

this Order is available for public inspection Monday through Thursday from 8 a.m. to 4:30 p.m. and Friday from 8 a.m. to 11:30 a.m. in the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554. The complete text is also available on the Commission's Internet Site at <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365. The complete text of the Order may be purchased from the Commission's duplicating contractor, Best Copying and Printing, Inc., Room CY-B402, 445 Twelfth Street, SW., Washington, DC 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or e-mail at <http://www.bcpweb.com>.

When filing reply comments, parties should reference WC Docket No. 05-25, and RM-10593 and conform to the filing procedures referenced in the Order and Notice of Proposed Rulemaking. See Special Access Rates for Price Cap Local Exchange Carriers, AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, WC Docket No. 05-25, RM-10593, Order and Notice of Proposed Rulemaking, 70 FR 19381, April 13, 2005. All pleadings may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, in this case WC Docket No. 05-25, RM-10593. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be addressed to the Commission's Secretary, Marlene H.

Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition, parties should send a copy of their filings to Pamela Arluk, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-C434, 445 12th Street, SW., Washington, DC 20554. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Documents in WC Docket No. 05-25, RM-10593 are available for review through the ECFS and are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, or by e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

#### Synopsis of Order

On January 31, 2005, the Commission released a Notice of Proposed Rulemaking (NPRM) in WC Docket No. 05-25, RM-10593. See Special Access Rates for Price Cap Local Exchange Carriers, AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, WC Docket No. 05-25, RM-10593, Order and Notice of Proposed Rulemaking, 70 FR 19381, April 13, 2005. In the NPRM, the Commission commenced a broad examination of the regulatory framework to apply to price cap local exchange carriers' (LECs) interstate special access services after June 30, 2005, and sought comment on the special access regime that should follow the expiration of the CALLS plan, including whether to maintain or modify the Commission's pricing flexibility rules for special access services. The comment deadline was June 13, 2005, and the reply comment deadline is July 12, 2005.

CompTel/ALTS and the United States Telecom Association (USTA) (together, the Petitioners) filed motions with the Commission, requesting a seventeen-day extension of the deadline for filing reply comments. The Petitioners explain that the requested extension would allow all parties the opportunity to better evaluate, and respond to, the complex economic analyses offered by many commenters in this proceeding. On June 13, 2005, the Commission received more than 2,000 pages of comments from multiple parties, many of which

contained data submissions and economic analyses. Moreover, there was approximately a one-week delay before all of the comments were available on the Commission's Electronic Comment Filing System (ECFS). In the interest of developing a thorough and complete record in this proceeding, the Bureau grants the Petitioners' requests, and hereby extends the reply comment deadline to July 29, 2005. This extension should allow parties adequate time to review and respond to the record in this proceeding. All other filing requirements set forth in the NPRM remain in effect.

#### Ordering Clause

Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 4(j), and 303(r) of the Communications Act, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), and §§ 0.91, 0.204(b), 0.291, 1.45, and 1.415 of the Commission's rules, 47 CFR 0.91, 0.204(b), 0.291, 1.45, and 1.415, the deadline for filing reply comments in response to the NPRM is extended to July 29, 2005.

Federal Communications Commission.

**Tamara L. Preiss,**

*Chief, Pricing Policy Division, Wireline Competition Bureau.*

[FR Doc. 05-14420 Filed 7-19-05; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 52

[CC Docket No. 95-116; FCC 05-87]

#### Telephone Number Portability

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document seeks comment on an Initial Regulatory Flexibility Analysis (IRFA) of the *Intermodal Order* concerning wireline-to-wireless number portability. The Federal Communications Commission will use the specific IRFA comments it receives in preparing a Final Regulatory Flexibility Analysis in connection with the *Intermodal Order* and in determining whether to modify the intermodal porting rules with respect to their application to small entities in light of the requirements of the Regulatory Flexibility Act (RFA).

**DATES:** Comments are due on or before August 19, 2005, and reply comments are due on or before September 6, 2005.

**ADDRESSES:** You may submit comments, identified by CC Docket No. 95-116, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web Site: <http://www.fcc.gov>. Follow the instructions for submitting comments on the <http://www.fcc.gov/cgb/ecfs/>.
- E-mail: [ecfs@fcc.gov](mailto:ecfs@fcc.gov).
- Mail: All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.
- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

**Instructions:** All submissions received must include the agency name and docket number for this proceeding. All comments received will be posted without change to <http://www.fcc.gov/cgb/ecfs/>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.fcc.gov/cgb/ecfs/>.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Salhus, Attorney Advisor, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at (202) 418-1310 (voice) or (202) 418-1169 (TTY) or Pam Slipakoff, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7705 (voice) or (202) 418-0484 (TTY).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission Public Notice released April 22, 2005, FCC 05-87. The full text of the Public Notice and its appendices is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th St., SW., Washington DC 20554. The complete text may also be purchased from the Commission's duplicating

contractor, Qualex International, Portals II, 445 12th St., SW., Room CY-B402, Washington DC, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). Additionally, the complete item is available on the Federal Communications Commission's Web site at <http://www.fcc.gov/wtb>.

#### Synopsis of the Public Notice

On March 11, 2005, the United States Court of Appeals for the District of Columbia Circuit remanded to the Federal Communications Commission the *Intermodal Order*, concerning porting between wireline and wireless carriers. See *United States Telecom Ass'n v. FCC*, 400 F.3d 29 (D.C. Cir. 2005). The Court determined that the Federal Communications Commission had failed to prepare a Final Regulatory Flexibility Analysis regarding the impact of the *Intermodal Order* on small entities, as defined by the RFA, which the Court found to have been required by the RFA, 5 U.S.C. 604. The Court accordingly directed the Federal Communications Commission to prepare the required Final Regulatory Flexibility Analysis, and stayed future enforcement of the *Intermodal Order* "only as applied to carriers that qualify as small entities under the RFA" until the agency prepares and publishes that analysis. 400 F.3d at 43.

In the Public Notice, to prepare to comply with the Court's direction, the Federal Communications Commission seeks comment on an Initial Regulatory Flexibility Analysis of the *Intermodal Order*. The Commission will use the specific IRFA comments it receives in preparing a Final Regulatory Flexibility Analysis in connection with the *Intermodal Order* and in determining whether to modify the intermodal porting rules with respect to their application to small entities in light of the requirements of the RFA. The Federal Communications Commission also expects to publish a document amending 47 CFR Part 52 at a later date, pursuant to the *Intermodal Order*, which the court held effectively amended the Federal Communications Commission's previous legislative rule.

This is a "permit but disclose" proceeding pursuant to § 1.1206 of the Commission's rules. Ex parte presentations that are made with respect to the issues involved in the IRFA will be allowed but must be disclosed in accordance with the requirements of § 1.1206(b) of the Commission's rules.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated. Comments

may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

• **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

• **For ECFS filers,** if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

• **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail should be

addressed to 445 12th Street, SW., Washington DC 20554.

People with Disabilities: Contact the FCC to request materials in accessible formats (braille, large print, electronic files, audio format, etc.) by e-mail at [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (TTY).

### Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act, as amended, 5 U.S.C. 603, the Federal Communications Commission has prepared this Initial Regulatory Flexibility Analysis of the possible significant economic impact on a substantial number of small entities of the rules and policies described in the *Intermodal Order* concerning wireline-to-wireless number portability. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments indicated on the Public Notice. This is a summary of the full text of the IRFA. The full text of the IRFA may be found at Appendix A of the full text of the Public Notice. The Commission will send a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, this will be published in the **Federal Register**.

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

1. The *Intermodal Order* involved rules and policies aimed at ensuring wide availability of number portability for consumers across the country. By making it easier for greater numbers of consumers to switch freely among carriers, the *Intermodal Order* was intended to promote competition and encourage carriers to provide new services and lower prices for consumers. To obtain these objectives, the order required porting to any wireless carrier whose "coverage area" overlaps the geographic location of the original rate center associated with the number to be ported, provided that the porting-in carrier maintains the number's original rate center designation following the port. The order defined wireless "coverage area" as the area in which wireless service can be received from the wireless carrier.

#### B. Legal Basis for Rules

2. The *Intermodal Order* was authorized under § 52.23 of the Federal Communications Commission's rules, 47 CFR 52.23, and in Sections 1, 3, 4(i), 201, 202, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154(i), 201, 202, and 251.

#### C. Description and Estimate of the Number of Small Entities To Which the Rules Would Apply

3. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted, 5 U.S.C. 603(b)(3). 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 Section 3 of the Small Business Act. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

4. In this section, we describe and estimate the number of small entities that may be affected by our action. The most reliable source of information regarding the total numbers of certain common carriers and related providers nationwide appears to be the data that the Federal Communications Commission publishes in its *Trends in Telephone Service* report. In addition, the SBA has developed size standards for small businesses within the commercial census category of Wired Telecommunications Carriers. Under this category, a business is small if it has 1,500 or fewer employees. Below, we discuss the total estimated numbers of small businesses that might be affected by our actions.

5. Wired Telecommunications Carriers. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small. In addition, limited preliminary census data for 2002 indicate that the total number of wired communications carriers increased approximately 34 percent from 1997 to 2002.

6. Incumbent Local Exchange Carriers. We have included small incumbent local exchange carriers (LECs) in this RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small

business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." 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 the Commission's analyses and determinations in other, non-RFA contexts.

7. 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, 1,310 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,310 carriers, an estimated 1,025 have 1,500 or fewer employees and 285 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small entities.

8. Competitive Local Exchange Carriers, 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, 563 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive LEC services. Of these 563 carriers, an estimated 472 have 1,500 or fewer employees and 91 have more than 1,500 employees. In addition, 14 carriers have reported that they are "Shared-Tenant Service Providers," and all 14 are estimated to have 1,500 or fewer employees. In addition, 37 carriers have reported that they are "Other Local Service Providers." Of the 37, an estimated 36 have 1,500 or fewer employees and one has more than 1,500 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.

*D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

9. Requiring porting beyond wireline rate center boundaries could impose compliance burdens on small entities. First, by making porting more widely available, the requirement may increase the amount of telephone numbers that small carriers may be required to port. To handle this increased porting volume, small carriers may need to add personnel, update porting procedures, or upgrade software. In addition to the compliance burdens associated with increased porting volume, porting beyond wireline rate center boundaries may cause small or rural carriers to incur transport costs associated with delivering calls to ported numbers served by distant switches. We seek comment on the costs associated with these potential compliance burdens.

10. In addition to the impacts associated with transporting calls to ported numbers, by making it easier for more consumers to port, the requirements may cause small or rural carriers to lose customers. Small carriers have expressed concern that permitting porting beyond wireline rate center boundaries would give large wireless carriers an unfair competitive advantage over smaller LECs by making it easier for more consumers to port numbers to larger nationwide carriers.

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

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

12. The Federal Communications Commission has previously addressed concerns raised by small and rural carriers when considering intermodal portability issues. Specifically, the *Intermodal Order* considered limiting the scope of intermodal porting based on the small carrier concern that requiring porting to a wireless carrier

that does not have a physical point of interconnection or numbering resources in the rate center associated with the ported number would give wireless carriers an unfair competitive advantage. The order found however, that these considerations did not justify denying wireline consumers the benefit of being able to port their numbers to wireless carriers. In addition, the order noted that each type of service offers its own advantages and disadvantage and that consumers would consider these attributes in determining whether or not to port their numbers. The *Intermodal Order* also considered the concern expressed by small carriers that requiring porting beyond wireline rate center boundaries would lead to increased transport costs. The order concluded that such concerns were outside the scope of the number portability proceeding and noted that the rating and routing issues raised by the rural wireline carriers were also implicated in the context of non-ported numbers and were before the Federal Communications Commission in other proceedings.

13. The order also, for wireline carriers operating in areas outside of the 100 largest MSAs, waived, until May 24, 2004, the requirement that these carriers port numbers to wireless carriers that do not have a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned. The order noted that the transition period would help ensure a smooth transition for carriers operating outside of the 100 largest MSAs and provide them with sufficient time to make necessary modifications to their systems. The order also noted that carriers could file petitions for waiver of their obligation to port numbers to wireless carriers, if they could provide substantial, credible evidence that there are special circumstances that warrant departure from existing rules.

14. In addition to the steps taken by the Federal Communications Commission, pursuant to section 251(f)(2) of the Communications Act of 1934, as amended, carriers with fewer than two percent of the nation's subscriber lines in the aggregate nationwide may petition state commissions to suspend or modify the LNP requirements. Under the terms of section 251(f)(2), the state commission shall grant such petition to the extent that, and for such duration as, the state commission determines that such suspension or modification: (A) Is necessary to avoid a significant adverse economic impact on end users, to avoid imposing an unduly economically burdensome requirement, or to avoid

imposing a technically infeasible requirement; and (B) is consistent with the public interest, convenience, and necessity. Numerous petitions have been filed with state commissions since the *Intermodal Order's* release and in many of these cases, states have granted temporary or permanent relief from LNP requirements to small carriers. We seek comment on the effectiveness of this mechanism for addressing any potential burdens on small carriers.

*F. Overlapping, Duplicating, or Conflicting Federal Rules*

14. None.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05-14179 Filed 7-19-05; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 54**

[WC Docket No. 05-195, CC Docket No. 96-45, CC Docket No. 02-6, WC Docket No. 02-60, WC Docket No. 03-109, CC Docket No. 97-21; FCC 05-124]

**Comprehensive Review of Universal Service Fund Management, Administration, and Oversight**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission initiates a broad inquiry into the management and administration of the Universal Service Fund (USF), as well as the Commission's oversight of the USF and the USF Administrator. We seek comment on ways to improve the management, administration, and oversight of the USF, including simplifying the process for applying for USF support, speeding the disbursement process, simplifying the billing and collection process, addressing issues relating to the Universal Service Administrative Company (USAC or the Administrator), and exploring performance measures suitable for assessing and managing the USF programs. We also seek comment on ways to further deter waste, fraud, and abuse through audits of USF beneficiaries or other measures, and on various methods for recovering improperly disbursed funds.

**DATES:** Comments are due on or before October 18, 2005. Reply comments are due on or before December 19, 2005.