(r) *Character rendition considerations.* In NTSC Closed Captioning, decoders were required to insert leading and trailing spaces on each caption row. There were two reasons for this requirement:

(1) To provide a buffer so that the first and last characters of a caption row do not fall outside the safe title area, and

(2) To provide a black border on each side of a character so that the ''white'' leading pixels of the first character on a row and the trailing ''white'' pixels of the last character on a row do not bleed into the underlying video.

(i) Since caption windows are required to reside in the safe title area of the DTV screen, reason 1 (above) is not applicable to DTVCC captions.

(ii) The attributes available in the SetPenAttributes command for character rendition (e.g., character background and edge attributes) provide unlimited flexibility to the caption provider when describing caption text in an ideal decoder implementation. However, manufacturers need not implement all pen attributes. Thus it is recommended that no matter what the level of implementation, decoder manufacturers should take into account the readability of all caption text against a variety of all video backgrounds, and should implement some automatic character delineation when the individual control of character foreground, background and edge is not supported.

(s) *Service synchronization.* Service Input Buffers must be at least 128 bytes in size. Caption providers must keep this lower limit in mind when following Delay commands with other commands and window text. In other words, no more than 128 bytes of DTVCC commands and text should be transmitted (encoded) before a pending Delay command's delay interval expires.

(t) *Settings.* Decoders must include an option that permits a viewer to choose a setting that will display captions as intended by the caption provider (a default). Decoders must also include an option that allows a viewer's chosen settings to remain until the viewer chooses to alter these settings, including periods when the television is turned off.

PART 79—CLOSED CAPTIONING OF VIDEO PROGRAMMING

1. The authority citation for part 79 continues to read as follows:

Authority: 47 U.S.C. 613.

2. Section 79.1 is amended by revising paragraphs (a)(4) and (c) to read as follows:

§ 79.1 Closed captionng of video programming.

(a) * * *

(1) *Closed captioning.* The visual display of the audio portion of video programming pursuant to the technical specifications set forth in part 15 of this chapter.

* * * * *

(c) *Obligation to pass through captions of already captioned programs.* All video programming distributors shall deliver all programming received from the video programming owner or other origination source containing closed captioning to receiving television households with the original closed captioning data intact in a format that can be recovered and displayed by decoders meeting the standards of part 15 of this chapter unless such programming is recaptioned or the captions are reformatted by the programming distributor.

* * * * *

[FR Doc. 00–24649 Filed 9–28–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[PR Docket No. 94–54; FCC 00–251]

Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (the Commission) previously required certain providers of Commercial Mobile Radio Services (CMRS) to provide ''manual'' roaming service upon reasonable request to any subscriber. In this document, the Commission modifies the scope of the ''manual'' roaming rule to apply only to CMRS providers that offer real-time two-way switched voice or data service that is interconnected with the public switched network using an in-network switching facility. Additionally, the Commission revises the scope to extend to cellular and broadband PCS providers. Also, the Commission extends the rule to cover data-only services as well as voice services. Finally, the Commission terminates its consideration in this docket of issues relating to ''automatic'' roaming and the potential sunset of the ''manual'' roaming rule.

DATES: Effective November 28, 2000.

FOR FURTHER INFORMATION CONTACT: For further information, contact Paul Murray, Wireless Telecommunications Bureau, at (202) 418–0688; additional information concerning the information collections contained in this document contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This *Memorandum Opinion & Order (MO&O)* in PR Docket No. 93–144, adopted August 2, 2000, and released August 4, 2000, is available for inspection and copying during normal business hours in the FCC Reference Center, 445 Twelfth Street, SW., Washington DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington DC 20036 (202) 857–3800.

Synopsis of Memorandum Opinion and Order

I. Introduction

1. Roaming occurs when the subscriber of one CMRS provider utilizes the facilities of another CMRS provider with which the subscriber has no direct pre-existing service or financial relationship to place an outgoing call, to receive an incoming call, or to continue an in-progress call. Roaming service can be provided through a variety of technical and contractual arrangements.

2. In 1996, we determined in the *Second Report and Order and Third Notice of Proposed Rulemaking (''Second Report and Order''),* 11 FCC Rcd 9462 (1996), published 61 FR 44026 (Aug. 27, 1996), that the availability of roaming on broadband wireless networks was important to the development of nationwide, ubiquitous, and competitive wireless voice telecommunications, and that market forces alone might not be sufficient to cause roaming to become widely available during the period in which systems to provide these services were being built. Accordingly, we ordered that our then-existing ''manual'' roaming rule requiring cellular carriers to serve individual roamers, 47 CFR 22.901, be extended to include other CMRS providers, both broadband PCS and ''covered'' SMR, that offer comparable competitive telephony services so long as the roamer's handset is technically capable of accessing their services.

II. Summary of the Memorandum Opinion and Order on Reconsideration

3. In this order we consider three petitions for reconsideration and/or clarification of the ''manual'' roaming

rule, filed by the American Mobile Telecommunications Association, Nextel Communications, Inc. (Nextel), and Small Business in Telecommunications, Inc. These focus on the extent to which SMR service providers should be covered by the ''manual'' roaming rule. In addition, we consider Nextel's petition for declaratory ruling in which clarification of the ''manual'' roaming rule was sought.

A. Modifications to the Scope of the Manual Roaming Rule

4. In our *Second Report and Order,* we limited the scope of the ''manual'' roaming rule in the SMR context to ''covered'' SMR providers, a definition which we intended to include only those providers who compete directly with cellular and broadband PCS. Under the existing rule, ''covered'' SMR providers include certain SMR licensees within two classes. The first class consists of 800 MHz and 900 MHz SMR licensees that hold geographic area licenses. The second covers incumbent wide area SMR licensees, defined as licensees who have obtained extended implementation authorizations in the 800 MHz or 900 MHz SMR service, either by waiver or under Section 90.629 of our rules. Within these classes, ''covered'' SMR providers ''includes only licensees that offer real-time, two-way switched voice service that is interconnected with the public switched network, either on a stand-alone basis or packaged with other telecommunications services.'' We stated that local SMR licensees offering mainly dispatch services to specialized customers in a non-cellular system configuration, as well as licensees offering only data, one-way, or stored voice services on an interconnected basis, are not covered by the roaming rule because these providers do not compete substantially with cellular and broadband PCS providers. We found that the costs of applying the roaming rule to their operations would outweigh the benefits.

5. *Modification of Definition of ''Covered'' Providers.* On reconsideration, we now conclude that our objective with respect to SMR is best achieved by limiting the ''manual'' roaming rule to reach those CMRS providers that offer real-time, two-way switched voice and data service that is interconnected with the public switched telephone network utilizing an ''in-network'' switching facility. In addition, we are extending the rule to cover not only voice, but data-only service as well. Accordingly, we revise the applicable rule, 47 CFR 20.12 (''Resale and Roaming'').

6. We conclude that an important indicator of a provider's ability to compete with traditional cellular and broadband PCS providers is whether the provider's system has ''in-network'' switching capability. In-network switching facilities accommodate the reuse of frequencies in different portions of the same service area, thus enabling an SMR provider to offer interconnected service to a larger group of customers and to compete directly with cellular and broadband PCS in the mass consumer market. We therefore adopt in-network switching capability as a criterion for coverage under the ''manual'' roaming rule.

7. Also, as we have done in the contexts of resale, number portability, and E911, we extend our modified definition of ''covered'' SMR to providers of similar service over cellular and broadband PCS spectrum. This reflects the fact that SMR services excluded from coverage under our definition, such as traditional dispatch services, can be provided using cellular or broadband PCS spectrum as well as SMR spectrum.

8. *Application on a System-by-System Basis.* Finally, we clarify that if a licensee provides ''covered'' service on systems in certain areas of the country, and provides only traditional dispatch services on systems in other areas of the country, only the ''covered'' systems would be subject to the ''manual'' roaming rule. Thus, the rule will not apply in the geographic area(s) where a carrier provides only traditional dispatch service, provided that the carrier clearly identifies the area(s) in question.

