

Carrier Bureau, Accounting Policy Division, (202) 418-7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in CC Docket No. 96-45 released on March 14, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554.

1. The Commission denies AT&T's Petition for Reconsideration at this time to adopt a proposal to base contributions on current revenues. The Commission concludes that under this proposal, the contribution factor is set using prior-year revenues, but carriers contribute based on application of this contribution factor to their current revenues. This proposal would increase reporting burdens on carriers by requiring carriers to file revenue information 13 times per year within very short timeframes. We agree with the majority of commenters that this proposal would be unduly burdensome on carriers, particularly smaller carriers. We also have concerns that the adoption of this proposal might affect the sufficiency of the universal service fund and require the collection of a reserve fund to protect against a fund shortfall. For these reasons, we decline to adopt this proposal at this time and deny AT&T's petition.

2. The Commission will send a copy of this Order in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Order to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

I. Ordering Clauses

3. Pursuant to the authority contained in sections 4(i), 4(j), 254, and 303(r) of the Communications Act of 1934, this Order on Reconsideration is adopted.

4. The Petition for Reconsideration filed on March 1, 2000 by AT&T is denied.

5. The Commission's Consumer Information Bureau, Reference Information Center shall send a copy of this Order on Reconsideration to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96-45; FCC 01-85]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission modifies the existing methodology used to assess contributions that carriers make to the federal universal service support mechanisms. Specifically, the Commission modifies the existing contribution methodology to reduce the interval between the accrual of revenues and the assessment of universal service contributions based on those revenues. Currently, contributions to the federal universal service support mechanisms are based on carriers' interstate and international end-user telecommunications revenues from the prior year. With this modification, the Commission shortens the interval between the accrual of revenues and assessment based on those revenues by six months.

DATES: Effective April 23, 2001.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket No. 96-45 released on March 14, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554.

I. Introduction

1. In this Order, we modify the existing methodology used to assess contributions that carriers make to the federal universal service support mechanisms. Specifically, we modify the existing contribution methodology to reduce the interval between the accrual of revenues and the assessment of universal service contributions based on those revenues. Currently, contributions to the federal universal

service support mechanisms are based on carriers' interstate and international end-user telecommunications revenues from the prior year. With this modification, we shorten the interval between the accrual of revenues and assessment based on those revenues by six months.

2. By reducing the interval between the accrual and assessment of revenues for contributions to the universal service fund, the revised methodology will improve upon the existing methodology by basing assessments on revenue data that are more reflective of current market conditions. As a result, the revised contribution methodology will prevent the possibility that certain carriers will be at a competitive disadvantage as market conditions change. By our action today, we ensure that the assessment of contributions to the federal universal service support mechanisms remains competitively neutral, and that the mechanisms continue to meet the statutory requirement of section 254(d) to be specific, predictable, and sufficient.

3. Although the action we take today improves the operation of the current universal service assessment methodology, we believe that more fundamental modifications may be warranted to simplify the way in which carriers contribute to the universal service mechanisms. Accordingly, very shortly we intend to initiate a proceeding to seek comment on whether and how to modify our rules related to carriers' recovery of their universal service contribution obligations to simplify the process for carriers and consumers and ensure that the universal service fund remains sufficient and predictable.

II. Discussion

4. We modify the existing contribution methodology to significantly reduce the current interval between the accrual of revenues and the assessment of universal service contributions based on those revenues. Although we continue to believe that the current methodology is competitively neutral and satisfies the requirements of the Act, we conclude that reducing this interval will be superior to the current methodology by basing assessments on revenue data that are more reflective of current market conditions, without significantly increasing administrative costs for carriers and USAC. The shortened interval will allow contributions to better reflect market trends influencing carriers' revenues, such as the entry of new providers into the interstate marketplace. As a result, the revised

methodology will further the Commission's goal of maintaining competitive neutrality.

