

- (3) The transfer of new after-market parts;
- (4) The subsequent transfer of a motor vehicle, the transferor of which has received, within the previous 180 days, a verification in accordance with 49 U.S.C. 33110 from an insurance carrier selling comprehensive motor vehicle insurance that the vehicle has not been reported as stolen;
- (5) The subsequent transfer of a major part removed from a motor vehicle, the transferor of which has received, within the previous 180 days, a verification in accordance with 49 U.S.C. 33110 from an insurance carrier selling comprehensive motor vehicle insurance that the vehicle has not been stolen; or,
- (6) The subsequent transfer of a motor vehicle or major part, the transferor of which has received a certificate pursuant to § 89.9 stating that the system participant has not been able to establish whether that vehicle or major part has been stolen.

(b) System participants may sell or transfer a motor vehicle or major part in those instances in which the motor vehicle or major parts are damaged to such an extent that the VIN markings are inaccessible. VIN markings are "inaccessible" if the system participant has conducted a thorough examination of the salvage or junk motor vehicle and covered major parts and has not been able to locate the VIN markings. In this instance, the seller or transferee of the motor vehicle or major part must report the inaccessibility to the System and provide, in lieu of the authorization, a System-generated certificate to the purchaser or transferee that the inspection could not be completed.

§ 89.11 Contracting out the inspection process.

System participants will be allowed to contract out the inspection process, but any system participant that contracts out inspections must still be identified to the purchaser or transferee by the contracted entity. If a system participant contracts out the inspection tasks, then the contracted entity must perform verifications for the motor vehicle and all covered major parts as would be required of the contracting system participant. In addition, any regulatory obligations imposed on the system participant by this part extend to the contracted entity, including those under § 89.7, and their adherence thereto by the contracted entity becomes the responsibility of the system participant.

§ 89.12 Notification of law enforcement.

(a) The System will provide automatic notification on stolen vehicle and major part theft confirmations to:

- (1) A law enforcement agency having investigative jurisdiction over the locality in which the inquiring system participant is located; and
- (2) The law enforcement agency originally reporting the vehicle or major part theft.

(b) If the system participant receives a theft notification message from the NSPMVIS, the transaction involving that motor vehicle or major part must be terminated, unless the system participant is an insurance carrier that has recovered the vehicle and has proper legal title to the vehicle.

(c) Additional notifications may be needed, as provided in the Privacy Act systems notice for the National Crime Information Center.

§ 89.13 Limited immunity.

Any person performing any activity under this part in good faith and with the reasonable belief that such activity was in accordance with this part shall be immune from any civil action respecting such activity that is seeking money damages or equitable relief in any court of the United States or a State.

Dated: April 3, 2002.

John Ashcroft,
Attorney General.

[FR Doc. 02-8522 Filed 4-8-02; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 61, and 69

[CC Docket No. 96-128; FCC 02-39]

Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (Commission) seeks comment in the Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 rulemaking docket to explore whether the current regulatory regime applicable to the provision of inmate calling services is responsive to the needs of correctional facilities, inmate calling service (ICS) providers, and inmates, and if not, whether and how the

Commission might address those unmet needs.

DATES: Comments are due on or before May 24, 2002, and reply comments are due on or before June 24, 2002.

ADDRESSES: Federal Communications Commission, William F. Caton, Office of the Secretary, 445-12th Street SW, TW-A325, Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for information on additional instructions for filing paper copies.

FOR FURTHER INFORMATION CONTACT: Joi Roberson Nolen, Wireline Competition Bureau, 202-418-1537.

SUPPLEMENTARY INFORMATION: The Commission released the Order on Reconsideration in CC Docket No. 96-128. See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order on Reconsideration, 11 FCC Rcd 21233 (1996), 61 FR 65341 (Dec. 12, 1996) (Order on Reconsideration) *aff'd in part and remanded in part*, Illinois Pub. Tel. Ass'n v. FCC, 117 F.3d 555 (D.C. Cir. 1997), cert. denied sub nom., Virginia State Corp. Comm'n v. FCC, 523 U.S. 1046 (1998). Subsequently, the Commission issued this Notice of Proposed Rulemaking (NPRM) to seek comment on issues related to the provision of inmate payphone service. Section 276 of the Communications Act directs the Commission to "establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone. See 47 U.S.C. 276(b)(1)(A). The statute specifically includes the provision of inmate telephone service in correctional institutions within the definition of payphone service. See 47 U.S.C. 276(d). The Commission seeks comment generally on costs associated with the provision of inmate calling service (ICS). Specifically, the Commission seeks comment on the commissions demanded by correctional institutions, whether and how any states have addressed the relationship between these commissions and inmate calling rates, and on any factors unique to the provision of inmate calling services that affect the profitability of ICS operations. The Commission seeks cost and revenue data related to local collect calls made from confinement facilities, separate from data related to other services offered by payphone providers. The Commission seeks comment from states on the use of rate ceilings. The Commission seeks comment on alternatives to collect calling in the

inmate environment that might result in lower rates for inmate calls while continuing to satisfy security concerns. The Commission seeks comment on inmate calling service practices that may serve legitimate security needs but have the unintended, and perhaps unnecessary, effect of increasing the costs incurred by inmates and their families. Finally, the Commission seeks comment on any additional ways to reduce costs for inmate service providers (and, consequently, the costs of inmate calling).

A. Regulatory Flexibility Analysis and Paperwork Reduction Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

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

In this proceeding, the Commission seeks comment on the appropriate regulatory environment for Inmate Calling Service (ICS) providers. In choosing the appropriate regulatory environment we ask interested parties to address how the Commission can best achieve the goals set forth by Congress in section 276 of the Act.

2. Legal Basis

The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 4, 10, 201–202, 214, 276, 303, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 160, 201–204, 214, 276, 303, and 403, section 706 of the Telecommunications Act of 1996, and sections 1.1, 1.48, 1.411, 1.412, 1.415, 1.419, and 1.1200–1.1216, of the Commission's rules, 47 CFR 1.1, 1.48, 1.411, 1.412, 1.415, 1.419, and 1.1200–1.1216.

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

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will 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 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 Small Business Administration (SBA). We have included small incumbent LECs in this present RFA analysis. As noted above, a “small business” under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.” The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not “national” in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

4. Local Exchange Carriers

Neither the Commission nor the SBA has developed a definition specifically for small local exchange carriers. The closest applicable definitions for this type of carrier under SBA rules is for wired telecommunications carriers. The most reliable source of information regarding the number of LECs nationwide 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 1,335 incumbent LECs. We estimate that 1,037 of those carriers are small, pursuant to the SBA's size standard.

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

Any proposal we may adopt pursuant to this NPRM may decrease existing reporting, recordkeeping or other compliance requirements. As noted above, carriers are currently subject to a broad range of regulatory requirements that are generally intended to protect consumers from unjust and unreasonable rates, terms, and conditions and unreasonable discrimination in the provision of communications services. The Commission's dominant carrier regulation includes rate regulation and

tariff filing requirements, and also requires supporting information, which in some cases includes detailed cost data, to be filed by dominant carriers with their tariff filings. Incumbent LECs are subject to rate level regulation in the provision of their interstate access services. The BOCs and GTE are subject to mandatory price cap regulation, and several other incumbent LECs have entered price caps on an elective basis, while smaller incumbent LECs are regulated under rate-of-return regulation. In addition, in markets where carriers may have the incentive and ability to leverage control over bottleneck facilities to disadvantage competitors in related markets, the Commission has developed various safeguards to neutralize that ability.

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

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 or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

7. Overall Objective

The overall objective of this proceeding is to establish an appropriate regulatory framework for ICS providers pursuant to section 276 of the Act. The NPRM seeks comment on specific issues related to the provision of inmate payphone services, in particular, the costs associated with providing inmate calling services. The Commission intends through this NPRM and subsequent action, to reduce costs if possible.

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

None.

B. Filing Comments

Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments within 45 days after publication of this NPRM in the **Federal Register** and may file reply comments within 75 days after

publication of this NPRM in the **Federal Register**. All filings should refer to CC Docket No. 96–128. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>.

Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, postal service mailing address, and the applicable docket number, which in this instance is CC Docket No. 96–128. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message: "get form<your e-mail address>." A sample form and directions will be sent in reply.

1. Parties that choose to file comments or reply comments by paper must file an original and four copies of each, and are hereby notified that effective December 18, 2001, the Commission's contractor, Vistrionix, Inc., receives hand-delivered or messenger-delivered paper filings for the Commission's Secretary at a new location in downtown Washington, DC. The address is 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. This facility is the only location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. Accordingly, the Commission will no longer accept these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743. In addition, this is a reminder that, effective October 18, 2001, the Commission discontinued receiving hand-delivered or messenger-delivered filings for the Secretary at its headquarters location at 445 12th Street, SW, Washington, DC 20554.

2. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service (USPS) Express Mail and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location will be open 8:00 a.m. to 5:30 p.m. The USPS first-class mail, Express Mail, and Priority Mail should continue to be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC 20554. The USPS mail addressed to the Commission's

headquarters is delivered to our Capitol Heights facility for screening prior to delivery at the Commission.

3. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to the Chief, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, at the filing window at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case, CC Docket No. 96–128), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: "Disk Copy—Not an Original." Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW, CY–B402, Washington, DC 20554.

4. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW, CY–B402, Washington, DC 20554 (telephone 202–863–2893; facsimile 202–863–2898) or via e-mail at qualexint@aol.com.

5. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.48 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

C. Ex Parte Presentations

This matter shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 CFR 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries

of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b). Alternate formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 voice, (202) 418–7365 TTY, or bmillin@fcc.gov. This NPRM can also be downloaded in Microsoft Word and ASCII formats at <http://www.fcc.gov/ccb/cpd>.

D. Ordering Clause

It is ordered that, pursuant to the authority contained in sections 1, 4(i)–4(j), 201, 226 and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 201, 226, 276, this Notice of Proposed Rulemaking is *Adopted*.

List of Subjects

47 CFR Part 61

Access Charges, Communications common carriers, Telephone.

47 CFR Part 69

Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–8344 Filed 4–8–02; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[WT Docket No. 00–32; FCC 02–47]

The 4.9 GHz Band Transferred from Federal Government Use

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on the establishment of licensing and service rules for the 4.9 GHz band. The comments will aid the Commission in defining eligibility to use the band and devising innovative licensing approaches to serve public safety. Furthermore, the Commission seeks comments that will help it to devise