PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300 [Amended]

■ 2. Table 1of appendix B to part 300 is amended by removing the entry ''FL'', ''Whitehouse Oil Pits'', ''Whitehouse''.

[FR Doc. 2018–20390 Filed 9–18–18; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 13–39; FCC 18–120]

Rural Call Completion

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission continues its ongoing efforts to ensure that calls are completed to all Americans, including those in rural America. This Third Report and Order (*Order*) begins the Commission's implementation of the Improving Rural Call Quality and Reliability Act of 2017 (RCC Act). Pursuant to the RCC Act, the *Order* adopts rules to establish a registry for intermediate providers and require intermediate providers to register with the Commission before offering to transmit covered voice communications. In addition, the *Order* adopts rules to require covered providers to use only registered intermediate providers to transmit covered voice communications and requires covered providers to maintain the capability to disclose the identities of any intermediate providers relied on in the call path to the Commission.

DATES: Effective October 19, 2018, except for the addition of 47 CFR 64.2115, which requires approval by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing approval of this requirement and the date the rule will become effective.

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, Zach Ross, at (202) 418–1033, or *zachary.ross@fcc.gov.* For further information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Report and Order* in WC Docket No. 13–39, adopted on August 13, 2018 and released on August 15, 2018. The full text of this document, including all Appendices, is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. It is also available on the Commission's website at *https://www.fcc.gov/document/fcc-registry-boost-provider-accountability-rural-call-completion.*

I. Synopsis

1. As directed by the RCC Act and informed by the record of this proceeding, in this *Third Report and Order* we establish a registry for intermediate providers and require intermediate providers to register with the Commission before offering to transmit covered voice communications. In addition, we adopt rules to require covered providers to use only registered intermediate providers to transmit covered voice communications, and we require covered providers to maintain the capability to disclose the identities of any intermediate providers relied on in the call path to the Commission. We also adopt a narrowly tailored exception to our rules in instances of *force majeure.* The RCC Act requires the Commission to promulgate rules establishing service quality standards ''[n]ot later than 1 year after the date of enactment,'' or by February 26, 2019. We accordingly sought comment on proposed service quality standards in the *Third RCC FNPRM,* 83 FR 21983. We will address the RCC Act's service quality requirements in a subsequent Order.

A. Establishment of Intermediate Provider Registry

2. In accordance with the RCC Act, we adopt our proposal to establish an intermediate provider registry. To ''ensure the integrity of the transmission of covered voice communications to all customers in the United States[] and . . . prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications,'' new section 262 of the Act requires the Commission to establish a publicly available intermediate provider registry on the Commission's website. We will require intermediate providers to register via a portal on the Commission's website furnishing the same five categories of information that we proposed in the *Third RCC FNPRM:*

(1) The intermediate provider's business name(s) and primary address;

(2) the name(s), telephone number(s), email address(es), and business address(es) of the intermediate provider's regulatory contact and/or designated agent for service of process;

(3) all business names that the intermediate provider has used in the past;

(4) the state(s) in which the intermediate provider provides service; and

(5) the name, title, business address, telephone number, and email address of at least one person as well as the department within the company responsible for addressing rural call completion issues.

Further, this information will be made publicly available.

3. As explained in the *Third RCC FNPRM,* the first four categories of information are similar to the Commission's existing registration requirements for interconnected VoIP and telecommunications carriers in other contexts. For example, ''a telecommunications carrier that will provide interstate telecommunications service'' is required to provide the following information via FCC Form 499–A ''under oath and penalty of perjury'': (1) The carrier's business name(s) and primary address; (2) The names and business addresses of the carrier's chief executive officer, chairman, and president, or, in the event that a company does not have such executives, three similarly senior-level officials of the company; (3) The carrier's regulatory contact and/or designated agent; (4) All names that the carrier has used in the past; and (5) The state(s) in which the carrier provides telecommunications service.'' The Commission's rules also require common carriers, interconnected VoIP providers, and non-interconnected VoIP providers to provide the contact information, including ''a name, business address, telephone or voicemail number, facsimile number, and, if available, internet email address,'' for service of process purposes. Such entities are also required to ''list any other names by which it is known or under which it does business, and, if the carrier, interconnected VoIP provider, or non-interconnected VoIP provider is an affiliated company, the parent, holding, or management company.'' The record reflects that ''the

burden to providers arising out of reporting such information is minimal—it requires no more than logging into an account and typing in the most basic information about a company.'' With respect to contact information for the person and department responsible for addressing rural call completion issues, we find, based on the record before us, that requiring this information will facilitate inter-provider cooperation to solve and prevent call completion issues. We also find that this requirement is consistent with Congress's mandate that our implementing rules ensure the integrity of the transmission of covered voice communications to all customers in the country and prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications. The record reflects no opposition to requiring these five information categories.

4. In addition to the five categories of information we proposed, we also require intermediate providers to furnish the name(s), business address, business telephone number(s), and email address for an executive leadership contact, such as the chief executive officer, chief operating officer, or owner(s) of the intermediate provider, or person performing an equivalent function, who directs or manages the entity. Verizon expressed concern that delisted intermediate providers could regain registered status by subsequently re-incorporating under other names for the purpose of circumventing Commission removal from the intermediate provider registry. To assist in preventing circumvention of our rules, Verizon proposes requiring this additional information, which ''is a common requirement across state and foreign corporation registrations, business licensing, and trade licensing,'' and thus presents no additional burden in furnishing such existing information to the Commission. We agree with Verizon that requiring this additional information will ''provide the Commission . . . additional visibility into the individuals that direct and manage the entity,'' and aid the Commission in enforcing our rules and the RCC Act. We observe, however, that because the primary purpose of this information is to aid the Commission in preventing circumvention of our registry requirements, unlike the other five categories of information, this latter category of information will not be made routinely available for public inspection.

B. Definitions

5. As we proposed in the *Third RCC FNPRM,* we adopt the definition of ''intermediate provider'' provided by Congress in section 262(i)(3). This definition replaces the definition of ''intermediate provider'' currently in our rules. Thus, for purposes of our pre-existing rural call completion rules and those we adopt pursuant to the RCC Act, we define an intermediate provider as any entity that: ''(A) enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic that is generated from the placement of a call placed (i) from an end user connection using a North American Numbering Plan resource; or (ii) to an end user connection using such a numbering resource; and (B) does not itself, either directly or in conjunction with an affiliate, serve as a covered provider in the context of originating or terminating a given call.'' We observe that in section 262(i)(1), Congress explicitly adopted the Commission's definition of ''covered provider,'' suggesting that, to the extent that section 262(i)(3) offers a different or narrower interpretation of ''intermediate provider'' than the current definition in our rules, Congress intended the definition provided in the RCC Act to apply to our rules implementing the RCC Act.