A. Modified Universal Service Contribution Methodology

5. We adopt, with minor modifications, the contribution methodology proposal set forth in the *Contribution Further Notice*, 65 FR 67322 (November 9, 2000), to reduce the interval between the accrual of revenues by carriers and assessment of universal service contributions based on those revenues. This revised methodology will reduce the interval from 12 months to an average interval of six months.

6. The revised contribution methodology will operate in a manner similar to the current methodology with only minor differences. The Commission will continue to set contribution factors on a quarterly basis using the same timeframes as under the current methodology. Carriers will continue to file Form 499-A in April to report their annual revenues from the prior year. Under the revised methodology we adopt today, carriers will also file on a quarterly basis the new Form 499-Q to report their revenues from the prior quarter. We direct USAC to provide revenue data to the Commission at least thirty days before the start of each quarter. The Commission and USAC will use the revenue information from a particular quarter to set the contribution factor for the second following quarter. For example, contributions in the third quarter will be assessed based on revenues accrued in the first quarter. Accordingly, the revised methodology reduces to six months the average interval between the accrual of revenues and the assessment of universal service contributions based on those revenues. The specific timelines for implementation and transition are detailed.

7. USAC will use the revenue data provided by carriers in the FCC Form 499-A to perform annual true-ups to the quarterly revenue data submitted by carriers during the prior calendar year. As necessary, USAC will then refund or collect from carriers any over-payments or under-payments. If the combined quarterly revenues reported by a carrier are greater than those reported on its annual revenue report (Form 499-A), then a refund will be provided to the carrier based on an average of the two lowest contribution factors for the year. If the combined quarterly revenues reported by a carrier are less than those reported on its annual revenue report (Form 499-A), then USAC shall collect the difference from the carrier using an

average of the two highest contribution factors from that year. We believe this will provide an incentive for carriers to accurately report their quarterly revenues.

8. By reducing the interval between the accrual and assessment of revenues for contribution to the universal service fund, the revised methodology improves upon the existing methodology by basing assessments on revenue data more reflective of current market conditions. As a result, the revised contribution methodology ensures that contributions to the universal service support mechanisms continue to operate in a competitively neutral manner. The shortened interval between accrual of revenues and assessment of contributions will allow the revised methodology to reflect more accurately trends in telecommunications conditions, such as new carriers entering the interexchange market, or declining revenue bases for carriers that are losing market share. We conclude that the shortened interval will constitute a significant enhancement to the current methodology. Because it is similar to the existing contribution methodology, however, the methodology that we adopt herein will also be relatively easy to administer and implement. Similarly, we conclude that USAC will be able to continue to monitor carrier submissions to ensure that such submissions are accurate and timely without substantial changes in its auditing authority or the adoption of additional enforcement rules.

9. We decline to adopt at this time the proposal to base contributions on current revenues as set forth in the *Contribution Further Notice*. Under this proposal, the contribution factor is set using prior-year revenues, but carriers contribute based on application of this contribution factor to their current revenues. This proposal would increase reporting burdens on carriers by requiring carriers to file revenue information 13 times per year within very short timeframes. We agree with the majority of commenters that this proposal would be unduly burdensome on carriers, particularly smaller carriers. We also have concerns that the adoption of this proposal might affect the sufficiency of the universal service fund and require the collection of a reserve fund to protect against a fund shortfall.

10. We also decline to adopt the alternative contribution methodologies suggested by some commenters in this proceeding, such as having carriers base contributions on projected revenues, or permitting carriers to have the option of using more than one contribution methodology. We reject these proposals

because we conclude that the costs they impose would outweigh any potential benefits. We have concerns that these proposals would create incentives for carriers to under-report revenues or otherwise encourage carrier gaming of the contribution system. We also conclude that some of these proposals would unduly increase the costs of administering the universal service mechanisms. Accordingly, we decline to adopt these proposals at this time. Moreover, we do not preclude the possibility of adopting at some later date a surcharge methodology to recover contributions to the universal service mechanisms. Such a methodology may satisfy the goals of section 254(d) to be specific, predictable, and sufficient, while protecting consumers from excessive or confusing universal service charges on their telephone bills. We do not, however, have an adequate record at this time to adopt such a proposal. Therefore, we intend to seek further comment on this issue in the very near future.

