Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Reporting Requirements for U.S. Providers of International Telecommunications Services	)	IB Docket No. 04-112
	)	
	)	
Amendment of Part 43 of the Commission's Rules	)	

SECOND REPORT AND ORDER

Adopted: January 9, 2013 **Released: January 15, 2013**

By the Commission: Commissioner Clyburn issuing a statement.

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I. INTRODUCTION

1. In this *Second Report and Order*, we further revise the requirements for providers of international telecommunications to report annual traffic and revenue and circuit information. This data provides information needed to effectively monitor and facilitate competition in international markets for the benefit of U.S. consumers and U.S. international service providers. We use the data obtained through the international reporting requirements to monitor the continuing transition of international routes to competition, to monitor compliance with Commission rules and policies, to analyze merger applications, to gauge the effect of Commission decisions on competition in the international market and to develop policy positions for bilateral and multilateral negotiations and for Commission participation in international organizations. This information on international calling and capacity is also used by other government agencies, such as the Department of Justice and the United States Trade Representative, as well as others including international organizations, researchers, and interested members of the public.

2. This proceeding is part of our Data Innovation Initiative, which focuses on ensuring that the Commission's data collections match our data needs, but avoid unnecessary or excessive burdens on telecommunications providers.[1] We now streamline and modernize the reporting requirements to obtain information that is more relevant to the current state of the international telecommunications markets. We are removing reporting requirements from over a thousand small carriers and greatly simplifying the reporting requirements for larger carriers. Through this proceeding we have reduced the level of detail required for reporting route-specific data on international phone calls and private lines by over three fourths. To ensure that our reports remain accurate and useful, we extend these more narrowly tailored filing requirements to entities providing international calling service via Voice over Internet Protocol (VoIP) connected to the public switched telephone network (PSTN). Taken together, we estimate that

[1] In June 2010, we started our Data Innovation Initiative to modernize and streamline how we collect, use, and disseminate data. As part of the Data Innovation Initiative, we determine what current data collections should be eliminated, what new ones should be added, and how existing collections can be improved. *See Data Innovation Initiative* at http://beta.fcc.gov/data/data-innovation-initiative.

these changes will reduce the overall burdens placed on international service providers by nearly 30 percent.

II. BACKGROUND

3. This proceeding is the first comprehensive review of our international traffic and revenue and circuit status reporting requirements since the 1990s.[2] In 2011, we released a *First Report and Order and Further Notice of Proposed Rulemaking*.[3] As we describe below, in the *First Report and Order* we eliminated a number of reporting requirements, and in the *Further Notice* we sought comment on a number of proposals to streamline and modernize the remaining requirements, which we act on in this *Second Report and Order*.

A. First Report and Order

4. In the *First Report and Order* in this proceeding, we eliminated a number of reporting requirements for international telecommunications service that we determined are no longer necessary: (1) the quarterly Traffic and Revenue Reports for large carriers;[4] (2) the quarterly Traffic and Revenue Reports for foreign-affiliated switched resale carriers;[5] (3) the circuit-addition report;[6] (4) the telegraph toll division report;[7] and (5) the requirement to file traffic and revenue reports or circuit-status reports for traffic between the continental United States and off-shore U.S. points (*e.g.*, Guam or the U.S. Virgin Islands) or between off-shore U.S. points, or to file separate reports for off-shore U.S. points.[8] We determined, however, that we should continue to require annual international traffic and revenue data and international circuit data in order to protect the interests of U.S. consumers and U.S. international service providers, and to facilitate the transition to competition in international markets.[9] In light of the importance of the information in this report to the performance of our statutory responsibilities, including transaction review, protection of U.S. consumers against anti-competitive conduct, and promotion of competition on U.S. international routes, we concluded that the benefits of retaining the reports outweigh the burdens.[10]

5. As a result of these actions, the international reporting requirements are now comprised of only two reports: the annual Traffic and Revenue Report and the annual Circuit Status Report. Section 43.61 of our rules requires carriers to report their international telecommunications traffic and revenues

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[2] *See Rules for the Filing of International Circuit Status Reports,* CC Docket No. 93-157, Report and Order, 10 FCC Rcd 8605 (1995) (*1995 Circuit Status Report Order*); *Amendment of Section 43.61,* CC Docket No. 91-22, Report and Order, 7 FCC Rcd 1379 (1992) (*1992 Section 43.61 Amendment Order*). In that Order, we eliminated unnecessary requirements, restructured the rule to require reporting on all services, as opposed to specifically named services, and directed the Chief of the Common Carrier (now Wireline Competition) Bureau to issue a Filing Manual. *Id.* at 1380, ¶ 9.

[3] *Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission's Rules* IB Docket No. 04-112, First Report and Order and Further Notice of Proposed Rulemaking, FCC 11-76, 26 FCC Rcd 7274 (2011) *(Part 43 First Report and Order and Further Notice).*

[4] *Id.* at 7282-83, ¶¶ 18-21.

[5] *Id.* at 7283-84, ¶¶ 22-23.

[6] *Id.* at 7284, ¶¶ 24-25.

[7] *Id.* at 7285, ¶¶ 26-27.

[8] *Id.* at 7294-95, ¶¶ 51-55.

[9] *Id.* at 7285-93, ¶¶ 17, 28-50.

[10] *Id.* at 7286, ¶ 29.

(Traffic and Revenue Reports).[11] Section 43.82 requires U.S. carriers to report annually the number of circuits they own or lease and the services for which those circuits are used (Circuit Status Reports).[12] We annually issue two separate public reports based upon the information received.

6. *Traffic and Revenue Reports.* Section 43.61 requires all common carriers providing telecommunications services between the United States[13] and foreign points to file annual Traffic and Revenue Reports for their international services by July 31 (annual Traffic and Revenue Reports).[14] Carriers must correct any inaccuracies in their reports that exceed five percent of their total reported traffic and revenues by October 31.[15] The reports must be submitted to the Commission in conformance with the Filing Manual prepared at the direction of the Chief of the Wireline Competition Bureau in consultation with the Chief of the International Bureau.[16] The Commission staff reviews the reports and, based on those submissions, prepares and releases to the public a consolidated report: International Telecommunications Data.[17]

7. *Circuit Status Reports.* Section 43.82 requires all U.S. facilities-based international common carriers to file annually, by March 31, information concerning their leased or owned circuits as of December 31 of the previous calendar year (annual Circuit Status Report).[18] The carriers must identify, for each foreign point they serve, the satellite, submarine cable, and terrestrial circuits they own or lease, the type of services they provide (international message telephone service (IMTS),[19] international private line service,[20] and miscellaneous or other international services[21]), and indicate

[11] 47 C.F.R. § 43.61.

[12] 47 C.F.R. § 43.82.

[13] "United States" is defined as the "several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone." 47 U.S.C. § 153 (58).

[14] 47 C.F.R. § 43.61(a). Carriers must provide data that covers the preceding calendar year.

[15] 47 C.F.R. § 43.61(a)(2).

[16] 47 C.F.R. § 43.61(a)(3).

[17] The report includes carrier-specific information as well as industry totals. The reports are available at http://www.fcc.gov/ib/sand/mniab/traffic/.

[18] 47 C.F.R. § 43.82.

[19] International Message Telephone Service (IMTS) is defined as the provision of message telephone service (MTS) between the United States and a foreign point. The term "message telephone service" refers to the transmission and reception of speech and low-speed dial-up data over the PSTN. *See International Settlements Policy Reform*, IB Docket No. 11-80, Notice of Proposed Rulemaking, FCC 11-75, 26 FCC Rcd 7233, 7254, n.130 (2011).

[20] Private line services include the provision of dedicated circuits between two points. *Reporting Requirements for U.S. Providers of International Telecommunications Services*, IB Docket No. 04-112, Notice of Proposed Rulemaking, FCC 04-70, 26 FCC Rcd 6460, 6527, Schedule 6 (2004).

[21] These include data services other than private line services.

which circuits are active and which are idle.[22] The Commission staff reviews the submissions and prepares and releases to the public a consolidated Section 43.82 Circuit Status Report.[23]

B. Further Notice

8. In the *Further Notice of Proposed Rulemaking (Further Notice)*, the Commission proposed several additional changes to the remaining reporting requirements to modernize and streamline the annual reports. The Commission sought comment on several issues regarding the timing, scope, and content of the reports. In addition, the International Bureau released a *Public Notice* seeking comment on a draft Filing Manual, setting forth proposed instructions on how to file annual reports if the Commission adopted the changes proposed in the *Further Notice*.[24] Interested parties were asked to include any comments on the draft Filing Manual in their comments on the proposals set forth in the *Further Notice*.

9. Two parties filed comments: AT&T Corp. (AT&T) and Sprint Corporation (Sprint). Three parties filed reply comments: Google, Inc. (Google), the Verizon Section 214 Licensees (Verizon), and a group consisting of Intelsat Global S.A., New Skies Satellites B.V., and SES Americom, Inc. (Satellite Operators). In addition, AT&T, Sprint, and Verizon filed several *ex parte* comments.

III. DISCUSSION

10. In this *Second Report and Order* we adopt changes to the Traffic and Revenue Report and the Circuit Status Report based on the proposals outlined in the *Further Notice* and the comments we received. Appendix A lists the changes we discuss below.

11. We consolidate the international reporting requirements into one rule – the new section 43.62 – and instruct the International Bureau to issue, maintain, and update a consolidated Filing Manual with instructions on filing the Traffic and Revenue and Circuit Status Reports. We decline, however, to change the filing dates from March 31 for the Circuit Status Report and July 31 for the Traffic and Revenue Report to a consolidated filing date of May 1, and will retain our requirement that revisions to the Traffic and Revenue Report are due no later than October 31. We also streamline the process for requesting confidential treatment of the data filed by allowing filers to check a box to request confidential treatment under section 0.459 of the rules.[25]

12. Regarding the Traffic and Revenue Reports, as discussed in detail below, we adopt a number of changes that greatly reduce the burden on smaller carriers and the complexity and detail of the information required from the largest carriers. We adopt a set of standard schedules for filing traffic and revenue data and eliminate the use of billing codes and the reporting of the number of messages. We establish a $5 million revenue threshold below which a filing entity need not file annual traffic and revenue data for international resale services, which will allow over one thousand small resale carriers to make a simple filing that they provided service during the reporting period without the need to report

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[22] Pursuant to section 43.82, the Chief of the International Bureau has issued a manual instructing the filing entities how to file their data, listing the U.S. points for which they must file data, and detailing the information to be provided. 47 C.F.R. § 43.82. *See Manual for Filing Section 43.82 Circuit Status Data in accordance with the FCC's Rules and Regulations (Section 43.82 Filing Manual).* The *Section 43.82 Filing Manual* is available at http://www.fcc.gov/ib/pd/pf/csmanual.html. For active circuits, carriers must identify the services for which they used each circuit.

[23] The reports are available at http://www.fcc.gov/ib/pd/pf/csmanual.html.

[24] *See International Bureau Seeks Comment on Draft Filing Manual for Proposed Section 43.62 Reports (Draft Filing Manual Public Notice)*, IB Docket No. 04-112, Public Notice, DA 11-1182, 26 FCC 9540 (2011).

[25] 47 C.F.R. § 0.459.

their specific traffic and revenue data. Similarly, we establish a $5 million annual revenue threshold below which a carrier need not report miscellaneous services. We will require certain VoIP providers to report their international calling services. As we discuss below, because we are requiring providers of VoIP services connected to the PSTN to report traffic and revenue data that does not fit within the traditional definition of IMTS, we will use the term "international calling services" (ICS) to mean both VoIP services connected to the PSTN and IMTS.

13. As for the annual Circuit Status Reports, we adopt an approach to the collection of information on international circuits which is more closely tailored to the way that we use circuit data and reduces the burdens placed on the filing entities. For terrestrial and satellite circuits we will require only the filing of the data necessary for our collection of annual regulatory fees. For submarine cables, which provide the vast majority of international transport facilities, we will require cable landing licensees to provide data on the capacity of the international submarine cables that serve the United States. We will also require common carriers and cable landing licensees to provide certain data on their capacity on international submarine cables.

A. Changes Applicable to Both Traffic and Revenue Reports and Circuit Status Reports

1. Single Rule: New Section 43.62

14. In the *Further Notice*, the Commission proposed to consolidate the annual traffic and revenue reporting requirements currently in section 43.61 and the circuit status reporting requirements currently in section 43.82 into one rule – section 43.62.[26] All commenters who addressed the issue approved of our proposal to simplify reporting requirements by adopting a single rule governing the reports.[27] We therefore adopt our proposal to consolidate the reporting requirements into a single section of our rules because it will make the reporting requirements more uniform and facilitate compliance with them.[28]

2. Filing Dates

15. In the *Further Notice*, the Commission proposed a single filing date for the annual Traffic and Revenue Report and the Circuit Status Report: May 1.[29] The Commission also proposed to eliminate a specific date by which to file revisions to the annual traffic and revenue data, and instead require filers to file revisions as they became aware of the need for revisions.[30] The commenters requested that we not adopt those proposals. We are persuaded by the commenters' arguments discussed below and will continue to require the Circuit Status Report to be filed by March 31 each year and the Traffic and Revenue Report to be filed by July 31 each year, with any revisions to the Traffic and Revenue Report to be filed no later than October 31.[31]

16. Some commenters stated that issues of timing make it infeasible to consolidate the filing dates for the Traffic and Revenue and Circuit Status Reports. AT&T points out that the May 1 date is too

[26] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7296, ¶ 57.

[27] AT&T Comments at 3; Sprint Comments at 2; Satellite Operators Reply at 1; Verizon Reply at 1.

[28] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7295-96, ¶ 56.

[29] *Id.* at 7296, ¶ 58.

[30] *Id.* at 7297, ¶ 60.

[31] Failure to file the required data on time is a violation of Commission rules and could result in fines and forfeitures. *See* 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

early for facilities-based providers to file the Traffic and Revenue Report because their ability to complete the report depends upon receipt of settlement information from foreign correspondents, which often is not available until after May 1. Once the filing entity gets the information from the foreign correspondent it needs to verify and process that data. AT&T thus states that in order to allow the use of final traffic settlement data in the Traffic and Revenue Report, the filing date should be no earlier than July 1.[32] Verizon agrees for the same reasons.[33] We appreciate the problem raised by AT&T and Verizon, and accordingly, we will retain our current filing deadlines, rather than adopting our proposal for a single filing deadline. We will keep the current filing date for the traffic and revenue reports – July 31 – since the carriers should have the information they need from their foreign correspondent companies by then.

17. Similarly we will maintain the current filing date for the Circuit Status Reports: March 31. The filing entities report their circuit information as of December 31 the previous year, and they should have that data available by then. Further, we use the Circuit Status Report, *inter alia*, to establish regulatory fees for international service providers. Because regulatory fees are contingent upon the requirements levied in Appropriations Acts,[34] they must be established by the end of each fiscal year on September 30. The process of establishing regulatory fees involves the calculation of fees, proposal of fees, and receipt of public comment on the fees. This is a lengthy process, yet necessary to ensure public participation in the establishment of regulatory fees. Maintaining the March 31 filing date for the Circuit Status Reports will assist the Commission in continuing to determine the regulatory fees in the international bearer circuit category in a timely manner.

18. We are also persuaded by AT&T and Verizon's argument that there should be a date certain for finality in reporting traffic and revenue data. We also agree with the commenters that our current date of October 31 should be sufficient to receive updates and resolve inconsistencies with the initial reports. For this reason, we will continue to require a single correction report for traffic and revenue data by October 31.

3. Consolidated Filing Manual

19. In the *Further Notice*, the Commission proposed to create a single Filing Manual with instructions for filing both the annual Traffic and Revenue Report and the Circuit Status Report.[35] The International Bureau *Public Notice* sought comment on a draft Filing Manual that set forth proposed instructions on how to file annual reports if we adopted all of the changes proposed in the *Further Notice*.[36] No commenter addressed this issue.

20. Although we adopt a bifurcated schedule for the Traffic and Revenue and Circuit Status Reports, we direct the International Bureau to issue a single, consolidated Filing Manual. We continue to believe that a consolidated Filing Manual will be more user-friendly than separate filing manuals, will provide consistent definitions, and will ensure that services are reported in a more uniform manner. Therefore, we adopt our proposal and direct the International Bureau to establish and maintain a consolidated Filing Manual. The Filing Manual shall reflect our decisions in this *Second Report and Order*. We delegate to the International Bureau the authority to revise and update the Filing Manual, consistent with the policies the Commission has adopted in this proceeding, as needed to keep the Filing

[32] AT&T Comments at 6.

[33] Verizon Reply at 8.

[34] 47 U.S.C. § 159(a)(2).

[35] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7297-98, ¶¶ 61-62.

[36] *Draft Filing Manual Public Notice*, 26 FCC Rcd 9540.

Manual current with changes in the international telecommunications market. The International Bureau shall provide notice and allow comment on any proposed substantive revisions or updates to the Filing Manual.

4. Registration Form

21. The Commission proposed to require all filing entities to file a Services Report consisting of (1) a Registration Form and (2) a Services Checklist, noting that if the Commission adopted a revenue threshold for reporting data for resale and miscellaneous services, there would be over a thousand carriers providing service that would no longer be filing traffic and revenue data.[37] The Registration Form would seek basic information about the filing and about the entity itself. The Commission stated that the filing of a Registration Form with information about the filing entity – such as address, phone number, email address, and the international Section 214 authorizations and cable landing licenses held by the filer – would assist it in keeping track of who is offering international service and how to contact them. The Services Checklist would contain a series of boxes that filing entities would check to provide some basic information about their operations, if any, during the previous year, and would direct the filing entity as to which, if any, of the schedules it needs to complete.

22. Because we have declined to consolidate the filing dates of the Traffic and Revenue Report and the Circuit Status Report,[38] we will not adopt the Services Report, but rather will require the Registration Form portion of the services report to be filed with both the Traffic and Revenue Report and the Circuit Status Report. Because the Services Checklist is relevant only to the Traffic and Revenue Report, we will require a Services Checklist be filed only with the Traffic and Revenue Report.

23. Sprint and Verizon object to our proposed requirement that filers list on the Registration Form the international Section 214 authorizations that they hold. Sprint states that, as a result of ownership structure issues in the 1990s and other factors, it holds dozens of international Section 214 authorizations, and that listing them annually would be burdensome. Because Sprint holds authority to provide global service, it believes that our information requirements would be satisfied by listing only such international Section 214 authorizations as are necessary to demonstrate that it is authorized to provide service on any route for which it is reporting.[39] Verizon agrees, and notes that reporting international Section 214 authorizations is unnecessary because the Commission, having granted the authorizations, already knows what international Section 214 authorizations are held by what entities.[40]

24. We are not persuaded by the arguments presented by Sprint and Verizon. We find it unlikely that telecommunications carriers lack records systems through which they can generate lists of international Section 214 authorizations and cable landing licenses that they hold. Even assuming that filers do not have consolidated lists of their international Section 214 authorizations and cable landing licenses, it should not be difficult, and is consistent with good regulatory practice, for international service providers to have up-to-date lists of their licenses and authorizations from the Commission and to update their lists as needed. We further find that the reporting of this data will serve as a valuable check on our own records, ensuring that the filers' records and our records agree. Finally, in response to Sprint's argument that many, and perhaps most, of its international Section 214 authorizations are unnecessary and duplicative of the authorizations it holds as global authorizations, we observe that it would be of benefit both to an international Section 214 authorization holder such as Sprint and to us for the authorization holder to simplify its recordkeeping by surrendering unnecessary and duplicative international Section

[37] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7298-99, ¶¶ 64-67.

[38] *See supra* Section III.B.2..

[39] Sprint Comments at 2-3.

[40] Verizon Comments at 6.

214 authorizations. For these reasons, we will require filing entities to list their international Section 214 authorizations and cable landing licenses in the Registration Form. A filing entity will be required to provide a complete list of its international Section 214 authorizations and cable landing licenses the first time it files pursuant to section 43.62 and thereafter will be required to include any changes on its Registration Form, i.e., a list of the international Section 214 authorizations and cable landing licenses that it has obtained or no longer holds since its last filing. For example, if a filing entity assigned an international section 214 authorization to another entity since its last filing it would list that authorization number on its Registration Form as a deletion to its authorizations and licenses.

5. Use of Statistical Methods for Reporting Data

25. The usefulness of the data collected depends critically on the provision of accurate information by filing entities. Filing entities should therefore, to the maximum extent possible, provide actual counts of minutes, circuits, revenues, payouts, etc. Where that is not possible, the Commission proposed to allow filing entities to use estimation procedures, such as statistical sampling, that are designed to produce a margin of error of no more than one percent with a confidence interval of 95 percent.[41] We also proposed allowing filing entities to use non-statistical estimation techniques that would in good faith be expected to produce accuracy comparable to that specified for statistical studies. Filing entities would be required to retain copies of any estimation studies on which they relied for three years and provide them to the Commission upon request.[42]

26. No commenter addressed this issue. We adopt our proposal to allow statistical sampling and other estimation procedures and techniques where actual counts of data are not possible, in order to provide the best data possible for our use in analysis of transactions and competition.

B. Changes Specific to Traffic and Revenue Reports

1. Services Checklist

27. As discussed above, in the *Further Notice* the Commission proposed to require filers to complete a Services Checklist.[43] The Services Checklist serves several purposes. First, it is where an international Section 214 authorization holder will indicate whether it provided any international telecommunications service the preceding calendar year. Second, since we today adopt a $5 million revenue threshold for filing resale traffic and revenue and miscellaneous services data, as we discuss below,[44] the Services Checklist is where filing entities will indicate whether they qualify for those reporting exemptions and thus do not need to file detailed Traffic and Revenue Reports. Finally, it provides information to the filer regarding which schedules it is required to complete. We received no comments on the use of a Services Checklist. Because we find the Services Checklist will provide important information to the Commission and the filer, we will establish a Services Checklist and require each entity filing a Traffic and Revenue Report to complete and submit it.

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[41] *See Universal Service Contribution Methodology*, WC Docket Nos. 06-122 and 04-36, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, and 98-170, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7536, n.115 (2006) *(2006 Universal Service Order)* (describing the statistical sampling that may be used for traffic studies used for determining the amount of interstate traffic for universal service contributions).

[42] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7310-11, ¶ 110.

[43] *Id.* at 7298, ¶ 64.

[44] *See infra* Sections III.B.13 and 16.

2. Use of Filing Schedules for Reporting Traffic and Revenue Data

28. The Commission proposed to require filing entities to file their annual Traffic and Revenue Reports using four schedules. Schedule 1 would be used for reporting U.S.-billed and foreign-billed facilities ICS traffic by foreign point. Schedule 2 would be used for reporting world-total data for U.S.-billed ICS and traditional transiting IMTS. Schedule 3 would be used for reporting international private line service. Schedule 4 would be used for reporting international miscellaneous services.[45]

29. AT&T welcomes the use of filing schedules, noting that they will remove the need to report unnecessary information.[46] No commenter objected to the schedules that the Commission proposed in the *Further Notice* and the draft Filing Manual. We adopt these schedules, which are included in Appendix D. We direct and delegate to the International Bureau authority to amend these schedules as needed, consistent with the policies the Commission has adopted in this proceeding, to keep them responsive to changes in the international telecommunications market.

3. Elimination of Billing Codes (Schedules 1 and 2)

30. The Commission proposed to eliminate the current billing codes that we require filing entities to use for filing traffic and revenue data and, instead, require the data to be filed via the proposed schedules, which do not employ billing codes or require the disaggregation of data at the billing code level.[47]

31. The historical development of these billing codes primarily reflects our effort to track the development of a variety of new methods of handling traffic outside the traditional international settlements process. We now have 12 different billing codes to account for the various ways traffic is handled.[48] Each of these new traffic handling methods have complicated the reporting process and required changes to the section 43.61 requirements and the billing codes used to account for them. With the transition away from the traditional settlement arrangements largely complete in most major markets, we no longer need to require disaggregation of ICS traffic at the billing-code level.

32. AT&T and Sprint support the elimination of billing codes, stating that it will reduce the reporting burden on filers.[49] No other commenter addressed the elimination of billing codes. Therefore we will eliminate the requirement to report billing codes in the Traffic and Revenue Report.

4. Elimination of the Requirement to Report Number of Messages (Schedule 1)

33. The Commission proposed to eliminate the current requirement that filing entities report the number of IMTS messages (*i.e.*, calls) they carry. The Commission noted that carriers make IMTS settlement payments based on number of minutes carried rather than calls and that it has rarely found a need to know the number of telephone messages the carriers handle. As a result, the Commission found no need to continue to require filing entities to report this information.[50]

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[45] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7299, ¶ 69.

[46] AT&T Comments at 3.

[47] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7300, ¶ 71.

[48] *See 2009 International Telecommunications Data.* The report is available on the FCC web-site at: http://www.fcc.gov/ib/sand/mniab/traffic/.

[49] AT&T Comments at 3; Sprint Comments at 2.

[50] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7301, ¶ 74.

34. AT&T and Sprint support the elimination of the requirement to report number of IMTS messages carried, again because it will reduce the reporting burden on filers.[51] No other commenter addressed the elimination of number of messages carried. Since the record does not demonstrate a need for this specific data, we will eliminate the requirement to report the number of messages carried in the Traffic and Revenue Report.

5. Elimination of the Requirement To Report Regional Totals (Schedules 1 and 3)

35. The Commission also proposed to eliminate the requirement that filing entities provide regional totals for their route-specific data – both U.S.-billed and foreign-billed ICS traffic (Schedule 1) and international private line service (Schedule 3).[52]

36. AT&T and Sprint support the elimination of the requirement to report regional totals because it will reduce the reporting burden on filers.[53] No other commenter addressed the elimination of regional totals. Therefore, because we can generate regional totals internally on the basis of route-specific information provided in the schedules, we will eliminate the requirement to report regional totals in the Traffic and Revenue Report.

6. Reporting of Spot Market Traffic (Schedules 1 and 2)

37. The Commission proposed that filing entities report ICS traffic that goes through a "spot market" as part of their facilities ICS or resale ICS, as appropriate.[54] A "spot market" is a market where ICS providers can buy or sell call completion services for calls, including ICS calls for immediate delivery. A customer of the spot market buys or sells call completion services by interconnecting at a spot market point of presence. The spot market owner acts as broker by facilitating the exchange of call completion services between spot market customers, who may not know each other's identity. Because spot markets allow carriers to shop for the lowest cost termination service to a particular destination, they have become important components in ICS markets.

38. The Commission's proposed reporting requirements for spot market customers are unchanged from requirements currently in place, which apply to all ICS providers, whether or not they interconnect at a spot market switch. The Commission's proposal would clarify the current reporting obligations of spot market owners. Spot market owners would not have to report any traffic where they operate in the United States, but merely act as an intermediary to connect two customers at a single point of presence. To the extent, however, that a spot market owner hauls ICS traffic between two points of presence, either within the United States or between the United States and a foreign point, it would be responsible for reporting traffic and revenue. An owner of a spot market that provides transmission service for a call, and not just switching at a single point between other service providers, would be required to report the calls as ICS. If the transmission service is between points in the United States and the call is then handed off to another carrier for termination in the destination, then the spot market owner would report that call as ICS resale on Schedule 2. To the extent that the spot market owner carries the call from the United States to a point outside of the United States and then hands the call to another carrier for termination, the spot market owner would report the call as facilities ICS on Schedules 1 and 2.

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[51] AT&T Comments at 3; Sprint Comments at 2.

[52] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7301, ¶ 75.

[53] AT&T Comments at 3; Sprint Comments at 2.

[54] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7306, ¶ 92.

39. AT&T states that we should not require separate reporting of spot market traffic, claiming that the reporting burden imposed by this requirement would outweigh any benefit from it.[55] No other party commented on this issue. We agree with AT&T, and will not required separate reporting of spot market traffic. We also agree with AT&T that reporting requirements should apply to *all* international traffic and facility providers.[56] Therefore, we will continue our current requirements for reporting spot-market traffic, as well as adopting the clarification for spot market owners as proposed.

7. Reporting of Reoriginated International Calling Services Traffic (Schedules 1 and 2)

40. The Commission proposed to retain the requirement that filing entities include the terminating leg of traffic that they reoriginate for a foreign carrier in their route-specific data on Schedule 1, but no longer report the originating leg, because the terminating leg is subject to settlement rate arrangements between U.S. carriers and their corresponding carriers in the terminating country. Filing entities would also report reoriginated traffic on a world-total basis on Schedule 2.[57] Carriers are currently required to report U.S.-billed IMTS traffic they sell to foreign carriers (*i.e.*, "hubbed" or reoriginated foreign traffic) on a route-by route basis separately from other U.S.-billed calls, under our billing code schema.[58] The Commission proposed to no longer require filing entities to break out such traffic separately, but instead have filing entities add such traffic to the other ICS traffic they report for each route. In addition, the Commission proposed to require filing entities to report separately hubbed or reoriginated traffic on a world-total basis.[59]

41. No commenter addressed this proposal. Because this information on reoriginated ICS traffic would allow us to assess more accurately the importance of the United States as a hub for the provision of global telecommunications services while lessening the overall detail of ICS data that filing entities are required to report, we will adopt our proposal and require filers to include only the terminating legs of traffic they reoriginate for foreign carriers with the other ICS traffic they report for each route as well as require filers to separately report world total data for the terminating legs of their reoriginated traffic on Schedule 2.

8. Reporting of Country-Beyond and Country-Direct Services (Schedules 1 and 2)

42. The Commission proposed that filing entities include country-beyond[60] and country-direct[61] services, as well as call-back services,[62] in the data on U.S.-billed services to be filed on Schedules 1 and 2. The Commission proposed that filing entities include these services in their U.S.-

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[55] AT&T Comments at 4.

[56] *Id.* at 8.

[57] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7306, ¶ 91.

[58] *See Clarification of Section 43.61 International Traffic Data Reporting Requirements,* Public Notice, DA 98-1369, at 3 (rel. July 9, 1998); *available at* http://www.fcc.gov/wcb/iatd/intl.html.

[59] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7306, ¶ 91.

[60] Country-beyond service refers to IMTS provided and billed by a U.S. International Service Provider to a customer located in a foreign point in which the customer calls a telephone number in another Foreign Point.

[61] Country-direct service refers to IMTS provided and billed by a U.S. International Service Provider to a customer located in a foreign point in which the customer calls a telephone number in the United States.

[62] Call-back service refers to an arrangement in which a customer in a foreign point dials a pre-assigned telephone number in the United States or uses an Internet website in order to place a call via the outbound switched service of the U.S. International Service Provider.

billed traffic and revenues data.[63] AT&T agrees, stating that we should not require reporting country-beyond and country-direct calls as separate categories on an aggregated world total basis, claiming that this would impose burdens on filers that would outweigh any resulting benefits.[64] We therefore will require that filers include country-beyond and country-direct calls as part of their U.S.-billed traffic and revenues data on Schedules 1 and 2.

9. Reporting of Fixed and Mobile Termination Data (Schedule 1)

43. On Schedule 1, the Commission proposed to require filing entities to disaggregate the ICS minutes terminated on foreign networks and settlement payouts between calls terminated on fixed line networks and those terminated on mobile networks.[65] In recent years, many foreign carriers have instituted significantly different settlement rates for call completion services to fixed-line and mobile networks, and these differences vary substantially by route. The high mobile settlement rates charged in many countries has been a source of controversy in the United States and internationally, and the Commission has an interest in monitoring these rates.[66] Because there is little information currently available on mobile settlement rates, we believe the public interest requires us to gather additional information on such rates.

44. AT&T supports this requirement, especially the clarification in the draft Filing Manual that disaggregated information would be required only when the termination rates are different for mobile-terminated calls. AT&T explains that U.S. carriers must get this information from foreign correspondents, who usually provide disaggregated information only when different rates are applied.[67] No other commenter addressed this issue. In order to effectively track the different settlement rates for fixed and mobile networks, we will adopt the requirement that filing entities disaggregate the minutes terminated on foreign networks and settlement payouts between calls terminated on fixed line networks and those terminated on mobile networks, in any situation where the rates for terminations on fixed line networks and the rates for terminations on mobile networks are different.

10. Non-Route-Specific Revenue (Schedules 1, 2 and 3)

45. The current Section 43.61 Filing Manual does not address how these revenues should be treated in a reporting system in which revenues are reported by route. Some carriers may be allocating these non-route-specific revenues to specific U.S. international routes, but others may not be reporting them at all. The Commission proposed to require filing entities to allocate their non-route-specific revenues among the various U.S. international routes in proposed Schedules 1 and 3 and to identify their non-route specific revenues as a percentage of their total U.S.-billed ICS revenue in Schedule 2.[68] Non-route-specific revenues are those revenues for international services that are not directly associated with individual calls or, in the case of private lines, with specific lines. They include monthly recurring fees for international service plans or service plans that include international service, as well as other revenue that cannot be identified with particular destination countries.

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[63] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7308, ¶ 99.

[64] AT&T Comments at 4.

[65] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7301-02, ¶ 76.

[66] *See, e.g., The Effect of Foreign Mobile Termination Rates on U.S. Customers*, IB Docket No. 04-398, Notice of Inquiry, 19 FCC Rcd 21395 (2004) (*Foreign Mobile Termination Rate NOI*).

[67] AT&T Comments at 4-5.

[68] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7304-05, ¶ 85 and ¶ 89. Filing entities report ICS resale traffic and revenue on a world-total basis on Schedule 2, and thus do not need to allocate non-route-specific revenues to specific routes.

46. As retail ICS competition has increased, non-route-specific revenue from calling plans and other sources has become an increasingly important component of filing entities' revenues. Most IMTS providers have introduced calling plans which typically require a user to pay a fixed monthly fee in return for discounted per-minute usage charges. Such calling plans have become increasingly popular, and a substantial amount of mass market ICS is currently sold through these calling plans. These calling plans may be only for international calls, either world-wide or for a specific region, or may include both domestic and international calls. Because calling plan revenues are substantial, failure to report them may result in a serious understatement of ICS revenues. Moreover, unless calling plan and other non-route-specific revenues are included in the reported data, we cannot measure accurately key statistics for international services, such as average revenue per minute. The Commission's proposal that non-route-specific revenue be allocated among the various international routes and also reported as a percentage of total U.S.-billed ICS revenue ensures that the Commission has sufficient information to estimate both the average and marginal costs of international calling for each foreign route. These are important statistics for understanding and analyzing ICS markets.

47. The Commission sought comment on whether to set out a specific allocation method or to allow each filing entity to determine an allocation method appropriate for its unique situation.[69] In either case, the Commission proposed that the allocation method should use economic cost principles or other reasonable allocation methods. For example, the monthly fee for a calling plan for Latin America could be allocated between the destination points in the plan based on the relative share of minutes to those destination points. The Commission sought comment whether allowing filing entities to determine the allocation method would result in data that may not be consistent between filing entities and the significance of any possible inconsistencies.[70]

48. The Commission also proposed that filing entities identify the percentage of customer revenue that is non-route specific revenue in Schedule 2.[71] This information would provide us with important information about the use of calling plans and the extent of non-route-specific revenue, as well as provide a verification that non-route-specific revenue has been allocated to individual routes for reporting purposes, as required.

49. AT&T agrees with the proposal in the *Further Notice* that non-route-specific revenues should be allocated by route.[72] AT&T further argues that we should leave the allocation method to each filer.[73] Verizon also states that we should allow filers to use their own allocation methods, because filers may have different circumstances surrounding their non-route specific services that would make a single, mandated allocation method burdensome.[74]

50. For the foregoing reasons, we will adopt the proposal to require filers to allocate their non-route-specific revenues to specific U.S. international routes for reporting purposes. The draft Filing Manual proposed to require only the application of well accepted, general cost causation principles (*e.g.*, that the cost of a Latin American calling plan be allocated among Latin American routes), and allowed filing entities considerable discretion in their allocation methods (*e.g.*, the allocation among Latin

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[69] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7305, ¶ 88.

[70] *Id.*

[71] *Id.* at 7305, ¶ 89.

[72] AT&T Comments at 16.

[73] *Id.*

[74] Verizon Reply at 7.

American routes could be based on minutes or revenues, or some other relevant factor). Therefore, we will adopt the allocation requirements described in the draft Filing Manual.

51. No commenter addressed our proposal to require filing entities to report non-route-specific revenues as a percentage of U.S.-billed ICS revenue on Schedule 2. However, AT&T contends that reporting world total non-route-specific revenues, which is a similar statistic, as burdensome.[75] (World-total non-route-specific revenues could be calculated by multiplying total U.S.-billed ICS revenue on Schedule 2 by the percentage figure for non-route-specific revenue that the Commission proposes that filing entities report.) As explained above, reporting non-route-specific revenues as a percentage of total revenues will provide us with important information for understanding and analyzing ICS markets. It will allow us to estimate the average and marginal costs of international calling for each foreign route, evaluate the impact of discount calling plans and verify that non-route specific revenue has been allocated among the various routes. Moreover, we do not think that reporting non-route-specific revenues as a percentage of total customer revenue will be burdensome. In allocating non-route-specific among the various routes, a carrier must identify all non-route-specific revenue to be allocated. The calculation of a percentage requires the carrier to sum these amounts. We therefore adopt our proposal that filing entities identify the non-route-specific revenue as a percentage of customer revenue in Schedule 2.

11. Reporting of Traditional Transiting Traffic (Schedule 2)

52. Carriers are currently required to report separately their traditional transit traffic on a route-by-route basis.[76] The Commission proposed to have filing entities report traditional transiting traffic on a world total basis on Schedule 2.[77] It is useful for our understanding of the wholesale ICS market to know the overall amount of traditional transiting traffic carried by U.S. companies because such traffic is part of the wholesale ICS market. Since transiting traffic is subject to the settlement arrangements between the foreign service providers in the origination and termination countries, and not the U.S. service provider's settlement agreement, it is not appropriate to include the settlement payouts and receipts for those calls in the data for the route. We also do not believe that is it necessary to have the fees paid to the U.S. service provider for transiting traffic broken down by route for any of our analytical purposes.

53. The only commenter to address this issue, AT&T, agrees that it is unnecessary to have traditional transit traffic data broken down on a route-by-route basis.[78] Accordingly, we will require filers to report traditional transiting traffic only on a world total basis on Schedule 2.

12. Reporting of World Total Traffic by Customer Category and Routing Arrangement (Schedule 2)

54. On Schedule 2, the Commission proposed to require filing entities to report their world-total ICS traffic and revenues by customer category (residential and mass market, business and government, U.S. resellers, and reoriginated foreign traffic) and by routing arrangement (*i.e.*, whether they terminate traffic over their own international facilities or through resale of other U.S. carriers' services).[79] This information is important to our understanding of the international telecommunications

[75] AT&T Comments at 4 and 16.

[76] *See* Section 43.61 Filing Manual at 15. Traditional transiting is reported under billing code 3.

[77] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7305-06, ¶ 90.

[78] AT&T Comments at 4.

