

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 28, 2010.

**Dennis J. McLerran,**

*Regional Administrator, EPA Region 10.*

[FR Doc. 2010-14892 Filed 6-21-10; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 52

[WC Docket No. 07-244; FCC 10-85]

#### Local Number Portability Porting Interval and Validation Requirements; Telephone Number Portability

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission adopted standardized data fields for simple number porting to streamline the port process and enable service providers to accomplish simple wireline-to-wireline and intermodal ports within one business day. The Commission also adopted recommendations made by the North American Numbering Council addressing the simple port process.

**DATES:** Effective July 22, 2010, except for 47 CFR 52.36, which contains information collections requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for that section.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC, 20554. In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collections requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-B441, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [PRA@fcc.gov](mailto:PRA@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** Marilyn Jones, Wireline Competition Bureau, (202) 418-2357. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an e-mail to [PRA@fcc.gov](mailto:PRA@fcc.gov) or contact Judith B. Herman at 202-418-0214.

**SUPPLEMENTARY INFORMATION:** On May 13, 2009, the Commission ordered telephone service providers to reduce the time they take to transfer, or port, a customer's telephone number to another provider from four business days to one, and set in motion a process to make that possible. 74 FR 31630 (July 2, 2009). This Report and Order (Order) completes the task of facilitating prompt transfers by standardizing the data to be exchanged when transferring a customer's telephone number between two wireline providers; a wireline and wireless provider; or an interconnected Voice over Internet Protocol (VoIP) provider and any other service provider. The Order also adopts recommendations made to the Commission by the North American Numbering Council (NANC). The deadline for implementing one-business day porting is August 2, 2010 for all but small providers, which must comply by February 2, 2011.

#### Synopsis of Report and Order

1. Section 251(b)(2) of the Communications Act of 1934, as amended (the Act), requires local exchange carriers (LECs) to "provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." The Act and the Commission's rules define number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." The Commission has interpreted this language to mean that consumers should be able to change providers while keeping their telephone number

as easily as they may change providers without taking their telephone number with them.

2. Section 251(e) of the Act gives the Commission plenary jurisdiction over the North American Numbering Plan (NANP) and related telephone numbering issues in the United States. To implement these congressional mandates in Sections 251(b)(2) and 251(e), the Commission required all carriers, including wireline carriers and covered commercial mobile radio service (CMRS) providers, to provide LNP according to a phased deployment schedule. The Commission found that LNP provided end users options when choosing among telecommunications service providers without having to change their telephone numbers, and established obligations for porting between wireline providers, porting between wireless providers, and intermodal porting (*i.e.*, the porting of numbers from wireline providers to wireless providers, and *vice versa*). The Commission also directed the NANC, its advisory committee on numbering issues, to make recommendations regarding various LNP implementation issues.

3. On May 13, 2009, the Commission adopted a Report and Order reducing the porting interval for simple wireline and simple intermodal port requests. Specifically, the Commission required all entities subject to its LNP rules to complete simple wireline-to-wireline and simple intermodal port requests within one business day. In adopting this new porting interval for simple wireline-to-wireline and simple intermodal ports, the Commission left it to the industry to work through the mechanics of the new interval, and directed the NANC to develop new LNP provisioning process flows that take into account this shortened porting interval. The Commission also directed the NANC, in developing these flows, to address how within one "business day" should be construed for purposes of the porting interval, and generally how the porting time should be measured. The Commission requested that the NANC submit its recommendations no later than 90 days after the effective date of the *Porting Interval Order*. Accordingly, the NANC submitted its recommendations to the Commission on November 2, 2009.

4. In a *Further Notice of Proposed Rulemaking* (FNPRM), 74 FR 31667 (July 2, 2009), accompanying the *Porting Interval Order*, the Commission sought comment on whether there were additional ways to streamline the number porting processes or improve efficiencies for simple and non-simple

ports. Among other things, the Commission sought comment on whether different or additional information fields are necessary for completing simple ports. On November 2, 2009, the NANC's Local Number Portability Administration (LNPA) Working Group submitted a non-consensus recommendation (hereinafter "Working Group Proposal") for Standard Local Service Request Data Fields, to accompany the NANC's Recommended Plan for Implementation of FCC Order 09-41. The Working Group proposes a set of 14 standard fields that should be required to accomplish simple ports within the one-business day porting interval the Commission mandated for simple wireline-to-wireline and intermodal ports. On November 19, 2009, the National Cable & Telecommunication Association (NCTA), Cox Communications, and Comcast Corporation submitted an alternative proposal (hereinafter "Cable Proposal") of eight standard fields that should be required to accomplish simple ports within the one-business day porting interval. On December 8, 2009, the Wireline Competition Bureau issued a public notice seeking comment on these two proposals and, specifically, what fields are necessary in order to complete simple ports—wireline-to-wireline and intermodal—within the one-business day interval.

#### Standardized Data Fields for Simple Port Ordering Process

5. The Working Group proposes the following 14 required fields for simple ports:

- *Customer Carrier Name Abbreviation*—This three-letter code identifies the company that submitted the Local Service Request (LSR) and the company to whom response messages must be returned.
- *Purchase Order Number*—This field identifies the customer's unique purchase order or requisition number that authorizes issuance of the request or supplement. This field is required for carriers to track the ongoing progress of the port request and, according to the Working Group, enables a carrier to provide order status to the end user or to make changes to the original request.
- *Account Number*—This field identifies the account number assigned by the current service provider.
- *Desired Due Date*—This field identifies the customer's desired due date for the port and, according to the Working Group, is required to differentiate between simple and non-simple ports.

- *Requisition Type and Status*—This field specifies the type of order to be processed.

- *Activity*—This field identifies the activity involved in the service request.
- *Company Code*—This field identifies the exchange carrier initiating the transaction.

- *New Network Service Provider*—This field identifies the Number Portability Administration Center (NPAC) Service Provider Identifier (SPI) of the new network service provider.

- *Agency Authority Status*—This field indicates that the customer is acting as an end user's agent and has an authorization on file.

- *Number Portability Direction Indicator*—This field is used to let the new service provider direct the correct administration of E-911 records.

- *Telephone Number (Initiator)*—This field provides the telephone number for the initiator of the port request.

- *Zip Code*—This field identifies the zip code of the end user's service address and is used to validate that the correct end user's telephone number has been sent on the port request.

- *Ported Telephone Number*—This field identifies the telephone number or consecutive range of telephone numbers residing in the same switch to be ported.

- *Version*—This field identifies the submitting service provider's order version number and enables service providers to track orders internally and make changes or modifications to the original port request. In combination with the Purchase Order Number field, this field is used by service providers to track the ongoing progress of the port request and to ensure the correct version of the order is being processed.

6. The Cable Proposal includes the following eight fields: Purchase Order Number; Account Number; Desired Due Date; Company Code; New Network Service Provider; Zip Code; Ported Telephone Number; and Version. Therefore, the Cable Proposal includes eight of the same fields recommended by the Working Group, and excludes six of the 14 fields proposed by the Working Group: Customer Carrier Name Abbreviation; Requisition Type and Status; Activity; Agency Authority Status; Number Portability Direction Indicator; and Telephone Number (Initiator).

7. The Commission's purpose in mandating a one-business day porting interval was to "ensure that consumers are able to port their telephone numbers efficiently and to enhance competition for all communications services." That remains our goal. However, the industry has expressed concern that meeting the Commission's one-business day porting

interval for simple ports will be difficult without standardization of information fields for the simple port ordering process. We agree with the industry that there is a need for uniformity and standardization in the exchange of information fields. Too many information fields increase the opportunity for errors in the simple port ordering process, as do too few fields. Errors lead to delays, which harm consumers and thwart competition, as consumers may attribute delays to their new service providers.

8. Timely implementation of the one-business day simple porting interval is crucial so that both consumers and service providers may begin to realize the benefits of the shortened porting interval. For the reasons below, at this time we conclude that 14 information fields are necessary to accomplish a simple port, and mandate that service providers use the 14 fields we describe in this Order—and only those 14 fields—to accomplish a simple port. These 14 fields are: (1) Ported Telephone Number; (2) Account Number; (3) Zip Code; (4) Company Code; (5) New Network Service Provider; (6) Desired Due Date; (7) Purchase Order Number; (8) Version; (9) Number Portability Direction Indicator; (10) Customer Carrier Name Abbreviation; (11) Requisition Type and Status; (12) Activity; (13) Telephone Number (Initiator); and (14) Agency Authority Status. We note, however, that we permit the passcode field to be an additional required field only if the passcode is requested and assigned by an end user. In most cases, passcode would be an optional field. The Commission recognizes that some carriers can accomplish simple ports using fewer than 14 fields, while other carriers have built systems that require more than 14 fields. However, we believe, and the industry agrees, that standardization and uniformity are of greater importance than the precise number and substance of the fields. Further, we believe that the fields we have chosen strike the right balance between minimizing the number of simple ports that fall out of the porting process—or are not completed due to errors—and the burden on the industry, ensuring that consumers are able to reap the most benefit from the shortened one-business day porting interval.

9. We have chosen as our 14 fields those recommended in the LNP Working Group Proposal. As discussed in more detail below, we find that the additional fields recommended by the LNP Working Group are necessary to help avoid port fallout, misdirected ports, delays, rejections, and loss of

automation, as well as to guard against inadvertent ports. As we have stated before, "the porting-out provider may not require more information from the porting-in provider than is actually *reasonable* to validate the port request and accomplish the port." As we discuss further below, we find that it is reasonable to require all providers to use these 14 standardized fields to accomplish simple ports within one business day, and that doing so will minimize errors and port request fallout, streamline the simple port process, and maximize the benefits to consumers. We also select these 14 fields to ensure that the industry achieves timely implementation of the one-business day interval. We note that the LNP Working Group represented a diverse group of providers, including large and mid-sized incumbent LECs, wireless carriers, cable providers, competitive LECs, and VoIP providers.

10. *Consensus On Nine Fields.* There is general agreement in the record and within the industry that at least nine of the proposed fields are necessary to accomplish a simple port within one business day: (1) Ported Telephone Number; (2) Account Number; (3) Zip Code; (4) Company Code; (5) New Network Service Provider; (6) Desired Due Date; (7) Purchase Order Number; (8) Version; and (9) Number Portability Direction Indicator. The first eight of these fields are common to both the Working Group Proposal and the Cable Proposal. Comcast and Cox, proponents of the Cable Proposal, initially objected to the ninth field, the Number Portability Direction Indicator field, but withdrew their objection to inclusion of this field. We agree with Comcast and Cox and recognize the "critical importance of ensuring that all E-911 information is transmitted in the most convenient and efficient manner in every instance, even if the field is only necessary for a small percentage of ports." We therefore conclude that, because the Number Portability Direction Indicator field may play an important public safety role, it should be included among the mandatory standardized fields for the simple port ordering process.

11. *Customer Carrier Name Abbreviation.* Based on the record before us, we also include the Customer Carrier Name Abbreviation field among the standardized fields required to accomplish a simple port. We conclude that this field should be a standard field for accomplishing simple ports because its loss for certain segments of the industry could lead to widespread porting delays, frustrating the Commission's aim to shorten the porting

interval for consumers. As a result of mergers and acquisitions in the communications industry, we understand that a service provider may have multiple Customer Carrier Name Abbreviations, and note that these codes may be used for more granular identification of the carrier requesting service, the product being ordered, and the state in which it is ordered, among other things. Commenters argue that loss of this field would cause LSRs to be misdirected and stop all automatic flow-through order processing for those companies that presently rely on this field, causing number porting delays. As some commenters note, and AT&T acknowledges, the Customer Carrier Name Abbreviation field represents the third time in 14 fields that carrier identification information is provided. We appreciate this concern. However, we must balance that against the possibility of misdirected LSRs and porting delays for those companies that presently rely on this field to identify carriers involved in ports. Such a result would ultimately harm consumers and frustrate the Commission's efforts to shorten the interval for simple ports. Therefore, we include the Customer Carrier Name Abbreviation field among the required standard data fields for the simple port ordering process.

12. *Requisition Type and Status and Activity.* Many service providers use the LSR to request a number of different types of services. Together, the Requisition Type and Status and Activity fields identify the type of service order to be processed. Based on the record before us, we agree that without the Requisition Type and Status and Activity fields, service providers that offer multiple products would be unable to determine whether an order received using an LSR form is for a simple port request or for another product. We are concerned about the potential for a high fallout rate for port requests if large numbers of service providers are unable to identify when they receive a port request. In addition, we believe that failure to include these fields may lead to delays in porting for consumers because, as one commenter stated, "without this field, the existing use of LSR process automation could not be utilized and all simple ports would have to be processed manually, making compliance with the Commission's one day porting rule all but impossible." Therefore, because of the potential for port fallout and delay, we include the Requisition Type and Status and Activity fields among those required to accomplish a simple port.

13. *Telephone Number (Initiator).* We also include the Telephone Number

(Initiator) field in our list of required standardized fields for accomplishing simple port requests. As mentioned above, this field provides contact information for the new service provider initiating the port. Though not strictly required for accomplishing a port, the Commission believes on balance that the overall benefits to the consumer of including this field outweigh the arguments for excluding it from our list of standard fields. We agree with commenters that this field can help facilitate prompt resolution of issues, without which compliance with the one-business day porting interval could be jeopardized. Thus, because inclusion of this field may reduce the number of ports rejected and thus delayed for consumers, we include it among the 14 standard fields that service providers must exchange to accomplish a simple port. It is our expectation that current service providers will use this information to contact new service providers to resolve issues that arise with a port request rather than simply reject the request, and will make every effort to ensure that simple ports are completed within one business day.

14. *Agency Authority Status.* Finally, we include the Agency Authority Status field among the standard fields for the simple port ordering process. We conclude that this field serves consumers by guarding against inadvertent ports in that it requires the new service provider to acknowledge that it is acting as the customer's agent and has an authorization on file. Moreover, the Agency Authority Status field is essentially a check box indicating the new service provider has authorization and amounts to one keystroke. Therefore, because this field may add benefits for consumers in the form of fewer inadvertent ports, and because the burden on the industry is minimal, we include the Agency Authority Status field as a mandatory standard field for the simple port ordering process.

15. We agree with the NANC's recommendation that we consider the passcode field an optional field. The NANC recommends that a passcode not be required unless the passcode has been requested and assigned by the end user, rather than the service provider. CenturyLink, Iowa Telecommunications, and Windstream argue that this recommendation undercuts the protections and convenience offered by carriers that automatically generate passcodes for customers, but provide notice of and ready ability to obtain or change their passcodes at any time. We disagree with CenturyLink, Iowa

Telecommunications, and Windstream. Because customers may be unaware of carrier-initiated passcodes at the time they choose to port their number, we believe that making the passcode field mandatory for carrier-initiated passcodes would delay the porting process by requiring customers to contact their current service providers for this information. We are concerned that this additional step for the customer would also add a layer of frustration and complexity to the number porting process, with anticompetitive effects. For these reasons, we adopt the NANC's recommendation that we consider the passcode field optional unless it has been requested and assigned by the end user.

16. We emphasize that we do not at this time adopt any particular form or format for the exchange of these 14 standard information fields for simple ports. Whether it is appropriate to standardize LSR forms and, if so, how that should be accomplished remains an open issue pending before the Commission. We also note that we do not adopt the full Working Group Proposal, but rather only find that the information fields we specify in this Order are mandatory standard fields for the simple port ordering process. This means, for example, that we do not adopt the Working Group's recommendation that "Directory listings must be retained or deleted for orders involving directory listings in order to be considered for simple port processing. Orders involving change(s) to directory listing(s) will not be considered for simple port processing. The Directory Listing (DL) form is not permitted for a simple port." Whether the definition of what constitutes a simple port should be modified is currently pending before the Commission.

#### Adoption of Provisioning Process Flows

17. We adopt the NANC's recommended provisioning flows in support of the porting process and require the industry to adhere to them. Specifically, the NANC recommends provisioning flows that consist of diagrams and accompanying narratives setting forth the processes to be used by service providers and database administrators in specific scenarios, including a new flow for determining the type of port at the beginning of the porting process. We conclude that the provisioning process flows recommended by the NANC are essential to the deployment of the one-business day porting interval for simple ports. As with previous flows, we find

that the provisioning process flows recommended by the NANC will ensure that communications between service providers and database administrators proceed in a clear and orderly fashion so that porting requests can be handled in an efficient and timely manner.

18. The NANC-recommended flows also address the time interval for the current service provider to return a Customer Service Record (CSR) to the new service provider, if requested. Specifically, the NANC recommends that the CSR be returned within 24 clock hours, unless otherwise negotiated, excluding weekends and current service provider holidays. The record reflects that the time interval for return of a CSR is often longer than the Commission's one-business day interval, which can make the overall time to port seem longer for a consumer. Thus, the Commission's efforts to streamline and make the porting process more efficient by reducing the porting interval may be frustrated by the CSR process, which is often a prelude to porting. We therefore adopt the NANC's recommendation, and find that it is consistent with the Commission's efforts to improve the effectiveness and efficiency of the porting process.

19. In addition, the NANC's November 2 submission identifies "key" recommendations contained in certain sections of the revised provisioning flows. Some commenters argue that portions of the "key" recommendations for the "Port Type Determination" process flow should be revised to address concerns regarding disclosure of sensitive customer information through CSRs released to a requesting carrier without validating that the carrier has permission from the customer. While we understand these commenters' concern regarding unauthorized disclosure of sensitive customer information, we disagree that the NANC recommendation needs to be revised. As the Commission has stated repeatedly, protection of customer information is of the utmost importance. Service providers have an obligation to protect sensitive customer and carrier information; our adoption of this recommendation does not alter the application or enforcement of the Commission's customer privacy rules. We remind carriers that they are obligated not only to protect their customers' sensitive information, but also to protect carriers' proprietary information. We also take this opportunity to remind carriers that in the number porting context, service providers may only request and provide CSRs for the purpose of transferring a

number and not for the sole purpose of gaining customer or carrier information.

20. The NANC recommendation does not address, nor do we address in this Order, what information the current service provider can require from a new service provider to verify the existence of a port request before it will disclose a CSR, although we note that carrier-assigned passcodes may not be required in order to obtain a CSR. However, as we have stated in the porting interval context, and find equally applicable here, "limiting carriers to requiring a minimum but reasonable amount of information \* \* \* will ensure that customers can port their numbers without impairment of the convenience of switching providers due to delays in the process that can result when additional information is required." If this issue becomes a concern after the one-business day porting interval is fully implemented, the Commission will review the NANC's "key" recommendations for the Port Type Determination process flow in a further action in the pending FNPRM. The Commission has a significant interest in making porting easy for consumers to enable them to react to competing providers' service offerings, while at the same time safeguarding the privacy of customer and carrier information and ensuring that consumers are protected from unauthorized ports.

21. We recognize that ongoing changes to process flows will likely be warranted to meet the changing demands of the industry. Given the fundamental purpose of the NANC to advise the Commission on numbering issues and its experience with provisioning process flows, we conclude that the NANC is best situated to monitor the continued effectiveness of the provisioning process flows, and make recommendations when changes are needed. Thus, we clarify that these porting flows will remain in effect until the Commission approves, upon recommendation by the NANC, revised provisioning flows for the porting process. We hereby delegate authority to the Chief of the Wireline Competition Bureau to approve NANC recommendations for revised provisioning process flows, and direct the NANC to make any approved, revised porting provisioning flows available online to the public at [www.nanc-chair.org](http://www.nanc-chair.org). Revised provisioning flows that are approved by the Bureau and made available to the public through the NANC's Web site are binding on the industry.

22. In the *First Number Portability Order*, the Commission directed the NANC to determine, among other

things, the technical and operational standards for local number portability. In response, on April 25, 1997, the NANC recommended a set of provisioning process flows to carry out operations needed to implement local number portability. On August 18, 1997, the Commission adopted and incorporated into its rules the NANC's recommendation for the provisioning process flows. The provisioning flows submitted by the NANC that we adopt in this Order supersede and replace those that the Commission incorporated by reference into Section 52.26(a) of its rules in 1997. As a result, we revise our rules accordingly to exclude the outdated provisioning flows.

23. The Commission also adopted in 1997 the NANC's recommendation of a four-business day porting interval for wireline ports, which covered both simple and non-simple ports. As discussed above, the Commission's *Porting Interval Order* reduced the porting interval for simple wireline and simple intermodal port requests to one business day. As in the past, the provisioning process flows the NANC recommends today address the processes for both simple and non-simple ports. We agree that the NANC's recommended provisioning process flows should address both simple and non-simple ports as it would be impracticable to address one without the other. Thus, we clarify that the NANC's provisioning process flows we adopt today address both simple and non-simple port processes. We further clarify that the porting interval for simple wireline-to-wireline and simple intermodal ports is one business day, while the porting interval for non-simple wireline-to-wireline and non-simple intermodal ports remains four business days.

#### The One Business Day Interval

24. In order for simple ports to be completed within one business day, precision in explaining what constitutes a "business day" for purposes of the porting process is vital. At the Commission's direction, the NANC's recommended LNP provisioning process flows also address how a "business day" should be construed for the purposes of determining the appropriate porting interval and generally how the porting time should be measured. We adopt this recommendation, and we require the industry to adhere to it.