B. Manual Roaming Requirement Pertaining to SMR

9. One petitioner seeks clarification of the rule with respect to the particular SMR service it provides, contending that application of the ''manual'' roaming rule would require it to modify its system and otherwise cause it to incur significant costs in a manner that would violate the Commission's intent with regard to the obligations imposed by the rule. Specifically, it claims that compliance with the rule is technically infeasible because SMR systems, unlike cellular systems, do not share control channels or interoperability standards.

10. In our *Second Report and Order,* we stated that licensees are required to provide ''manual'' roaming to subscribers of any cellular, broadband PCS, or ''covered'' SMR services so long as that subscriber is using a handset that is technically capable of accessing the licensee's system. We also, however, stated that our ''manual'' roaming rule did not require licensees to modify their systems in order to provide ''manual'' roaming service to end users. We confirm that the ''manual'' roaming rule applies to SMR carriers to the extent they fall within the modified definition of ''covered'' CMRS providers. Beyond that, we decline here to reach the factual determination of a particular provider is required by our rule to provide ''manual'' roaming to other SMR companies'' subscribers. We believe that this issue, which requires a specific factual determination, would more appropriately be resolved in a petition for declaratory ruling directed specifically toward this issue or in the context of a complaint filed pursuant to Section 208.

III. Third Report and Order

11. In issuing the *Second Report and Order* in 1996, we recognized that the CMRS marketplace was rapidly expanding and technologies were dramatically evolving. We concluded that the record was inconclusive regarding the need for an ''automatic'' roaming requirement, and that promulgation of an ''automatic'' roaming rule would be premature. In 1997, the Wireless Telecommunications Bureau sought additional comment on a potential ''automatic'' roaming requirement in light of intervening market and technological developments. Unlike ''manual'' roaming, ''automatic'' roaming enables a roaming subscriber to originate or terminate a call without taking action other than turning on his or her telephone. Provision of ''automatic'' roaming requires a contractual arrangement between the home and roamed-on systems.

12. Given these substantial developments over the last few years, we believe that an informed decision by the Commission regarding what sort of roaming requirements are appropriate today and for the foreseeable future requires an up-to-date record reflecting current conditions. We plan in the near future to issue a new, separately docketed NPRM. We believe such a new NPRM will enable us better to address the relevant issues relating to ''automatic'' and ''manual'' roaming in light of current technological and market conditions.

IV. Procedural Matters

Supplemental Final Regulatory Flexibility Analysis

13. As required by the Regulatory Flexibility Act, 5 U.S.C. 604 (RFA), a Final Regulatory Flexibility Analysis

(FRFA) was incorporated into *Second Report and Order* in this proceeding. The Commission received no direct comments or petitions for reconsideration of the Final Regulatory Flexibility Analysis (or the Initial Regulatory Flexibility Analysis) contained therein. The Commission's Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) in this *Third Report and Order and Memorandum Opinion and Order on Reconsideration (Memorandum Opinion and Order on Reconsideration)* reflects revised or additional information to that contained in the FRFA prepared in 1996. This Supplemental FRFA conforms to the RFA, as amended by the Contract with America Advancement Act of 1996.

I. Need for and Purpose of this Action

14. In this *Memorandum Opinion and Order on Reconsideration,* the Commission generally affirms its decision in the *Second Report and Order* to extend the ''manual'' roaming rule requiring cellular carriers to serve individual roamers to include other Commercial Mobile Radio Service (CMRS) providers, both broadband Personal Communications Service (PCS) and ''covered'' Specialized Mobile Radio (SMR), that offer competitive telephony services so long as the roamer's handset is technically capable of accessing their services.