6. The definition of ''intermediate provider'' in section 262(i)(3) is substantially similar to the definition previously applicable to our rural call completion rules, with the added requirement that an intermediate provider ''have a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic.'' As we observed in the *Third RCC FNPRM,* the legislative history surrounding the RCC Act suggests that Congress intended to exclude from the definition of ''intermediate provider'' entities ''that only incidentally transmit voice traffic, like internet Service Providers who may carry voice traffic alongside other packet data.'' The additional requirement that intermediate providers have a business arrangement to carry voice traffic effectuates this intent. Thus, entities like internet Service Providers that may carry voice traffic only incidentally, absent any business arrangement with a covered provider or intermediate provider pertaining to that traffic, will not be considered intermediate providers subject to our registry and service quality rules.

7. We decline to adopt an exemption from this definition for ''facilities-based carriers that provide backbone network capacity'' to mobile virtual network operators (MVNOs), as urged by Sprint. To the extent that such providers carry voice traffic that originates or terminates with a North American Numbering Plan (NANP) resource pursuant to a specific business relationship with a covered provider or other intermediate provider for said voice traffic, and does not itself serve as a covered provider in the context of originating or terminating a given call, that entity is an intermediate provider under the RCC Act and the rules we adopt today. We agree with NTCA's argument that any effect of this rule on entities that, like Sprint, supply wholesale capacity to MVNOs is likely to be ''minimally burdensome.'' As USTelecom observes, the information submission needed to comply with our registration requirement ''[is] of a highly routine nature that should be unproblematic for any legitimate company to provide.''

8. In addition, consistent with our proposal in the *Third RCC FNPRM,* we also adopt the definition of ''covered voice communication'' provided by Congress in the RCC Act. The RCC Act defines ''covered voice communication'' as ''a voice communication (including any related signaling information) that is generated—(A) from the placement of a call from a connection using a North American Numbering Plan resource or a call placed to a connection using such a numbering resource; and (B) through any service provided by a covered provider.''

9. We decline to adopt the proposal advanced by Verizon and USTelecom to limit the definitions of ''intermediate provider'' and ''covered voice communications'' to ''apply only to intermediate providers that handle covered voice communications that are destined for rural areas.'' We also decline to adopt alternative suggestions that we forebear from applying the RCC Act and our implementing rules to non-rural areas. Forbearance is appropriate if the Commission determines that: (1) Enforcement of a provision or regulation is not necessary to ensure that the telecommunications carrier's charges, practices, classifications, or regulations are just, reasonable, and not unjustly or unreasonably discriminatory; (2) enforcement of the provision or regulation is not necessary to protect consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest. As we explain, the RCC Act reflects Congress's judgment that uniform rules are the best means to ensure rural call

completion; and limiting the RCC Act's registry requirements to rural areas would undermine the newly passed law's effectiveness. Because forbearance would be inconsistent with the public interest and the Commission's responsibility to protect consumers, as well as Congress's direction in the RCC Act that the Commission ''ensure the integrity of the transmission of covered voice communications to all customers in the United States,'' we decline USTelecom's request that the Commission forbear from applying the RCC Act to non-rural areas. We disagree with Verizon's suggestion that ''[t]he RCC Act's text supports construing the statute to ensure application only to rural areas.'' If Congress had intended to apply the RCC Act definitions only to rural areas, it easily could have done so. As Verizon itself notes, ''[t]he RCC Act on its face does not include a limitation to rural areas.'' Indeed, apart from the short title of the RCC Act, the word ''rural'' appears nowhere in its text. As enacted, section 262 is entitled ''Ensuring the integrity of voice communications,'' and none of the law's provisions or definitions—including those for ''intermediate provider'' and ''covered voice communication''—contain the word ''rural.'' Nor is the Commission's definition of ''covered provider,'' which Congress adopted by reference in the RCC Act, limited to providers who originate traffic destined for rural areas.

10. Although we agree with USTelecom's suggestion that Congress ''intended to implement measures to ensure completion of calls to rural areas,'' we disagree with the argument that we should therefore read the word ''rural'' into the RCC Act where it does not appear. This line of reasoning fails to differentiate between Congress's stated objective—to improve rural call completion—and the specific means by which Congress has directed the Commission to achieve this goal. Indeed, limitation of the RCC Act's provisions to traffic destined to rural areas would appear to contravene Congress's explicit instructions to the Commission in promulgating rules pursuant to the RCC Act, which are to ''ensure the integrity of the transmission of covered voice communications to all customers in the United States;'' and to ''prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications.'' The rules we adopt today are designed to achieve these ends. Despite Verizon's and USTelecom's arguments to the contrary, Congress concluded that the best way to address rural call completion issues is to craft uniform rules applicable to intermediate providers regardless of a call's geographic destination. As HD Tandem argues, call completion issues are not inherently limited to rural areas, and limiting application of the rules we adopt pursuant to the RCC Act to rural areas may have the unintended consequence of simply shifting bad actors into new markets. Unscrupulous providers may cause call completion issues in non-rural areas as well, and our construction of the registry provisions of the RCC Act is consistent with Congress's explicit direction to the Commission, as noted above. Therefore, assuming arguendo that the Act is ambiguous, we believe our approach is likely to be more effective in curtailing the use of these providers and achieving Congress's clearly stated objective of improving rural call completion than the reading of the Act suggested by Verizon and USTelecom.

11. Nor are we persuaded that that we should modify the plain meaning of the RCC Act's language to correspond with the scope of our recently adopted monitoring rule, which, unlike the RCC Act, does apply only to ''call attempts to rural telephone companies.'' The monitoring rule adopted in the *Second RCC Order,* 83 FR 21723, requires covered providers to monitor the performance of intermediate providers when they direct calls to rural areas, and to take action to address identified problems. The RCC Act and our implementing rules require certain intermediate providers to register with the Commission and abide by service quality standards, and prevent covered providers from using unregistered intermediate providers to deliver covered voice communications. The monitoring rule and the rules adopted pursuant to the RCC Act are complementary, but because covered providers and intermediate providers are differently situated and play different roles in the delivery of voice traffic, we find that it is appropriate that our rules, and the RCC Act, treat them differently. For this reason, we also disagree with Verizon's suggestion that our safe harbor, referenced in the RCC Act in Section 262(h), compels limiting the RCC Act to rural areas. Given the heightened vigilance our monitoring rule requires of covered providers, it is appropriate that it applies more narrowly than the RCC Act's prohibition on covered provider use of unregistered intermediate providers.

12. Finally, we disagree with arguments that we should apply our rules implementing section 262 only to rural areas to increase ''[a]dministrative efficiency'' or to decrease the burdens that the RCC Act imposes on affected entities. In particular, we disagree with Verizon's argument that the burdens of complying with the RCC Act will ''vastly increase'' absent a limitation of section 262 to traffic destined to rural areas. Verizon argues that without this restriction ''[t]he number of OCNs required to be monitored would more than triple, from the over 1,300 OCNs required for monitoring rural destinations, to more than 4,700 rural and non-rural OCNs.'' The monitoring rule, however, remains limited to requiring that covered providers monitor intermediate provider performance in the completion of call attempts to rural telephone companies. Further, because the RCC Act and our implementing rules require intermediate providers to register with the Commission, we disagree that requiring covered providers to only use registered intermediate providers, without cabining such requirements to calls to rural areas, would be burdensome. We therefore expect that the burdens of our registry rules on both intermediate providers and covered providers will be minimal.

C. Intermediate Providers Who Must Register With the Commission

1. Scope of Registry Requirement

13. Consistent with the text of section 262(a), we adopt our proposal in the *Third RCC FNPRM* to require any intermediate provider ''that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission'' to register with the Commission. In adopting this proposal, we decline to simply apply the registry obligations of section 262(a) to all intermediate providers, as that term is defined in section 262(i)(3). As we suggested in the *Third RCC FNPRM,* the RCC Act's registry requirements and service quality standards apply to a subset of ''intermediate providers,'' namely those that ''charge[] any rate'' for the transmission of covered voice communications.

14. We agree with commenters who argue that the ''charge[] any rate'' language in section 262(a) is best interpreted broadly. Thus, we conclude that the application of section 262(a) is not limited only to intermediate providers who charge a per-call fee for service; rather, section 262(a) encompasses broader remuneration agreements, as well as entities offering service in exchange for in-kind or other,

non-monetary forms of consideration. We therefore disagree with commenters who express concern that the ''charge[] any rate'' qualifier may exclude entities that Congress intended to reach with the RCC Act. To be deemed an intermediate provider under section 262(i), an entity must have a ''business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting'' voice traffic originating or terminating with a NANP resource. Although section 262(a) adds the requirement that an intermediate provider ''charge[] any rate'' for transmitting covered voice communications, we find that to ''charge any rate'' in this context is merely to demand compensation for services based on a fixed ratio, scale, or standard. Nothing in the language of the RCC Act requires that the relevant ''rate'' charged be in the form of monetary consideration. We agree with ANI, HD Tandem, and Verizon that relying on remuneration as a qualifier may open the possibility for non-fee arrangements to circumvent the RCC Act and our implementing rules, and thus interpret section 262(a) as applying to any intermediate provider that demands monetary or non-monetary consideration for its services.

2. Registration Deadline

15. We adopt our proposal in the *Third RCC FNPRM* to require intermediate providers to submit their registration to the Commission within 30 days after a Public Notice announcing the approval by the Office of Management and Budget of the final rules establishing the registry. We find, and the record supports, that a 30-day timeframe will allow existing intermediate providers adequate time to come into compliance with our registry rules. In addition, as we explained in the *Third RCC FNPRM,* this phase-in period is consistent with the filing timeframe for Form 499–A, which requires that new filers register with the Commission within 30 days. Pursuant to sections 262(a) and (b), upon expiration of the initial 30-day registration window, new intermediate providers will be required to register with the Commission before beginning to transmit covered voice communications for covered providers.

16. We require intermediate providers to submit any necessary updates regarding their registration to the Commission within 10 business days. The record reflects that our proposal to require intermediate providers to update their registrations within seven days may not provide intermediate providers sufficient time to make necessary changes. As such, we permit intermediate providers up to 10 business days to submit any necessary registration updates. As ATIS argues, this additional time will better enable intermediate providers to respond to changes related to mergers or similar events. And, as West Telecom notes, ''there should be little adverse impact from the slightly longer compliance period.'' Because we agree with Verizon that ''[t]he required information should be readily available,'' we decline to increase the time period for updates to 30 days, as Verizon requests. As USTelecom notes, the information to be collected is generally of a ''routine nature that should be unproblematic for any legitimate company to provide.'' Further, because covered providers and members of the public will rely on the information contained in the registry, for example, in making routing decisions or attempting to discover point of contact information to resolve rural call completion issues, we find that a 30-day update period would unnecessarily undermine the effectiveness of the registry requirement by increasing the likelihood that the information contained within the registry is out-of-date.

3. Enforcement

17. Intermediate providers that fail to register with the Commission on a timely basis, as required by our rules, shall be subject to enforcement under the Act and our rules, including forfeiture. For the Commission to exercise its forfeiture authority for violations of the Act and the Commission's rules without first issuing a citation, the wrongdoer must hold (or be an applicant for) some form of license, permit, certificate, or other authorization from the Commission, or be engaged in an activity for which such a license, permit, certificate, or other authorization is required. Because intermediate providers that provide service to covered providers are required, under section 262(a)(1), to register with the Commission, we conclude that an intermediate provider offering such services is engaged in an activity for which Commission license or authorization is required under sections 503(b)(5) and 262(a)(1) of the Act.

18. We disagree with Verizon's unsupported assertion that the Commission ''should not interpret the act of registration itself as a grant of authorization to exercise its forfeiture authority without first issuing a citation.'' We note that no other parties commented our proposal to ''interpret the act of registration itself as a grant of Commission authorization to intermediate providers and allow us to exercise our forfeiture authority against registered providers without first issuing a citation.'' The RCC Act makes clear that Congress intended the intermediate provider registry to function as a qualification for entry into the intermediate provider market, and, as such, the requirements to register and subsequently maintain that registration in good standing serve as Commission license or authorization to function as an intermediate provider transmitting covered voice communications in the United States. Consistent with the Administrative Procedure Act's definition of ''license,'' which includes ''whole or part of an agency . . . registration,'' the Commission has found that the term ''license'' encompasses registrations.

19. Accordingly, we conclude that, under our rules, we may exercise our forfeiture authority against intermediate providers that fail to register, without first issuing a citation. When determining the amount of a forfeiture, we will consider ''the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.'' To the extent that an intermediate provider is a common carrier, the intermediate provider may be assessed a forfeiture of up to $196,387 per violation or each day of a continuing violation and up to a statutory maximum of $1,963,870 for any single act or failure to act. These amounts reflect inflation adjustments to the forfeitures specified in section 503(b)(2)(B) of the Act ($100,000 per violation or per day of a continuing violation and $1,000,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act Improvement Act of 2015 (2015 Inflation Adjustment Act) requires the Commission to amend its forfeiture penalty rules to reflect annual adjustments for inflation in order to improve their effectiveness and maintain their deterrent effect. Further, the 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, including when the violations associated with the penalties predate the increase. An intermediate provider that is not a common carrier is subject to a forfeiture of up to $19,639 per violation or each day of a continuing violation and up to a statutory maximum of $147,290 for any single act

or failure to act. These same penalties also apply to an entity that does not hold (and is not required to hold) a Commission license, permit, certificate, or other instrument of authorization.

20. In addition, we decline to apply the Commission's ''red-light'' rule prior to intermediate providers' registration with the Commission. In the *Third RCC FNPRM,* we sought comment on whether intermediate providers should be prohibited from registering with the Commission if they are ''red-lighted'' by the Commission for unpaid debts or other reasons. Under the red light rule, the Commission will not process applications and other requests for benefits by parties that owe non-tax debt to the Commission. In the context of our rules implementing the Debt Collection Improvement Act, the Commission has noted that ''[i]n some instances . . . filings with the Commission go into effect immediately (or within one day), thus precluding a check to determine if the filer is a delinquent debtor before the request goes into effect.'' The Commission noted that in such situations, the Commission has the ability to take appropriate action after the fact for noncompliance with any of the Commission's rules. Because we will make registrations immediately effective upon receipt, this is a situation which precludes a check to determine if the intermediate provider is a delinquent debtor before the registration goes into effect. As a result, any applicable red-light check will be conducted after intermediate provider registration; appropriate action, if any, will be taken against intermediate providers who are later discovered to be delinquent debtors, including de-registration.

D. Covered Providers May Not Use Unregistered Intermediate Providers

1. Covered Providers Must Take Steps Reasonably Calculated To Prevent Use of Unregistered Intermediate Providers Anywhere in the Call Path

21. We find that section 262(b) requires a covered provider to ensure that all intermediate providers involved in the transmission of its covered voice communications are registered with the Commission. The definition of ''intermediate provider'' contained in section 262(i) broadly refers to providers at all intermediate points in the call chain, excluding covered providers who originate or terminate a given call; and, section 262(a) requires any of these entities that offer to transmit covered voice communications for a rate to register with the Commission and meet our service quality standards. We note, however, that some intermediate providers may be exempted from our service quality standards pursuant to section 262(h) and our safe harbor provisions. Thus, we conclude that Congress's requirement that covered providers ''may not use'' an unregistered intermediate provider to transmit traffic is best understood to mean that a covered provider may not rely on any unregistered intermediate providers in the path of a given call. Consistent with our recently-adopted monitoring rule, we allow covered providers to use contractual restrictions that flow down the entire intermediate provider call path to fulfill their obligations under section 262(b).

22. We conclude that this interpretation best supports Congress's aims in enacting the RCC Act by placing responsibility for compliance with section 262(b) with a single, easily identifiable entity. Our construction of section 262(b) is supported by the record in this proceeding, and is consistent with the rules adopted in the *Second RCC Order,* which highlighted the importance of ''hold[ing] a central party responsible for call completion issues.'' As we found in the *Second RCC Order,* because ''covered providers select the initial long-distance path and therefore can choose how to route a call,'' it is ''appropriate that they should have responsibility for monitoring rural call completion performance'' along the entire path of a given call.

23. We agree with arguments advanced by NTCA that limiting the application of section 262(b) only to the first contracted intermediate provider would ''defeat the spirit and intent of [the RCC Act]'' and potentially allow ''unscrupulous carriers or intermediate providers to circumvent their ultimate responsibility to complete calls.'' As we have explained, a call often travels through a chain of multiple intermediate providers before reaching its destination. Because nothing in our rules or section 262 requires intermediate providers to use other registered intermediate providers to transmit covered voice communications, interpreting the restrictions of section 262(b) to apply only to the first contracted intermediate provider would substantially undermine the purpose of the RCC Act, which is to improve rural call completion by, among other things, requiring any intermediate provider involved in the transmission of covered voice communications to register (and maintain a registration) with the Commission. Section 262(b) would do little to improve call completion if it was construed only to require that the first of many intermediate providers in a call path register with the Commission.

24. We disagree with commenters who argue in favor of such a narrow reading of section 262(b). In particular, we disagree with Comcast's claims that covered providers ''lack . . . control over intermediate providers with which they have no direct contractual relationship.'' To the contrary, we have found that as the first party in the call path, covered providers have significant ability to affect the behavior of downstream providers—including those with which there is no direct relationship—through the use of contractual provisions that travel along the entire chain of providers.

25. Consistent with the monitoring rule for covered providers, pursuant to section 262(b) we require covered providers to (i) ensure that any directly contracted intermediate provider is registered with the Commission; and (ii) implement ''contractual restrictions . . . that are reasonably calculated to ensure'' that any subsequent intermediate providers with which the covered provider does not directly contract are registered under section 262(a). As with the monitoring rule, covered providers must ''ensure that these [contractual] restrictions flow down the entire intermediate provider call path.'' For example, covered providers may require that, as a condition of accepting traffic, (i) any directly contracted intermediate providers must agree to not hand off traffic to any unregistered intermediate providers; and (ii) that they will impose this same restriction on any subsequently contracted intermediate providers.

26. Because we allow covered providers to use indirect contractual restrictions to satisfy their obligations under section 262(b), we disagree with arguments that our interpretation of section 262(b) to encompass all intermediate providers in the call path will be impractical, inefficient, or excessively burdensome. As West Telecom notes, ''[n]egotiated arrangements, when combined with active monitoring procedures, are an accepted and proven industry approach to ensuring satisfactory performance by downstream providers.'' We disagree with ITTA's assertions that construing section 262(b) ''to mean that the covered provider must 'ensure' only that the first intermediate provider in the call path is registered is far more consistent with the principles of privity applied by the Commission in the *Second RCC Order.*'' To the contrary, as we have explained, the construction of section 262(b) we adopt today uses the same notion of

privity as that which formed the basis of our monitoring rule. As NTCA notes, ITTA's argument ''ignores the fact that covered providers have contractual relationships with the first Intermediate Provider in the call path, [which is] capable of then contractually binding downstream providers to only use registered providers from an identified list.'' Instead, as NTCA and HD Tandem argue, because covered providers are responsible for monitoring the entire call path pursuant to our monitoring rule, it is reasonable to require them to ensure through contractual provisions that all intermediate providers in the call path are registered with the Commission. Indeed, as we have explained, this construction of section 262(b) most reasonably gives effect to Congress's intent in passing the RCC Act.

27. We require covered providers to use the intermediate provider registry to ensure that the intermediate providers with which they contract are registered with the Commission at the time any agreement for the transmission of covered voice communications is finalized. We agree with West Telecom, however, that it is unnecessary to require covered providers to repeatedly check the registry to confirm the registration status of all intermediate providers in the chain of a call. Therefore, once an agreement for the transmission of covered voice communications is effective, we allow covered providers to use contractual restrictions to ensure that all intermediate providers in the call path maintain an active registration with the Commission. As West Telecom notes, it may be more effective and cost-efficient to require downstream providers to promptly report de-registrations to the upstream provider, rather than forcing the upstream provider to repeatedly recheck the registry to verify the continued registration of downstream providers. Notwithstanding any contractual provisions, however, if a covered provider gains actual knowledge that it is using an unregistered intermediate provider anywhere in its call routing, it must cease that practice.

28. We agree with NCTA that ''covered provider[s] should be afforded a reasonable period of time to transition to alternative providers without penalty or threat of enforcement.'' As NCTA notes, ''[i]t takes time for covered providers to restructure their call routes, renegotiate their relationships with intermediate providers, or make the appropriate contractual arrangements to transition to alternative providers.'' Without a transition period, covered providers might be left with no option other than to decline to complete calls on an affected route. Therefore we grant covered providers a reasonable period of time, but no more than 45 days, in which to adjust their call routing practices to avoid use of an unregistered intermediate provider after gaining knowledge of its deregistration or lack of registration. We remind covered providers that, with respect to rural destinations that a provider knows or should know are experiencing call completion problems, the *Second RCC Order* requires covered providers to ''promptly resolve[ ] any anomalies or problems and take[ ] action to ensure they do not recur.'' Our experience investigating individual call completion complaints has shown that two weeks from reporting is ample time for a provider to resolve a specific call completion problem. Although we find, based upon our experience, that 45 days will provide covered providers with sufficient time to adjust their call routing practices, covered providers should remove deregistered or unregistered intermediate providers as soon as reasonably practicable.

29. *Exception for Force Majeure.* We adopt a limited exception to our rules and exempt covered providers from the prohibition on the use of unregistered intermediate providers in circumstances where, due to *force majeure* for which the covered provider invokes a disaster recovery plan, no registered intermediate providers are available to transmit covered voice communications to their destination. This limited exemption that we adopt today is similar in nature to exemptions found in our copper retirement rules. Under those provisions, incumbent local exchange carriers (LECs) are exempted from certain provisions of our copper retirement rules in the case of a *force majeure* for which the incumbent LEC invokes a disaster recovery plan. For the purposes of this exemption, we give the terms ''*force majeure*'' and ''disaster recovery plan'' the definitions contained in 47 CFR 51.333(g). As with our copper retirement notification rules, allowing an exception in response to *force majeure* will ensure that service providers are able ''to restore their networks and service to consumers as quickly as possible rather than jump through regulatory hoops.''

30. We believe that the language of the RCC Act provides sufficient authority for us to create a narrow and time-limited exemption of the statutory prohibition on covered provider use of unregistered intermediate providers. In directing the Commission to promulgate rules to implement the RCC Act, Congress specifically instructed the Commission to ''ensure the integrity of the transmission of covered voice communications to all customers in the United States.'' We conclude that permitting covered providers to use unregistered intermediate providers to deliver covered voice communications in the case of *force majeure,* as described above, for a limited period of time while the provider has invoked a disaster recovery plan is necessary to help ''ensure the integrity'' of covered voice communications to all customers in the United States.

31. We find that carving out this limited exception provides regulatory certainty to covered providers in these limited circumstances where strict compliance with our rules would not be possible or in the public interest. We have found that ''it is vital that we do everything we can to facilitate rapid restoration of communications networks in the face of natural disasters and other unforeseen events.'' By codifying an exception to our rules implementing section 262(b) for circumstances under which covered providers would otherwise need to seek a waiver, we ensure that our rules enable covered providers to restore service as quickly as possible following *force majeure.*

32. Therefore, in circumstances where, due to *force majeure,* no registered intermediate providers are available to transmit covered voice communications to their destination, we exempt covered providers from the prohibition on use of unregistered intermediate providers. To obtain relief under this provision, we require covered providers to submit to the Commission a certification explaining the circumstances justifying an exemption as soon as practicable. The certification must be signed by a corporate officer or official with authority to bind the corporation, and knowledge of the details of the covered provider's inability to comply with our rules. The exemption period will last a period of 180 days, after which time a covered provider will be required to submit a request for an extension of the exemption period, which must include a status report on the covered provider's attempts to come into compliance with section 262(b), including a statement of how the covered provider intends to ensure that calls are completed notwithstanding the lack of available registered intermediate providers.

2. Covered Providers Must Be Capable of Disclosing to the Commission the Identity of All Intermediate Providers in the Call Path

33. Consistent with our proposal in the *Third RCC FNPRM,* we require covered providers to know, or be capable of knowing, the identity of all intermediate providers in the path of a given call. We further require covered providers to disclose this information to the Commission upon request. As we explained in the *Second RCC Order,* this requirement is a natural outgrowth of section 262(b), which prohibits covered providers from using unregistered intermediate providers anywhere in the call path.

34. We agree with HD Tandem that ''[a] registration process without this oversight mechanism will likely be very ineffective.'' Permitting covered providers to route calls without any means of determining which intermediate providers participate in delivery of covered voice communications would render the requirements in section 262(b), and the registry scheme of the RCC Act, meaningless. As we noted in the *Second RCC Order,* ''allowing covered providers to not know the identities of their intermediates amounts to allowing willful ignorance: *i.e.,* it would allow covered providers to circumvent their duties by employing unknown or anonymous intermediate providers in a call path.''

35. We disagree with commenters who suggest that this requirement should be limited to apply only to intermediate providers with which a covered provider shares a direct contractual relationship. As NTCA observes, the requirement ''that intermediate providers be contractually bound and identifiable'' is essential to enforcing the registry and service quality standards imposed by the RCC Act. Furthermore, as we have explained, our rural call completion rules are premised on the fact that a central party—covered providers—must be responsible for ensuring that calls are completed. The RCC Act complements this scheme by making covered providers responsible for preventing the use of unregistered intermediate providers anywhere in the path of a given call.

36. We therefore disagree with the proposal advanced by Comcast that would put the onus on the Commission to assemble this information by making separate inquiries of a covered provider and each of its individual intermediate providers in order to obtain a full picture of the routing of a given call. Requiring covered providers to know and disclose to the Commission only the identities of the intermediate providers with which they immediately contract would be administratively inefficient, insofar as it would require the Commission to expend scarce resources in an effort to piece together the identities of all parties in the path of a given call. Pursuant to the Commission's rural call completion rules and section 262(b), it is covered providers, and not the Commission, that are ultimately responsible for ensuring that calls are completed using only registered intermediates. Moreover, covered providers, as the party initiating calls and making the initial routing decisions for covered voice communications, are the most logical and efficient party to bear the responsibility for obtaining the identities of their intermediate providers and relaying this information to the Commission. As HD Tandem observes, ''since covered providers are accountable for exercising oversight regarding the performance of all intermediate providers (in the path of calls for which the covered provider makes the initial long-distance call path choice), they must be responsible for obtaining and retaining this information.''

37. We agree with West Telecom that it is not necessary under section 262 to require covered providers to ''know at all times 'the identity of all intermediate providers in a call path,' '' and that it is sufficient that ''such information be promptly obtainable when there is a call completion problem requiring investigation or a request from regulatory authorities.'' Several commenters express concern that requiring covered providers to maintain a current list of every intermediate provider participating in every transmission of covered voice communications would be excessively burdensome relative to the benefits of such a rule. For this reason, as with our monitoring rule and the prohibition on covered provider use of unregistered intermediaries, we allow covered providers to satisfy their obligations through the use of contractual restrictions that permit the discovery within two weeks of the identities of any intermediate providers in the path of a given call. We note that we currently allow a provider two weeks to investigate a rural call competition complaint and file a write written report with the Commission's Enforcement Bureau on the results of its investigation and how it resolved the problem. As West Telecom argues, this will permit the Commission to access necessary information related to rural call completion failures, while avoiding the costs and burdens associated with unnecessary monitoring efforts.

3. Compliance Deadline

38. We require covered providers to comply with our rules requiring the use of registered intermediate providers within 90 days after the date by which intermediate providers must register with the Commission. As Comcast notes, ''most contracts in place today do not obligate intermediate providers to disclose the names of other service providers to which the intermediate providers deliver traffic further downstream.'' A number of commenters expressed concern that our proposed 60-day phase-in period would be insufficient for covered providers to renegotiate their contracts for routing voice traffic in order to come into compliance with the prohibition on use of unregistered intermediates. We find, based on the record before us, that a 90-day phase-in period following the date by which intermediate providers must register with the Commission will permit covered providers adequate time to make adjustments to existing contractual arrangements.

39. We disagree with commenters who suggest that a longer, or shorter, timeframe is appropriate. Waiting for a period of a year or more to require covered providers to comply with their obligations under section 262 and our rules would frustrate the purpose of the RCC Act by needlessly delaying its implementation. A shorter time period, however, could prove unnecessarily difficult for providers to comply with. As several commenters note, a 90-day phase-in period following the date by which intermediate providers must register with the Commission will provide an appropriate period of adjustment, allowing covered providers to renegotiate contracts with registered intermediate providers. Furthermore, because our registry requires OMB approval and contains its own 30-day implementation period, covered providers should have approximately six-months, if not more, to come into compliance, which is about the same as the six-month phase-in period recently adopted by the Commission for the monitoring rule, which similarly required covered providers to ''evaluate and renegotiate contracts with intermediate providers.'' The prohibition on use of unregistered intermediate providers will therefore go into effect 90 days after the date by which intermediate providers must register with the Commission. Once our

registry rules are approved by OMB, intermediate providers will have 30 days to register with the Commission. Our rules regarding covered provider use of registered intermediate providers will take effect 90 days after the expiration of this 30-day initial registration period.

E. Denial of USTelecom Petition for Stay

40. USTelecom filed a petition to stay aspects of the April 17, 2018 *Second RCC Order,* specifically the covered provider monitoring requirements adopted in the *Second RCC Order,* pending completion of the rulemaking process to implement the RCC Act. USTelecom argues that absent a stay, covered providers will ''unnecessarily be forced to incur the cost of renegotiating their vendor contracts multiple times, or be placed in a position where they risk . . . noncompliance with [section] 64.2111.'' NTCA filed an opposition to the Petition for Stay, while ITTA filed comments in support. For the reasons discussed below, we find that USTelecom has failed to meet its burden for a grant of a stay and accordingly deny its petition.

41. To qualify for the extraordinary remedy of a stay, a petitioner must show that: (1) It is likely to prevail on the merits; (2) it will suffer irreparable harm absent the grant of preliminary relief; (3) other interested parties will not be harmed if the stay is granted; and (4) the public interest would favor grant of the stay. The Commission's consideration of each factor is weighed against the others, and no single factor is dispositive. USTelecom has not introduced arguments into the record regarding the first factor, therefore we do not consider it here. Because we find that USTelecom has not shown that any of the remaining three factors weigh in favor of a stay, we conclude that USTelecom has failed to meet the test for this extraordinary remedy.

1. USTelecom Has Failed To Demonstrate Irreparable Injury

42. We find that USTelecom's claims that it ''will be irreparably injured absent grant of the requested stay'' are unsupported by the record. USTelecom rests its claims regarding irreparable injury on the theory that covered providers ''will unnecessarily be forced to incur the cost of renegotiating their vendor contracts multiple times'' if section 64.2111 becomes effective before we have established registry and service quality standards for intermediate providers pursuant to of the RCC Act.

43. The record reflects disagreement as to whether multiple rounds of contractual negotiations will be required as a result of the monitoring rule coming into effect prior to full implementation of the RCC Act. ITTA argues that covered provider contracts with intermediate providers ''cannot be renegotiated or amended until all parties in the call chain have an understanding of the service quality standards to which intermediate providers will be subject.'' As NTCA points out, however, there are steps that covered providers can take in negotiating contracts to implement the monitoring requirement that could help to mitigate the need for re-negotiation and its attendant costs, including, for example, incorporating an express ''change of law'' provision to import whatever standards may thereafter be adopted by the Commission for intermediate providers.

44. Even assuming covered providers will in fact be required to undergo separate rounds of contractual negotiations with intermediate providers absent a stay, as USTelecom asserts, USTelecom has failed to meet the high bar required to demonstrate irreparable injury. USTelecom makes no attempt to quantify the costs associated with multiple rounds of contractual negotiations; it merely offers unsupported assertions that such an outcome would be ''highly disruptive and burdensome.'' As a form of equitable relief, a stay generally is granted only where petitioners show that remedies at law—for example, the award of monetary damages—are insufficient. For this reason, according to well-established judicial precedent, ''economic loss does not, in and of itself, constitute irreparable harm,'' and ''[m]ere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay are not enough.'' Recoverable monetary loss may constitute an irreparable injury in narrow circumstances where ''the loss threatens the very existence of the movant's business;'' however, USTelecom makes no assertions to this effect.

45. Moreover, to justify a stay of the Commission's *Second RCC Order,* the alleged injury ''must be both certain and great; it must be actual and not theoretical.'' A stay is warranted only if ''[t]he injury complained of is of such imminence that there is a clear and present need for equitable relief to prevent irreparable harm.'' USTelecom asserts that absent a stay, covered providers will be forced to ''incur the cost of renegotiating their vendor contracts multiple times,'' and that these costs, ''which need not be incurred, could potentially result in higher rates for end users.'' We find that the speculative potential incurrence of an unquantified amount of costs to renegotiate contracts does not rise to the level of a ''certain and great'' injury. For these reasons, we find that USTelecom has failed to demonstrate irreparable injury.

2. USTelecom Has Failed To Demonstrate That a Stay Is in the Public Interest and Will Not Harm Other Parties

46. We also find that USTelecom has failed to demonstrate that granting a stay is in the public interest and will not harm other parties to the proceeding. Indeed, we find that staying the effectiveness of section 64.2111 would be contrary to the public interest and would threaten harm to consumers by needlessly undermining the effectiveness of our rural call completion rules.

47. We disagree with USTelecom's suggestion that any compliance costs associated with prompt enforcement of our covered provider monitoring rule are ''unnecessary in light of the fact that rural call completion complaints continue to fall.'' Even assuming this were correct, rural call completion issues continue to have significant ramifications for affected consumers, as we have repeatedly observed. Although USTelecom cites the *Second RCC Order* in support of this assertion, it misconstrues our findings. As the *Second RCC Order* observes, ''[t]rends in [rural call completion] complaints are mixed.'' While carrier complaints have indeed fallen in the last several years, consumer complaints have increased, on a yearly basis, for much of this time. Further, we note that rural carrier complaints filed with the Commission have increased significantly over this time last year. Call completion problems in rural areas ''have serious repercussions, imposing needless economic and personal costs, and potentially threatening public safety in local communities.'' In enacting the RCC Act, Congress and the President have clearly signaled that they agree with this assessment. For these reasons, solving rural call completion issues has been, and remains, a pressing concern for the Commission.

48. Despite its claims that ''the public interest strongly favors a stay of [section 64.2111],'' USTelecom offers little evidence in support of its argument. USTelecom rests its claims that a stay would not harm other parties, including consumers, on the basis that the cost of multiple rounds of contract renegotiation ''could potentially result in higher rates for end users.'' As NTCA observes, however, both the existence of

these costs, and their ultimate impact on consumers in the form of higher prices, are speculative. As noted above, USTelecom fails to attempt to quantify these costs.

49. We find that the significant public interest benefits resulting from effective rural call completion rules outweigh the hypothetical financial harms suggested by USTelecom. As NTCA observes, the public has a clear interest in rules that address rural call completion issues. Rural carriers, too, have a substantial interest in prompt enforcement of our rules, as their business interests are harmed when calls initiated elsewhere fail to reach their intended destination. The monitoring rule is a critical component of our rural call completion regulatory regime. In adopting the *Second RCC Order,* we considered, but declined to adopt, a longer phase-in period for section 64.2111, finding that ''the monitoring requirement addresses the ongoing call completion problems faced by rural Americans, and delay only postpones when rural Americans will see the fruit of this solution.'' The monitoring rule is an obligation of covered providers to ensure that calls they initiate to rural areas are in fact completed. This obligation complements, but exists independently of, the registry and service quality obligations contained in the RCC Act and any rules the Commission adopts to implement that Act. For the foregoing reasons, we deny USTelecom's request for a stay of section 64.2111 pending full implementation of the RCC Act.

II. Final Regulatory Flexibility Analysis

50. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Third RCC FNRPM* for the Rural Call Completion proceeding. The Commission sought written public comment on the proposals in the *Third RCC FNRPM,* including comment on the IRFA. The Commission received no comments on the IRFA. Because the Commission amends its rules in this Order, the Commission has included this Final Regulatory Flexibility Analysis (FRFA). This present FRFA conforms to the RFA.

A. Need for, and Objectives of, the Rules

51. In this Order, we revise our rules to better address ongoing problems in the completion of long-distance telephone calls to rural areas. Specifically, we require intermediate providers to register in a publicly available intermediate provider registry, maintained by the Commission. We also require that covered providers not use unregistered providers to carry, route, or otherwise transmit covered voice communications, except in cases of *force majeure.* The requirements we adopt today implement the Improving Rural Call Quality and Reliability Act of 2017 (RCC Act). The RCC Act directs us to (1) promulgate registration requirements for intermediate providers within 180 days of enactment, and create a registry for such providers on our website; and (2) establish service quality standards for intermediate providers within one year of enactment.

52. In implementing the RCC Act, first, we adopt a new rule requiring ''intermediate providers'' to provide and update as needed the following information on a publicly available online registry maintained by the Commission: (1) The intermediate provider's business name(s) and primary address; (2) the name(s), telephone number(s), email address(es), and business address(es) of the intermediate provider's regulatory contact and/or designated agent for service of process; (3) all business names that the intermediate provider has used in the past; (4) the state(s) in which the intermediate provider provides service; (5) the name, title, business address, telephone number, and email address of at least one person as well as the department within the company responsible for addressing rural call completion issues a telephone number and email address for the express purpose of receiving and responding promptly to any rural call completion issues, and; (6) the name(s), business address, and business telephone number(s) for an executive leadership contact, such as the chief executive officer, chief operating officer, or owner(s) of the intermediate provider, or persons performing an equivalent function, who directs or manages the entity.

53. This Order also requires intermediate providers to register in our publicly available intermediate provider registry within 30 days after a Public Notice announcing the approval by the Office of Management and Budget of the final rules establishing the registry; prohibits covered providers from using any unregistered intermediate providers in the path of a given call; and requires covered providers to be responsible for knowing or obtaining knowledge of the identity of all intermediate providers in a call path. To ease burdens covered providers may experience during *force majeure,* covered providers are exempted from the prohibition on unregistered providers during such events, for an initial period of up to 180 days. Covered providers may seek an extension of this exemption period upon submission of a status report on the covered provider's attempts to comply with our rules, and a statement detailing how the covered provider intends to ensure that calls are completed notwithstanding the unavailability of registered intermediate providers.

54. We conclude these rules and procedures are necessary to inject transparency and accountability into the call routing system, ''to ensure the integrity of voice communications and to prevent unjust or unreasonable discrimination among areas of the United States in the delivery of such communications.''

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

55. The Commission did not receive comments specifically addressing the rules and policies proposed in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

56. The Chief Counsel did not file any comments in response to this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

57. The RFA directs agencies to provide a description and, where feasible, an estimate of the number of small entities that may be affected by the final rules adopted pursuant to the *Third RCC FNPRM.* 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.

58. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is

an independent business having fewer than 500 employees. These types of small businesses represent 99.9 percent of all businesses in the United States which translates to 28.8 million businesses.

59. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of Aug 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

60. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37, 132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on these data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

61. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''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 communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' 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. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

62. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 11 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

63. *Incumbent Local Exchange Carriers (incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 11 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. One thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

64. *Competitive Local Exchange Carriers (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 NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 11 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 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 the adopted rules.

65. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 11 of this FRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted.

66. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this

industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

67. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. 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. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

68. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by rules adopted pursuant to the Third RCC FNRPM.

69. *Prepaid Calling Card Providers.* The SBA has developed a definition for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's Form 499 Filer Database, 500 companies reported that they were engaged in the provision of prepaid calling cards. The Commission does not have data regarding how many of these 500 companies have 1,500 or fewer employees. Consequently, the Commission estimates that there are 500 or fewer prepaid calling card providers that may be affected by the rules.

70. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services. Of this total, an estimated 261 have 1,500 or fewer employees. Consequently, the Commission estimates that approximately half of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

71. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.

72. *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 Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, a little less than one third of these entities can be considered small.

73. *Cable and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA has established a size standard for this industry stating that a business in this industry is small if it has 1,500 or fewer employees. The 2012 Economic Census indicates that 367 firms were operational for that entire year. Of this total, 357 operated with less than 1,000 employees. Accordingly we conclude that a substantial majority of firms in this industry are small under the applicable SBA size standard.

74. *Cable Companies and Systems (Rate Regulation).* The Commission has 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 there are currently 4,600 active cable systems in the United States. Of this total, all but nine cable operators nationwide are small under the 400,000-

subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

75. *Cable System Operators (Telecom Act Standard).* 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 one 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 are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 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. Based on available data, we find that all but nine incumbent cable operators are small entities 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. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

76. *All Other Telecommunications.* ''All Other Telecommunications'' is defined as follows: ''This U.S. industry is comprised of establishments that are 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. Establishments providing internet services or voice over internet protocol (VoIP) services via client supplied telecommunications connections are also included in this industry.'' The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million. Consequently, we conclude that the majority of All Other Telecommunications firms can be considered small.

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

77. In this Order, we revise our rules to better address ongoing problems in the completion of long-distance telephone calls to rural areas; namely, providing insight into the identity of intermediate providers in the voice call market, and accountability to both covered providers and the Commission. In so doing, we require intermediate providers to furnish information to a publicly available online registry maintained by the Commission that allows for better transparency and accountability these entities in the voice call routing system.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

78. The RFA requires an agency to describe any significant, specifically small business, 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 and reporting requirements under the rules for such 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 such small entities.

79. The Order adopts reforms that apply across the voice calling system, including small entities. As described in the Order, in adopting these reforms, we sought comment on the impact of our rule changes on all size providers, and considered significant alternatives to provide insight into the identity of intermediate providers in the voice call market, and establish accountability to covered providers and the Commission.

80. First, we apply our registration requirement to all intermediate providers, as we define them in this *Third Report and Order,* but we clarify that this requirement does not apply to entities incidentally carrying, routing, or transmitting voice traffic. This clarification will reduce the burden on all entities, including small providers, which do not have specific business arrangements to carry traffic, but which transmission of voice traffic is merely incident to operation. Because this measure involves furnishing presently existing information on intermediate provider company leadership, rural call completion technical point of contact, contact information thereof, and places of operation, we find little if no additional burden to providers in consolidating such information and furnishing this information to the Commission via an online registry. As such we find that this is a low-cost measure to facilitate industry collaboration to address call completion issues, and increase accountability and transparency of intermediate providers in the voice call market.

81. In addition, we revised our proposal to require intermediate provider registry changes within one week of the change, to a time period of ten business days, based upon record concerns that the proposed time period was burdensome.

82. Finally, we adopted an exception to our prohibition on use of unregistered intermediate providers by covered providers transmitting covered voice communications in the case of *force majeure,* to minimize burdens covered providers may experience in complying with our rules during *force majeure,* and accordingly provide for an initial exemption period of up to 180 days, which may be extended upon covered provider request.

G. Report to Congress

83. The Commission will send a copy of the *Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

III. Procedural Matters

A. Final Regulatory Flexibility Analysis

84. As required by the Regulatory Flexibility Act of 1980, see 5 U.S.C. 604, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA)

of the possible significant economic impact on small entities of the policies and rules, as proposed, addressed in this *Third Report and Order.* The FRFA is set forth above. The Commission will send a copy of this *Third Report and Order,* including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

B. Paperwork Reduction Act

85. This *Third Report and Order* contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA, 44 U.S.C. 3507. OMB, the general public, and other Federal agencies will be invited to comment on the revised information collection requirements contained in this proceeding. In addition, we note 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.

86. In this present document, we require intermediate providers to register in our publicly available intermediate provider registry within 30 days after a Public Notice announcing the approval by the Office of Management and Budget of the final rules establishing the registry. We have assessed the effects of this rule and find that any burden on small businesses will be minimal because this is a low-cost measure seeking readily available information that will improve transparency and accountability in the call routing system.

C. Congressional Review Act

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

D. Contact Person

88. For further information about this proceeding, please contact Zach Ross, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C211, 445 12th Street SW, Washington, DC 20554, at (202) 418–1033 or *Zachary.Ross@fcc.gov.*

IV. Ordering Clauses

89. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 201(b), 202(a), 217, and 262 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 217, and 262, this *Third Report and Order* and Order *is adopted.*

90. *It is further ordered* that Part 64 of the Commission's rules *are amended* as set forth in Appendix A.

91. *It is further ordered* that, pursuant to sections 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), this *Third Report and Order shall be effective* 30 days after publication of a summary in the **Federal Register**, except for the addition of section 64.2115 to the Commission's rules, which will become effective 30 days after the announcement in the **Federal Register** of Office of Management and Budget (OMB) approval and an effective date of the rules.

92. *It is further ordered* that pursuant to the authority contained in sections 1, 4(i), 201(b), 202(a), 217, 218, 220(a), 251(a), and 262 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 217, 218, 220(a), 251(a), and 262, USTelecom's Petition for Stay filed on June 11, 2018 in WC Docket No. 13–39 is *denied.*

93. *It is further ordered* that the Commission *shall send* a copy of this *Third Report and Order* to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

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

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons set forth above, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. Revise the authority citation for part 64 to read as follows:

Authority: 47 U.S.C. 154, 202, 225, 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, Public Law 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 202, 217, 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 262 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

■ 2. Amend § 64.2101 by adding a definition of ''covered voice communication'' in alphabetical order and revising the definition of ''intermediate provider'' to read as follows:

§ 64.2101 Definitions.

* * * * *

Covered voice communication. The term ''covered voice communication'' means a voice communication (including any related signaling information) that is generated—

(1) From the placement of a call from a connection using a North American Numbering Plan resource or a call placed to a connection using such a numbering resource; and

(2) Through any service provided by a covered provider.

* * * * *

Intermediate provider. The term ''intermediate provider'' means any entity that—

(1) Enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic that is generated from the placement of a call placed—

(i) From an end user connection using a North American Numbering Plan resource; or

(ii) To an end user connection using such a numbering resource; and

(2) Does not itself, either directly or in conjunction with an affiliate, serve as a covered provider in the context of originating or terminating a given call.

■ 3. Add § 64.2115 to subpart V to read as follows:

§ 64.2115 Registration of Intermediate Providers.

(a) *Registration.* An intermediate provider that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission shall register with the Commission in accordance with this section. The intermediate provider shall provide the following information in its registration:

(1) The intermediate provider's business name(s) and primary address;

(2) The name(s), telephone number(s), email address(es), and business address(es) of the intermediate provider's regulatory contact and/or designated agent for service of process;

(3) All business names that the intermediate provider has used in the past;

(4) The state(s) in which the intermediate provider provides service;

(5) The name, title, business address, telephone number, and email address of at least one person as well as the department within the company responsible for addressing rural call completion issues, and;

(6) The name(s), business address, and business telephone number(s) for an executive leadership contact, such as the chief executive officer, chief operating officer, or owner(s) of the intermediate provider, or persons performing an equivalent function, who directs or manages the entity.

(b) *Submission of registration.* An intermediate provider that is subject to the registration requirement in paragraph (a) of this section shall submit the information described therein to the intermediate provider registry on the Commission's website. The registration shall be made under penalty of perjury.

(c) *Changes in information.* An intermediate provider must update its submission to the intermediate provider registry on the Commission's website within 10 business days of any change to the information it must provide pursuant to paragraph (a) of this section.

■ 4. Add § 64.2117 to subpart V to read as follows:

§ 64.2117 Use of Registered Intermediate Providers.

(a) *Prohibition on use of unregistered intermediate providers.* A covered provider shall not use an intermediate provider to carry, route, or transmit covered voice communications unless such intermediate provider is registered pursuant to section 64.2115 of this subpart.

(b) *Force majeure exemption.* (1) If, due to a *force majeure* for which a covered provider has instituted a disaster recovery plan, there are no registered intermediate providers available to carry, route, or transmit covered voice communications, a covered provider need not comply with paragraph (a) of this section for a period of up to 180 days with respect to those covered voice communications. A covered provider shall submit to the Commission a certification, signed by a corporate officer or official with authority to bind the corporation, and knowledge of the details of the covered provider's inability to comply with our rules, explaining the circumstances justifying an exemption under this section as soon as practicable.

(2) A covered provider seeking an extension of the exemption described in paragraph (b)(1) of this section must submit a request for an extension of the exemption period to the Commission. Such an extension request shall, at minimum, include a status report on the covered provider's attempts to comply with paragraph (a) of this section; and a statement detailing how the covered provider intends to ensure that calls are completed notwithstanding the unavailability of registered intermediate providers.

(3) For purposes of this section, ''*force majeure*'' means a highly disruptive event beyond the control of the covered provider, such as a natural disaster or a terrorist attack.

(4) For purposes of this section, ''disaster recovery plan'' means a disaster response plan developed by the covered provider for the purpose of responding to a *force majeure* event.

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