25. Under the NANC recommendation, the traditional work week of Monday through Friday represents mandatory business days and 8 a.m. to 5 p.m. represents the minimum business hours, excluding the current

service provider's company-defined holidays. An accurate and complete LSR must be received by the current service provider between 8 a.m. and 1 p.m. local time for a simple port request to be eligible for activation at midnight on the same day. Local time is in the predominant time zone of the Number Portability Administration Center (NPAC) Region in which the telephone number is being ported. Any simple port LSRs received after this time will be considered received on the following business day. The response clock on the following business day would start at 8 a.m., local time and a response would be due no later than noon. We expect that compliance with these processes and the flows discussed above will enable providers to complete simple ports within one business day.

26. The current service provider must respond within four hours with a Firm Order Confirmation (FOC) or a reject. In its recent filing, the National Telecommunications Cooperative Association (NTCA) requests that the Commission not adopt the four-hour LSR-to-FOC interval, or if it does, NTCA asks for an exception for rural carriers which would limit the number of port requests that must be completed in a business day to five total (both simple and non-simple ports). NTCA states that for many rural carriers a four-hour LSR-to-FOC interval is too burdensome because their process is manual. Nevertheless, NTCA admits that currently these carriers are not receiving many port requests, but is concerned about the possibility of enhanced competition in rural America. As the number of port requests today are not overly burdensome to rural carriers, we will adopt the four-hour LSR-to-FOC interval as recommended by the NANC, with the understanding that if the *status quo* for rural carriers changes, carriers may request waivers at that time.

#### Congressional Review Act

27. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

#### Paperwork Reduction Act of 1995 Analysis

28. This document contains new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this Report and Order as required by the Paperwork Reduction Act of 1995, Public Law 104-

13. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

29. In this present document, we have assessed the effects of imposing standardized data fields for the simple port ordering process, and find that the information collection burden of doing so in regards to small business concerns with fewer than 25 employees will be minimal, as small providers generally exchange this information already.

#### Final Regulation Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IFRA) was incorporated in the *Porting Interval Order* and *Further Notice of Proposed Rulemaking* in WC Docket No. 07-244. The Commission sought written public comment on the proposals in the FNPRM, including comment on the IRFA. We received comments on the Further Notice and also received comments directed toward the IRFA from two commenters in WC Docket No. 07-244. These comments are discussed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

#### A. Need for, and Objective of, the Rules

2. This Report and Order (Order) adopts standardized data fields for simple number porting to streamline the port process and enable service providers to accomplish simple wireline-to-wireline and intermodal ports within one business day. The Commission's purpose in mandating a one-business day porting interval was to "ensure that consumers are able to port their telephone numbers efficiently and to enhance competition for all communications services." However, the industry has expressed concern that meeting the Commission's one-business day porting interval for simple ports will be difficult without standardization of information fields for the simple port ordering process. There is a need for uniformity and standardization in the exchange of information fields. Too many information fields increase the opportunity for errors in the simple port ordering process, as do too few fields. Errors lead to delays, which harm consumers and thwart competition, as consumers may attribute delays to their new service providers.

3. Timely implementation of the one-business day simple porting interval is

crucial so that both consumers and service providers may begin to realize the benefits of the shortened porting interval. The Commission concludes that 14 information fields are necessary to accomplish a simple port, and mandates that service providers use the 14 fields described in this Order—and only those 14 fields—to accomplish a simple port. The Commission recognizes that some carriers can accomplish simple ports using fewer than 14 fields, while other carriers have built systems that require more than 14 fields. However, the Commission believes, and the industry agrees, that standardization and uniformity are of greater importance than the precise number and substance of the fields. Further, the Commission believes that the fields it has chosen strike the right balance between minimizing the number of simple ports that fall out of the porting process and the burden on the industry, ensuring that consumers are able to reap the most benefit from the shortened one-business day porting interval. The Commission finds that it is reasonable to require all providers to use these 14 standardized fields to accomplish simple ports within one business day, and that doing so will minimize errors and port request fallout, streamline the simple port process, and maximize the benefits to consumers.

4. In addition, the Order adopts recommendations submitted to the Commission by the North American Numbering Council (NANC) in response to the Commission's request in its May 13, 2009, *Porting Interval Order and Further Notice of Proposed Rulemaking*. Specifically, the Commission adopts the NANC's recommendations for porting process provisioning flows. The Commission finds that the provisioning process flows recommended by the NANC are essential to the deployment of the one-business day porting interval for simple ports because they will ensure that communications between service providers and database administrators proceed in a clear and orderly fashion so that porting requests can be handled in an efficient and timely manner.

5. The Order also adopts as part of the NANC-recommended flows the recommendation that a current service provider return a Customer Service Record (CSR), if requested and available, to the new service provider within 24 clock hours, unless otherwise negotiated, excluding weekends and current service provider holidays. Because the time interval for return of a CSR is often longer than the Commission's one-business day interval, the Commission's efforts to

streamline and make the porting process more efficient by reducing the porting interval may be frustrated by the CSR process, which is often a prelude to porting. Therefore, the Commission adopts the NANC's recommendation, and finds it consistent with the Commission's efforts to improve the effectiveness and efficiency of the porting process.

6. The Order also adopts the NANC's recommendation for counting a business day in the context of number porting, and adopts a rule to aid in implementing the one-business day simple porting interval. The Order finds that precision in explaining what constitutes a "business day" for purposes of the porting process is vital in order for simple ports to be completed within one business day.

#### *B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

7. In this section, we respond to comments filed in response to the IRFA. To the extent we received comments raising general small business concerns during this proceeding, those comments are discussed throughout the Report and Order.

8. Sprint Nextel comments that many rural LECs resist number portability and standardization because of the rural LECs' costly manual processing, but contends that rural LECs would benefit from additional standardization of the port process. Sprint Nextel suggests that a trade association could develop a number portability communications package that each rural LEC could utilize, eliminating the current reliance on consultants for these functions and significantly reducing operational costs for the rural LECs. T-Mobile comments that new porting rules outweigh any potential burdens because an efficient porting process will ultimately lower all providers' costs, specifically mentioning the wireless-to-wireless process as an example.

9. We agree with these assertions, and have considered the economic impact on small entities and what ways are feasible to minimize the burdens imposed on those entities. To the extent feasible, we have implemented those less burdensome alternatives, and we discuss these alternatives in Section E, *infra*.

#### *C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply*

10. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by

the rules adopted herein. 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 SBA.

11. *Small Businesses*. Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.

12. *Small Organizations*. Nationwide, there are approximately 1.6 million small organizations. A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."

#### 1. Telecommunications Service Entities

##### a. Wireline Carriers and Service Providers.

13. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees) and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

14. *Incumbent LECs*. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,311 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,311 carriers, an estimated 1,024 have 1,500 or fewer employees and 287 have more than 1,500 employees. Consequently, the Commission estimates that most

providers of incumbent local exchange service are small businesses that may be affected by our proposed action.

15. *Competitive LECs, Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1005 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 1005 carriers, an estimated 918 have 1,500 or fewer employees and 87 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 89 carriers have reported that they are "Other Local Service Providers." Of the 89, all have 1,500 or fewer employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that may be affected by our proposed action.

16. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 300 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 268 have 1,500 or fewer employees and 32 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our proposed action.

17. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 151 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 149 have 1,500 or fewer employees and two

have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by our proposed action.

18. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 815 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 787 have 1,500 or fewer employees and 28 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our proposed action.

19. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 28 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 27 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our proposed action.

20. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 88 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, an estimated 85 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by our proposed action.

21. *800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service ("toll free") subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a

business is small if it has 1,500 or fewer employees. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission receives from Database Service Management on the 800, 866, 877, and 888 numbers in use. According to our data, at the end of December 2007, the number of 800 numbers assigned was 7,860,000; the number of 888 numbers assigned was 5,210,184; the number of 877 numbers assigned was 4,388,682; and the number of 866 numbers assigned was 7,029,116. We do not have data specifying the number of these subscribers that are independently owned and operated or have 1,500 or fewer employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, we estimate that there are 7,860,000 or fewer small entity 800 subscribers; 5,210,184 or fewer small entity 888 subscribers; 4,388,682 or fewer small entity 877 subscribers, and 7,029,116 or fewer entity 866 subscribers.

b. International Service Providers.

22. *Satellite Telecommunications and All Other Telecommunications.* These two economic census categories address the satellite industry. The first category has a small business size standard of \$15 million or less in average annual receipts, under SBA rules. The second has a size standard of \$25 million or less in annual receipts. The most current Census Bureau data in this context, however, are from the (last) economic census of 2002, and we will use those figures to gauge the prevalence of small businesses in these categories.

23. The category of Satellite Telecommunications "comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year. Of this total, 307 firms had annual receipts of under \$10 million, and 26 firms had receipts of \$10 million to \$24,999,999. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

24. The second category of All Other Telecommunications comprises, *inter alia*, "establishments primarily engaged

in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems." For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year. Of this total, 303 firms had annual receipts of under \$10 million and 15 firms had annual receipts of \$10 million to \$24,999,999. Consequently, we estimate that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

c. Wireless Telecommunications Service Providers.

25. Below, for those services subject to auctions, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

26. *Wireless Service Providers (Except Satellite)*. Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, we estimate that the majority of wireless firms are small.

27. *Common Carrier Paging*. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite) firms within the broad economic census categories of "Cellular and Other Wireless Telecommunications." Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, we estimate that the majority of wireless firms are small.

28. In addition, in the *Paging Second Report and Order*, the Commission adopted a size standard for "small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. The SBA has approved this definition. An initial auction of Metropolitan Economic Area ("MEA") licenses was conducted in the year 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. A subsequent auction of MEA and Economic Area ("EA") licenses was held in the year 2001. Of the 15,514 licenses auctioned, 5,323 were sold. One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs, was held in 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses.

29. Currently, there are approximately 74,000 Common Carrier Paging licenses. According to the most recent *Trends in Telephone Service*, 281 carriers reported that they were engaged in the provision of "paging and messaging" services. Of these, an estimated 279 have 1,500 or fewer employees and two have more than 1,500 employees. We estimate that the majority of common carrier paging providers would qualify as small entities under the SBA definition.

30. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to *Trends in Telephone Service* data, 434 carriers reported that they were engaged in wireless telephony. Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees. We have estimated that 222 of these are small under the SBA small business size standard.

31. *Broadband Personal Communications Service*. The broadband personal communications services ("PCS") spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard 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 small business size standard 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 small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards 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. In 1999, the Commission reaucted 155 C, D, E, and F Block licenses; there were 113 small business winning bidders.

32. In 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction 35.

Of the 35 winning bidders in this auction, 29 qualified as “small” or “very small” businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. In 2005, the Commission completed an auction of 188 C block licenses and 21 F block licenses in Auction 58. There were 24 winning bidders for 217 licenses. Of the 24 winning bidders, 16 claimed small business status and won 156 licenses. In 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction 71. Of the 14 winning bidders, six were designated entities. In 2008, the Commission completed an auction of 20 Broadband PCS licenses in the C, D, E and F block licenses in Auction

33. *Advanced Wireless Services.* In 2008, the Commission conducted the auction of Advanced Wireless Services (“AWS”) licenses. This auction, which was designated as Auction 78, offered 35 licenses in the AWS 1710–1755 MHz and 2110–2155 MHz bands (“AWS–1”). The AWS–1 licenses were licenses for which there were no winning bids in Auction 66. That same year, the Commission completed Auction 78. A bidder with attributed average annual gross revenues that exceeded \$15 million and did not exceed \$40 million for the preceding three years (“small business”) received a 15 percent discount on its winning bid. A bidder with attributed average annual gross revenues that did not exceed \$15 million for the preceding three years (“very small business”) received a 25 percent discount on its winning bid. A bidder that had combined total assets of less than \$500 million and combined gross revenues of less than \$125 million in each of the last two years qualified for entrepreneur status. Four winning bidders that identified themselves as very small businesses won 17 licenses. Three of the winning bidders that identified themselves as a small business won five licenses. Additionally, one other winning bidder that qualified for entrepreneur status won 2 licenses.

## 2. Cable and OVS Operators

34. *Cable Television Distribution Services.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of

voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.” The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services we must, however, use current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: all such firms having \$13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this previous category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under \$10 million, and 43 firms had receipts of \$10 million or more but less than \$25 million. Thus, the majority of these firms can be considered small.

35. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission’s rules, a “small system” is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 6,635 systems nationwide, 5,802 systems have under 10,000 subscribers, and an additional 302 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small.

36. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.” The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are

affiliated with entities whose gross annual revenues exceed \$250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

37. *Open Video Systems (OVS).* The open video system (“OVS”) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is “Wired Telecommunications Carriers.” The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. To gauge small business prevalence for such services we must, however, use current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: all such firms having \$13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this previous category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under \$10 million, and 43 firms had receipts of \$10 million or more but less than \$25 million. Thus, the majority of cable firms can be considered small. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (“BSPs”) are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

## 3. Internet Service Providers

38. *Internet Service Providers.* The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider’s own telecommunications connections (e.g., cable and DSL, ISPs), or over client-supplied telecommunications connections (e.g., dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer

employees. The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of \$25 million or less. The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers. That category had a small business size standard of \$21 million or less in annual receipts, which was revised in late 2005 to \$23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year. Of those, 2,437 firms had annual receipts of under \$10 million, and an additional 47 firms had receipts of between \$10 million and \$24,999,999. Consequently, we estimate that the majority of ISP firms are small entities.

39. *All Other Information Services.* "This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives)." The SBA has developed a small business size standard for this category; that size standard is \$7.0 million or less in average annual receipts. However, data has not yet been collected under the new size standard, and so we refer to data collected under the previous size standard, \$6.5 million or less in average annual receipts. According to Census Bureau data for 2002, there were 155 firms in this category that operated for the entire year. Of these, 138 had annual receipts of under \$5 million, and an additional four firms had receipts of between \$5 million and \$9,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

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

40. This Order does not impose any new or modified reporting or recordkeeping requirements. However, service providers that are required to comply with the Commission's LNP requirements are now required to exchange these standard 14 data fields during the simple port ordering process. For many providers, this is less than the number of fields they were previously exchanging. However, for some providers, this may be greater than the number of fields they were previously exchanging during the simple port ordering process in order to accomplish a port.

#### *E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

41. The RFA requires an agency to describe any significant alternatives that

it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities.

42. In the *Porting Interval Order and Further Notice of Proposed Rulemaking*, the Commission sought comment on the benefits and burdens, especially the burdens on small entities, of adopting any new rules regarding the porting process. However, we must assess the interests of small businesses in light of the overriding public interest in ensuring that all consumers benefit from local number portability. The requirements adopted in today's Order implement the one-business day porting interval adopted in the Commission's *Porting Interval Order*. In that Order, the Commission concluded that reducing the porting interval for simple wireline-to-wireline and simple intermodal ports to one business day was necessary to enable customers to port their numbers in a timely fashion and to enhance competition. The steps the Commission takes today are critical to ensure that carriers are able to implement the one-business day simple porting interval in a timely manner. The Commission did not receive comments regarding significant alternatives to the steps we take today for small providers as there was general industry consensus for our actions. Further, in order for the steps we take today to be effective in ensuring that providers are able to accomplish simple ports in one business day, it is necessary that *all* providers follow the standardized fields, provisioning flows, and mandatory business hours. We note, however, that the Commission has allowed small providers a longer period of time for implementing the one-business day porting interval. Specifically, small providers are required to implement the reduced one-business day porting interval for simple wireline and simple intermodal ports no later than February 2, 2011.