B. Transition to the Revised Contribution Methodology

11. We direct USAC to begin implementation of the revised contribution methodology effective for the second quarter of 2001 (*i.e.*, April through June of 2001). To ensure a smooth transition for second quarter 2001, during the month of April 2001, certain aspects of the existing contribution methodology will remain unchanged. As currently required under the existing methodology, on April 2, 2001, carriers will file the Form 499-A, reporting revenues billed from January through December 2000. Also as required under the existing methodology, carriers' April 2001 contributions will be calculated based on their reported revenues from January through June 2000 (*i.e.*, revenues reported on the 2000 Form 499-S).

12. Beginning in May 2001, for the entire second quarter 2001, USAC shall calculate carriers' contributions based on revenues that approximate the revenues earned in fourth quarter 2000. Specifically, we direct USAC to derive the fourth quarter 2000 revenue by subtracting the revenues reported by carriers in the Form 499-S (January through June 2000) from the revenues reported in the April 2001 Form 499-A (January through December 2000). USAC must then divide this revenue amount by two, to approximate carrier revenues for the fourth quarter of 2000. We direct USAC to include this revenue information in its quarterly filing due on May 2, 2001. Based on this fourth quarter 2000 revenue information, the

Commission will determine whether to modify the contribution factor accordingly.

13. We direct USAC to calculate carriers' contributions for the second quarter 2001 using the fourth quarter 2000 revenue information, as discussed. For each carrier, USAC shall compare this amount with the amount the carrier would have paid under the existing methodology. USAC shall then make appropriate adjustments to individual carriers' bills in May and June 2001 to: (1) Reflect the revised contribution amounts for second quarter, and (2) true-up any amounts that a carrier may have over- or underpaid in the April 2001 bill. For example, if during the second quarter of 2001 Carrier A would have paid \$12,000 using the existing methodology, but would only have paid \$9,000 using the revised methodology, Carrier A would be billed for the second quarter of 2001 in the following manner. For April, Carrier A would pay \$4,000 (i.e., one-third of \$12,000). For May and June, however, Carrier A would pay \$2,500 each month. Under the revised methodology, Carrier A owes \$3,000 per month. But because Carrier A overpaid \$1,000 in April, this amount shall be refunded in equal amounts to Carrier A during May and June (in the form of \$500 credit each month).

14. After this initial transition period, the contribution methodology will operate as follows. Carriers will file Form 499-Q on May 11, 2001, reporting revenue data from the first quarter of 2001. On June 1, 2001, USAC shall file revenue data from the first quarter 2001. Using this revenue data and the projected program demand data supplied by USAC in its quarterly filing in May, the Commission will calculate a new contribution factor for the third quarter of 2001. Carriers will be billed in accordance with the new contribution factor for the third quarter. Thereafter, carriers will file Form 499-Q, reporting their revenues for the prior quarter, by the beginning of the second month in each quarter (i.e., February 1, May 1, August 1, and November 1). Carriers will continue to receive annual true-ups when they file their Forms 499-A in April of each year. USAC will file projected program demand data at least 60 days prior to the start of a quarter and total contribution base revenue data at least 30 days prior to the start of a quarter. The Commission delegates authority under § 54.711(c) to the Common Carrier Bureau to take whatever additional steps are necessary to implement the contribution methodology adopted herein.

15. In addition, the Commission directs USAC and the other fund

administrators to devise an appropriate cost allocation plan for the additional costs for collecting, validating, and distributing the contributor data provided in the Form 499-Q.