II. Summary of Significant Issues Raised by the Public in Response to the Final Regulatory Flexibility Analysis

15. In the *Second Report and Order,* the Commission in 1996 had limited the scope of the ''manual'' roaming rule in the SMR context to ''covered'' SMR providers. This included two classes of ''covered'' providers: first, there were geographic area licensees in the Cellular, Broadband PCS, and the 800 and 900 MHz SMR services; and, second, incumbent wide area licensees who obtained extended implementation authorizations in the 800 MHz or 900 MHz SMR services, either by waiver or by Section 90.629 of the Commission's rules. Within these classes, ''covered'' SMR providers was limited to only those licensees who offered real-time, two-way switched voice service that war interconnected with the public switched network, either on a stand-alone basis or packaged with other telecommunication services. In that order, we stated that local SMR licensees offering mainly dispatch services to specialized customers in a non-cellular system configuration, as well as licensees offering only data, one-way, or stored voice services on an interconnected basis, were not covered by the roaming rule because they did not compete substantially with cellular and broadband PCS providers.

16. In this *Memorandum Opinion and Order on Reconsideration,* the Commission concludes that modification of the scope of the ''manual'' roaming rule best serves the public interest. The amended Section 20.12(a), promulgated in this order, changes the rule so that the set of ''covered'' providers clearly excludes providers who do not directly compete in the CMRS mass consumer two-way voice market. Consequently, the order modifies the scope of the manual roaming rule to apply only to CMRS providers that offer real-time two-way switched voice or data service that is interconnected with the public switched network using an in-network switching facility. Additionally, this revised definition of ''covered providers'' extends to cellular and broadband PCS providers as well. Finally, the Commission extends the rule to cover not only voice, but also data-only service as well.

17. No petitions for reconsideration or comments were filed in direct response to the FRFA or to the related IRFA. In petitions for reconsideration or clarification, however, and in responsive pleadings, as well, some issues were raised that might affect small entities. Specifically, some commenters argued that the definition of ''covered'' SMR should be limited to systems that have an ''in-network'' switching facility or that serve at lease a minimum number of mobile unit, *e.g.,* at least 100,000 mobile units that provide real-time, two-way interconnected voice services or that serve at least 20,000 or more subscribers nationwide. Another commenter argued that any definitional modification to the term ''covered'' SMR should exclude data-only SMR services.

III. Description and Estimate of the Number of Small Entities Affected by This Memorandum Opinion and Order on Reconsideration

18. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by our rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

19. The rule changes in this *Memorandum Opinion and Order on Reconsideration* could affect all small entities who are cellular, broadband PCS, and 800 MHz and 900 MHz SMR licensees. The licensees that are covered here are probably small businesses and probably not small governmental entities or small non-profit organizations. Additionally, the ''manual'' roaming rule, as modified, will apply to such licensees only if they offer real-time, two-way switched voice or data service that is interconnected with the public switched network and that utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls.

20. The Commission estimates the following number of small entities may be affected by the proposed rule changes. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of a small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses;

however, a cellular licensee may own several licenses. In addition, according to the most recent Trends in Telephone Service data, 808 carriers reported that they were engaged in the provision of either cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio Telephone (SMR) service, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 732 small cellular service carriers that may be affected by the revised regulations adopted in this *Memorandum Opinion and Order on Reconsideration.*

21. The rules adopted in this *Memorandum Opinion and Order on Reconsideration* will apply to cellular licensees only if they offer real-time, two-way switched voice or data service that is interconnected with the public switched network and that utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. Although the Commission does not have definitive information, we estimate that most or all small business cellular licensees offer services meeting this description.

22. *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 its 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. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

23. Pursuant to modifications made in this *Memorandum Opinion and Order on Reconsideration,* the ''manual'' roaming rule will apply to broadband PCS licensees only if they offer real-time, two-way switched voice or data service that is interconnected with the public switched network and that utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. Although the Commission does not have definitive information, we estimate that most or all small business broadband PCS licensees offer services meeting this description.

24. *Estimates for SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. This small business size standard for the 800 MHz and 900 MHz auctions has been approved by the SBA. Any rules adopted in this *Memorandum Opinion and Order on Reconsideration* will apply to SMR licensees only if they offer real-time, two-way switched voice or data service that is interconnected with the public switched network and that utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. Although the Commission does not have definitive information, we estimate that very few small business, incumbent site-by-site SMR licensees offer services meeting this description. Geographic licensees are considered more likely to offer such services. In all cases, we provide estimates that are conservative so as to not underestimate the impact on small entities.

25. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small businesses under the $15 million size standard. We do not know which of these licensees will offer real-time, two-way switched voice or data service that is interconnected with the public switched network and that utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. We conservatively estimate that the number of small business 900 MHz SMR geographic area licensees that could be affected by rule modifications is at least 60.

26. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten (10) winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. We do not know which of these licensees will offer real-time, two-way switched voice or data service that is interconnected with the public switched network and that utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. Therefore, we conservatively estimate that the number of small business 800 MHz SMR geographic area licensees for the upper 200 channels that could be affected by rule modifications is at approximately ten.

27. The Commission anticipates that a total of 3,853 EA licenses will be auctioned in the lower 230 channels of the 800 MHz SMR service. This figured is derived by multiplying the total number of Economic Areas (EAs) (175) by the number of channel blocks (22) in the lower 230 channels. Three additional upper band channels will be licensed as well. No party submitting or commenting on the petitions for reconsideration giving rise to our *Reconsideration* of October 8, 1999, commented on the potential number of small entities that might participate in the auction of the lower 230 channels and no reasonable estimate can be made. Therefore, we conclude that the number of 800 MHz SMR geographic area licensees for the lower 230 channels that may ultimately be affected by this rule modification could be as many as 3,853.

28. With respect to licensees operating under extended implementation authorizations, by November 1997 thirty-three licensees with extended implementation authority in the 800 MHz SMR Service were granted two years to complete the buildout of their systems. At this time, our records indicate that twenty-seven licensees with extended implementation authority still exist, but there may be as few as twenty-two remaining as independent entities. The Commission will soon receive filings that will clarify the situation. Until then, we assume that there are twenty-seven remaining licensees in this category and that they all qualify as small businesses.

However, we do not know how many of these licensees offer real-time, two-way switched voice or data service that is interconnected with the public switched network and that utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. Therefore, estimating conservatively, we conclude that the number of small business SMR licensees operating in the 800 MHz and 900 MHz bands under extended implementation authorizations that could be affected by a rule modification is up to 27 entities.

29. The Commission does not have an accurate estimate of the number of incumbent site-by-site SMR licensees, and a reliable figure will not be available until the SMR site-by-site licensees migrate to the Universal Licensing System. Making this estimate is complicated by the number of recent transactions that have occurred in the 800 MHz SMR service. However, our task is also greatly simplified for purposes of this regulatory flexibility analysis because we are looking for a very specific type of SMR licensee. That is, the licensee must: first, qualify as a small business (i.e., average annual gross revenues of $15 million or less in the three preceding calendar years); second, offer real-time, two-way switched voice or data service that is interconnected with the public switched network; and third, use an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. These criteria greatly restrict the number of SMR providers who could be affected by this new rule. Although there may be SMR carriers who provide such services it is highly unlikely that they will be small entities or small businesses given the nature of the SMR providers and the development of that industry. Consequently, even though there may be no licensees that satisfy these criteria, we err on the sake of caution and conclude that 25 small entities may fall into this category.

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

30. We anticipate that the rules adopted in this *Memorandum Opinion and Order on Reconsideration* will impose no reporting or recordkeeping requirements. The only compliance costs likely to be incurred, as a result, are administrative costs to ensure that an entity's practices are in compliance with the rule. The only compliance requirement of the new rules is that licensees subject to a manual roaming requirement (i.e., cellular licensees, broadband PCS licensees, and geographic area 800 MHz and 900 MHz SMR licensees that offer real-time, two-way, interconnected switched voice and data service) would have to provide manual roaming service upon request to subscribers of covered services in good standing who are using technically compatible equipment.

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

31. The Commission adopted the manual roaming rule, and generally affirms the rule in this *Memorandum Opinion and Order on Reconsideration,* in order, *inter alia,* to protect smaller and new CMRS providers of these services from likely competitive disadvantage. The Commission has reduced the potential impact of the new rules on small entities by continuing to exclude from its requirements those entities that have, traditionally, constituted the smallest of the SMR licensees, *i.e.,* those licensees that do not provide real-time two-way voice or data services on an interconnected basis using in-network switching systems. The Commission has adopted an alternative definition of covered SMR that includes only those systems that have an in-network switching facility. This exception to coverage addresses the concerns of SMR providers that primarily offer traditional dispatch services but whose offer of limited interconnection capability might otherwise subject them to the manual roaming requirement. Such a result would have been inconsistent with the Commission's determination that only SMR providers that compete directly with cellular and broadband PCS should be subject to roaming requirements, because an important indicator of a provider's ability to compete with traditional cellular and broadband PCS providers is whether the provider's system has ''in-network'' switching capability.

32. By electing to adopt the in-network switching criterion, the Commission has rejected a definition of SMR covered services that would exempt SMR providers based on their particular number of mobile units or on capacity. The number of subscribers to an SMR system is not a reliable indicator of the system's capacity. Nor is it a reliable indicator of a system's ability to compete with cellular and broadband PCS providers. Thus, defining the term covered SMR in terms of its number of subscribers or its capacity could exempt from any manual roaming requirement those services that compete in markets where competitive conditions do not yet sufficiently ensure those customers seeking to roam access to roaming capabilities. As we stated in the *Second Report and Order,* and affirmed in this order, the manual roaming rule does not require any carrier to expand its capacity or to change its system in order to accommodate the needs of roamers.

Federal Rules Which Overlap, Duplicate, or Conflict With These Proposed Rules

33. None.

Report to Congress

34. The Commission will send a copy of this *Memorandum Opinion and Order on Reconsideration,* including a copy of this Supplemental Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A).

VI. Ordering Clauses

35. Accordingly, the authority of the rule amendments and clarifications appearing in the rule changes and discussed herein *Are Adopted* and *Shall Be Effective* November 28, 2000.

36. The Petition for Reconsideration filed by the American Mobile Telecommunications Association (AMTA) in Docket No. 94–54 *Is Granted* to the extent indicated herein and otherwise *Is Denied,* and that AMTA's Petition for Declaratory Ruling in CC Docket No. 94–54 *Is Dismissed As Moot.*

37. The Petition for Reconsideration and Clarification filed by the Nextel Communications in CC Docket No. 94–54 *Is Granted* to the extent such Petition seeks clarification and as indicated herein and otherwise is denied.

38. The Petition for Reconsideration or Clarification filed by Small Business in Telecommunications in CC Docket No. 94–54 *Is Granted* to the extent indicated herein and otherwise *Is Granted.*

39. The Office of Public Affairs, Reference Operations Division, shall send a copy of this Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Accordingly, for the reasons set forth in the preamble, Part 20 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

47 U.S.C. 154, 160, 251–254, 303, and 332 unless otherwise noted.

2. Section 20.12 is amended by revising paragraphs (a), (b)(1), and (c) to read as follows:

§ 20.12 Resale and roaming.

(a) *Scope of section.* This section is applicable to providers of Broadband Personal Communications Services (part 24, subpart E of this chapter), Cellular Radio Telephone Service (part 22, subpart H of this chapter), and Specialized Mobile Radio Services in the 800 MHz and 900 MHz bands (included in part 90, subpart S of this chapter) if such providers offer real-time, two-way switched voice or data service that is interconnected with the public switched network and utilizes an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. The scope of paragraph (b) of this section, concerning the resale rule, is further limited so as to exclude from the requirements of that paragraph those Broadband Personal Communications Services C, D, E, and F block licensees that do not own and control and are not owned and controlled by firms also holding cellular, A, or B block licenses.

(b) *Resale.* The resale rule is applicable as follows:

(1) Each carrier subject to paragraph (b) of this section shall not restrict the resale of its services, unless the carrier demonstrates that the restriction is reasonable.

* * * * *

(c) *Roaming.* Each carrier subject to this section must provide mobile radio service upon request to all subscribers in good standing to the services of any carrier subject to this section, including roamers, while such subscribers are located within any portion of the licensee's licensed service area where facilities have been constructed and service to subscribers has commenced, if such subscribers are using mobile equipment that is technically compatible with the licensee's base stations.

[FR Doc. 00–24964 Filed 9–28–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATION COMMISSION

47 CFR Part 73

[DA No. 00–1208, MM Docket No. 97–116; RM 9050 and RM 9123]

Radio Broadcasting Services; Everglades City, LaBelle, Key West, and Estero, FL; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of June 16, 2000, a document concerning Radio Broadcasting Services in Everglades City, LaBelle, Key West, and Estero, FL. This document contains a correction to that rule.

DATES: Effective July 17, 2000.

FOR FURTHER INFORMATION CONTACT: Orlando Ardon, Office of Managing Director, 202–418–0310.

SUPPLEMENTARY INFORMATION: This document corrects FR Doc. 00–15261, published on June 16, 2000, (65 FR 37709).

On page 37709, in the third column, in § 73.202(b), amendatory instruction No. 2 is corrected to read as follows:

PART 73—[CORRECTED]

§ 73.202 [Corrected]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing LaBelle, Channel 223A and adding Estero, Channel 223C3 and by removing Channel 223C1 and adding Channel 224C1 at Key West.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 240

FRA Docket No. RSOR–9, Notice 13

[RIN 2130–AA74]

Qualification and Certification of Locomotive Engineers; Corrections

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule; corrections.

SUMMARY: FRA published in the **Federal Register** of November 8, 1999, (64 FR 60966), a document making miscellaneous amendments to its requirements for the qualification and certification of locomotive engineers (49 CFR part 240). Inadvertently, mistakes were made in four different items in that publication.

First, in § 240.7, a revised definition of locomotive is missing a parenthesis.

Second, in § 240.7, an added definition of service has one misplaced quotation mark.

Third, a new § 240.309(e)(6) was published without describing the amendment as a revision of the existing paragraph (e)(6). Without a correction, the section would contain two different paragraphs numbered (e)(6). This document removes the older paragraph (e)(6).

Fourth, two revisions were made to the penalty schedule regarding § 240.123 without describing the amendments. Without a correction, the penalty schedule would not be amended; instead, the revision would be published separately after the penalty schedule.

DATES: Effective on September 29, 2000.

FOR FURTHER INFORMATION CONTACT: Alan H. Nagler, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., RCC–11, Mail Stop 10, Washington, DC 20590 (telephone: 202–493–6049).

SUPPLEMENTARY INFORMATION: FRA published a document in the **Federal Register** of November 8, 1999, (64 FR 60966) amending § 240.7. A revised definition of locomotive was published. However, the revision was missing a parenthesis. A second close parenthesis should have been added prior to the colon.

FRA published a document in the **Federal Register** of November 8, 1999, (64 FR 60966) amending § 240.7. A definition of service was added. However, the new definition has one misplaced quotation mark. The last sentence should only have quotation marks around the word ''filing'' instead of quotation marks around the phrase ''filing in this section.''

FRA published a document in the **Federal Register** of November 8, 1999, (64 FR 60966) amending § 240.309. This section was amended by revising paragraphs (e), (e)(3), (e)(5), (e)(7), and (e)(8), removing paragraph (e)(10) and correcting a clerical error, which had created a second paragraph (e), by redesignating this second paragraph (e) as paragraph (h). A paragraph numbered (e)(6) was published without an explanation of how to treat it in the amendatory language. Although this mistake occurred, the preamble in that