43. Further, small providers have options for seeking modification of the new LNP interval requirements. For example, under Section 251(f)(2) of the Act, a LEC "with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for

suspension or modification of the application of the requirements" of Section 251(b), which includes the "duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." Providers may also apply for a waiver of the one-business day porting interval under the Commission's rules. To demonstrate the good cause required by the Commission's waiver rule, a provider must show with particularity that it would be unduly economically burdensome for the provider to implement the reduced porting interval. In making this showing, a provider should address the number of port requests it receives as well as the specific costs that complying with the reduced porting interval would impose.

44. *Report to Congress:* The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

#### **Ordering Clauses**

Accordingly, *it is ordered* that, pursuant to Sections 1, 4(i) through 4(j), 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) through (j), 251, 303(r), this Report and Order in WC Docket No. 07-244 and CC Docket No. 95-116 *is adopted*, and that Part 52 of the Commission's rules, 47 CFR part 52, *is amended* as set forth in the Final Rules. The Report and Order *shall become effective* July 22, 2010. The information collection requirements contained in the Report and Order will become effective following OMB approval.

*It is further ordered* that, consistent with the compliance deadline established in the *Porting Interval Order*, telecommunications carriers and interconnected VoIP providers will not be required to comply with amended rule in § 52.35(a) until August 2, 2010.

*It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### **List of Subjects in 47 CFR Part 52**

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

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

## Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 52 as follows:

### PART 52—NUMBERING

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

**Authority:** Secs. 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154 and 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–205, 207–09, 218, 225–27, 251–52, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–27, 251–52, 271 and 332 unless otherwise noted.

■ 2. Section 52.26 is amended by revising paragraph (a) 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* and the following portions of *Appendix E*: Section 7, Issue Statement I of *Appendix A*, and *Appendix B* in the *Working Group Report* are not incorporated herein.

\* \* \* \* \*

■ 3. Section 52.35 is revised to read as follows:

#### § 52.35 Porting Intervals.

(a) All telecommunications carriers required by the Commission to port telephone numbers must complete a simple wireline-to-wireline or simple intermodal port request within one business day unless a longer period is requested by the new provider or by the customer. The traditional work week of Monday through Friday represents mandatory business days and 8 a.m. to 5 p.m. represents minimum business hours, excluding the current service provider's company-defined holidays. An accurate and complete Local Service Request (LSR) must be received by the current service provider between 8 a.m. and 1 p.m. local time for a simple port request to be eligible for activation at midnight on the same day. Any simple

port LSRs received after this time will be considered received on the following business day at 8 a.m. local time.

(b) Small providers, as described in the *2009 LNP Porting Interval Order*, must comply with this section by February 2, 2011.

(c) Unless directed otherwise by the Commission, any telecommunications carrier granted a waiver by the Commission of the one-business day porting interval described in paragraph (a) must complete a simple wireline-to-wireline or simple intermodal port request within four business days unless a longer period is requested by the new provider or by the customer.

(d) All telecommunications carriers required by the Commission to port telephone numbers must complete a non-simple wireline-to-wireline or non-simple intermodal port request within four business days unless a longer period is requested by the new provider or by the customer.

(e) For purposes of this section:

(1) The term “telecommunications carrier” includes an interconnected Voice over Internet Protocol (VoIP) provider as that term is defined in § 52.21(h);

(2) The term “local time” means the predominant time zone of the Number Portability Administration Center (NPAC) Region in which the telephone number is being ported; and

(3) The term “intermodal ports” includes

- (i) Wireline-to-wireless ports;
- (ii) Wireless-to-wireline ports; and
- (iii) Ports involving interconnected VoIP service.

■ 4. Section 52.36 is added to read as follows:

#### § 52.36 Standard data fields for simple port order processing.

(a) A telecommunications carrier may require only the data described in paragraphs (b) and (c) of this section to accomplish a simple port order request from an end user customer's new telecommunication's carrier.

(b) *Required standard data fields.*

- (1) Ported telephone number;
- (2) Account number;
- (3) Zip code;
- (4) Company code;
- (5) New network service provider;
- (6) Desired due date;
- (7) Purchase order number;
- (8) Version;
- (9) Number portability direction indicator;

(10) Customer carrier name abbreviation;

- (11) Requisition type and status;
- (12) Activity;

(13) Telephone number of initiator; and

(14) Agency authority status.

(c) *Optional standard data field.* The Passcode field shall be optional unless the passcode has been requested and assigned by the end user.

(d) For purposes of this section, the term “telecommunications carrier” includes an interconnected VoIP provider as that term is defined in § 52.21(h).

[FR Doc. 2010–15073 Filed 6–21–10; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 90

[WT Docket No. 02–55; DA 10–695]

#### Improving Public Safety Communications in the 800 MHz Band; New 800 MHz Band Plan for Puerto Rico and the U.S. Virgin Islands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document summarizes the Third Report and Order portion of the Third Report and Order and Third Further Notice of Proposed Rulemaking, which portion establishes a new 800 MHz band plan for the Commonwealth of Puerto Rico (Puerto Rico).

**DATES:** Effective July 22, 2010.

**FOR FURTHER INFORMATION CONTACT:** John Evanoff, Policy Division, Public Safety and Homeland Security Bureau, (202) 418–0848.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Third Report and Order portion of the Commission's Third Report and Order and Third Further Notice of Proposed Rulemaking, DA 10–695, released on April 26, 2010. This summary should be read in conjunction with the summary of the Third Further Notice of Proposed Rulemaking portion of the Third Report and Order and Third Further Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register**. The complete text of the Third Report and Order and Third Further Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile