

online gaming, Web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is \$6 million or less in average annual receipts. According to Census Bureau data for 1997, there were 195 firms in this category that operated for the entire year. Of these, 172 had annual receipts of under \$5 million, and an additional nine firms had receipts of between \$5 million and \$9,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

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

37. Should the Commission decide to adopt any regulations to ensure that all providers of telecommunications services meet consumer protection needs in regard to CPNI, the associated rules potentially could modify the reporting and recordkeeping requirements of certain telecommunications providers. The Commission could, for instance, require that telecommunications providers require customer password-related security procedures to access CPNI data and/or encrypt CPNI data. The Commission could also require that telecommunications providers maintain more extensive records regarding CPNI data and report additional CPNI information to their customers and the Commission. The Commission tentatively concludes that the Commission should amend its rules to require carriers to certify as to established operating procedures no later than January 1st (or other date specified by the Commission) of each year, covering the preceding calendar year, and to file the compliance certificate with the Commission within 30 days. The Commission further tentatively concludes that carriers should attach to this annual § 64.2009(e) certification an explanation of any actions taken against data brokers and a summary of all consumer complaints received in the past year concerning the unauthorized release of CPNI. These proposals may impose additional reporting or recordkeeping requirements on entities. The Commission seeks comment on the possible burden these requirements would place on small entities. Also, the Commission seeks comment on whether a special approach toward any possible compliance burdens on small entities might be appropriate. Entities, especially small businesses, are encouraged to quantify

the costs and benefits of any reporting requirement that may be established in this proceeding.

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

38. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (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.

39. The Commission's primary objective is to develop a framework for protecting a customer's CPNI, regardless of the customer's underlying technology. The Commission seeks comment here on the effect the various proposals described in the NPRM will have on small entities, and on what effect alternative rules would have on those entities. The Commission invites comment on ways in which the Commission can achieve its goal of protecting consumers while at the same time impose minimal burdens on small telecommunications service providers. With respect to any of the Commission's consumer protection regulations already in place, has the Commission adopted any provisions for small entities that the Commission should similarly consider here? Specifically, the Commission invites comment on whether the problems identified by EPIC are better or worse at smaller carriers. The Commission invites comment on whether small carriers should be exempt from password-related security procedures to protect CPNI. The Commission invites comment on the benefits and burdens of recording audit trails for the disclosure of CPNI on small carriers. The Commission invites comment on whether requiring a small carrier to encrypt its stored data would be unduly burdensome. The Commission solicits comment on the cost to a small carrier of notifying a customer upon release of CPNI. The Commission seeks comment on whether the Commission should amend its rules to require carriers to file annual certifications concerning CPNI and whether this requirement should extend to only telecommunications carriers that are not small telephone companies as

defined by the Small Business Administration, and whether small carriers should be subject to different CPNI-related obligations.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

40. None.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 4(j), and 222 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)-(j), 222, that this NPRM in CC Docket No. 96-115 and RM-11277 *is adopted*.

It is further ordered that the Petition for Rulemaking of the Electronic Privacy Information Center *is granted* to the extent described herein.

It is further ordered that the proceeding in RM-11277 *is hereby terminated*.

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

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 06-2423 Filed 3-14-06; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 99-200; FCC 06-14]

Numbering Resource Optimization

AGENCY Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission seeks comment on whether we should extend mandatory thousands-block number pooling by, for example, giving the states delegated authority to implement mandatory thousands-block number pooling at their discretion. Alternatively, we could continue to review requests from the states for authority to extend mandatory thousands-block number pooling to new NPAs on a case-by-case basis. Also, we could extend pooling to all rate centers, using a phased implementation schedule. As many state commissions can attest, mandatory number pooling can extend the life of numbering plan areas (NPAs) more effectively than

optional pooling requirements. In addition, the Wireline Competition Bureau specifically stated that the Commission would “consider extending pooling to NPAs outside of the top 100 Metropolitan Statistical Areas (MSAs) once pooling is implemented in the top MSAs.”

DATES: Submit comments on or before May 15, 2006; submit reply comments on or before June 13, 2006.

ADDRESSES: You may submit comments, identified by [CC Docket No. 99–200], by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
 - Federal Communications Commission’s Web site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- Mail: Sheryl Todd, Wireline Competition Bureau, Telecom Access Policy Division, 445 12th Street, SW., Washington, DC 20554.

4. People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Marilyn Jones, Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 415–4357 or Marilyn.Jones@fcc.gov. The fax number is: (202) 418–2345.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Fifth Further Notice of Proposed Rulemaking in CC Docket No. 99–200 released on February 24, 2006. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

I. Introduction

1. In this Fifth Further Notice of Proposed Rulemaking, we seek comment on whether we should delegate authority to all states to implement mandatory thousands-block number pooling.

2. In the *First Report and Order*, 65 FR 37703, June 16, 2000, the Commission determined that implementation of thousands-block number pooling is essential to extending the life of the North American Numbering Plan (“NANP”) by making the assignment

and use of NXX codes more efficient. Therefore, the Commission adopted national thousands-block number pooling as a valuable mechanism to remedy the inefficient allocation and use of numbering resources and determined to implement mandatory thousands-block pooling in the largest 100 MSAs within nine months of selection of a pooling administrator. The Commission also allowed state commissions to continue to implement thousands-block pooling pursuant to delegated authority and agreed to continue to consider state petitions for delegated authority to implement pooling on a case-by-case basis. The Commission delegated authority to the Common Carrier Bureau, now the Wireline Competition Bureau (“Bureau”), to rule on state petitions for delegated authority to implement number conservation measures, including thousands-block number pooling, where no new issues were raised.

3. The Commission held that such state positions for delegated authority must demonstrate that: (1) An NPA in its state is in jeopardy; (2) the NPA in question has a remaining life span of at least a year; and (3) the NPA is in one of the largest 100 MSAs, or alternatively, the majority of wireline carriers in the NPA are local number portability (“LNP”)–capable. The Commission recognized that there may be “special circumstances” where pooling would be of benefit in NPAs that do not meet all three criteria, and may be authorized in such an NPA upon a satisfactory showing by the state commission of such circumstances. These three criteria were adopted before implementation of nationwide thousands-block number pooling and before the Commission recognized that full LNP capability is not necessary for participation in pooling.

4. National rollout of thousands-block number pooling commenced on March 15, 2002, in the 100 largest Metropolitan Statistical Areas (“MSAs”) and area codes previously in pooling pursuant to state delegation orders. All carriers operating within the 100 largest MSAs, except those specifically exempted by the order, were required to participate in thousands-block number pooling in accordance with the national rollout schedule. The Commission specifically exempted from the pooling requirement rural telephone companies and Tier III CMRS providers that have not received a specific request for the provision of LNP from another carrier, as well as carriers that are the only service provider receiving numbering resources in a given rate center. In exempting

certain carriers from the pooling requirement, the Commission confirmed that “it is reasonable to require LNP only in areas where competition dictates its demand.” The Commission directed the North American Numbering Plan Administrator (“NANPA”) to cease assignment of NXX codes to carriers after they were required to participate in pooling. Instead, carriers required to participate in pooling received numbering resources from the national thousands-block number Pooling Administrator responsible for administering numbers in thousands-blocks.

5. In implementing nationwide pooling, the Commission had concluded that mandatory pooling should initially take place in the largest 100 MSAs. In the *Pooling Rollout Order*, the Bureau explained that it would consider extending pooling outside of the top 100 MSAs after pooling was implemented in the top 100 MSAs. The Bureau also encouraged voluntary pooling in areas adjoining qualifying MSAs.

II. Order Granting Petitions

6. In the Order accompanying the Fifth Further Notice of Proposed Rulemaking, published elsewhere in this issue of the **Federal Register**, we grant petitions for delegated authority to implement mandatory thousands-block number pooling filed by the Public Service Commission of West Virginia, the Nebraska Public Service Commission, the Oklahoma Corporation Commission, the Michigan Public Service Commission, and the Missouri Public Service Commission. Although all three criteria are not consistently met in these petitions, we find that special circumstances justify delegation of authority to require pooling.

7. With respect to the first criterion, the petitions before us present both jeopardy and non-jeopardy situations. The 304 NPA is currently in jeopardy, whereas the 402, 417, 573, 580, and 989 NPAs are not in jeopardy as defined by industry standards, but are projected to exhaust within three years. Given that most of the NPAs in question are expected to exhaust within one to three years, it is most efficient and in the public interest to permit the state petitioners to implement mandatory thousands-block number pooling at this time. Moreover, if we deny these petitions pursuant to a strict application of the jeopardy requirement, the state commissions will have to refile the petitions in the near future when the NPAs at issue will be in jeopardy. This would be an inefficient use of resources and would further delay the state commissions’ ability to optimize

numbering resources. With regard to the second criterion, all petitions have demonstrated that the NPAs in question have a remaining life span of at least a year. Thus, this prong of the test is met.