III. Procedural Matters

A. Final Regulatory Flexibility Analysis

16. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Contribution Further Notice*. The Commission sought written public comment on the proposals in the *Contribution Further Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for and Objectives of This Report and Order and the Rules Adopted Herein

17. The Commission issues this Report and Order (Order) as a part of its implementation of the Act's mandate that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service." In light of significant recent developments in the interstate telecommunications marketplace, such as the entry of Regional Bell Operating Companies (RBOCs) into the interexchange services market under section 271, the Commission sought comment on whether the existing contribution methodology provides or will provide a competitive disadvantage to certain carriers in the marketplace. This Order modifies the existing assessment methodology to determine carriers' contributions to the federal universal service support mechanisms. Currently, contributions to the federal universal service mechanisms are based on carriers' interstate and international end-user telecommunications revenues from the prior year. In this Order, we shorten the interval between accrual of revenues and assessment based on those revenues by six months. In so doing, we ensure that assessment of contributions to the federal universal service support mechanisms remains competitively neutral, and that the mechanisms continue to meet the statutory requirement of section 254(d) to be specific, predictable, and sufficient.

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

18. We received no comments directly in response to the IRFA in this proceeding. Some comments generally addressed the potential administrative burdens of the various proposals set forth in the *Contribution Further Notice* to modify the universal service contribution methodology. These commenters express concern that the administrative costs associated with increasing the number of revenue filings may outweigh the benefits associated with reducing the contribution interval between the accrual of revenues by carriers and the assessment of contributions to the universal service support mechanisms.

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

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

telecommunications services. We further describe and estimate the number of small business concerns that may be affected by the modifications to the universal service contribution methodology adopted in this Order.

20. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

21. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report. According to data in the most recent report, there are 4,144 interstate carriers. These carriers include, *inter alia*, incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

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

23. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different

categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

24. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

25. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), payphone providers or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone

(wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, there are 1,395 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers and 541 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,395 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers that may be affected by the decisions and rules adopted in this Order.

26. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Telecommunications Industry Revenue* data, 808 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 808 small cellular service carriers that may be affected by the decisions and rules adopted in this Order.

27. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase

I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. If this general ratio continues in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

28. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, 62 FR 16004 (April 3, 1997), we adopted criteria for defining small and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Two auctions of Phase II licenses have been conducted. In the first auction, nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: One of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

29. *Private and Common Carrier Paging.* In the *Paging Third Report and Order*, we adopted criteria for defining

small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. The SBA has approved these definitions. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses.

According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or "other mobile" services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by the decisions and rules adopted in this Order. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

30. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No

small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

31. *Narrowband PCS.* To date, two auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of \$40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order*, 65 FR 35875 (June 6, 2000). A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$15 million. These definitions have been approved by the SBA. In the future, the Commission will auction 459 licenses to serve MTAs and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined

under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

32. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

33. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

34. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined "small business" for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of \$15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the \$15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000.

Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the \$15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

35. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

36. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMR's, 38 are small or very small entities.

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

37. In this Order, we adopt modifications to the federal universal service contribution methodology that will require carriers to report their interstate end-user telecommunications revenues on a quarterly basis. In addition, carriers will continue to file annually FCC Form 499-A reporting total interstate end-user telecommunications revenues from the prior calendar year, as they are currently required to do. Carriers will, however, no longer be required to file FCC Form 499-S. In order to comply with the quarterly filing requirements, it may be necessary for some carriers to adopt additional or accelerated recordkeeping procedures to report their quarterly revenues in a timely and accurate manner.

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

38. The Commission has considered a number of proposals, both in the *Contribution Further Notice*, and in response to commenter suggestions for revising the existing universal service contribution methodology. In an effort to minimize the economic impact on all carriers, particularly small carriers, that are required to contribute to the

universal service mechanisms, the Commission has taken into consideration the benefits of reducing the contribution interval against any corresponding increase in administrative burdens on carriers. For example, we rejected an alternative proposal that would have increased the number of filings that carriers are required to file annually to as many as 13 per year. We have concluded that the administrative cost of compliance on carriers, particularly smaller carriers, would outweigh the corresponding benefit of reducing the contribution interval under this proposal. We have also taken into consideration alternative proposals that would not have increased the existing reporting requirements. As discussed, these alternative proposals were rejected because they failed to significantly reduce the contribution interval or impose significant alterations to the existing contribution methodology that would create substantial uncertainty in ensuring the continued predictability and sufficiency of the universal service fund. Although the revised contribution methodology adopted herein will increase carrier filings from two to five filings per year, the Commission has taken into consideration the corresponding benefit of substantially reducing the contribution interval. As discussed, we believe that carriers will benefit from a specific, predictable, and sufficient contribution methodology that ensures that all carriers, including small carriers, continue to be assessed contributions in a competitively neutral manner.

6. Report to Congress

39. The Commission will send a copy of this Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

B. Effective Date of Final Rules

40. Pursuant to 5 U.S.C. 553(d), the rule changes adopted herein shall take effect April 23, 2001.

IV. Ordering Clauses

41. Pursuant to the authority contained in sections 4(i), 4(j), 254, and 303(r) of the Communications Act of 1934, this Report and Order is adopted.

42. Part 54 of the Commission's rules, is amended as set forth, effective April 23, 2001.

43. The Commission's Consumer Information Bureau, Reference Information Center shall send a copy of this Report and Order to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

Subpart H—Administration

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214 and 254 unless otherwise noted.

2. In § 54.709, amend paragraph (a)(3) by revising the fourth sentence to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) * * *

(3) * * * Based on data submitted to the Administrator on the Telecommunications Reporting Worksheets, the Administrator must submit the total contribution base to the Common Carrier Bureau at least thirty (30) days before the start of each quarter.

* * *

* * * * *

3. In § 54.711, amended paragraph (a) by revising the second sentence to read as follows:

§ 54.711 Contributor reporting requirements.

(a) * * * The Telecommunications Reporting Worksheet sets forth information that the contributor must submit to the Administrator on a quarterly and annual basis. * * *

* * * * *

[FR Doc. 01-7231 Filed 3-22-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94-129; FCC 00-255 and FCC 01-67]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations that were published in the **Federal Register** on March 1, 2001, (66 FR 12877). The regulations were adopted to implement the slamming provisions of the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

DATES: This document contains information collection requirements that have not yet been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of this section.

FOR FURTHER INFORMATION CONTACT: Dana Walton-Bradford, Attorney, Accounting Policy Division, Common Carrier Bureau (202) 418-7400.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission (Commission) published a summary of the Commission's Third Report and Order and Second Order on Reconsideration (*Third Report and Order*) in CC Docket No. 94-129, which was released on August 15, 2000. This summary also contained amendments and modifications to the *Third Report and Order* that were adopted in an Order released on February 22, 2001. As published, the final regulations contain errors that need to be corrected.

In the final rule, FR Doc. 01-4794, published on March 1, 2001, (66 FR 12877), make the following corrections:

§ 64.1130 [Corrected]

1. On page 12893, in the first column, in amendatory instruction 3, line 3, correct "(e)(4)" to read "(e)(5)".

2. On the same page, in the second column, line 24, correct "(4)" to read "(5)".

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 01-6785 Filed 3-22-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328-1066-03; I.D. 111500CB]

RIN 0648-AN71

Fisheries of the Northeastern United States; Summer Flounder Fishery; 2001 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule, final specifications, and commercial quota adjustment.

SUMMARY: NMFS issues final specifications for the 2001 summer flounder fishery and makes preliminary adjustments to the 2001 commercial quotas for this fishery. The intent of this action is to comply with implementing regulations for the Fishery Management Plan for the Summer Flounder Fishery (FMP), which requires NMFS to publish measures for the upcoming fishing year that will prevent overfishing of this fishery.

DATES: The 2001 final specifications are effective March 20, 2001, through December 31, 2001.

ADDRESSES: Send comments on any ambiguity or unnecessary complexity arising from the language used in this final rule to Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298.

Copies of supporting documents used by the Summer Flounder Monitoring Committee, the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA) contained within the RIR, and the Environmental Assessment (EA) are available from the Northeast Regional Office at the same address. The EA/RIR/FRFA is also accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nr.htm>.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, (978)281-9279, fax (978)281-9135, e-mail rick.a.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: