proceeding no later than June 30, 1998 will enable the parties and the Commission to acquire practical experience with number portability implementation, and to determine whether problems arise as a result of oversight and management envisioned by LLCs.

43. We will permit LLC oversight, on an interim basis, for several reasons. First, the current record does not support a finding that the LLCs will act in a fashion that is not fair to all carriers. To the contrary, two incumbent LECs applaud the LLCs' efforts to date, and BellSouth states affirmatively that the LLCs have remained neutral during the administrator selection and contracting phases of number portability deployment. We also note that the Maryland Public Service Commission, in an order regarding the conflict between Bell Atlantic and the Mid-Atlantic LLC, required Bell Atlantic to sign a non-disclosure form before it could review the LLC's standard user agreement with Lockheed Martin. The Maryland Commission also directed the regulated members of the Mid-Atlantic LLC to secure a release from Lockheed and to furnish a copy of the proposed standard user agreement to Bell Atlantic. Further, the Maryland Commission directed the Mid-Atlantic LLC and Bell Atlantic to negotiate to resolve any areas of disagreement regarding the user agreement. If the parties cannot resolve their differences regarding the user agreement, the Maryland Commission has said that it will resolve these differences for them. Because the record contains no other specific allegations of anticompetitive activities by the LLCs, we are not persuaded on the basis of the current record that partiality by LLCs is likely to occur in the immediate future.

44. Second, we agree with WorldCom, Sprint and AT&T that there are significant protections to ensure fair and impartial actions by the LLCs. As the NANC states, membership in the LLCs is open to any local exchange carrier that intends to port numbers, LLC meetings are generally open to the public, and members of the LLCs have agreed to require a supermajority or unanimity with respect to voting on certain important decisions, such as execution of the master contract. Further, the NANC explains that all carriers that need to access the database for rating, routing, or billing purposes will have the same access to the local number portability administrator's service, even if the carrier is not a member of the LLC. We also observe that the LLCs have agreed to follow any and all directives from state and federal regulators. In addition, we note that oversight by the NANC and by state and federal regulators provides additional protection against the possibility of partiality by the LLCs in their oversight of the local number portability administrators.

45. Third, we reject the arguments of Bell Atlantic and NYNEX and others that permitting the LLCs to oversee the number portability database administrators would be inconsistent with the *First Report & Order* because the LLCs are not, in their view, neutral. In the *First Report & Order,* we specified that the local number portability administrators must be ''independent, non-governmental entities that are not aligned with any particular telecommunications industry segment.'' Contrary to the arguments of Bell Atlantic and NYNEX, this neutrality requirement applies to number portability database administrators, not to entities that oversee the administrators. In any event, because we find that there is no basis in the current record for us to conclude that the LLCs will act in a fashion that is not fair to all carriers, we also cannot conclude that the LLCs' interim oversight and management of the number portability administrators will prevent the administrators from acting impartially.

46. We wish to underscore, however, that we remain committed to ensuring that number portability administration is carried out in an impartial manner. In the *First Report & Order,* we delegated authority to the Chief of the Common Carrier Bureau to monitor the progress of number portability implementation for wireline carriers and to take appropriate action to ensure compliance with the implementation schedule. We expressly delegate authority to the Chief of the Common Carrier Bureau to monitor the activities of the carriers that comprise the LLCs and to take any action necessary to remedy possible partiality by those carriers with respect to the LLCs' oversight and management of the local number portability administrators.

47. We also decline, at this time, to grant Bell Atlantic and NYNEX's request that local number portability administrators be required to provide number portability services under tariff as a means of avoiding competitive abuses by new entrants through the LLCs. Bell Atlantic argues that because the Commission ordered the administrator of the 800 number database to provide access to its database under tariff, the Commission must do the same with respect to local number portability databases. We find that Bell Atlantic's reliance on our decision in the 800 number database context is misplaced. In that decision, we found that ''[o]n balance * * * the better course for now'' was to require that access to the 800 database be tariffed because we determined that such treatment was necessary to ensure that 800 database access was provided at reasonable rates and on nondiscriminatory terms. We do not find the same concerns applicable to access to local number portability databases. First, section 251 of the Act requires that the cost of number portability ''shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.'' 47

U.S.C. 251(e)(2). Thus, the method for calculating the amount any particular carrier will pay for obtaining services from a local number portability database administrator will be determined by the Commission, not by the LLC. Second, as noted above, the local number portability administrators, pursuant to the master contracts negotiated by the LLC, will offer access to their databases to all carriers on the same terms and conditions, whether or not the carrier is a member of an LLC.

48. In addition, we cannot conclude from the current record that, as a practical matter, CMRS providers will be excluded from participating in the LLCs' management and oversight activities as they affect CMRS providers. As stated above, in order to complete the tasks associated with wireline number portability in accordance with the Commission's schedule, the NANC directed its attention to developing recommendations primarily relating to the wireline portion of the industry and did not fully address wireless concerns. Further, the NANC recognized that certain requirements, such as the FRS and IIS, must be revised to incorporate the work of CTIA and others on the technical aspects of the provision of number portability by CMRS providers. We share CTIA's concern that number portability be administered in an impartial manner, and we strongly encourage both the NANC and the LLCs to review their policies to ensure that they have not, even inadvertently, limited the participation of CMRS providers in the LLCs or other aspects of number portability administration. While there is no evidence in the record that any CMRS provider has been denied membership in an LLC, we encourage the LLCs to make membership available to all carriers that intend to port numbers, whether those carriers intend to do so immediately or sometime in the future. We do not believe, however, that CTIA's arguments justify rejection or modification of the NANC's recommendations at this time.

49. Other proposals for local number portability administrator oversight suggested by incumbent LECs include: (1) adopting specific rules to govern the operation of the local number portability administrators; (2) delegating oversight of the local number portability administrators to an industry or standards body that operates by consensus; (3) requiring local number portability administrators to file their master agreements with the Commission; (4) delegating local number portability administrator oversight to a national LLC. As a general matter, the parties making these proposals offer little more than bare assertions that these alternatives would be preferable to LLC oversight, without explanation or justification for their conclusions. We find that the current record does not support a finding that any of these proposals would be preferable to LLC oversight. Consequently, we lack sufficient analysis regarding these proposals to make a reasoned decision regarding their adoption.

50. The LLCs are currently requiring that database administrators provide uniform terms and conditions to all carriers. WorldCom asks that the Commission expressly endorse the LLCs' requirement that number portability administrators provide same terms and conditions to all carriers that must provide number portability in a region, regardless of whether a particular carrier belongs to the LLC. We agree with WorldCom that no carrier should be able to use the terms and conditions of obtaining number portability database services to gain a competitive advantage over other carriers. In the *First Report & Order,* we determined that it is in the public interest for the number portability databases to be administered by one or more neutral third parties because neutral third party administration ''ensures the equal treatment of all carriers and avoids any appearance of impropriety or anti-competitive conduct.'' Thus, our order expressed an expectation that a neutral administrator would ensure equal treatment of all carriers; we did not affirmatively require uniform treatment. Based on the information presently available, the LLC requirement for uniform terms and conditions appears to be reasonable. Nevertheless, given the limited record, we do not preclude further consideration of this issue if any party can demonstrate that the LLCs' requirement that database administrators provide uniform terms and conditions to all carriers is unfair to them.

51. *Oversight by the NANC Generally.* We adopt the NANC's recommendation that it provide general oversight of number portability administration on an ongoing basis. Specifically, we establish a procedure whereby parties may bring matters regarding number portability administration to the NANC so that it may recommend a resolution of those matters to the Commission.

52. The NANC represents a broad cross section of carriers with interests in numbering and number portability issues and has developed substantial expertise while formulating its recommendations regarding number portability implementation. Application of this expertise will be critical in addressing future issues regarding number portability deployment, including implementation of number portability by CMRS providers and coordination of number portability administration with numbering administration. Further, we find that the NANC provides a valuable forum in which carriers are able to consider, at the national level, possible ways to resolve issues that arise as number portability is deployed within each number portability region. Such issues include, but are not limited to, ensuring that the local number portability administrators operate impartially, and achieving national uniformity and interoperability in number portability administration. In our view, such ongoing work of the NANC, especially during the early phases of deployment, will provide invaluable assistance to the Commission in ensuring timely implementation of number portability. Although the Commission retains ultimate authority over number portability matters, carriers that are not satisfied with a decision of an LLC or local number portability administrator regarding the administration of number portability, and cannot obtain relief from either of those entities, may bring their concerns before the NANC.

53. The Commission strongly encourages all parties to attempt to resolve issues regarding number portability deployment among themselves and, if necessary, under the auspices of the NANC. If any party objects to the NANC's proposed resolution, the NANC shall submit its proposed resolution of the disputed issue to the Commission as a recommendation for Commission review. In light of the parties' record of successful cooperation to implement number portability, we believe that this approach will enable the parties to resolve such issues most efficiently and effectively. Such issues may include, but are not limited to, amendments to or interpretations of the NANC's recommendations approved in this order, disputes regarding the LLCs' oversight and management of the number portability database administrators, or any other matter involving the administration of local number portability. In the interest of expediting this process, the Commission hereby establishes the following procedures to govern NANC recommendations submitted for Commission review:

(1) Following the adoption of a recommendation regarding the administration of number portability,

the NANC shall issue a written report summarizing the positions of the parties and the basis for the recommendation adopted by the NANC. The NANC Chair will transmit the written report of such recommendation to the Chief of the Common Carrier Bureau (Chief). The Chief will issue a public notice describing the report and provide a reasonable opportunity for interested parties to comment on the NANC's recommendation. Recommendations adopted by the NANC and forwarded to the Commission may be implemented by the parties pending Commission review.

(2) Within 90 days of the conclusion of the comment cycle established by the Chief of the Common Carrier Bureau for review of a NANC recommendation, the Chief, after consultation with the Chief of the Wireless Telecommunications Bureau, may issue an order adopting, modifying or rejecting the recommendation. If the Chief does not act within 90 days of the conclusion of the comment cycle, the recommendation will be deemed to have been adopted by the Bureau.

54. We reject USTA's request that we establish direct appeal provisions for carriers that wish to contest the decisions of the LLCs or the local number portability administrators regarding the administration of number portability. As stated above, most of the commenting parties agree that the LLCs and local number portability administrators have worked efficiently and fairly to implement local number portability, and none of the commenting parties identifies with precision any future circumstances in which the LLCs and local number portability administrators would fail to work efficiently and fairly. Moreover, by this order, the Commission establishes a procedure through which aggrieved parties may have their concerns addressed in the LLCs' own dispute resolution process, by the NANC, and ultimately by the Commission. Given the success of carriers and the local number portability administrators in resolving difficult implementation issues, as well as the availability of the NANC to recommend resolutions of matters brought before it to the Commission, we decline to establish special provisions for bringing such matters before state or federal regulators.

55. *Implementation Oversight Committee.* We also adopt the NANC's recommendation that the Commission create a committee to monitor number portability deployment in the top 100 MSAs. We agree with the NANC that such monitoring will be especially important during the initial phase of number portability deployment, as this initial phase will involve more extensive testing and will lay the groundwork for successful deployment in later phases. Consequently, we are creating a committee, comprised of members of the NANC's Local Number Portability Working Group, representing a broad cross-section of the telecommunications industry, and chaired by the Chief of the Common Carrier Bureau, to monitor compliance with the Commission's orders during deployment of number portability in the top 100 MSAs. This committee will not provide advice or recommendations to the Commission, but will gather information to monitor number portability deployment in the top 100 MSAs.

Final Regulatory Flexibility Analysis

56. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice of Proposed Rulemaking* in this docket (*NPRM*). The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. The comments received on the IRFA were discussed in the *First Report & Order's* Final Regulatory Flexibility Analysis (FRFA-First Report & Order), which was incorporated as Appendix C to the *First Report & Order* in this docket. The FRFA-First Report & Order conforms to the RFA. 5 U.S.C. 604. On reconsideration of the *First Report & Order*, parties commented on the FRFA-First Report & Order. The comments received on the FRFA-First Report & Order were discussed in the Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) incorporated into the *First Order on Reconsideration* in this docket. The Supplemental FRFA conforms to the RFA. 5 U.S.C. 604. The Final Regulatory Flexibility Analysis (FRFA-Second Report & Order) is incorporated as an appendix to the *Second Report & Order* in this docket, in which the Commission adopts, to the extent described therein, the recommendations of the North American Numbering Council (NANC) regarding the implementation of local number portability. The *First Report & Order* directed the NANC to make these recommendations and forward them to the Commission, which then requested public comment on the recommendations. The FRFA-Second Report & Order also conforms to the RFA. 5 U.S.C. 604.

A. Need for and Objectives of Second Report and Order

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

B. Summary of Significant Issues Raised By Public Comments in Response to the IRFA, FRFA-First Report & Order and Supplemental FRFA

58. The comments received on the IRFA were discussed in the FRFA-First Report & Order incorporated into the *First Report & Order.* The comments received on the FRFA-First Report & Order were discussed in the Supplemental FRFA incorporated into the *First Order on Reconsideration.* No additional comments were sought or received for purposes of the FRFA-Second Report & Order.

C. Summary of the FRFA-First Report & Order

59. In the FRFA-First Report & Order, we concluded that incumbent LECs do not qualify as small businesses because they are dominant in their field of

operation, and, accordingly, we did not address the impact of our requirements on incumbent LECs. We noted that the RFA generally defines the term ''small business'' as having the same meaning as the term ''small business concern'' under the Small Business Act. 15 U.S.C. 632. A small business concern is one that (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). According to the SBA's regulations, entities engaged in the provision of telephone service may have a maximum of 1,500 employees in order to qualify as a small business concern. 13 CFR 121.201. This standard also applies in determining whether an entity is a small business for purposes of the Regulatory Flexibility Act.

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

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

D. Summary of the Supplemental FRFA

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

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

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

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

65. For the purposes of the *Second Report and Order,* the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. 5 U.S.C. 601(3). 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. 15 U.S.C. 632. SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities with fewer than 1,500 employees. 13 CFR 121.201.

66. The requirements adopted in the *Second Report and Order* governing regional databases to be utilized for long-term number portability apply to all LECs, including incumbent LECs as well as new LEC entrants, and also

apply to interexchange carriers, cellular, broadband PCS, and covered SMR providers. According to the SBA definition, incumbent LECs do not qualify as small businesses because they are dominant in their field of operation. Accordingly, we will not address the impact of these requirements on incumbent LECs.

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

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

69. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, cellular carriers, mobile service carriers, broadband PCS providers, and covered SMR providers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' 15 U.S.C. 632(a)(1). For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to tentatively conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent local exchange carriers.

i. Common Carrier Services and Related Entities

70. According to the *Telecommunications Industry Revenue: Telecommunications Relay Service Fund Worksheet Data (TRS Worksheet),* there are 2,847 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

71. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. 13 CFR 121.201; SIC Code 4812. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. We do not have information on the number of carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 2,295 small telephone communications companies other than radiotelephone companies.

72. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. 13 CFR 121.201; SIC Code 4813. The most reliable source of information regarding the number of LECs nationwide is the data that we collect annually in connection with the *TRS Worksheet.* According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services. We do not have information on the number of carriers that are not independently owned and operated, nor what carriers have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small incumbent LECs.

73. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. 13 CFR 121.201; SIC 4813. The most reliable source of information regarding the number of IXCs nationwide is the data that we collect annually in connection with the *TRS Worksheet.* According to our most recent data, 130 companies reported that they were engaged in the provision of interexchange services. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 130 small entity IXCs.

ii. Wireless and Commercial Mobile Services

74. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons. 13 CFR 121.201; SIC Code 4812. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned are operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small

entity radiotelephone companies that may be affected by the decisions and requirements adopted in the *Second Report and Order.*

75. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The closest applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies (SIC 4812). The most reliable source of information regarding the number of cellular services carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the *TRS Worksheet.* According to the most recent data, 792 companies reported that they were engaged in the provision of cellular services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of cellular services carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 792 small cellular service carriers.

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

77. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. This definition of a ''small entity'' in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. The requirements adopted in the *Second Report and Order* may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. We assume, for purposes of the FRFA-Second Report & Order, that all of the extended implementation authorizations may be held by small entities, which may be affected by the decisions and requirements adopted in the *Second Report and Order.*

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

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

79. There are several reporting requirements imposed by the *Second Report and Order* that are likely to require the services of persons with technical expertise to prepare the reports. Most of these reporting requirements, however, are imposed on the NANC, a federal advisory committee, as opposed to a ''small entity'' within the meaning of the RFA. 5 U.S.C. 601(3); Small Business Act, 15 U.S.C. 632; 5 U.S.C. 601(5). In particular, the Commission directs the NANC to present its recommendation regarding the provision of number portability by wireless carriers within nine months of the release of the *Second Report and Order.* Further, the NANC is directed to review the request of Cincinnati Bell Telephone that it be allowed to select one of the regional number portability databases for purposes of fulfilling its number portability responsibilities and to make a recommendation to the Commission by December 15, 1997. Moreover, as part of its general oversight of the local number portability administrators, the NANC is directed to submit recommendations concerning local number portability to the Commission from time to time. Following the adoption of a recommendation regarding the administration of number portability, the NANC is directed to issue a written report to the Commission summarizing the positions of the parties and the basis for the recommendation adopted by the NANC. In addition, pursuant to the *Second Report & Order,* each U.S. territory (*i.e.*, Puerto Rico, U.S. Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands) is directed to: (1) select a regional database that carriers in that territory will use to provide number portability; and (2) notify the Commission and the NANC in writing regarding this selection within 45 days of the release of the *Second Report and Order.* There are no significant reporting, recordkeeping or other compliance requirements imposed by the *Second Report and Order* on other entities.

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

80. The Commission's actions in the *Second Report and Order* will benefit small entities by facilitating their entry into the local exchange market. The record in this proceeding indicates that the lack of number portability would

deter entry by competitive providers of local service because of the value customers place on retaining their telephone numbers. These competitive providers, many of which may be small entities, may find it easier to enter the market as a result of number portability which will eliminate this barrier to entry.

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

82. *Report to Congress:* The Commission will send a copy of the *Second Report & Order*, including the FRFA-Second Report & Order, in a report to be sent to Congress pursuant to the Small Business Regulatory Fairness Act of 1996. 5 U.S.C. 801(a)(1)(A). A copy of the *Second Report & Order* and the FRFA-Second Report & Order (or summary thereof) will also be published in the **Federal Register** and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

83. Accordingly, it is ordered that, pursuant to the authority contained in sections 1, 4(i), 4(j), 201–205, 218, 251, and 332 of the Communications Act as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 251 and 332, part 52 of the Commission's Rules, 47 CFR part 52, is amended as set forth below.

84. It is further ordered that the policies, rules and requirements set forth in the *Second Report and Order* are adopted, effective October 17, 1997.

85. It is further ordered that the Secretary shall send a copy of the *Second Report and Order*, including the final regulatory flexibility certification set forth in Appendix C, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

List of Subjects in 47 CFR Part 52

Communications common carriers, Incorporation by reference, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 52 of title 47 of the Code of Federal Regulations is amended as follows:

PART 52—NUMBERING

1. The authority citation for part 52 continues to read as follows:

Authority: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–7, 251–2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–7, 271 and 332 unless otherwise noted.

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

§ 52.26 NANC Recommendations on Local Number Portability Administration.

(a) Local number portability administration shall comply with the recommendations of the North American Numbering Council (NANC) as set forth in the report to the Commission prepared by the NANC's Local Number Portability Administration Selection Working Group, dated April 25, 1997 (*Working Group Report*) and its appendices, which are incorporated by reference pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. *Except that:* Section 7.10 of Appendix D of the *Working Group Report* is *not* incorporated herein.

(b) In addition to the requirements set forth in the *Working Group Report*, the following requirements are established:

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

(2) The regional limited liability companies (LLCs), already established by telecommunications carriers in each of the original Bell Operating Company regions, shall manage and oversee the local number portability administrators, subject to review by the NANC, but only on an interim basis, until the conclusion of a rulemaking to examine the issue of local number portability administrator oversight and management and the question of whether the LLCs should continue to act in this capacity; and

(3) The NANC shall provide ongoing oversight of number portability administration, including oversight of the regional LLCs, subject to Commission review. Parties shall attempt to resolve issues regarding number portability deployment among themselves and, if necessary, under the auspices of the NANC. If any party objects to the NANC's proposed resolution, the NANC shall issue a written report summarizing the positions of the parties and the basis for the recommendation adopted by the NANC. The NANC Chair shall submit its proposed resolution of the disputed issue to the Chief of the Common Carrier Bureau as a recommendation for Commission review. The Chief of the Common Carrier Bureau will place the NANC's proposed resolution on public notice. Recommendations adopted by the NANC and forwarded to the Bureau may be implemented by the parties pending review of the recommendation. Within 90 days of the conclusion of the comment cycle, the Chief of the Common Carrier Bureau may issue an order adopting, modifying or rejecting the recommendation. If the Chief does not act within 90 days of the conclusion of the comment cycle, the recommendation will be deemed to have been adopted by the Bureau.

(c) The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the *Working Group Report* and its

appendices can be obtained from the Commission's contract copier, International Transcription Service, Inc., 1231 20th St., N.W., Washington, D.C. 20036, and can be inspected during normal business hours at the following locations: 1919 M Street, N.W., Room 239 (FCC Reference Center), Washington, D.C. 20554 or at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, D.C. The *Working Group Report* and its appendices are also available on the Internet at http://www.fcc.gov/ccb/Nanc/.

[FR Doc. 97–24426 Filed 9–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 94–129; FCC 97–248]

Unauthorized Changes of Consumer's Long Distance Carriers; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communication Commission published in the **Federal Register** of August 14, 1997, a document which amends the Commission's rules and policies governing the unauthorized switching of subscribers' primary interexchange carriers (PICs), an activity more commonly known as ''slamming.'' In the Order on Reconsideration, the Commission disposes of six petitions for reconsideration of its *1995 Report and Order,* and amends its rules regarding changes in subscribers' long distance carriers in three respects. The Commission's decision is intended to deter and ultimately eliminate unauthorized changes in subscribers' long distance carriers. Inadvertently § 64.1100(a) had the word ''or'' omitted. This document adds the word ''or''.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Cathy Seidel, Enforcement Division, Common Carrier Bureau, (202) 418–0960.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of August 14, 1997, FCC 97–248 (62 FR 43477) FR Doc. No. 97–21527. The amended § 64.1100(a) inadvertently had the word ''or'' omitted. This correction adds the word ''or'' to the amended § 64.1100(a).

§ 64.1100 [Corrected]

On page 43481, in the second column, in § 64.1100(a), last line, add the word ''or'' after the semicolon.

Dated: September 11, 1997.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–24646 Filed 9–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[CC Docket No. 92–297; FCC 97–323]

The Local Multipoint Distribution Service (''LMDS'')

AGENCY: Federal Communications Commission.

ACTION: Final rule; order on reconsideration

SUMMARY: On September 9, 1997, the Federal Communications Commission adopted a *Second Order on Reconsideration* amending certain rules pertaining to Local Multipoint Distribution Service (''LMDS'') operations in the 27.5–28.35 GHz, 29.1–29.25 GHz, and 31.0–31.3 GHz bands. These amendments are being made in response to certain petitions for reconsideration of the *Second Report and Order* in this proceeding which established rules and policies for LMDS. The effect of this action is to make amendments to the rules regarding favorable small business provisions available to qualifying applicants for LMDS licenses.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Moses, Wireless Telecommunications Bureau, (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Order on Reconsideration* in CC Docket No. 92–297, FCC 97–323. The complete *Second Order on Reconsideration* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20036. The complete Second Order on Reconsideration is also available on the Commission's Internet home page (http://www.fcc.gov).

SUMMARY of THE SECOND ORDER on RECONSIDERATION

1. The Commission has before it several petitions for reconsideration of the *Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking in this proceeding. Rulemaking To Amend Parts 1, 2, 21, and 25 of the Commission's Rules To Redesignate the 27.5–29.5 GHz Frequency Band, To Reallocate the 29.5–30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, Petitions for Reconsideration of the Denial of Applications for Waiver of the Commission's Common Carrier Point-to-Point Microwave Radio Service Rules,* CC Docket No. 92–297, *Suite 12 Group Petition for Pioneer Preference,* PP–22, *Second Report and Order, Order on Reconsideration,* 62 FR 23148 (April 29, 1997), and *Fifth Notice of Proposed Rulemaking,* 62 FR 16514 (April 7, 1997) (''*LMDS Second Report and Order*'') (''*Fifth Notice of Proposed Rulemaking*'') (''*Order on Reconsideration*''), adopting subpart L of part 101 of the Commission's rules, 47 CFR 101.1001–1112; *appeal pending sub nom. Melcher* v. *FCC,* Case Nos. 93–1110, et al. (D.C. Cir., filed February 8, 1993) (eligibility restrictions); *Errata* (released April 7 and May 1, 1997); *Order on Reconsideration,* 62 FR 28373 (May 23, 1997). The Commission defers the comments and all matters raised for comment in the *Fifth Notice of Proposed Rulemaking* to a separate Report and Order to be issued in the near future. CellularVision USA, Inc. (''CellularVision''), WebCel Communications, Inc. (''WebCel''), Cook Inlet Region, Inc. (''Cook Inlet''), LBC Communications, Inc. (''LBC''), the Rural Telecommunications Group (''RTG''), the Independent Alliance, and Sierra Digital Communications, Inc. filed petitions for reconsideration of the *LMDS Second Report and Order.* LDH International, Inc., Celltel Communications Corporation, and CT Communications Corporation jointly filed a petition for reconsideration of the *Order on Reconsideration,* and M3 Illinois Telecommunications Corporation filed a petition for review of the *Order on Reconsideration.* This *Second Order on Reconsideration* addresses those portions of the petitions of CellularVision, WebCel, and Cook Inlet that deal with the participation of small businesses in the upcoming auction of LMDS licenses.

2. In authorizing the Commission to use competitive bidding, Congress mandated that the Commission ''ensure that small businesses, rural telephone