8. The third criterion, that the NPA is in one of the largest 100 MSAs or the majority of wireline carriers in the NPA are LNP-capable, is not relevant here. These petitions seek authority to implement pooling outside of the largest 100 MSAs, and we have since determined that pooling can be implemented without full LNP capability. Instead, we are guided by the principle, expressed in our pooling precedent, that it is reasonable to require LNP only in areas where competition dictates demand. For this reason, we have exempted from pooling rural telephone companies and Tier III CMRS providers that have not yet received a specific request for the provision of LNP from another carrier and carriers that are the only service provider receiving numbering resources in a given rate center. Although this exemption should ensure that LNP is only required in areas where completion dictates demand, it is important to also note that, for carriers who are required to participate in number pooling, full LNP capability is not required. In this case, we require state commissions, in exercising the authority delegated herein to implement number pooling, to implement this delegation consistent with the exemption for the carriers described above. We therefore expect that rural carriers who are not LNP capable will not be required to implement full LNP capability solely as a result of the delegation of authority set forth herein.

9. As several commenters observe, allowing states to mandate pooling outside of the top 100 MSAs will delay the need for area code relief by using numbering resources more efficiently. Demand for numbering resources in these states is increasing in rural rate centers, where number pooling is not mandatory, due to additional wireless and competitive carriers entering those areas. The petitioners have demonstrated that many carriers are not participating in optional pooling and instead continue to request full NXX codes in these NPAs. The petitioners observe, and we agree, that mandatory thousands-block number pooling would extend the life of these NPAs by using the resources that otherwise would be stranded. Denying the petitions would allow carriers to continue to request 10,000 blocks of numbers when fewer numbers may be needed to serve their customers, which would further hasten the exhaust of these NPAs. We find that

this is a special circumstance that permits us to delegate authority to these states to implement mandatory thousands-block number pooling.

10. Therefore, for all the reasons stated above, we determine that the petitioners have demonstrated the special circumstances necessary to justify delegation of authority to require pooling, and we grant: The public Service Commission of West Virginia authority to implement mandatory thousands-block number pooling in the 304 NPA; the Nebraska Public Service Commission authority to implement mandatory thousands-block number pooling in the 402 NPA; the Oklahoma Corporation Commission authority to implement mandatory thousands-block number pooling in the 580 NPA; the Michigan Public Service Commission the authority to implement mandatory thousands-block number pooling in the 989 NPA; and the Missouri Public Service Commission the authority to implement mandatory thousands-block number pooling in the 417, 573, 636, and 660 NPAs.

11. The Ohio Commission and NARUC request that in addition to granting the Oklahoma Petition for mandatory thousands-block number pooling, we extend such delegated authority to all states. SBC opposes this request and observes that in order to adopt such a rule change, we must provide opportunity for notice and comment. We agree and do so in our Fifth Further Notice of Proposed Rulemaking.

12. Finally, we observe that several commenters asked the Commission to reaffirm that it will not permit states to implement pooling methods that are inconsistent with the national pooling framework set forth in the Commission's rules and industry pooling guidelines. We note that the petitions specifically seek authority to order mandatory thousands-block number pooling in rate centers located outside the top 100 MSAs, but in accordance with the national pooling framework. Thus, these state commissions are not seeking to implement pooling methods that are inconsistent with the national pooling framework.

III. Fifth Further Notice of Proposed Rulemaking

13. The Order that accompanies this Fifth Further Notice of Proposed Rulemaking ("FNPRM") recognizes the invaluable role of the state commissions in number administration and optimization. In that Order, we granted the requesting state commissions authority to implement mandatory thousands-block number pooling in the

certain NPAs. We took this action because in each case the remaining life in the NPAs at issue was within three years of exhaust. In this FNPRM, we seek comment now on whether we should extend mandatory pooling by, for example, giving the states delegated authority to implement mandatory thousands-block number pooling at their discretion. As many state commissions can attest, mandatory number pooling can extend the life of NPAs more effectively than optional pooling requirements. In addition, in the *Pooling Rollout Order*, the Bureau specifically stated that the Commission would "consider extending pooling to NPAs outside of the top 100 MSAs once pooling is implemented in the top MSAs."

14. Alternatively, we could continue to review requests from the states for authority to extend mandatory thousands-block number pooling to new NPAs on a case-by-case basis. If we were to adopt this approach, the Commission would continue to review state petitions on a case-by-case basis, as we did in the Order preceding this FNPRM. Also, we could extend pooling to all rate centers, using a phased implementation schedule. For example, we could initially expand pooling to NPAs that are within three years of exhaust and continue to expand pooling to other NPAs as they reach a certain state of exhaust. We seek comment on the costs and benefits to each approach. Commenters advocating a case-by-case review of state petitions should propose criteria for such a review. As we discussed in the preceding Order, the third prong in the three-prong test adopted in the *First Report and Order* is no longer relevant, and the first prong was not strictly met by all petitioners. Commenters should discuss whether we should use primarily the second prong of that test in determining whether to extend delegated authority to the states. In particular, we seek comment on whether we should grant authority for mandatory thousands-block number pooling based primarily on the remaining life of the NPA, as we did in the foregoing Order. Commenters should also address whether "special circumstances" would be a more appropriate criterion.

15. We are limiting this FNPRM to the issue of extending mandatory thousands-block number pooling to NPAs outside of the top 100 MSAs. Any such expansion of number pooling would be subject to our current numbering rules and number pooling guidelines. Commenters should discuss any related thousands-block numbering rule changes or new rules that we

should adopt to facilitate this expansion. We recognize that many of the number pooling procedures are in the pooling guidelines, not in the Commission's rules.

IV. Procedural Matters

A. Initial Regulatory Flexibility Analysis

16. As required by the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") for this Fifth Further Notice of Proposed Rulemaking ("FNPRM"), of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this FNPRM. The IRFA is in the attached Appendix. 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 on the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

B. Paperwork Reduction Act Analysis

17. This FNPRM does not contain information collection requirements subject to the Paperwork Reduction Act of 1995 ("PRA"), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

C. Ex Parte Presentations

18. These matters shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

D. Comment Filing Procedures

19. Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on this FNPRM within 60 days after

publication in the **Federal Register** and may file reply comments within 90 days after publication in the **Federal Register**. All filings shall refer to CC Docket No. 99-200. 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.

20. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. If multiple docket or rulemaking numbers appear in the caption of this proceeding, 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. 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, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.

21. 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 contain the docket or rulemaking number that appears in the caption of this proceeding.

22. 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).

23. 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

24. People with disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

25. Parties must also send a courtesy copy of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5-B540, Washington, DC 20554. Ms. Todd's e-mail address is Sheryl.Todd@fcc.gov; her telephone number is (202) 418-7386.

26. Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Copies may also be purchased from the Commission's duplicating contractor, BCPI, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI through its Web site: www.bcpiweb.com by e-mail at fcc@bcpiweb.com, by telephone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563.

Initial Regulatory Flexibility Analysis

27. As required by the Regulatory Flexibility Act ("RFA"), the Commission has prepared this Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking ("FNPRM"). Written public comments are requested on this IRFA. Comments must be identified as response to IRFA and must be filed by the deadlines for comments on the FNPRM. The Commission will send a copy of this IRFA, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration ("SBA"). In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

28. In the FNPRM, we seek comment on whether we should extend mandatory thousands-block number

pooling by giving states delegated authority to implement mandatory thousands-block number pooling at their discretion. We also see comment on whether we should, alternatively, continue to review requests from states for authority to extend mandatory thousands-block number pooling on a case-by-case basis. We also seek comment on what criteria we should use for such a review.

2. Legal Basis

29. The legal basis for the FNPRM is contained in sections 1, 4(i), 201 through 205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201—205, 214, 254, and 403.

3. Description and Estimate of the Number of Small Entities To Which Rules May Apply

30. 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. 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. A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, there are approximately 1.6 million small organizations. The term “small governmental jurisdiction” is defined as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” As of 1997, there were about 87,453 governmental jurisdictions in the United States. This number includes 39,044 county governments, municipalities, and townships, of which 73,546 (approximately 96.2 percent) have populations of fewer than 50,000, and of which 1,498 have populations of 50,000 or more. Thus we estimate the number of small governmental jurisdictions overall to be 84,098 or fewer.

a. Telecommunications Service Providers

31. We have included small incumbent local exchange carriers in this RFA analysis. 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 local exchange carriers are not dominant in their field of operation because any such dominance is not “national” in scope. We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has not effect on the Commission’s analyses and determinations in other, non-RFA contexts.

32. *Incumbent Local Exchange Carriers (LECs)*. Neither the Commission nor the SBA has developed a size standard for small incumbent local exchange services. The closest size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,303 incumbent carriers reported that they were engaged in the provision of local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small business that may be affected by the rules and policies adopted herein.

33. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs) and “Other Local Exchange Carriers.”* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to providers of competitive exchange services or to competitive access providers or to “Other Local Exchange Carriers.” The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 769 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 companies, an estimated 676 have 1,500 or fewer employees and 93 have more than 1,500 employees. In addition, 39 carriers reported that they were “Other Local Service Providers.” Of the 39 “Other Local Service Providers,” 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, and “Other Local Service Providers” are small entities that may be affected by the rules and policies adopted herein.

34. *Interexchange Carriers (IXCs)*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to the Commission data, 316 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 316 companies, an estimated 292 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by the rules and policies adopted herein.

35. *Wireless Service Providers*. The SBA has developed a small business size standard for wireless small businesses within the two separate categories of *Paging and Cellular and Other Wireless Telecommunications*. Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. According to the Commission data, 1,012 companies reported that they were engaged in the provision of wireless service. Of these 1,012 companies, an estimated 829 have 1,500 or fewer employees and 183 have more than 1,500 employees. Consequently, the Commission estimates that most wireless service providers are small entities that may be affected by the rules and policies adopted herein.

36. *Private and Common Carrier Paging*. In the *Paging Third Report and Order*, we developed a small business size standard for “small businesses” and “very 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, have average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a “very small business” is an entity that, together with its affiliates and controlling principals, have average gross revenues that are not more than \$3 million for the preceding three years. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies

claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. Also, according to Commission data, 375 carriers reported that they were engaged in the provision of either paging or messaging services, or other mobile services. Of those, the Commission estimates that 370 are small, under the SBA-approved small business size standard.

b. Internet Service Providers

37. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs "provide clients access to the Internet and generally provide related services such as Web hosting, Web page designing, and hardware or software consulting related to Internet connectivity." Under the SBA size standard, such a business is small if it has average annual receipts of \$21 million or less. According to Census Bureau data for 1997, there were 2,751 firms in this category that operated for the entire year. Of these, 2,659 firms had annual receipts of under \$10 million, and an additional 67 firms had receipts of between \$10 million and \$24,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by our action. In addition, limited preliminary census data for 2002 indicate that the total number of internet service providers increased approximately five percent from 1997 to 2002.

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

38. In the FNPRM, we seek comment on whether we should extend mandatory thousands-block number pooling by giving states delegated authority to implement mandatory thousands-block number pooling at their discretion. We also see comment on whether we should, alternatively, continue to review requests from states for authority to extend mandatory thousands-block number pooling on a case-by-case basis. We also seek comment on what criteria we should use for such a review. If we extend thousands-block number pooling, beyond the top 100 MSAs, carriers required by states to implement number pooling will be required to comply with the existing reporting and recordkeeping requirements for number pooling in part 52, subpart C of the Commission's rules.

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

39. 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.

40. In the FNPRM, we seek comment on whether we should extend mandatory thousands-block number pooling by giving states delegated authority to implement mandatory thousands-block number pooling at their discretion. We also seek comment on whether we should, alternatively, continue to review requests from states for authority to extend mandatory thousands-block number pooling on a case-by-case basis. We also seek comment on what criteria we should use for such a review. If we adopt some form of additional number pooling, beyond the top 100 MSAs, more carriers may be required to comply with the filing requirements for number pooling. Expanding number pooling will, however, conserve numbering resources and will prevent or delay the adoption of other, possibly more burdensome, measures.

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

None.

IV. Ordering Clauses

41. *Accordingly*, pursuant to the authority contained in sections 1, 4(i), 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 251, and pursuant to section 52.9(b) of the Commission's rules, 47 CFR 52.9(b), *it is ordered* that the Petition of the Nebraska Public Service Commission for Expedited Decision for Authority to Implement Additional Number Conservation Measures *is granted*; the Petition of the West Virginia Public Service Commission for Expedited Decision for Authority to Implement Additional Number Conservation Measures *is granted*; and the Petition of the Oklahoma Corporation Commission for Expedited Decision for Authority to

Implement Additional Number Conservation Measures *is granted*; the Petition of the Missouri Public Service Commission for Additional Delegated Numbering Authority to Implement Number Conservation Measures *is granted*; and the Petition of the Michigan Public Service Commission for Additional Delegated Authority over Numbering Resource Conservation Measures *is granted*.

42. *It is further ordered* that, pursuant to the authority contained in sections 1, 4(i), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–205, 214, 254, and 403, this Order and Fifth Further Notice of Proposed Rulemaking *is adopted*.

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

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–384; MB Docket No. 06–43, RM–11313]

Radio Broadcasting Services; Oakwood, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 300A at Oakwood, Texas, as the community's first local service. Channel 300A can be allotted to Oakwood, consistent with the minimum distance separation requirements of the Commission's rules at a restricted site located 14.5 kilometers (8.9 miles) northwest of the community. The reference coordinates for Channel 300A at Oakwood are 31–40–21 North Latitude and 95–57–42 West Longitude.

DATES: Comments must be filed on or before February 22, 2006, and reply comments on or before February 24, 2006.