[79] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7302, ¶ 78. Proposed Schedule 2 also treats as a class of users "reoriginated foreign traffic" – that is, foreign traffic which U.S. carriers reoriginate in the United States and terminate at a foreign point under the same settlement arrangements as U.S.-originated traffic. Such traffic has become an important part of U.S. carriers' ICS business.

markets because such information is useful for transaction analysis, evaluation of the development of competition, and consumer protection.[80] In the *Further Notice*, the Commission proposed to require carriers only to report this customer information on a world-total basis.[81] We believed that world-total information for all customer categories and routing arrangements would be sufficiently useful for our analytical purposes.

55. AT&T agrees with the proposal in the *Further Notice* to not require route-specific reporting of traffic by customer class, but rather to have reporting on a world-total basis.[82] AT&T supports our proposal to disaggregate ICS traffic and revenue by customer class, and particularly agrees with our proposal to classify small business customers as residential customers or as "residential and mass market customers," stating that it is often difficult to distinguish small business and some other non-residential customers from residential customers.[83] Verizon expresses concern that a breakdown of traffic and revenue between customer classes, particularly at a country-level, may be difficult for many providers.[84]

56. We believe the changes the Commission proposed in the *Further Notice* to simplify the filing of customer class information by getting it on a world-total basis will provide important information to the Commission while significantly reducing the burdens of reporting on a country-level and adopt this approach. Customer class information, even at a world-total level, would improve the accuracy and relevance of key statistics derived from the data and bring the report into conformance with the market definitions used in various analyses we undertake, including merger reviews. As the telecommunications industry has changed, ICS has evolved into a multi-sector industry – various wholesale sectors in which carriers buy and sell bulk ICS minutes, and retail sectors in which carriers (including those that provide facilities ICS) sell ICS minutes to end users, *i.e.*, residential and business ICS customers.[85] As a result, the key statistics we derive from current traffic and revenue data may have become increasingly inaccurate, as they do not reflect these distinctions.

57. This data collection would capture data that we need for conducting competitive analyses, including those done in transaction reviews. In analyzing transactions, gathering this information on an annual basis would provide a baseline against which to measure a specific merger proposal. Having world-total ICS traffic and revenue data broken down by customer class would help us obtain greater accuracy in evaluation of competitive conditions in the key ICS retail markets recognized by the FCC in transaction reviews and help us ensure that telecommunications service consumers have adequate competitive choices and that all providers of ICS have adequate access to each class of customers.

58. In addition, these data would allow us to calculate an average revenue per minute (ARPM) that more accurately reflects the separate rates paid by U.S. businesses, residential consumers,

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[80] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7302, ¶ 80.

[81] *Id.* at 7302-03, ¶ 80.

[82] AT&T Comments at 4.

[83] *Id.* at 5.

[84] Verizon Reply at 7.

[85] U.S. facilities ICS providers sell ICS to ICS resellers as well as end users. ICS resellers buy ICS from U.S. facilities ICS providers and other ICS resellers, and sell ICS to other ICS resellers as well as end users. It is worth noting that a U.S. service provider that provides facilities ICS may also provide ICS resale, *i.e.*, they may buy ICS from other U.S. service providers.

and resellers. We rely on the ARPM[86] statistics to monitor and evaluate the ICS rate levels paid by U.S. customers.[87] The statistics have enabled us to help ensure that ICS rates continue to move towards competitive, cost-based levels, thus ensuring that "all the people of the United States have access to communications services with adequate facilities at reasonable charges."[88] As the ICS market has evolved into separate retail and wholesale sectors, with carriers that provide facilities ICS selling significant and growing amounts of wholesale service to other carriers, these ARPM statistics increasingly reflect a mixture of wholesale and retail rates that make them no longer accurate indicators of the rates paid by U.S. residential consumers or other retail sectors. To remedy this problem, the Commission proposed to modify its filing requirements to require filing entities that provide facilities ICS, or that generate $5 million or more of IMTS resale revenues annually, to report separately world-total data for ICS sold to other carriers and ICS sold to residential and business end-users.[89] In particular, these data would allow us more accurately to determine whether the reported reductions in ARPM reflect lower rates to residential consumers.[90]

59. For these reasons, we will adopt the Commission's proposal and require filers to disaggregate world-total ICS traffic and revenue data for each of the following customer categories and routing arrangements set out in Schedule 2: (1) residential and mass market; (2) business and government; (3) U.S. resellers; (4) reoriginated foreign traffic, (5) U.S-billed facilities IMTS, and (6) IMTS resale.

13. Reporting of International Calling Services Resale Traffic (Schedule 2)

60. Currently carriers must report their ICS resale traffic and revenues on a world-total basis no matter how much revenue they received and must file a list of the countries where the calls were terminated.[91] The Commission proposed that service providers with less than $5 million in ICS resale revenues for the annual reporting period, and that do not provide facilities ICS, should be exempted from filing their ICS resale traffic and revenue. The Commission also proposed to eliminate the requirement that filing entities submit a list of the destinations to which they provide ICS resale service.[92]

61. No commenter addressed this issue. We continue to believe that a $5 million revenue threshold strikes the appropriate balance between capturing a sufficient amount of ICS resale data useful for analytical purposes and eliminating non-essential reporting requirements for smaller providers who only provide ICS on a resale basis and whose traffic and revenues comprise a small amount of the total ICS resale market. Many carriers who only provide ICS on a resale basis have very low ICS traffic volumes and revenues. With a $5 million threshold, 87 carriers that currently have revenues comprising 96 percent of ICS resale revenue would file revenue information, while 1,124 carriers whose revenues

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[86] The average rate per minute or ARPM is calculated by dividing U.S. billed revenue by U.S. billed minutes. In order to understand the facilities ICS market, it is necessary to calculate the ARPM for each ICS route separately and for all routes combined.

[87] Although some ICS rate data may be available from other sources, the data filed by all companies pursuant to our rules are far more reliable. There are no publicly available rate data for the various categories of ICS customers or the relative weight of each category in determining aggregate, industry-wide rate statistics. Thus we find neither the publicly-available information nor information from other sources to be a substitute for data filed in the Traffic and Revenue Reports.

[88] 47 U.S.C. § 151.

[89] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7304, ¶¶ 82-83.

[90] *Id.* at 7304, ¶ 84.

[91] *See Section 43.61 Filing Manual*, § 3, at 38-45.

[92] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7307, ¶ 96.

currently comprise only four percent of ICS resale traffic would be relieved of the burden of filing traffic and revenue data.[93] We conclude that capturing 96 percent of ICS resale revenue provides us with an adequate picture of the ICS resale market to permit us to carry out our statutory duties, and that a requirement that 1,124 carriers file reports in order to capture the remaining four percent of the total resale revenue is not justified. Accordingly, we adopt our proposal that service providers with less than $5 million in ICS resale revenues for the annual reporting period, and who do not provide facilities ICS, will be exempt from filing their ICS resale traffic and revenue.

62. Sprint supports the elimination of the reporting of ICS resale destinations, stating that this will reduce the burden on U.S. carriers of meeting reporting requirements.[94] No other commenter addressed this issue. Therefore, we eliminate the requirement that filing entities submit a list of the destinations to which they provide ICS resale service.

14. Reporting of International Private Line Service (Schedule 3)

63. In the *Further Notice*, the Commission proposed to adopt a number of the changes in the reporting of private line service originally proposed in the *Notice of Proposed Rule Making* in this proceeding, but also proposed to change some of those recommendations to simplify further the reporting of private line data. Filing entities would report these data on Schedule 3.[95]

64. The Commission proposed to eliminate the current requirement that filing entities disaggregate their private line service data into six categories based on the speed (bits per second) of the service.[96] We believe it would be sufficient for competitive analyses and in our analyses of carrier transactions to require filing entities to report the total number of private line circuits they provided, expressed in 64 kilobit per second (kbps) equivalents.

65. The Commission proposed to continue to require filing entities to report their private line services provided over owned facilities on a route-specific basis, and that filing entities report their circuits and revenues for service provided over resold circuits on a world-total basis only. The underlying provider of these circuits would still be reporting them on a route-specific basis, so we would still get an accurate total of circuits used for private line service on a route-specific basis, as well as those that are resold on a world-total basis.

66. Only AT&T commented on these proposals, agreeing that we should not require filers to report private line services over resold facilities on a route-specific basis.[97] We believe that these changes would reduce the burdens on filers by significantly reduce the amount of data that filing entities need to file for international private line services, while providing us adequate data for any likely required analysis of private line services. Accordingly, we adopt these streamlining proposals for private line services.

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[93] *See 2010 International Telecommunications Data.*

[94] Sprint Comments at 2.

[95] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7308, ¶¶ 100-102.

[96] Filing entities currently are required to report their international private lines in six categories: (1) voice circuits, (2) up to 1200 bps, (3) 1201 bps to 9600 bps, (4) 9601 bps to 30 Mbps, (5) greater than 30 Mbps to 120 Mbps, and (6) greater than 120 Mbps. *Section 43.61 Filing Manual* at Section 1.C.4.

[97] AT&T Comments at 4.

15. Reporting of International Data Services (Schedule 4)

67. The Commission proposed that filing entities report certain international data services with miscellaneous services rather than their private line services.[98] Traditionally, carriers offered private line service by establishing a dedicated circuit between two or more customer locations, allowing the customer to use such a circuit to transmit an unlimited amount of customer information between the customer locations for a fixed period of time – usually a month. More recently, carriers have supplemented such dedicated circuits with services such as virtual private lines that consist of making a transmission network available for the use of the customer, rather than a dedicated line. Still more recently, carriers have introduced other services, based on a variety of transmission protocols, that similarly involve a customer's use of a network-based service rather than a dedicated private line.

68. The Commission proposed that filing entities report their international data services on a world-total basis as "miscellaneous services" except for components of such services that are provided as U.S. international point-to-point guaranteed capacity for use by an individual customer, and thus classifiable as international private line service.[99] We believe that such world-total revenue data would provide us sufficient information to monitor the international data services market, while simplifying the information filing entities must provide.

69. Only AT&T commented on this proposal, agreeing that we should not require the reporting of data services on a route-specific basis.[100] Accordingly, we will require filing entities to report international data services only on a world-total basis on Schedule 4, as proposed.

16. Reporting of International Miscellaneous Services (Schedule 4)

70. The Commission proposed to require filing entities to continue to file data regarding their international miscellaneous services.[101] At present, carriers report data for traffic volume, revenue, and payouts to foreign carriers by world region for each miscellaneous service that they provided. Further, the Commission proposed to streamline the reporting requirement for miscellaneous services by only requiring filing entities to report services for which they have revenues of $5 million or more.[102] Filing entities would report each of their miscellaneous and data services with $5 million or more in revenue on Schedule 4 by providing the name of the service, a brief description of the service, and the world total revenue for the service.

71. We believe that there is continued value in receiving data for these services from filing entities and that a $5 million threshold is appropriate. Such data can signal the emergence, growth, or decline of miscellaneous services in the international markets, and can provide a mechanism by which filing entities can account for all of their revenues from international telecommunications services. The

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[98] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7309, ¶ 107.

[99] *Id.*

[100] AT&T Comments at 4.

[101] In 2010, eight carriers filed information for six miscellaneous services: Frame Relay/ATM, Packet Switching, Packet Switched Ethernet, TDM/TDMA service, virtual private line and virtual private network. *2010 International Telecommunications Data*, Table C.

[102] Based on 2009 international traffic and revenue information, a $5 million filing threshold would have required two carriers to file information on two miscellaneous services. *See 2009 International Telecommunications Data,* Table C.

commenters disagree, however, on the size of the revenue threshold we should use.[103] We find that a $5 million revenue threshold for reporting international miscellaneous services strikes the appropriate balance between reducing the amount of information filing entities would be required to file and ensuring that we have an accurate view of the market. The revenue threshold would ensure that new services with significant growth would automatically become subject to the reporting requirement when the revenues for that service exceed $5 million and that declining services would no longer be reported when the revenues fall below the threshold. Therefore, we adopt the proposal and will continue to require filing entities to file data on miscellaneous services.

72. Although Sprint supports the proposal that filing entities file traffic and revenue data for common carrier data services with miscellaneous services, it states that its Internet Protocol-based Multi-Protocol Labeled Switching (IP/MPLS) data service should not be subject to the reporting requirements because it falls squarely within the definition of non-common carrier "information service" in Section 3 of the Communications Act of 1934, as amended (Communications Act).[104] Sprint requests a clarification that IP/MPLS data services need not be reported in the Traffic and Revenue Report.[105] We decline Sprint's invitation to classify its IP/MPLS data service here, though we note that filing entities must report specialized services only to the extent that they offer these services on a common carrier basis (and the revenues for such service exceed the $5 million threshold).

17. Providers of VoIP Service

73. The current traffic and revenue reporting requirements apply only to common carriers. International calling generated by VoIP service appears to constitute a significant and growing component of U.S. international calling markets and markets for international call completion services.[106] We are concerned that we may not be able to understand these markets without adequate data regarding international VoIP services connected to the PSTN.[107] As we explain below, without data from such service providers, we will not have the foundational information necessary to fulfill our obligation to support U.S. service providers' efforts to achieve cost-based foreign termination rates; to monitor U.S. international calling rates accurately to ensure that cost savings are flowed through to consumers; to protect U.S. service providers from anticompetitive activity by foreign carriers with market power; to evaluate mergers and other transactions involving international calling services; and to advise other government agencies of the characteristics of international calling.

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[103] Sprint Comments at 5-6 (the Commission should reduce or eliminate this threshold if miscellaneous services are to be reported); Verizon Reply at 3-4 (in addition to the $5 million threshold the Commission should add a threshold of 0.10% of the filing entity's total revenues reported).

[104] Sprint Comments at 3 *citing* 47 U.S.C. § 153.

[105] Sprint Comments at 3.

[106] *See Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7313, ¶ 119.

[107] International VoIP Service connected to the PSTN is defined as a service that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet Protocol-compatible customer premise equipment; and (4) permits users generally to receive calls that originate on the public switched telephone network (PSTN) *or* to terminate calls to the PSTN. This differs from the Commission's definition of "interconnected VoIP service" in 47 C.F.R. § 9.3, by including "one-way VoIP services." One-way VoIP services enable users to terminate calls to the PSTN but do not permit users to receive calls that originate on the PSTN, or enable users to receive calls from the PSTN but do not permit the user to make calls terminating to the PSTN.

74. We have recognized that VoIP services increasingly are viewed by consumers as a substitute for traditional telephone service.[108] Commission data show that end users are increasingly obtaining service from interconnected VoIP providers, such as cable companies.[109] For international phone calls, VoIP services connected to the PSTN provide essentially the same function to end users as IMTS, but use the Internet or private IP networks rather than traditional voice-grade IMTS circuits as part of the transmission path of these calls. Providers of VoIP services connected to the PSTN usually have very competitive rates for U.S. international calls.[110] VoIP calls are increasing at a faster rate than traditional IMTS calls.[111] This appears to explain why the traffic data filed pursuant to section 43.61 shows that IMTS traffic is declining.[112] Between 2006 and 2010, the latest year for which we have data, the amount of IMTS traffic reported to the FCC decreased from 72.4 billion minutes to 62.3 billion minutes.[113] This is the first time on record that IMTS traffic has decreased.[114] We attribute this decrease to substitution of international VoIP services (which generally are not currently reported) for IMTS, and

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[108] *See Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting To Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers,* PS Docket No. 11-82, Report and Order, 27 FCC Rcd 2650, 2651-51, ¶ 2 (2012); *High-Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WC Docket No. 06-122, CC Docket No. 99-200, CC Docket No. 96-98, CC Docket No. 01-92, CC Docket No. 99-68, WC Docket No. 04-36, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6475, 6590 ¶ 205 n.523 (2008); *see also Telephone Number Requirements for IP-Enabled Services Providers*; WC Docket No. 07-243, WC Docket No. 07-244, WC Docket No. 04-36, CC Docket No. 95-116, CC Docket No. 99-200, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531, 19547 ¶ 28 (2007).

[109] In June 2011, there were 34 million interconnected VoIP subscriptions in the United States, a 17 percent increase from June 2010. In contrast, switched access lines decreased by 8 percent. In June 2011, 34 percent of residential wireline connections were interconnected VoIP. The percentage of total wireline retail local telephone service connections (business and residential) attributable to interconnected VoIP subscriptions was 23.3 percent in June 2011 (34 million out of total of 146 million); 19.2% in June 2010 (29 million of a total of 151 million); 15.2% in June 2009 (24 million of a total of 157 million; and 13.4% in December 2008 (22 million of a total of 163 million), the first time period for which the FCC received data. Local Telephone Competition: Status as of June 30, 2011, Industry Analysis and Technology Division, Wireline Competition Bureau (rel. June 2012). In 2009, Comcast reported that it was the third largest residential telephone service provider in the United States, exceeded only by AT&T and Verizon. *See* Comcast Now Third Largest Residential Phone Services Provider in the U.S., *available at* https://www.comcast.com/about/pressrelease/pressreleasedetail.ashx?PRID=844 (last visited April 1, 2011).

[110] *See, e.g.* international calling rates for Vonage *available at* http://www.vonage.com/international_per-minute_rates/?lid=sub_nav_international_rates&refer_id=WEBSR0706010001W1.

[111] Telegeography reports that world-wide international VoIP traffic grew 14% in 2010 while traditional international traffic grew at 3% and VoIP traffic accounted for 116 billion minutes, out of 419 billion minutes of international voice traffic world-wide. PriMetrica, Inc., Executive Summary to TeleGeography Report & Database (2011), *available at* http://www.telegeography.com/page_attachments/products/website/research-services/telegeography-report-database/0002/6653/TG_executive_summary.pdf. Telegeography projects that 30% of world-wide international traffic will be transported as VoIP in 2009. *Id.* Telegeography stated that international VoIP traffic accounted for 16% of world-wide international traffic in 2005. Telegeography 2006 at 43. *See also* Thomas Evslin, Chairman, ITXC Corp., Speech before the SuperComm Convention, Atlanta Georgia, June 2, 2003, reported in Communications Daily, at p. 9, June 3, 2003 (stating that VoIP accounted for more than 10% of international switched voice calls in 2003).

[112] *See* FCC International Traffic Data, Table A1, 2006-2010.

[113] *See id.*

[114] IMTS traffic declined in 2007, for the first time since 1985. After a slight rebound in 2008, reported IMTS traffic declined again in 2009 and declined even further in 2010. *See id.*

not to a decline in the overall amount of U.S. international calling.[115] Indeed, carriers cited competition from VoIP providers as a major influence on the decrease in reported IMTS traffic.[116] Without data for international VoIP services connected to the PSTN, we will lack complete and accurate information about such basic matters as the amount of traffic and revenue generated by international calling services on each U.S. international route.

75. International VoIP services connected to the PSTN also employ critical economic inputs that are similar to those used by IMTS providers. Providers of international VoIP services connected to the PSTN enter into arrangements with foreign service providers for call completion services that are commercially and functionally similar to settlement arrangements between U.S. and foreign IMTS providers. In both cases, U.S. service providers exchange international traffic with foreign service providers for completion of calls via the PSTN and make and receive payments for such services. The Commission applies special scrutiny to international call completion markets in order to help protect U.S. international service providers from anticompetitive activity by foreign service providers and excessive settlement rates. Providers of VoIP services connected to the PSTN are important participants in modern call completion markets, and the Commission must obtain information about their traffic, payments, and receipts in order to fully understand these markets. Without data for international VoIP services connected to the PSTN, we will lack the information we need to help protect U.S. international service providers from anticompetitive activity by foreign service providers and excessive settlement rates.

76. Consequently, in the *Further Notice*, the Commission sought comment on whether the reporting requirements should be extended to all interconnected VoIP service providers[117] and providers of "one-way" VoIP services connected to the PSTN (collectively, "providers of VoIP services connected to the PSTN").[118] Specifically, the Commission sought comment on whether providers of VoIP services connected to the PSTN should be required to report their international traffic and revenue in the same manner that common carriers report their IMTS traffic and revenue. The Commission also sought comment on its legal authority to have providers of VoIP service connected to the PSTN file international traffic and revenue data under the Communications Act and under the Cable Landing License Act of 1921 (Cable Landing License Act).[119]

77. AT&T supports the proposal to require interconnected VoIP providers to report international traffic and revenue. AT&T notes that in the *First Report and Order* the Commission determined that it continues to need traffic and revenue information in order to fulfill its statutory responsibilities to implement and enforce pro-competitive international policies and assist other government agencies.[120] AT&T states that interconnected VoIP service provides essentially the same function as IMTS, and accounted for 28 percent of residential wireline connections in June 2010.[121] AT&T contends that we must require reporting from providers of interconnected VoIP in order to gain

[115] FCC Releases 2010 International Traffic Data, News Release (March 28, 2012) at 2.

[116] FCC Releases 2009 International Traffic Data, News Release (April 8, 2011) at 1.

[117] Interconnected VoIP service refers to interconnected Voice over Internet Protocol (VoIP) service, which: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet Protocol-compatible customer premise equipment; and (4) permits users generally to receive calls that originate on the PSTN and to terminate calls to the PSTN. *See* 47 C.F.R. § 9.3.

[118] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7318, ¶ 125.

[119] *Id.* at 7315-18, ¶¶ 121-25.

[120] AT&T Comments at 8 (quoting the *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7276-77, ¶¶ 3-4).

[121] *Id.* at 9 (citing FCC Local Telephone Competition: Status as of June 30, 2010, March 2011).

accurate information on the state of the international calling market. Further, says AT&T, we should also require providers of "one-way" VoIP services to residential customers, such as Skype, to report traffic and revenue, because these services can be used to "replicate the basic functionality of interconnected VoIP service."[122] AT&T notes that such providers are the largest provider of international voice communications in the world.[123] AT&T also notes that the Commission needs this information to exercise our licensing responsibilities under the Cable Landing Licensing Act. AT&T concludes that our ancillary authority is sufficient to allow us to require such reports, as such reporting is ancillary to the effective performance of our responsibilities.[124]

78. Verizon disagrees with our proposal, arguing that extending reporting obligations to providers of international interconnected VoIP service will increase costs and slow innovation. Verizon contends that our actions in extending such requirements as E911, the Communications Assistance to Law Enforcement Act (CALEA), universal service, and others to VoIP providers were justified by the public interest in each of these, but that no such public interest issues are implicated in traffic and revenue reporting.[125] Further, Verizon contends that the geographic tracking of traffic origination and termination is not always feasible with existing systems and processes.[126]

79. Sprint agrees that VoIP traffic is a significant component of international voice traffic, but suggests that our approach to international reporting requirements for VoIP providers should focus on the involvement of the PSTN in such calls.[127] Sprint also urges us to exempt from any international reporting requirements any call that resembles a local call in its involvement with the PSTN, if international settlements with foreign carriers are not at issue.[128] Google argues that extending the reporting requirements to interconnected VoIP would be contrary to our intent to streamline reporting and limit the burdens imposed by reporting requirements.[129] Google disagrees with AT&T, and contends that "one-way" VoIP do not enable "real-time two-way voice communications" and thus is not similar to international telecommunications service.[130]

80. We will require providers of international VoIP services connected to the PSTN to submit annual Traffic and Revenue Reports in accordance with Section 43.62 of our rules and the Filing Manual.[131] For the same reasons we concluded in the *First Report and Order* to maintain the

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[122] *Id.* at 12

[123] *Id.* at n. 20, 21 ("Skype reports that it has more than 20 million users in the United States – nearly 6 million more users than Verizon has for its residential telephone service. Skype S.à.r.l., Registration Statement (Form S-1), at 138 (Aug. 9, 2010), available at http://www.sec.gov/Archives/edgar/data/1498209/000119312510182561/ds1.htm; Verizon Communications Investor Quarterly 4Q 2010, at 6 (Jan. 25, 2011), *available at* http://news.vzw.com/investor/4Q%20financial.pdf" "*TeleGeography* reports that Skype is the largest provider of cross-border voice communications in the world." *2010 TeleGeography Report*, Executive Summary, at 7).

[124] AT&T Comments at 11-12 (citing 47 U.S.C. § 151; *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans*, 23 FCC Rcd 9691, ¶ 28 (2008) (*Broadband Data Reporting Order*).

[125] Verizon Reply at 3-4.

[126] *Id.* at 6.

[127] *Id.* at 6.

[128] *Id.*

[129] Google Reply at 5.

[130] *Id.*

[131] The Commission to date has not determined whether interconnected VoIP should be classified as either "telecommunications services" or "information services," and we do not make that determination today. *See IP-*
(continued....)

international traffic and revenue reports,[132] we find that it is necessary to ensure these reports accurately reflect international calling markets and trends. Specifically, we find that it is in the public interest for us to collect sufficient information about international calling to support U.S. service providers' efforts to achieve cost-based termination rates and fees with other countries, to monitor U.S. international calling rates accurately, and to advise other government agencies of the characteristics of international calling. By not obtaining adequate data for international VoIP services connected to the PSTN, which directly compete with IMTS, the Commission's ability to understand the U.S. international calling and call completion marketplaces will erode, and with it the ability to promote competitive policies benefiting U.S telecommunications firms and customers. The absence of such data will also detract from our ability to understand foreign telecommunications markets and protect U.S. carriers and customers from anticompetitive harm by foreign carriers and governments. We thus conclude that traffic and data information for international voice calls carried by VoIP providers is necessary to determine the actual amount of international calling and the rates paid by consumers for international calling. In addition, as discussed in the *Further Notice*, information regarding VoIP traffic will support our efforts in carrying out the provisions of the Cable Landing License Act in licensing submarine cables that provide the bulk of international transmission capacity for Internet and VoIP traffic.[133]

81. Regardless of the classification of VoIP services connected to the PSTN, we have ancillary authority to require providers of those services to file traffic and revenue data.[134] We may employ ancillary authority when Title I of the Communications Act gives us subject matter jurisdiction over the service to be regulated and the assertion of authority is reasonably ancillary to the effective performance of our various responsibilities.[135] Both of the conditions for ancillary authority are satisfied here.

82. We find that VoIP connected to the PSTN falls under our subject matter jurisdiction because the Communications Act "shall apply to all interstate and foreign communication by wire or radio. . . ."[136] VoIP connected to the PSTN is clearly such communication. We have previously found that we have subject matter jurisdiction over interconnected VoIP and one-way VoIP connected to the PSTN.[137]

(Continued from previous page)
Enabled Services, WC Docket No. 04-36, Report and Order, 24 FCC Rcd 6039, 6043, ¶ 8, n. 21 (2009) (extending Section 214 discontinuance requirements to interconnected VoIP service); *see also IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4893-94, ¶¶ 43-44 (2004) (seeking comment on the proper classification of particular IP-enabled services as "telecommunications services" or "information services" under the definitions of the Act). Rather, as we discuss, we include international VoIP services connected to the PSTN because they represent an important and rapidly growing part of the U.S. international calling market, and we are concerned we cannot adequately understand the market without this data.

[132] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7282, ¶ 17.

[133] *Id.* 7317-18, ¶¶ 124-25.

[134] To the extent that VoIP services are common carrier services (and we do not decide that issue here), our existing reporting requirements would encompass such services.

[135] *See U.S. v. Southwest Cable Co.*, 392 U.S. 157, 177-78 (1968).

[136] 47 U.S.C. § 152(a).

[137] *See, e.g., Universal Service Contribution Methodology, Federal-State Joint Board On Universal Service,* Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 06-122, CC Docket No. 96-45, 21 FCC Rcd 7518, 7542 (2006); *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership,* Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 07-38, FCC 08-89, 23 FCC Rcd 9691 (2008); *Connect* (continued....)

83. We also find that requiring providers of VoIP connected to the PSTN to report traffic and revenue data is reasonably ancillary to the effective performance of the Commission's various responsibilities under the Communications Act. For example, as part of the public interest analysis performed under sections 214 and 310 of the Communications Act with respect to the entry of foreign carriers in the U.S. market, the Commission seeks to promote effective competition, particularly the market for international telecommunications services.[138] Such competition also helps protect against unreasonably high rates and undue discrimination, as required by sections 201 and 202 of the Communications Act.[139] We use the Part 43 data as part of these analyses, and thus ensuring that those data reflect an adequate picture of the current marketplace – including data from international VoIP connected to the PSTN – is reasonably ancillary to carrying out those statutory responsibilities.

84. We find that services providing one-way VoIP connected to the PSTN, such as Skype, are a significant part of the modern international calling markets and are functionally similar to IMTS and international interconnected VoIP services connected to the PSTN,[140] contrary to Google's assertion otherwise.[141] We also find that services providing one-way VoIP connected to the PSTN require call completion arrangements with foreign service providers that are similar to the settlement arrangements between U.S. and foreign IMTS providers and that such call completion services comprise a significant part of modern international call completion markets. In order to properly analyze both calling and call completion markets, we need information from one-way VoIP providers on their traffic, revenue, and payouts that parallels the information that we receive from interconnected VoIP providers and IMTS

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America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WT Docket No. 10-208, FCC 11-161, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 17663, 18013-14, 18029 (2010).

[138] *See, e.g.*, *Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket No. 95-22, Report and Order, 11 FCC Rcd 3873, 3877-88, ¶¶ 6, 8 (1995) (*Foreign Carrier Entry Order*).

[139] *See, e.g.*, *id.* at 8788, ¶ 9. *See also 2000 Biennial Regulatory Review – Amendment of Part 43 and 63 of the Commission's Rules*, IB Docket No. 00-231, Report and Order, 17 FCC Rcd 11416, 11428, ¶ 28 (2002) (explaining that the Commission, as well as industry, uses the information collected in the reports to monitor the development and competitiveness of international telecommunications markets and compliance with the Commission's rules and policies, and to identify trends in communications services, monitor the balance of settlement payments, and develop Commission policies and positions on international telecommunications issues); *id.* at 11429-30, ¶ 31 (discussing the use of information to "detect substantial declines in U.S. carriers' international switched service traffic and thus [] remove the benchmarks condition that prohibits a carrier's provision of facilities-based international private line service on a route where an affiliate has market power on the foreign end and maintains settlement rates with U.S. carriers that exceed the applicable benchmark.").

[140] Telegeography reports that cross-border traffic route via Skype is projected to grow 47 billion minutes in 2011. Further, if Skype's traffic were added to traditional international phone calls, international voice traffic would have grown 13% in 2011. PriMetrica, Inc., Executive Summary to TeleGeography Report & Database (2011), *available* at http://www.telegeography.com/page_attachments/products/website/research-services/telegeography-report-database/0002/6653/TG_executive_summary.pdf at 3. As Telegeography notes, "it's difficult not to conclude that at least some of Skype's growth is coming at the expense of traditional carriers." *Id*, at 8. *See also Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7314, ¶ 119.

[141] By limiting the reporting requirement to one-way VoIP that connects to the PSTN, and thus is a voice service, we are seeking data only on service that is functionally equivalent to international telecommunications service.

providers. Accordingly, we will require all providers of VoIP services connected to the PSTN to file annual Traffic and Revenue Reports.

85. In addition, the Commission requested comments in the *Further Notice* as to whether VoIP traffic information is necessary to support its efforts in carrying out the provisions of the Cable Landing License Act in licensing submarine cables that provide the bulk of international transmission capacity for Internet and VoIP traffic.[142] AT&T agrees that we require reliable information on U.S. facilities markets in order to exercise our responsibility under the Cable Landing License Act.[143] No other party commented on this issue. Consistent with the discussion in the *Further Notice*, we conclude that information regarding VoIP traffic will support our efforts in carrying out the provisions of the Cable Landing License Act in licensing submarine cables that provide the bulk of international transmission capacity for Internet and VoIP traffic.

86. Finally, we do not believe that reporting by providers of VoIP service connected to the PSTN will be burdensome.[144] The data we require to be filed are routinely useful to management of telecommunications enterprises for business planning purposes. The reorganization of data already collected for other purposes to comply with our new reporting requirements are likely to entail modest recurring and non-recurring costs, the later of which will be amortizable over time. Based on the burden hours on common carriers to file traffic and revenue data and the reductions in those burdens that will occur with the streamlining of the reporting requirements we adopt in this *Second Report and Order,* we estimate that it should take a provider of VoIP service connected to the PSTN that has termination agreements with foreign service providers and thus need to report on a route specific basis around 150 hours to compile the data required and file its report. VoIP service providers that do not have termination agreements but provide international service via other VoIP providers or carriers will have a much lower burden, likely equivalent to the two burden hours we estimate for IMTS resale carriers to file traffic and revenue data. We believe that the long-term benefits to the public attributable to maintaining a comprehensive, industry-wide perspective on international calling services will substantially exceed the costs that reporting entities will incur in complying with our new rule.

18. Revisions

87. In the *Further Notice,* the Commission proposed that if a filing entity becomes aware of an error that is equal to or greater than one percent of the statistic that it filed, it would be required to file a revision to its Traffic and Revenue Report when it becomes aware of the error. AT&T argues that we should maintain our current requirements that filers must correct all errors of five percent or more by October 31, with no requirement for ongoing correction.[145] Verizon agrees with AT&T's comments, noting that the current reporting regime provides certainty to filers and to us by identifying a point at which reports are final.[146] As discussed above, we will require that corrections be filed only once and set a date for the filing of corrections – no later than October 31 of the year in which the original filing is required to be made – after which reports no longer need to be revised on the basis of new information.

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[142] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7317-18, ¶¶ 124-25.

[143] AT&T comments at 12.

[144] In other words, the data we required to be filed produces a stream of information benefits over time. The non-recurring and recurring costs of compliance we impose on the reporting firms may be expected to decline in unit terms over time as experience in producing the required report increase.

[145] AT&T Comments at 7-8 (quoting *Improving Regulation and Regulatory Review*, EO 13563, § 1 (Jan. 18, 2011), 76 Fed. Reg. 3821 (2011); *Presidential Memorandum – Regulatory Flexibility, Small Business and Job Creation*, Jan 18, 2011).

[146] Verizon Reply at 8-9.

We believe this substantially addresses commenters concerns about the burden of filing numerous updates.

88. We adopt, however, our original proposal to move to a one percent measure for when a correction needs to be filed. Our current five percent correction threshold provides an interval of uncertainty of 10 percent because the five percent error may be plus or minus. A 10 percent interval of uncertainty in our data analysis can often make it difficult to draw reliable conclusions necessary to carry out our statutory responsibilities. For instance, in computing market shares for merger analysis, errors could result in market share calculations that are inaccurate by as much as 10 percent. A one percent threshold, yielding a maximum error of two percent, will lead to much more reliable results. Furthermore, the prior threshold of five percent was established at a time when recordkeeping was significantly less automated than it currently is. We also note that neither of the commenters who addressed the issue gave any specific reason why the five percent threshold is appropriate, simply stating that the current requirements should continue. For these reasons, we will require all filers to file a revision to their annual reports by October 31 for all values where errors in the reports exceed one percent.

C. Changes Specific to the Circuit Status Reports

89. As discussed in the *First Report and Order,* the Circuit Status Reports provide the Commission with essential information about the circuits or capacity between the United States and the rest of the world, and we need this data to understand U.S.-international transport markets.[147] We use the circuit data to, among other things, monitor the international transport markets to ensure that carriers with market power do not use their access to circuit capacity to engage in anticompetitive behavior, determine whether a proposed merger might result in an anticompetitive concentration of ownership in international transport markets, and develop policy positions for bilateral and multilateral negotiations and for Commission participation in international organizations.[148] The circuit data is also used to administer the annual regulatory fees established in section 9 of the Communications Act.[149] The Commission thus found in the *First Report and Order* that it was essential to maintain a requirement for the reporting of international circuits.[150]

90. We currently get international circuit data from facilities-based common carriers, pursuant to section 43.82 of the Commission's rules. Carriers must file the number of satellite, submarine cable and terrestrial common carrier circuits they owned or leased on December 31 of the previous year for each foreign point they serve, and whether they are active or idle.[151] For active circuits, carriers must identify the services for which they used each circuit – IMTS, private line, and miscellaneous or other international services. In addition, the staff collects information on the capacity of international submarine cables – through cable license landing applications, informal inquiries of the cable operators and monitoring the trade press – which is published as Table 7-A in the annual Section 43.82 Circuit Status Data report.

91. In the *Further Notice*, the Commission proposed to streamline the circuit-status reporting requirements by eliminating the reporting by service categories and the reporting of derived circuits.[152]

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[147] *Part 43 First Report and Order and Further Notice,* 26 FCC Rcd at 7292-93, ¶ 49.

[148] *Id.*

[149] *Id.* and 47 U.S.C. § 159.

[150] *Part 43 First Report and Order and Further Notice,* 26 FCC Rcd at 7292, ¶ 48.

[151] Some common carriers report both their common carrier and non-common carrier circuits in their circuit status filings.

[152] *Part 43 First Report and Order and Further Notice,* 26 FCC Rcd at 7311-12, ¶¶ 111-14.

Under this approach, the carriers would still file the number of satellite, submarine cable and terrestrial circuits they own or lease for each foreign point they serve, and whether they are active or idle. The Commission also proposed to retain the requirement that circuits be reported on the basis of 64 kbps equivalent circuits in order to keep the reporting standardized.[153]

92. In the *Further Notice,* the Commission noted that many of the facilities that are used to provide international transport are operated on a non-common carrier basis.[154] The Commission expressed concern that its view of the U.S. international telecommunications market is becoming skewed by the lack of information on non-common carrier operations.[155] The Commission thus sought comment on whether to extend the Circuit Status Reports to include international non-common carrier circuits.[156] It also sought comment on its authority to require reporting of non-common carrier circuits both under the Communications Act and the Cable Landing License Act.[157]

93. The international transport markets, which the Circuit Status Reports seek to measure, consist of capacity on terrestrial facilities, satellites and international submarine cables.[158] The vast majority of the capacity is on submarine cables. In 2010, circuits on submarine cables accounted for over 85 percent of reported circuits.[159] In total there is approximately 37.2 terabits per second (Tbps) of capacity on U.S.-international submarine cables.[160] Thus in analyzing the international transport market the Commission usually focuses on submarine cable facilities. However, as noted in the *Further Notice,* currently only about 10 percent of the capacity of international submarine cables is reported in the Circuit Status Reports, because non-common carriers are not required to report circuit status data.[161]

94. Further, the Commission has found that terrestrial facilities, which mainly serve the U.S-Canada and U.S.-Mexico routes, are plentiful and that there are essentially no barriers to entry.[162] The

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[153] *Id.* at 7312, ¶ 115.

[154] *Id.* at 7318-19, ¶ 127.

[155] *Id.* at 7319, ¶ 129.

[156] *Id.* at 7318-20, ¶¶ 126-31.

[157] *Id.* at 7319-20, ¶¶ 130-31. The Commission licenses submarine cables and associated cable landing stations located in the United States pursuant the Cable Landing License Act of 1921. *See* Pub. Law No. 8 67th Congress, 42 Stat. 8 (1921); 47 U.S.C. §§ 34-39 (Cable Landing License Act of 1921); See also, Exec. Ord. No. 10530 § 5 (a) (May 10, 1954), reprinted as amended in 3 U.S.C. § 301, and 47 C.F.R. § 1.767-1.768. A cable landing license must be obtained prior to landing a submarine cable to connect: (1) the continental United State with any foreign country; (2) Alaska, Hawaii or the U.S. territories or possessions with a foreign country, the continental United States, or with each other and (3) points within the continental United States, Alaska Hawaii or a territory or possession in which the cable is laid within international waters.

[158] International transport refers to the international physical transmission paths used to offer services between the United States and foreign points.

[159] *See* 2010 Section 43.82 Circuit Status Data (rel. March 2012), Tables 2, 3, 4 and 5.

[160] *See id.*, Table 7-A.

[161] *Part 43 First Report and Order and Further Notice,* 26 FCC Rcd at 7319, ¶ 129 (citing 2009 Section 43.82 Circuit Status Data (rel. Dec. 2010), Table 7-A.) More recent data also shows that only around 10 percent of reported capacity on submarine cables is reported by common carriers. *See* 2010 Section 43.82 Circuit Status Data (rel. March 2012), Table 7-A.

[162] *See AT&T Inc. and BellSouth Corporation Application for Transfer of Control,* WC Docket No. 06-74, Memorandum Opinion and Order, FCC 06-189, 22 FCC Rcd 5662, 5741, ¶ 159, n. 432 (2007) (*AT&T/BellSouth Merger Order*); *Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control,* WC (continued....)

Commission usually has not looked at those facilities when reviewing international transport markets.[163] Similarly the Commission generally does not focus on the satellite market when reviewing international transport markets.[164] Moreover, as the Satellite Operators note, under Part 25 of our rules satellite operators already have to file annually capacity information.[165] While those filings do not provide the same information contained in the circuit status reports, the information filed there would be useful in assessing the satellite transport market. In addition, we can request capacity information for terrestrial and satellite facilities on a case-by-case basis when needed to obtain information on these transport markets.

95. We do, however, need limited information on terrestrial and satellite circuits in order to administer efficiently our regulatory fees. Facilities-based common carriers are required to pay a per-circuit fee on active (used or leased) 64 kbps international bearer circuits as of December 31, of the prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates.[166] In addition, non-common carrier satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized to provide U.S. international common carrier services.[167] We currently use the circuits reported in the circuit status filings to help determine the number of circuits on which fees should be paid in order to calculate the appropriate fee per circuit. Because we currently only get common carrier circuit data, and fees are collected on non-common carrier satellite circuits as well, we cannot be precise in our calculations, and this sometimes leads to an under or over-collection of fees.

96. We therefore will require facilities-based common carriers to report their world total aggregate active 64 kbps common carrier terrestrial and satellite circuits and satellite operators to report their world total aggregate active 64 kbps non-common carrier circuits. This a less burdensome requirement than proposed in the *Further Notice* because these filing entities will only have to report one number for each category – their world total aggregate active circuits – and will not have to provide information on idle circuits or on the destination for the circuit.[168] Further, this reporting requirement does not impose any additional burdens on satellite operators since they already have to report their non-common carrier circuits when they file their regulatory fees.[169] We do not find that reporting of such circuits a few months earlier as part of the circuit status report, as all other international circuit or capacity holders do, will impose any significant burdens on satellite operators.

(Continued from previous page)
Docket No. 05-75, Memorandum Opinion and Order, 20 FCC 18433, 18514, ¶ 157, n. 443 (2005) (*Verizon/MCI Merger Order*).

[163] *See AT&T/BellSouth Merger Order* at 5741, ¶ 159, n. 432; *Verizon/MCI Merger Order* at 18514, ¶ 157, n. 443.

[164] *See AT&T/BellSouth Merger Order* at 5741, ¶ 159, n. 432; *Verizon/MCI Merger Order* at 18514, ¶ 157, n. 443. The Commission will look specifically at the satellite market when appropriate, such as in reviewing proposed mergers between satellite operators. In such cases, we typically need highly specific information from a limited number of entities.

[165] Satellite Operators Reply at 9 (citing 47 C.F.R. § 25.210(l)).

[166] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2012*, MD Docket No. 12-116, Report and Order, FCC 12-76, 27 FCC Rcd 8390, 8399-8400, ¶ 30 (2012) (*2012 Reg Fee Order*); *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket No. 08-65, Second Report and Order, FCC 09-21, 24 FCC Rcd 4208, 4216, ¶ 20 (2009) (*Subcable Reg Fee Order*).

[167] *See 2012 Reg Fee Order,* 27 FCC Rcd at 8399-8400, ¶ 30; *Subcable Reg Fee Order*, 24 FCC Rcd at 4216, ¶ 20.

[168] Satellite operators will no longer have to assign idle capacity to a particular route, which the Satellite Operators state is impossible to do in a meaningful way. Satellite Operators Reply at 7-8.

[169] *Id.* at 6-7.

97. We need more detailed information regarding international submarine cable capacity, however. A traditional analysis of the international transport market would focus on submarine cable capacity because submarine cables account for the vast majority of international transport capacity. Fiber optic submarine cables transmit the bulk of international common carrier traffic to and from the United States.[170] The growing trend toward interconnected VoIP and Internet-based services has been an important factor driving the need for construction of fiber optic submarine cables around the world.

98. Submarine cable capacity is an essential input in the provision of common carriage services such as ICS and international private lines. Markets for ICS and international private lines cannot perform competitively unless submarine cable capacity is freely available and not subject to anticompetitive concentration of ownership or control. Although common carriage service accounts for only about 10 percent of the demand for submarine cable capacity, capacity used for common carriage services is fungible with the remaining approximately 90 percent of submarine capacity used for other services, *e.g.*, IP services. Thus, we must collect information on all submarine cable capacity in order to ensure that common carriage services will have access to submarine cable capacity as a competitively supplied essential input. Under our new reporting requirements, we will collect data for all submarine cable capacity, not just capacity used for common carrier services, as we do now.

99. In assessing international transport markets, we look at submarine cable capacity in the three oceanic regions – the Atlantic, Pacific and Americas regions.[171] We determine the market concentration of the region by aggregating data regarding all the U.S. submarine cables in the region. We generally do not consider capacity data for individual foreign points (*i.e.*, route-specific data) when analyzing the market in an oceanic region, because potential bottlenecks in international transport capacity are generally regional in nature, not route-specific. Thus getting route-specific data, as we do under the current reporting requirements, is not the optimal means to obtain the data that we need to assess international transport markets. Getting data on a per-cable basis provides more useful data, because each cable serves a particular oceanic region, and should be less burdensome to the reporting entities. Also, getting data on a per-cable basis will allow us to better ensure that the data we are receiving is accurate and complete.

100. We will require all cable landing licensees[172] and common carriers that have capacity on an international submarine cable – collectively, "capacity holders" – to report that capacity.[173] They will no longer have to report 64 kbps circuits or the destination of the traffic carried over that capacity. Rather, as recommended by Sprint,[174] filers will report their capacity in STM-1 (Synchronous Transport

[170] In 2010, undersea cables accounted for 86.90% of the overall active transmission capacity used for international common carrier services; terrestrial links accounted for 13.07%; and satellite accounted for 0.03%. Of the traffic carried over those facilities, IMTS accounted for 4.1% of the total circuits used and international private line services accounted for 59.8% of total circuits. Approximately 36% of total circuits were used for services other than traditional private line services. *See 2010 Section 43.82 Circuit Status Data* at http://www.fcc.gov/ib/pd/pf/csmanual.html.

[171] *See AT&T/BellSouth Merger Order,* at 5741-42, ¶¶ 158-59; *Verizon/MCI Merger Order*, at 18514-15, ¶ 158.

[172] The following entities are required to be licensees on a cable landing license: (1) Any entity that owns or controls a cable landing station in the United States; and (2) All other entities owning or controlling a five percent (5%) or greater interest in the cable system and using the U.S. points of the cable system. 47 C.F.R. § 1.767(h).

[173] The international submarine cables subject to this requirement are those that connect the United States with international points. Capacity on domestic submarine cables – submarine cables that only connect points within the United States, such as cable connecting the Hawaiian Islands or Alaska to the conterminous United States – does not need to be reported.

[174] *See* Letter from David A. Nall, Senior Counsel – Government Affairs, Sprint, to Marlene H. Dortch, Secretary, Federal Communications Commission, Apr. 13, 2012.

Module level-1)[175] units, the standard commercial unit for the sale and leasing of capacity. Filers will report their capacity on a cable by the type of ownership interest they have in the capacity – ownership in the cable, an indefeasible right of use (IRU) or an inter-carrier lease (ICL).[176] Specifically, they will report their available capacity on each cable, which consists of the sum of (1) capacity that a filing entity owns; (2) the net of IRUs leased from other capacity holders less IRUs leased to other capacity holders; and (3) the net of ICLs leased from other capacity holders less ICLs leased to other capacity holders.

101. Filing entities will no longer need to report their capacity on submarine cables as active or idle.[177] Instead they will report their available capacity as activated or non-activated. Activated capacity is capacity in use or available for immediate use. Activated capacity includes capacity used for providing services or facilities to customers (on either a common carrier or non-common carrier basis); capacity reserved for internal company use; capacity reserved for restoration services; and unused capacity that is available for immediate use. Capacity used for customers includes capacity used for ICS, international private lines, ISP and Internet backbone services and other data or high-speed services. Non-activated capacity is unused capacity that is not available for immediate use. Sprint and AT&T support this approach and find that it will significantly reduce the burdens placed on filing entities.[178]

102. Getting this information from cable landing licensees and common carriers will provide us with sufficient data to determine market concentration in each of the oceanic regions. Under this approach we will get data on capacity used for both common carrier and non-common carrier services. By requiring both cable landing licensees and common carriers to report their available capacity on a submarine cable, we will receive capacity data from the major holders of capacity.[179] Although we will not get data from owners of cable capacity that are neither cable landing licensees or common carriers,[180] we do not believe that the capacity held by those entities will be statistically significant.

103. As we discussed earlier, this information is needed to monitor international transport markets to ensure that carriers with market power do not use their access to circuit capacity to engage in

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[175] The STM-1 (Synchronous Transport Module level-1) is the Synchronous Digital Hierarchy (SDH) ITU Telecommunication Standardization Sector (ITU-T) fiber optic network transmission standard, which has a bit rate of 155.52 Mbps.

[176] For reporting purposes, an inter-carrier lease or ICL is a lease of capacity between a common carrier or cable licensee and another common carrier or cable licensee.

[177] Sprint argues that a "snapshot" of active and idle circuits on December 31 is virtually meaningless, particularly given that much of Sprint's international circuits are used for Internet or IP-based virtual private networks where usage of the circuits can vary minute-by-minute. *See* Sprint Comments at 3-4.

[178] *See* Letter from James J.R. Talbot, General Attorney, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, Apr. 4, 2012; Letter from David A. Nall, Senior Counsel – Government Affairs, Sprint, to Marlene H. Dortch, Secretary, Federal Communications Commission, Apr. 13, 2012. AT&T and Verizon raised concerns about providing information on active and idle circuits on a per cable basis, but the reporting requirements will not require collection of that data. *See* Letter from Anastacio A. Ramos, Executive Director-International Public Policy and Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, Feb. 29, 2012; Letter from James J.R. Talbot, General Attorney, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, Feb. 8, 2012.

[179] As a capacity holder, cable landing licensees and common carriers will report all of their capacity on a cable unless they have sold an IRU or leased capacity to another capacity holder, which will then be responsible for reporting that capacity.

[180] An entity with a less than five percent ownership in a submarine cable is not required to be a licensee, although it may be a licensee, particularly on cables licensed prior to the rule change in 2002. *See Review of Commission Consideration of Applications under the Cable Landing License Act,* IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22194-98, ¶¶ 53-59 (2001) (*Subcable Licensing Order*).

anticompetitive behavior, to determine whether a proposed merger might result in an anticompetitive concentration of ownership in international transport markets, and to develop policy positions for bilateral and multilateral negotiations and for our participation in international organizations. It will also provide information on the usage of capacity on each of the submarine cables, which will allow us to assess the availability of international capacity in the event of natural disasters, such as the earthquake off the coast of Taiwan in December 2006 and the March 2011 earthquake and tsunami in Japan.[181]

104. We find that we have authority to require the filing of such information from these entities. Our authority to require the filing of international circuit data by common carriers is well established and these carriers currently file circuit data pursuant to section 43.82. We find we also have authority under the Cable Landing License Act as well as the Communications Act to require cable landing licensees that are not common carriers to report their capacity. As discussed in the *Further Notice,* the Commission licenses submarine cables and associated cable landing stations located in the United States pursuant the Cable Landing License Act.[182] The provisions of the Cable Landing License Act do not distinguish between common carriage and non-common carriage of services over licensed cables.[183] As we discussed in the *Further Notice,* the submarine cable capacity data that the Commission will collect will help it to make informed decision as to its policies and procedures developed to implement the requirements of the Cable Landing License Act.[184] This includes, for example, the adequacy of protection for competition and other matters.[185]

105. We will also continue to get information on the overall capacity of the international submarine cables. This information, which is currently included in the annual circuit status reports as Table 7-A, includes the current capacity of each international submarine cable as well as projections of capacity based on the known plans of the cable operators for upgrades to the technology used with the cable. As AT&T notes, this information allows the growth of U.S. cable capacity to be tracked on a year-to-year basis.[186] In addition to its usefulness for evaluating market concentration, this information is also needed to implement and monitor our regulatory fees since those fees are now assessed on a per cable system basis and take into consideration the capacity of the cable in determining the fee to be paid.[187] Currently our staff obtains this information through the cable license applications, inquiries of the cable operators and monitoring the trade press. As suggested by AT&T and Verizon, we will codify this filing requirement.[188] Thus as part of our changes to the reporting requirements we will require operators of international submarine cables to report the current capacity for the cable as well as the planned capacity.

106. Google raised a concern that the proposed directions for filing circuit information set out in the draft Filing Manual could be read to require end users to report circuit data.[189] It argued that only

[181] The 2006 earthquake damaged several submarine cables between Taiwan and the Philippines that serve countries in Asia. The 2011 earthquake and tsunami in Japan damaged several submarine cables serving Japan, but traffic to Japan was able to be rerouted via other cables.

[182] *Part 43 First Report and Order and Further Notice,* 26 FCC Rcd at 7317-18, ¶ 124.

[183] *Id.*

[184] *Id* at 7319-20, ¶ 130.

[185] *Id.*

[186] AT&T Comments at 5.

[187] *See 2012 Reg Fee Order,* 27 FCC Rcd at 8399, ¶ 30; *Subcable Reg Fee Order*, 24 FCC Rcd 4208. *See also* AT&T Comments at 5.

[188] AT&T Comments at 5; Letter from Anastacio A. Ramos, Executive Director-International, Public Policy and Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, Feb. 29, 2012.

[189] Google Reply at 2-3.

Commission licensees, and not end users, should have to file Circuit Status Reports.[190] We agree with Google that end users should not have to file international circuit data and we will only require our licensees – facilities-based common carriers, cable landing licensees and satellite operators – to file Circuit Status Reports. This is less expansive than the proposal in the *Further Notice* to require all non-common carriers to report their international circuits,[191] since the rule we adopt today will only apply to a specific class of non-common carriers, those that hold licenses from the Commission to operate a satellite or to land and operate an international submarine cable. We direct the International Bureau to implement in the Filing Manual our decision here that only Commission licensees are required to file circuit data. Further, we delegate authority to the International Bureau to adjust these circuit data reporting requirements to keep them current with changing conditions in international transport markets.

107. Although we will not require that annual circuit data be filed on a route-by-route basis, as discussed above, we continue to need route-specific circuit data as part of our dominant carrier safeguards. As codified in section 63.10(c),[192] the dominant carrier safeguards serve to protect U.S. consumers and U.S. carriers from possible anticompetitive behavior by a carrier affiliated with a carrier with market power on the foreign end of an U.S.-international route – a carrier classified as dominant on that route.[193] One of the components of the dominant carrier safeguards is that the carrier files quarterly reports of its circuits on that route.[194] The changes that we are making today to the annual circuit reports do not change our need to obtain route specific circuit data as part of the dominant carrier safeguards. Because our concern is with the market power of the carrier on a specific U.S.-international route,[195] we need circuit data from the carrier for that route. Since the current dominant carrier safeguard rule references section 43.82 and the procedures used for filing the annual circuit reports, we will amend section 63.10(c) to retain the requirement for carriers classified as dominant on a U.S.-international route(s) to report their circuits on the route(s) for which they are classified as dominant. This change merely maintains the existing circuit reporting requirement of the dominant carrier safeguards. As proposed in the *Further Notice,*[196] however, we will eliminate the requirement to file derived circuits.

108. In summary, we adopt the following requirements for the annual reports of international circuits and capacity:

(a) Terrestrial and Satellite Circuits

Facilities-based common carriers will be required to report their world aggregate active 64 kbps international common carrier circuits in any terrestrial or satellite facility for the provision of service to an end user or resale carrier, which includes active circuits used by themselves or their

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[190] *Id.*

[191] *Part 43 First Report and Order and Further Notice,* 26 FCC Rcd at 7318-20, ¶¶ 126-31.

[192] 47 C.F.R. § 63.10(c).

[193] *See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market: Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, FCC 97-398, 12 FCC Rcd 23891, 23991-99, ¶¶ 221-39 (1997) (*Foreign Participation Order*), Order on Reconsideration, FCC 00-339, 15 FCC Rcd 18158 (2000).

[194] 47 C.F.R. § 63.10(c)(4). The other components of the dominant carriers safeguards include the provision of service through a separate affiliate with separate books of account, no joint ownership of transmission or switching facilities, the filing or quarterly traffic and revenue reports, and the filing of quarterly provisioning and maintenance reports. *See* 47 C.F.R. § 63.10(c)(1)-(5).

[195] *See Foreign Participation Order,* 12 FCC Rcd at 24018-20, ¶¶ 281-86.

[196] *Part 43 First Report and Order and Further Notice,* 26 FCC Rcd at 7311-12, ¶¶ 113-14.

affiliates. In addition, non-common carrier satellite operators must report their world aggregate active 64 kbps circuits sold or leased to any customer, including themselves or their affiliates, other than a carrier authorized to provide U.S.-international common carrier services. Active circuits include backup and redundant circuits.[197] The filing entities will need to report only one number for the world aggregate of all their international circuits on terrestrial facilities; one number for their world aggregate of all their common carrier international circuits on satellite facilities; and one number for their world aggregate of all their non-common carrier international circuits on satellite facilities.

(b) Submarine Cable Capacity

Cable landing licensees will be required to report the available capacity of an international submarine cable in Gbps as of December 31 of the previous year. Available capacity is all of the capacity currently available on the cable using equipment currently used on the cable. Cable landing licensees will also be required to report the planned capacity of the submarine cable in Gbps. Planned capacity is the intended capacity of the international submarine cable two years out from the reporting date (December 31 of the reporting period plus two years) based on the plans of the cable operators for upgrades to the technology used with the cable. Only one cable landing licensee shall file the capacity data for each submarine cable. For cables with more than one licensee, the licensees shall determine which licensee will file the submarine capacity data for that submarine cable.

Cable landing licensees and common carriers will be required to report their available capacity in STMs on each international cable on which they hold capacity. This capacity is comprised of capacity held as an ownership interest in the cable, an IRU interest in the cable or an inter-carrier lease (ICL). Available capacity consists of the sum of (1) capacity that a filing entity owns; (2) the net of IRUs leased from other capacity holders less IRUs leased to other capacity holders; and (3) the net of ICLs leased from other capacity holders less ICLs leased to other capacity holders. The filing entity will also be required to categorize available capacity it holds on a cable as either activated or non-activated capacity. Activated capacity includes capacity used for providing services or facilities to customers (on either a common carrier or non-common carrier basis); capacity reserved for internal company use; capacity reserved for restoration services; and unused capacity that is available for immediate use. Capacity used for customers includes capacity used for ICS, international private lines, ISP and Internet backbone services. Non-activated capacity is unused capacity that is not available for immediate use.

D. Confidentiality of Traffic and Revenue Information

109. In the *Further Notice*, we requested comment on a proposal to identify in our rules as not routinely available for public inspection certain data contained in the section 43.62 traffic and revenue reports, which we termed "disaggregated," the release of which might cause competitive harm to U.S. carriers.[198] We proposed to make other data in the traffic and revenue reports otherwise available for public inspection, subject to our rules.[199]

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[197] Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits.

[198] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7322, ¶ 136.

[199] *Id.*

110. We defined disaggregated information as route-specific traffic and cost information that would allow competitors either to determine the filing carrier's cost of providing service or the rates, terms or conditions in the carrier's interconnection agreements with its foreign correspondents.[200] We proposed to treat route-specific fixed and mobile settlement data as disaggregated data.[201] We requested comment whether we should similarly treat as disaggregated information new data collections, including carrier breakdowns of their world-total revenue by customer category and routing arrangements. In addition, we noted that the Traffic and Revenue Reports contain information that is aggregated to such a degree that a competitor could not derive the specific commercial terms for a particular filer, so that the release of the information might not result in substantial competitive harm to the provider of the information. We stated that, by generally releasing this report data, while keeping disaggregated data confidential, we could achieve a balance between the public interest in the data and the filer's interest in keeping sensitive information confidential.[202] We asked for comment on these proposals. We also asked whether information that we withhold under them could be released after two years without causing competitive harm.[203]

111. Four parties commented on confidentiality issues, but none of those parties supports the *Further Notice* proposals. They generally contend that we should keep the entirety of each filer's individual reports confidential.[204]

112. AT&T argues that, while it may have made sense to make individual carriers' data public when the international market was more heavily regulated, making such data publicly available serves no purpose now that all U.S. carriers are non-dominant, the market is highly competitive, and public availability of the data is no longer needed to help enforce the FCC's International Settlements Policy (ISP).[205] AT&T believes that we have recognized that the public disclosure of provider-specific cost information in deregulated markets may harm rather than promote competition by reducing incentives to engage in vigorous rivalry.[206] It argues that we should recognize that carriers in such a competitive environment have a legitimate concern to protect their competitively sensitive data.[207] In addition, it contends that treating all data as confidential would: 1) be consistent with domestic practice, where we treat as confidential the cost and revenue filings of non-dominant carriers and allow carriers to request confidential treatment on their Forms 477 and 499 data; 2) make it easier to get data from VoIP providers, and 3) eliminate the need for staff review of confidentiality requests.[208] Google argues that

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[200] *Id.* at 7322-3, ¶ 136.

[201] *Id.* at 7323-4, ¶ 138.

[202] *Id.* at 7323-4, ¶ 138.

[203] *Id.* at 7324, ¶ 139.

[204] AT&T Comments at 13; Sprint Comments at 7, 9; Google Reply at 3; Verizon Reply at 10-11. AT&T and Verizon argue that we should allow filing entities to request confidentiality simply by checking a box on their report schedules, without the need to justify their requests, as is the Commission's practice for the domestic reports. AT&T Comments at 13-14; Verizon Reply at 10-11.

[205] AT&T Comments at 12-15.

[206] *Id.* at 14-15, citing *1998 Biennial Review, Reform of the International Settlements Policy,* 14 FCC Rcd 7963, ¶¶ 24-29 (finding that public disclosure of carrier-specific termination arrangements may "inhibit competition" among U.S. international carriers at both the retail and wholesale level).

[207] AT&T Comments at 12.

[208] *Id.* at 13-15.

confidentiality of its data is particularly important because its network ownership and locations are highly proprietary.[209]

113. AT&T, with Google and Verizon, generally contend that even though the carriers' traffic and revenue data are aggregated, disclosure could still harm competition by giving competitors insight into a particular carrier's costs, prices or market strategies that such entities could not otherwise obtain.[210] Verizon is concerned that competitors would get a localized picture of marketing successes or failures not otherwise publicly available which would give them an unfair advantage.[211] It believes that other carriers might also be able to use this information to determine otherwise confidential rates that U.S. carriers are paying to terminate traffic. Verizon points to specific instances in which the information to be provided in response to the proposed schedules of sensitive data would allow competitors to identify in which market a specific carrier had been successful in or lost ground, assess demand of individual services, glean specific confidential market and growth strategies, or understand a carrier's views on which world regions may be ripe for expansion.[212]

114. Sprint, supported by Verizon, argues that, because the U.S. carriers' foreign correspondents know the amount of IMTS traffic the carriers have settled with them, those correspondents and foreign regulators could compare their data with route-specific data that a carrier reports and thereby identify the amount of traffic that U.S. carriers have handled on a "hubbed" basis (i.e., the traffic that the carrier reoriginated through a third country at a lower settlement rate).[213] Sprint notes that, while we favor least-cost routing,[214] many of their correspondents and foreign regulators do not[215] and could use this information to demand higher settlement payments.[216] This result, Sprint points out, would increase U.S. carrier costs and could result in higher prices for U.S. consumers.[217]

115. We agree with AT&T and Verizon that release of individual traffic and revenue data may result in competitive harm to the carriers providing the data. We also share Sprint's concern that the U.S. carriers' overseas correspondents or regulators could use route-specific data to track and restrict hubbed

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[209] Google Reply at 4.

[210] AT&T Comments at 12; Google Reply at 4; Verizon Reply at 10. Letter from James J.R. Talbot, General Attorney, AT&T to Marlene Dortch, Secretary, Federal Communications Commission dated October 11, 2012.

[211] Letter from Leora Hochstein, Executive Director Federal Regulatory, Verizon to Marlene H. Dortch, Secretary, Federal Communications Commission, October 11, 2012.

[212] *Id.*

[213] Sprint Comments at 7; Verizon Reply at 10. Letters from David A. Nall, Senior Counsel – Government Affairs, Sprint, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated October 9, 2012. Hubbing, also know as "reorigination," refers to an indirect routing where a U.S. carrier routes IMTS traffic destined for country X through country Y. Because country Y may have a cheaper settlement arrangement with country X than the U.S. carriers do, U.S. carriers can enter into an agreement with the carrier in county Y to route the country X-bound traffic through country Y and to designate it as having originated in county Y. The carriers can, in this way, terminate traffic in country X more cheaply than they could by routing it directly.

[214] Sprint Comments at 8, citing section 63.17 of the Commission rules, 47 C.F.R. § 63.17 (2011).

[215] Sprint Comments at 8, citing the ITU Working Group to Prepare for the 2012 World Conference on International Telecommunications, CWG-WCITI12/TD – 31 Rev. 3 (25 May 2011) (proposed definition of "hubbing," contributions of the Global Voice Group).

[216] Sprint Comments at 7.

[217] *Id.*

traffic. We agree that we should not make public carrier information if doing so might frustrate U.S. policy in favor of least-cost routing and lower consumer rates. We therefore will treat individual carriers' international traffic data in a manner consistent with our current treatment of domestic data on Forms 477 and 499, as proposed by AT&T and Verizon.[218] Pursuant to our rules, we adopt an abbreviated means for the submitter of the data to seek confidential treatment. Specifically, we will provide a checkbox on the certification forms accompanying each filing enabling the submitter to indicate that the data is confidential and deferring the need to provide justification for confidential treatment until another party requests access to the data.[219] The Commission's rules currently contemplate allowing parties seeking confidential treatment to defer providing justification for such treatment until another party seeks access to the data.[220] Upon receipt of a request for inspection of the data, we will notify the submitter of the request and the submitter will be required to justify continued confidential treatment pursuant to our rules.[221] At this time, we do not establish a time limit for confidential treatment.[222]

116. Finally, AT&T and Verizon argue that we should not include company-specific data in our annual *International Telecommunications Data* reports.[223] Currently we publish industry aggregate data and include company-specific data only if the filer does not request confidential treatment of its filing; we do not publish company-specific data for those filers that request confidential treatment for their data.[224] AT&T and Verizon contend that due to the competitively sensitive nature of the international data we should change our current practice to be consistent with our domestic reporting practices, which include the publication of only industry aggregate data.[225] We recognize the concerns of

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[218] *See* Instructions for Local Telephone Competition and Broadband Reporting (FCC Form 477), p. 19, note D, *available at* http://transition.fcc.gov/Forms/Form477/477inst.pdf; *See also*, 2012 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A), p. 28, *available at* http://transition.fcc.gov/Forms/Form499-A/499a-2012.pdf.

[219] 47 C.F.R. § 0.459(a)(4).

[220] 47 C.F.R. § 0.459(d)(3). Under Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553(b)(A), "rules of agency organization, procedure, or practice" are exempt from the general notice and comment requirements of that statute. The "critical feature" of the procedural exception "is that it covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency." *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980). *See also American Hosp. Ass'n v. Bowen,* 834 F.2d 1037, 1047 (D.C. Cir. 1987); *Neighborhood TV Co. v. FCC*, 742 F.2d 629, 637 (D.C. Cir. 1984); *JEM Broadcasting Co. v. FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994); *Electronic Policy Information Center v. U.S. Dept. of Homeland Security*, 653 F.3d 1, 5-6 (D.C. Cir. 2011). Here, we are altering the manner in which parties present themselves or their viewpoints, by simplifying the procedure pursuant to which those parties may request confidential treatment.

[221] 47 C.F.R. § 0.459(b).

[222] 47 C.F.R. § 0.459(b)(5).

[223] *See* AT&T Comments at 13; Verizon Reply at 10; Letter from James J.R. Talbot, General Attorney, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, Oct. 11, 2012; Letter from Leora Hochstein, Executive Director, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, Oct. 11, 2012 at 4.

[224] *See, e.g., 2010 International Telecommunications Data* Table A.

[225] AT&T Comments at 13 (citing *Local Competition and Broadband Reporting,* CC Docket No. 99-301, Report and Order, 15 FCC Rcd 7717, ¶ 89 (2000)); Verizon Reply at 10 (citing *Providing Eligible Access to Aggregate Form 477 Data,* WC Docket No. 07-38, Order, 25 FCC Rcd 5059, 5061 ¶ 5 (2010)).

these commenters and, consistent with our domestic reporting practices, we will only publish aggregated industry data in the *International Telecommunications Data* reports.

E. Confidentiality of Circuit Status Information

117. In the *Further Notice*, we sought comment whether the circuit status information the carriers submit under section 43.82 continues to be competitively sensitive or whether the information could be made available to the public.[226] The *Further Notice* directed those carriers that want continued confidential treatment to address why the information is competitively sensitive. The *Further Notice* also asked carriers to address whether the circuit-status information, if initially found to be sensitive when filed, could be released after time has passed and suggested a period of one or two years.

118. Commenters seek broad confidential treatment of circuit status data because such data is competitively sensitive. AT&T's comments state that the circuit information remains sensitive for the service life of a facility and that we should keep such information confidential.[227] Sprint is concerned that route-by-route circuit status information could be exploited for anticompetitive purposes and that there is no good reason for this information to be handed over to competitors if a filing entity has requested nondisclosure.[228] Verizon states that the growing number of filing entities that request confidentiality highlights the growing sensitivity of provider-specific traffic and circuit status information.[229] Verizon argues that, rather than discouraging requests for confidentiality, we should allow filing entities to seek confidentiality through streamlined procedures.[230] Google states that we must keep circuit-status information confidential to avoid commercial and competitive injury to reporting entities.[231]

119. Verizon proposed that we allow filing entities to request confidentiality for their Circuit Status Reports under Section 0.459(a)(4) of our rules by simply checking a box on the report.[232] After reviewing all the comments, we will also adopt the check box procedure requested by Verizon enabling the submitters to indicate the data is confidential. As with traffic and revenue data, the checkbox will appear on the certification form to accompany each filing. Also, as with the traffic and revenue data, we will not adopt a time limitation in which we treat the data confidentially.

F. Ministerial Amendment to the Rules

120. In the *First Report and Order* in this proceeding we eliminated the quarterly foreign-affiliated switched resale carrier reports, finding that this report is no longer necessary.[233] Consequently, we removed section 43.61(c) of our rules, which set out this reporting requirement.[234] This action rendered section 63.18(l) obsolete since it is a companion to section 43.61(c) as it requires an applicant for an international Section 214 authorization that will provide foreign-affiliated switched resale carrier

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[226] *Id.* at 7324, ¶ 142.

[227] AT&T Comments at 13.

[228] Sprint Comments at 9.

[229] Verizon Reply at 10.

[230] *Id.* at 10-11.

[231] Google Reply at 4.

[232] Letter from Leora Hochstein, Executive Director, Federal Regulatory, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, Oct. 11, 2012 at 5.

[233] *Part 43 First Report and Order and Further Notice*, 26 FCC Rcd at 7283-84, ¶¶ 22-23.

[234] *Id.* at 7284, ¶ 23, 7352, Appendix C.

service to file quarterly reports required by section 43.61(c).[235] Therefore as a ministerial matter we will delete section 63.18(l).[236]

121. In the *Further Notice*, the Commission invited comment on updating a number of provisions in Part 63 to conform to our revisions to Part 43 by replacing "§ 43.61" and "§ 43.82" with "§43.62." No one opposed these proposals. Accordingly, we will revise section 63.21(d) to replace "§43.61" with "43.62," and section 63.22(e) to replace "§43.82" with "43.62." In section 63.10(c)(2) we amend the language to clarify that quarterly traffic and revenue reports filed by carriers classified as dominant pursuant to section 63.10 shall be filed consistent with the Section 43.62 Filing Manual.[237]

IV. TRANSITION

122. In this *Second Report and Order* we have eliminated or revised a number of reporting requirements. We also directed the International Bureau to issue a consolidated Filing Manual with instructions for filing annual Traffic and Revenue Reports and Circuit Status Reports. Carriers should continue to file their reports pursuant to current Sections 43.61 and 43.82 Filing Manuals until they are informed by a public notice that the rules adopted here and the new Filing Manual implementing the changes adopted in this proceeding are in effect.

V. CONCLUSION

123. In this *Second Report and Order* we have adopted a number of changes to the system of reporting international communications data that eliminate unnecessary reporting, while at the same time ensuring that we receive the data we need to fulfill our statutory obligations in a timely and accurate manner. In making these changes to the international reporting requirements, we conclude that the benefits of collecting complete and accurate data outweigh the burdens imposed by reporting requirements. The streamlining changes that we adopt today should greatly reduce the burden on smaller international service providers and the complexity and detail of the information required from the largest service providers.

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[235] 47 C.F.R. § 63.18(l).

[236] This rule revision falls within the "unnecessary" exception to the notice-and-comment requirement of the Administrative Procedure Act. *See* 5 U.S.C. § 553(b) (stating that notice and comment procedures do not apply "when the agency for good cause finds (and incorporates the finding and a brief statement for reasons therefore in the rules issued) that notice and public procedures thereon are . . . unnecessary . . .). The "unnecessary" exception to the notice requirement is "confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public." *Utility Solid Waste Activities Group v. EPA*, 236 F.3d 749, 755 (D.C. Cir., 2001), *citing Texaco v. FPC*, 412 F.2d 740, 743 (3d Cir., 1969). "'Unnecessary' refers to the issuance of a minor rule or amendment in which the public is not particularly interested." *Texaco*, 412 F.2d at 743 n.3. We have good cause for finding that the elimination of section 63.18(*l*) is an insignificant and inconsequential rule change, because the requirement of section 63.18(*l*) became obsolete at the time we eliminated Section 43.61(c) in the *First Report and Order*.

[237] We have also amended the rule concerning the filing of quarterly circuit status reports by dominant carriers – section 63.10(c)(4). *See* ¶ 107, *infra*.

VI. ADMINISTRATIVE MATTERS

A. Final Regulatory Flexibility Analysis

124. Pursuant to the Regulatory Flexibility Act,[238] we have prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities by the policies and actions taken in this *Second Report and Order*. The text of the FRFA is set forth in Appendix B.

B. Paperwork Reduction Act of 1995 Analysis

125. This *Second Report and Order* adopts new or revised information collection requirements, subject to the Paperwork Reduction Act of 1995 (PRA).[239] These information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. The Commission will publish a separate notice in the Federal Register inviting comment on the new or revised information collection requirement(s) adopted in this document. The requirement(s) will not go into effect until OMB has approved it and the Commission has published a notice announcing the effective date of the information collection requirement(s). 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."[240]

C. Congressional Review Act

126. The Commission will include a copy of this Second Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. *See* 5 U.S.C. § 801(a)(1)(A).

VII. ORDERING CLAUSES

127. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4(i)-4(j), 11, 201-205, 211, 214, 219, 220, 303(r), 309 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-154(j), 161, 201-205, 211, 214, 219-220, 303(r), 309, 403, the policies, rules and requirements discussed in this *Second Report and Order* ARE ADOPTED and Parts 43 and 63 of the Commission's rules, 47 C.F.R. Parts 43 and 63, ARE AMENDED as set forth in Appendix C. These rule revisions contain modified information collection requirements that require approval by the Office of Management and Budget (OMB) under the PRA. The Federal Communications Commission will publish a document in the Federal Register announcing such approval and the relevant effective date, after the International Bureau has made revisions to the International Bureau Filing System (IBFS) necessary to implement the revised reporting requirements adopted here.

128. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business

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[238] *See* 5 U.S.C. § 603. The RFA, *see* U.S.C. §601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[239] The Paperwork Reduction Act of 1995 ("PRA"), Pub. L. No. 104-13, 109 Stat 163 (1995) (codified in 44 U.S.C. §§ 3501-3520).

[240] *Rural NPRM*, 24 FCC Rcd at 5261; 74 Fed. Reg. 22498, 22505 (May 13, 2009).

Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*

129. IT IS FURTHER ORDERED that the Chief, International Bureau, shall issue a Public Notice announcing when the changes adopted in this *Second Report and Order* take effect, and shall issue a Public Notice releasing the Manual for Filing Section 43.62 Annual Reports.

130. IT IS FURTHER ORDERED that the Chief, International Bureau, shall maintain and revise the Filing Manual and filing schedules as needed, and shall give notice of proposed updates by Public Notice, providing the public opportunity to comment on the proposed updates, and shall inform the public of updates by Public Notice.

131. IT IS FURTHER ORDERED that this proceeding, IB Docket No. 04-112, IS HEREBY TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Summary of Decisions

Decisions Applicable to both Traffic and Revenue Reports and Circuit Status Reports

With regard to Traffic and Revenue Report and Circuit Status Reports, we:

- consolidate sections 43.61 and 43.82 into one rule, and have a consolidated Filing Manual for both the Traffic and Revenue Reports and the Circuit Status Reports;
- decline to change the filing dates from March 31 for the Circuit Status Report and July 31 for the Traffic and Revenue Report to a consolidated filing date of May 1, and retain our requirement that revisions to the Traffic and Revenue Report are due no later than October 31;
- require all filing entities to file a Registration Form with the Traffic and Revenue Report and the Circuit Status Report, which includes information about the filing entity – such as address, phone number, email address, and the international Section 214 authorizations and cable landing licenses held by the carrier;
- allow statistical sampling and other estimation procedures and techniques where actual counts of data are not possible;
- streamline the process for requesting confidential treatment of the data filed by allowing filers to check a box to request confidential treatment under section 0.459 of the rules.

Decisions Applicable to the Traffic and Revenue Report

With regard to the Traffic and Revenue Report, we:

- require filers to complete a Services Checklist, which includes information of whether an international Section 214 authorization holder provided any international telecommunications service the preceding calendar year, whether the filing entity had less than $5 million of revenue for resale or miscellaneous services, and provides information to the filer regarding which schedules it is required to complete;
- adopt a set of standard schedules for filing;
- eliminate the use of billing codes;
- eliminate the requirement to report the number of messages;
- eliminate the requirement to report regional totals;
- continue our current requirements for reporting spot-market traffic, and clarify spot market owners;
- require filers to include only the terminating legs of their reoriginated traffic for foreign carriers and allow filers to add such traffic to the other IMTS traffic they report for each route;
- require that filers include country-beyond and country-direct calls as part of their U.S.-billed traffic and revenues data;
- require entities to disaggregate the minutes terminated on foreign networks and settlement payouts between calls terminated on fixed line networks and those terminated on mobile networks;
- require filers to allocate their non-route-specific revenues to specific U.S. international routes;
- require filers to report traditional transit traffic only on a world total basis;

- require filers to report world total traffic by customer class and routing arrangement;
- require filers that provide facilities-based IMTS to report resold private line service on a world-total basis;
- establish a $5 million revenue threshold below which a filing entity need not file annual traffic and revenue data for international resale services;
- eliminate the current requirements that filers disaggregate their private line service data into six categories based on the speed of the service and allow filers to report their circuits and revenues for service provided over resold circuits on a world-total basis only;
- require filers to report international data services only on a world-total basis;
- establish a $5 million annual revenue threshold below which a carrier need not report miscellaneous services.
- require providers of interconnected VoIP and one-way VoIP that transits the PSTN to file the Traffic and Revenue Report;

Decisions Applicable to the Circuit Status Report

With regard to the Circuit Status Report, we:

- require facilities-based common carriers to report their world aggregate active 64 kbps international common carrier circuits in any terrestrial or satellite facility for the provision of service to an end user or resale carrier, which includes active circuits used by themselves or their affiliates;
- require non-common carrier satellite operators to report their world aggregate active 64 kbps circuits sold or leased to any customer, including themselves or their affiliates, other than a carrier authorized to provide U.S. international common carrier services;
- require cable landing licensees to report the available capacity of an international submarine cable in Gbps as of December 31 of the previous year;
- require reporting the planned capacity of submarine cables in Gbps;
- require cable landing licensees and common carriers to report their available capacity in STMs on each international cable on which they hold capacity. This capacity is comprised of capacity held as an ownership interest in the cable, an IRU interest in the cable or an intercarrier lease (ICL).

APPENDIX B

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act, as amended (RFA),[1] the Federal Communications Commission (Commission) included an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in the Further Notice of Proposed Rulemaking (NPRM) in this proceeding.[2] The Commission sought written public comment on the proposals in the FNPRM, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) addresses the policies and rules that the Commission adopted in the Second Report and Order in this proceeding. This *Second Report and Order* retains the annual Traffic and Revenue Report and the annual Circuit Status Report. The *Second Report and Order* adopts some measures, as described below, to simplify compliance with the reporting requirements but generally does not alter either report. The Commission considered a number of proposals to streamline the reports and to improve the information that carriers will provide in the Further Notice of Proposed Rulemaking portion of this proceeding. This FRFA conforms to the RFA.

A. Need for, and Objectives of, the First Report and Order

1. The Commission initiated this comprehensive review of the reporting requirements imposed on U.S. carriers providing international telecommunications services. The Commission believes that the decisions in the Second Report and Order will make it easier for carriers, both small and large, to provide the information required by the rules, while providing the Commission with information it needs but does not receive on an annual basis. In addition, section 11 of the Telecommunications Act of 1996 directs the Commission to undertake, in every even-numbered year beginning in 1998, a review of certain regulations issued under the Communications Act of 1934, as amended.[3]

2. The objective of the *Second Report and Order* in this proceeding is to improve the reporting requirements imposed on carriers providing international telecommunications services in the proposed sections 43.62(a) and 43.62(b). Specifically, the *Second Report and Order* consolidates, simplifies, and revises the annual traffic and revenue reporting requirements and the circuit status reporting requirements. The rule also requires entities to file some additional information in the traffic and revenue report that they do not now file. Additionally, the rule relieves service providers with annual revenues less than $5 million from filing Traffic and Revenue Reports for IMTS resale and the provision of international miscellaneous services. Finally, the rule requires all providers of international telecommunications services to file an annual Services Report that updates their contact information and indicates whether or not they provided service during the preceding calendar year. The *Second Report and Order* also requires some additional entities that provide international telecommunications services to file the annual Traffic and Revenue Report and some additional entities that provide international facilities to file the annual Circuit Status Report.

3. Section 43.61 requires all U.S. carriers providing international telecommunications

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[1] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[2] *Reporting Requirements for U.S. Providers of International Telecommunications Services, Amendment of Part 43 of the Commission's Rules,* IB Docket No. 04-112, Notice of Proposed Rulemaking, 19 FCC Rcd 6460 (2004). We note that we may not certify this proceeding under 5 U.S.C. § 605, because our action will not have a significant economic effect on a substantial number of small entities (as discussed).

[3] Pub. L. No. 104-104, 110 Stat. 56 (1996).

services to file an annual report of their traffic and revenues. Under the consolidated section 43.62(a), those same carriers and some additional entities that provide international telecommunications services will file similar traffic and revenue information. Section 43.82 requires all U.S. facilities-based carriers providing international telecommunications services to file an annual report on the status of their circuits. Under the new section 43.62(b), those same carriers and some other providers of international telecommunications facilities will file similar circuit status information. The information derived from the international Traffic and Revenue Report and Circuit Status Report is critical in understanding the international telecommunications market. These reports are the only source of information of this nature.

4. The information obtained from these reports is used extensively by the Commission, the industry, other government agencies, and the public. The Commission uses the information to evaluate applications for international facilities, track the development of the international telecommunications market and the competitiveness of each service and geographical market, formulate rules and policies consistent with the public interest, monitor compliance with those rules and policies, and gauges the competitive effect of its decisions on the market. Carriers use the information to track the balance of payments in international communications services and for market analysis purposes. Carriers and potential entrants use the information for, among other things, assessment of market opportunities and to monitor competition in markets. The Commission, along with other government agencies such as the Department of Justice, uses the information in merger analyses and negotiations with foreign countries. In addition, the information contained in the Circuit Status Report allows the Commission to comply with the statutory requirements of the Omnibus Budget Reconciliation Act of 1993.

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

5. No comments specifically addressed the IRFA

C. Description and Estimate of the Number of Small Entities to which the Rules will Apply

6. 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 proposals, if adopted.[4] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[5] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[6] 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).[7]

7. The policies adopted in the *Second Report and Order* apply to entities providing international common carrier services pursuant to section 214 of the Communications Act; entities

[4] 5 U.S.C. § 603(b)(3).

[5] 5 U.S.C. § 601(6).

[6] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

[7] 15 U.S.C. § 632.

providing international wireless common carrier services under section 309 of the Act; entities providing common carrier satellite services under section 309 of the Act; and entities licensed to construct and operate submarine cables under the Cable Landing License Act. The Commission has not developed a small business size standard directed specifically toward these entities. As described below, such entities fit within larger categories for which the SBA has developed size standards

1. Traffic and Revenue Report

8. The policies adopted in the *Second Report and Order* apply only to entities providing international common carrier services pursuant to section 214 of the Communications Act; entities that operate a telecommunications "spot market" that themselves carry international traffic; entities providing domestic or international wireless common carrier services under section 309 of the Act; entities providing common carrier satellite facilities under section 309 of the Act; entities licensed to construct and operate submarine cables under the Cable Landing License Act on a common carrier basis; and entities that provide international terrestrial telecommunications facilities on a common carrier basis (including incumbent local exchange carriers that offer such facilities). At present, carriers that provide international telecommunications services are required to file the annual traffic and revenue report. The *Second Report and Order* requires entities providing VoIP service interconnected with the public switched telephone network also to file the Traffic and Revenue Report. The *Second Report and Order* also requires all filing entities file a Services Report with information about the filing entity – such as address, phone number, email address, and the international section 214 authorizations held by the carrier. Further, the *Second Report and Order* adopts a number of changes that would simplify the Traffic and Revenue Report, as well as requiring some new information.

9. The entities that the *Second Report and Order* proposes to require to file the Traffic and Revenue Report are a mixture of both large and small entities. The Commission has not developed a small business size standard directed specifically toward these entities. However, as described below, these entities fit into larger categories for which the SBA has developed size standards that provide these facilities or services.

10. **Facilities-based Carriers.** Facilities-based providers of international telecommunications services would fall into the larger category of interexchange carriers. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[8] Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Interexchange carriers can be considered small entities.[9] According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[10] Of these 359

[8] 13 C.F.R. § 121.201, NAICS code 517110.

[9] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector…," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

[10] *See* Trends in Telephone Service at Table 5.3.

companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.[11] Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the FNPRM.

11. In the 2010 annual traffic and revenue report, 31 facilities-based and facilities-resale carriers reported approximately $4.0 billion in revenues from international message telephone service (IMTS). Of these, three reported IMTS revenues of more than $1 billion, six reported IMTS revenues of more than $100 million, nine reported IMTS revenues of more than $50 million, 19 reported IMTS revenues of more than $10 million, 23 reported IMTS revenues of more than $5 million, and 26 reported IMTS revenues of more than $1 million. Based solely on their IMTS revenues the majority of these carriers would be considered non-small entities under the SBA definition.[12]

12. The 2010 traffic and revenue report also shows that 46 facilities-based and facilities-resale carriers (including 13 who also reported IMTS revenues) reported $515 million for international private line services; of which one reported private line revenues of more than $50 million, 11 reported private line revenues of more than $10 million, 31 reported revenues of more than $1 million, 33 reported private line revenues of more than $500,000; 39 reported revenues of more than $100,000, while one reported revenues of less than $10,000.

13. The 2010 traffic and revenue report also shows that eight carriers (including one that reported both IMTS and private line revenues, one that reported IMTS revenues and five that reported private line revenues) reported $19 million for international miscellaneous services, of which two reported miscellaneous services revenues of more than $1 million, three reported revenues of more than $500,000, four reported revenues of more than $200,000, six reported revenues of more than $50,000, while one reported revenues of less than $20,000. Based on its miscellaneous services revenue, this one carrier with revenues of less than $20,000 would be considered a small business under the SBA definition. Based on their private line revenues, most of these entities would be considered non-small entities under the SBA definition.

14. **IMTS Resale Providers.** Providers of IMTS resale services are common carriers that purchase IMTS from other carriers and resell it to their own customers. 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.[13] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.[14] Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. In the 2010 traffic and revenue report, 1,211 carriers reported that they provided IMTS on a pure resale basis.[15] Based on their IMTS

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[11] *See id.*

[12] *See* 13 C.F.R. § 121.201, NAICS Code at Subsector 517 – Telecommunications.

[13] 13 C.F.R. § 121.201, NAICS code 517911.

[14] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector…," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

[15] *See* FCC, International Bureau, Strategic Analysis and Negotiations Division, *2010 International Telecommunications Data* at page 1-2, Statistical Findings, and Table D at page 22 (March 2012), *available at* http://www.fcc.gov/ib/sand/mniab/traffic.

resale revenues, IMTS resale service is primarily provided by carriers that would be considered small businesses under the SBA definition. For example, of the 1,211 IMTS resale carriers, 656 carriers reported revenues of less than $10,000; 1,014 had revenues less than $500,000; and 1,053 had revenues less than $1 million.[16] Consequently, the Commission estimates that the majority of IMTS resellers are small entities that may be affected by our action.

15. **Wireless Carriers and Service Providers.** Included among the providers of IMTS resale are a number of wireless carriers that also provide wireless telephony services domestically. The Commission classifies these entities as providers of Commercial Mobile Radio Services (CMRS). At present, most, if not all, providers of CMRS that offer IMTS provide such service by purchasing IMTS from other carriers to resell it to their customers. The Commission has not developed a size standard specifically for CMRS providers that offer resale IMTS. Such entities would fall within the larger category of wireless carriers and service providers. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

16. **Wireless Telecommunications Carriers (except Satellite).** Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category.[17] Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless Telecommunications.[18] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[19] For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.[20] Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services.[21] Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.[22] Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

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[16] *Id.*

[17] U.S. Census Bureau, 2007 NAICS Definitions: Wireless Telecommunications Categories (except Satellite), http://www.census.gov/naics/2007/def/ND517210.HTM (last visited March 2, 2011).

[18] U.S. Census Bureau, 2002 NAICS Definitions: Paging, http://www.census.gov/epcd/naics02/def/NDEF517.HTM (last visited March 2, 2011); U.S. Census Bureau, 2002 NAICS Definitions: Other Wireless Telecommunications, http://www.census.gov/epcd/naics02/def/NDEF517.HTM (last visited March 2, 2011).

[19] 13 C.F.R. § 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 C.F.R. citations were 13 C.F.R. § 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

[20] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517210 in the left column for "Wireless Telecommunications Carriers (except Satellite)") (last visited March 2, 2011).

[21] *See* Trends in Telephone Service at Table 5.3.

[22] *See id.*

17. **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.[23] The SBA has approved these definitions.[24] The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

18. **Providers of Interconnected VoIP services.** In addition to the carriers that now file the annual traffic and revenue report, the *Second Report and Order* requires entities providing international calling service via Voice over Internet Protocol (VoIP) connected to the public switched telephone network (PSTN) to file data on their international voice traffic. The entities that provide such services are a mix of large and small entities. We do not have information on the size of such VoIP providers. The 2007 Economic Census includes VoIP providers in a larger class called "Internet Service Providers" (ISPs), and classes such ISPs in two categories, depending upon whether the service is provided over the provider's own facilities (e.g., cable or DSL ISPs), or over client-supplied telecommunications connections (e.g., dial-up ISPs). The former are within the category of Wired Telecommunications Carriers.[25] As a result, for the purpose of this IRFA we shall consider all such entities to be small entities within the meaning of the Small Business Act., which has an SBA small business size standard of 1,500 or fewer employees.[26] The latter are within the category of All Other Telecommunications,[27] which has a size standard of annual receipts of $25 million or less.[28] The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers.[29] That category had a small business size standard of $21 million or less in annual receipts, which was revised in late 2005 to $23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year.[30] Of those, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999.[31] Consequently, we estimate that the majority of VoIP providers are small entities.

19. **Spot Market operators.** A "spot market" is a market where IMTS providers can buy or sell call completion services for calls, including IMTS calls. A customer of the spot market enters into a

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[23] Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service, GN Docket No. 96-228, Report and Order, 12 FCC Rcd 10785, 10879, ¶ 194 (1997).

[24] *See* Letter from Aida Alvarez, Administrator, SBA, to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC (filed Dec. 2, 1998) (Alvarez Letter 1998).

[25] U.S. Census Bureau, 2007 NAICS Definitions: Wired Telecommunications Carriers, http://www.census.gov/naics/2007/def/ND517110.HTM (last visited March 2, 2011).

[26] 13 C.F.R. § 121.201, NAICS code 517110 (updated for inflation in 2008).

[27] U.S. Census Bureau, 2007 NAICS Definitions: All Other Telecommunications, http://www.census.gov/naics/2007/def/ND517919.HTM (last visited March 2, 2011).

[28] 13 C.F.R. § 121.201, NAICS code 517919 (updated for inflation in 2008).

[29] U.S. Census Bureau, 2002 NAICS Definitions: Internet Service Providers, Web Search Portals, and Data Processing Services, http://www.census.gov/epcd/naics02/def/NDEF518.HTM (last visited March 2, 2011).

[30] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," at Table 4, NAICS code 518111 (issued Nov. 2005).

[31] An additional 45 firms had receipts of $25 million or more.

contract with the spot market owner to buy or sell call completion services by interconnecting at a spot market point of presence. The spot market owner acts as broker by facilitating the exchange of calls between spot market customers, who may not know each other's identity. The Commission has not developed a small business size standard specifically for operators of spot markets. As a result, for purposes of this IRFA, we shall consider all such entities to be small businesses.

2. Circuit Status Report

20. The actions we take in the *Second Report and Order* apply only to entities that have international bearer circuits. The *Second Report and Order* makes changes to the information that filing entities must provide about international common carrier circuits.

21. **Providers of International Telecommunications Transmission Facilities**. According to the 2010 Circuit Status Report, 70 U.S. international facility-based carriers filed information pursuant to section 43.82.[32] Some of these providers would fall within the category of Inter-exchange Carriers, some would fall within the category of Wired Telecommunications Carriers, while others may not. The Commission has not developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[33] The circuit-status report does not include employee or revenue statistics, so we are unable to determine how many carriers could be considered small entities under the SBA standard. Although it is quite possible that a carrier could report a small amount of capacity and have significant revenues, we will consider those 75 carriers to be small entities at this time. In addition, of the 79 carriers that filed an annual circuit-status report for 2009, there were at least four carriers that reported no circuits owned or in use at the end of 2009.[34]

22. **Satellite Telecommunications Providers.** Other providers of international transmission facilities are those that operate international common carrier and non-common carrier satellite systems. Such systems provide circuits to providers of international telecommunication services or provide circuits directly to end users. The *Second Report and Order* requires operators of international satellite services to report their aggregate world-wide active circuits in the Circuit Status Report. The Commission has not determined a size standard specifically for operators of international satellite systems that offer circuits directly to end users. However, two economic census categories address the satellite industry. Under SBA rules, the first category has a small business size standard of $15 million or less in average annual receipts.[35] The second category has a size standard of $25 million or less in annual receipts.[36]

23. The category of Satellite Telecommunications "comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."[37] Census Bureau data for 2007 show that 512 Satellite

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[32] *See* International Bureau Releases 2009 Year-End Circuit Status Report for U.S. Facilities-Based International Carriers; Data Reflects Continued Growth of Total Capacity Used (rel. March 30, 2012). The report is available on the FCC website at http://www.fcc.gov/ib/pd/pf/csmanual.htm.

[33] 13 C.F.R. § 121.201, NAICS code 517110.

[34] *Id.*

[35] 13 C.F.R. § 121.201, NAICS code 517410.

[36] 13 C.F.R. § 121.201, NAICS code 517919.

[37] U.S. Census Bureau, 2007 NAICS Definitions, Satellite Telecommunications, http://www.census.gov/naics/2007/def/ND517410.HTM (last visited March 2, 2011).

Telecommunications firms that operated for that entire year.[38] Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999.[39] Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

24. The second category, i.e., All Other Telecommunications, comprises "establishments 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."[40] For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year.[41] Of this total, 2,347 firms had annual receipts of under $25 million and 12 firms had annual receipts of $25 million to $49, 999,999.[42] Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

25. **Operators of Non-Common carrier Undersea Cable Systems.** The *Second Report and Order* requires all submarine cable licensees to file data on their circuits on submarine cable facilities. Neither the Commission nor the SBA has developed a size standard specifically for operators of non-common carrier undersea cables. Such entities would fall within the large category of Wired Telecommunications Carriers. The size standard under SBA rules for that category is that such a business is small if it has 1,500 or fewer employees.[43] Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 employees or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these carriers can be considered small entities.[44] We do not have data on the number of

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[38] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ4: Receipts Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517210 in the left column for "Satellite Telecommunications") (last visited March 2, 2011).

[39] *Id.*

[40] U.S. Census Bureau, 2007 NAICS Definitions, All Other Telecommunications, http://www.census.gov/naics/2007/def/ND517919.HTM (last visited March 2, 2011).

[41] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ4: Receipts Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517919 in the left column for "All Other Telecommunications") (last visited March 2, 2011).

[42] *Id.*

[43] 13 C.F.R. § 121.201, NAICS code 517110.

[44] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

employees or revenues of operators of non-common carrier undersea cables. Because providers of non-common carrier undersea cables do not now file an annual circuit-status report, we do not know how many such entities provide circuits directly to end users. We do know that a number of such entities pay regulatory fees on such circuits, but the names of such entities are confidential. Because we do not have information on the number of employees or their annual revenues, we shall consider all such providers to be small entities for purposes of this IRFA.

26. **Incumbent Local Exchange Carriers.** Because some of the international terrestrial facilities that are used to provide international telecommunications services may be owned by incumbent local exchange carriers, we have included small incumbent local exchange carriers in this present RFA analysis, to the extent that such local exchange carriers may operate such international facilities. (Local exchange carriers along the U.S.-border with Mexico or Canada may have local facilities that cross the border.) Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange carriers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[45] Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.[46] Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.[47] 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."[48] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope.[49] Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies we adopt in the *Second Report and Order*. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analysis and determinations in other, non-RFA contexts. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small providers.[50]

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[45] 13 C.F.R. § 121.201, NAICS code 517110.

[46] *See* Trends in Telephone Service, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (Trends in Telephone Service).

[47] *See id.*

[48] 15 U.S.C. § 632.

[49] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small-business concern," which the RFA incorporates into its own definition of "small business." See 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b).

[50] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

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

27. The *Second Report and Order* retains and revises the annual Traffic and Revenue Report and Circuit Status Report, and add the Service Report, because the collection and public reporting of this information continues to be necessary in the public interest. Because carriers currently are required to file the section 43.61 annual traffic and revenue report and the section 43.82 annual circuit-status report, the decision to retain those reports will not impose any additional significant economic burden on small carriers. The Service Report is a simple form whose compliance burden is *de minimis*. The decision to retain the reporting of IMTS and international private lines on a route-by-route basis similarly continues requirement of the current section 43.61. As a result, this conclusion will also not impose any significant additional burden on small carriers.

28. The revisions the *Second Report and Order* makes to the reporting requirements will reduce overall compliance requirements and burden. Particularly, the elimination of the use of billing codes in the Traffic and Revenue Report, the requirement that filers include only the terminating legs of their reoriginated traffic, the requirement that filers report traditional transit traffic only on a world total basis, the requirement that filers report international data services only on a world-total basis, and the elimination of the current requirements that filers disaggregate their private line service data into six categories based on the speed of the service will simplify and lessen compliance requirements.

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

29. 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 rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage or the rule, or any part thereof, for small entities."[51]

30. The *Second Report and Order* considered consolidating the Traffic and Revenue Report and the Circuit Status Report into a single, annual report. We did not, however, adopt this consolidation because the timing of the availability of data makes it impossible for these two reports to be consolidated while providing us with information we need to perform our duties in a timely manner.

31. The establishment of a $5 million revenue threshold below which a filing entity need not file annual traffic and revenue data for international resale services or miscellaneous services will considerably ease the reporting burden on small entities. The *Second Report and Order* also considered requiring a requirement to correct any errors in the reported data of over one percent in the Traffic and Revenue Report on an ongoing basis. We rejected this requirement, however, retaining the requirement that filers need only file a single correction 90 days after filing the report. This decision will simplify compliance for all filers.

[51] 5 U.S.C. § 603(c)(1)-(c)(4).

Report to Congress

32. The Commission will send a copy of this *Second Report and Order*, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act.[52] In addition, the Commission will send a copy of the *Second Report and Order*, including a copy of this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Second Report and Order* and FRFA (or summaries thereof) will also be published in the *Federal Register*.[53]

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

33. None.

[52] *See* 5 U.S.C. § 801(a)(1)(A).

[53] *See* 5 U.S.C. § 604(b).

APPENDIX C

Final Rules

Parts 43 and 63 of the Commission's rules are amended as follows:

PART 43 – REPORTS OF COMMUNICATION COMMON CARRIERS, PROVIDERS OF INTERNATIONAL SERVICES AND CERTAIN AFFILIATES

1. The authority citation for Part 43 is amended to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996; Pub. Law 104-104, sec. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220, as amended; Cable Landing License Act of 1921, 47 U.S.C.35-39.

2. Remove § 43.61.

3. Add Section 43.62 to read as follows:

§ 43.62 Reporting requirements for holders of international Section 214 authorizations and providers of international services.

(a) Circuit Capacity Reports. Not later than March 31 of each year:

(1) *Satellite and Terrestrial Circuits.* Each facilities-based common carrier shall file a report showing its active common carrier circuits between the United States and any foreign point as of December 31 of the preceding calendar year in any terrestrial or satellite facility for the provision of service to an end user or resale carrier, which includes active circuits used by themselves or their affiliates. Each non-common carrier satellite licensee shall file a report showing its active circuits between the United States and any foreign point as of December 31 of the preceding calendar sold or leased to any customer, including themselves or their affiliates, other than a carrier authorized by the Commission to provide U.S. international common carrier services.

(2) *International Submarine Cable Capacity.*

(i) The licensee(s) of a submarine cable between the United States and any foreign point shall file a report showing the capacity of the submarine cable as of December 31 of the preceding calendar year. The licensee(s) shall also file a report showing the planned capacity of the submarine cable (the intended capacity of the submarine cable two years from December 31 of the preceding calendar year). Only one cable landing licensee shall file the capacity data for each submarine cable. For cables with more than one licensee, the licensees shall determine which licensee will file the reports.

(ii) Each cable landing licensee and common carrier shall file a report showing its capacity on submarine cables between the United States and any foreign point as of December 31 of the preceding calendar year.

(b) Traffic and revenue reports.

(1) Not later than July 31 of each year, each person or entity that holds an authorization pursuant to section 214 to provide international telecommunications service shall report whether it provided international telecommunications services during the preceding calendar year.

(2) Not later than July 31 of each year, each common carrier engaged in providing international telecommunications service, and each person or entity engaged in providing Voice over Internet Protocol service connected to the public switched telephone network, between the United States and any foreign point shall file a report with the Commission showing revenues, payouts, and traffic for such international telecommunications service and Voice over Internet Protocol service connected to the public switched telephone network provided during the preceding calendar year.

(3) Entities filing such reports shall submit a revised report by October 31 identifying and correcting any inaccuracies included in the annual report exceeding one percent of the reported figure.

NOTE TO PARAGRAPHS (a) and (b): United States is defined in section 3 of the Communications Act of 1934, as amended, 47 U.S.C. 153.

(c) (1) A Registration Form, containing information about the filer, such as address, phone number, email address, etc., shall be filed with each report filed pursuant to paragraphs (a) and (b).

(2) The Registration Form shall include a certification enabling the filer to check a box to indicate that the filer requests that its circuit capacity data or traffic and revenue data be treated as confidential. If a filer checks that box, the Commission shall treat the data contained in the accompanying report as confidential. Upon receipt of a request for inspection of such information, the Commission shall notify the filer; at that point, the filer must justify continued confidentiality of the information consistent with section 0.459(b) of the Commission's rules.

(d) Filing Manual. Authority is delegated to the Chief, International Bureau to prepare instructions and reporting requirements for the filing of these reports prepared and published as a Filing Manual. The information required under this section shall be furnished in conformance with the instructions and reporting requirements in the Filing Manual.

NOTE TO PARAGRAPH (d): The instructions and reporting requirements prepared by the Chief, International Bureau, shall be consistent with the terms of *Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission's Rules*, IB Docket No. 04-112, Second Report and Order, FCC 13-6 (rel. January 15, 2013).

4. Remove § 43.82

PART 63 – EXTENSION OF LINES, NEW LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

5. The authority citation for part 63 continues to read as follows:
Authority: Sections 1, 4(i), 4(j), 10, 11, 201-205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201-205, 214, 218, 403, and 571, unless otherwise noted.

6. Section 63.10(c)(2) is amended to read as follows:

(2) File quarterly reports on traffic and revenue within 90 days from the end of each calendar quarter consistent with the format set out by the § 43.62 filing manual.

7. Section 63.10(c)(4) is amended to read as follows:

(4) In the case of an authorized facilities-based carrier, file quarterly, within 90 days from the end of each calendar quarter, a report of its active and idle 64 kbps or equivalent circuits by facility (terrestrial, satellite and submarine cable).

8. Remove and reserve Section 63.18(l).

9. The following sections are amended to replace "§ 43.61" and "§ 43.82" with "43.62":

Section 63.21(d)
Section 63.22(e)

APPENDIX D

Filing Schedules

Registration Form

1 **Filing Date:**

2 **Reporting Period:**
(enter calendar year)

3 **Name and Address of Filing Entity:**

4 **FCC Registration Number (FRN):**

5 **Filing Entity's Filer 499 ID, if any:**

6 **Check One:**

Traffic and Revenue Report?

Circuit Status Report?

7 **Check One:**

New Report?

Revision to Existing Report?

Registration Form

8 International Section 214 Authorizations

For first-time filers of the Traffic and Revenue Report under section 43.62 of the Commission's rules, list all of the Filing Entity's international section 214 authorizations:

Initial List

For subsequent filings, list all additions and deletions to the Filing Entity's international section 214 authorizations during the reporting period:

Additions

Deletions

9 Cable Landing Licenses

For first-time filers of the Circuit Status Report under section 43.62 of the Commission's rules, list all of the Filing Entity's cable landing licenses:

Initial List

For subsequent filings, list all additions and deletions to the Filing Entity's cable landing licenses during the reporting period:

Additions

Deletions

Registration Form

Certification

10 I certify that the data contained in the accompanying report are privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the company. I request nondisclosure of the information contained in the report pursuant to section 0.459 of the Commission's Rules.

Check if applicable: ☐

I certify that I am an officer of the above-named filing entity, that I have examined the accompanying report and to the best of my knowledge, information, and belief, all statements of fact contained in the report are true and that the report is an accurate statement of the affairs of the above-named company for the reporting period indicated above.

11 Signature

12 Printed Name of Officer or Company Official

13 Title of the certifying official:

14 Physical address, telephone number, and e-mail address of the certifying official:

15 Filing Entity's official contact or attorney of record, including physical address, telephone number and e-mail address:

Traffic and Revenue Report
Services Checklist

Name of Filing Entity: ☐

Filing Date: ☐

Reporting Period: ☐
(enter calendar year)

Check all of the following boxes that apply for the reporting period:

1 ☐ Provided no **International Telecommunications Service** or **International VoIP Service connected to the PSTN;**
If checked, do not file Schedules 1 through 4.

2 ☐ Provided **U.S.-Billed Facilities International Calling Services (ICS).**
If checked, include Schedule 1 and Schedule 2.

3 ☐ Provided **Foreign-Billed Facilities ICS.**
If checked, include Schedule 1.

4 ☐ Provided **Traditional Transiting ICS** to foreign carriers. If checked, include Schedule 2.

5.T ☐ Provided **ICS Resale.**

5.A ☐ Earned $5,000,000 or more in revenue for such service.
If checked, include Schedule 2.

5.B ☐ Earned less than $5,000,000 in revenue for such service.
If checked, and Items 2, 3, and 4 are *not* checked, do *not* include Schedule 2.
If checked, and one or more of Items 2, 3, and 4 are checked, include Schedule 2.

6 ☐ Provided **International Private Line Service.**
If checked, include Schedule 3.

7.T ☐ Provided **International Miscellaneous Services.**

7.A ☐ Earned $5,000,000 or more in revenue for at least one such service.
If checked, include Schedule 4 for each such service.

7.B ☐ Earned less than $5,000,000 in revenue for each such service.
If checked, do not include Schedule 4.

Traffic and Revenue Report

Schedule 1

U.S.-Billed and Foreign-Billed Facilities ICS Traffic - By Foreign Point

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	U.S.-Billed ICS							Foreign-Billed ICS	
Foreign Point	Customer Revenue	Minutes Completed on Foreign Fixed-Line Networks	Minutes Completed on Foreign Mobile Networks	Total Minutes Completed on Foreign Networks	Settlement Payouts for Call Completion on Foreign Fixed-Line Networks	Settlement Payouts for Call Completion on Foreign Mobile Networks	Total Settlement Payouts	Minutes	Settlement Receipts
Andorra									
Austria									
Belgium									
Cyprus									
Denmark									
Faroe Islands									
Finland									
France									
Germany									
Gibraltar									
Greece									
Greenland									
Holy See									
Iceland									
Ireland									
Italy									
Liechtenstein									
Luxembourg									
Malta									
Monaco									
Netherlands									
Norway									
Portugal									
San Marino									
Spain									
Sweden									
Switzerland									
Turkey									
United Kingdom									
Western Europe									

Traffic and Revenue Report

Schedule 1

U.S.-Billed and Foreign-Billed Facilities ICS Traffic - By Foreign Point

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	U.S.-Billed ICS							Foreign-Billed ICS	
Foreign Point	Customer Revenue	Minutes Completed on Foreign Fixed-Line Networks	Minutes Completed on Foreign Mobile Networks	Total Minutes Completed on Foreign Networks	Settlement Payouts for Call Completion on Foreign Fixed-Line Networks	Settlement Payouts for Call Completion on Foreign Mobile Networks	Total Settlement Payouts	Minutes	Settlement Receipts
Algeria									
Angola									
Ascension Island									
Benin									
Botswana									
Burkina Faso									
Burundi									
Cameroon									
Canary Island									
Cape Verde									
Central African Republic									
Chad									
Comoros									
Congo, Democratic Republic of the									
Congo, Republic of the									
Cote d'Ivoire									
Djibouti									
Egypt									
Equatorial Guinea									
Eritrea									
Ethiopia									
Gabon									
Gambia, The									
Ghana									
Guinea									
Guinea-Bissau									
Kenya									
Lesotho									
Liberia									
Libya									
Madagascar									

Traffic and Revenue Report

Schedule 1

U.S.-Billed and Foreign-Billed Facilities ICS Traffic - By Foreign Point

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	U.S.-Billed ICS							Foreign-Billed ICS	
Foreign Point	Customer Revenue	Minutes Completed on Foreign Fixed-Line Networks	Minutes Completed on Foreign Mobile Networks	Total Minutes Completed on Foreign Networks	Settlement Payouts for Call Completion on Foreign Fixed-Line Networks	Settlement Payouts for Call Completion on Foreign Mobile Networks	Total Settlement Payouts	Minutes	Settlement Receipts
Malawi									
Mali									
Mauritania									
Mauritius									
Mayotte									
Morocco									
Mozambique									
Namibia									
Niger									
Nigeria									
Reunion									
Rwanda									
Saint Helena									
Sao Tome and Principe									
Senegal									
Seychelles									
Sierra Leone									
Somalia									
South Africa									
South Sudan									
Sudan									
Swaziland									
Tanzania									
Togo									
Tunisia									
Uganda									
Western Sahara									
Zambia									
Zimbabwe									
Africa									

Traffic and Revenue Report

Schedule 1

U.S.-Billed and Foreign-Billed Facilities ICS Traffic - By Foreign Point

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	U.S.-Billed ICS							Foreign-Billed ICS	
Foreign Point	Customer Revenue	Minutes Completed on Foreign Fixed-Line Networks	Minutes Completed on Foreign Mobile Networks	Total Minutes Completed on Foreign Networks	Settlement Payouts for Call Completion on Foreign Fixed-Line Networks	Settlement Payouts for Call Completion on Foreign Mobile Networks	Total Settlement Payouts	Minutes	Settlement Receipts
Bahrain									
Iran									
Iraq									
Israel									
Jordan									
Kuwait									
Lebanon									
Oman									
Palestinian Territories									
Qatar									
Saudi Arabia									
Syria									
United Arab Emirates									
Yemen									
Middle East									
Anguilla									
Antigua and Barbuda									
Aruba									
Bahamas, The									
Barbados									
Bermuda									
Cayman Islands									
Cuba									
Curacao									
Dominica									
Dominican Republic									
French Antilles (except Guadeloupe)									
Grenada									
Guadeloupe									
Haiti									
Jamaica									
Montserrat									
Netherlands Caribbean Special Municipalities									
Saint Kitts and Nevis									
Saint Lucia									
Saint Vincent and the Grenadines									
Sint Maarten									
Trinidad and Tobago									
Turks and Caicos Islands									
Virgin Islands, British									
Caribbean									

Traffic and Revenue Report

Schedule 1

U.S.-Billed and Foreign-Billed Facilities ICS Traffic - By Foreign Point

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	U.S.-Billed ICS							Foreign-Billed ICS	
Foreign Point	Customer Revenue	Minutes Completed on Foreign Fixed-Line Networks	Minutes Completed on Foreign Mobile Networks	Total Minutes Completed on Foreign Networks	Settlement Payouts for Call Completion on Foreign Fixed-Line Networks	Settlement Payouts for Call Completion on Foreign Mobile Networks	Total Settlement Payouts	Minutes	Settlement Receipts
Belize									
Canada									
Costa Rica									
El Salvador									
Guatemala									
Honduras									
Mexico									
Nicaragua									
Panama									
Saint Pierre and Miquelon									
North and Central America									
Argentina									
Bolivia									
Brazil									
Chile									
Colombia									
Ecuador									
Falkland Islands (Islas Malvinas)									
French Guiana									
Guyana									
Paraguay									
Peru									
Suriname									
Uruguay									
Venezuela									
South America									

Traffic and Revenue Report

Schedule 1

U.S.-Billed and Foreign-Billed Facilities ICS Traffic - By Foreign Point

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	U.S.-Billed ICS							Foreign-Billed ICS	
Foreign Point	Customer Revenue	Minutes Completed on Foreign Fixed-Line Networks	Minutes Completed on Foreign Mobile Networks	Total Minutes Completed on Foreign Networks	Settlement Payouts for Call Completion on Foreign Fixed-Line Networks	Settlement Payouts for Call Completion on Foreign Mobile Networks	Total Settlement Payouts	Minutes	Settlement Receipts
Afghanistan									
Bangladesh									
Bhutan									
Brunei									
Burma									
Cambodia									
Chagos Archipelago									
China									
French Southern and Antarctic Lands									
Hong Kong									
India									
Indonesia									
Japan									
Kazakhstan									
Korea, North									
Korea, South									
Kyrgyzstan									
Laos									
Macau									
Malaysia									
Maldives									
Mongolia									
Nepal									
Pakistan									
Philippines									
Singapore									
Sri Lanka									
Taiwan									
Tajikistan									
Thailand									
Timor-Leste									
Turkmenistan									
Uzbekistan									
Vietnam									
Asia									

Traffic and Revenue Report

Schedule 1

U.S.-Billed and Foreign-Billed Facilities ICS Traffic - By Foreign Point

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	U.S.-Billed ICS							Foreign-Billed ICS	
Foreign Point	Customer Revenue	Minutes Completed on Foreign Fixed-Line Networks	Minutes Completed on Foreign Mobile Networks	Total Minutes Completed on Foreign Networks	Settlement Payouts for Call Completion on Foreign Fixed-Line Networks	Settlement Payouts for Call Completion on Foreign Mobile Networks	Total Settlement Payouts	Minutes	Settlement Receipts
Australia									
Christmas Island									
Cook Islands									
Fiji									
French Polynesia									
Kiribati									
Marshall Islands									
Micronesia, Federated States of									
Nauru									
New Caledonia									
New Zealand									
Niue									
Norfolk Island									
Palau									
Papua New Guinea									
Pitcairn Island									
Samoa (Independent State of)									
Solomon Islands									
Tonga									
Tuvalu									
Vanuatu									
Wallis and Futuna									
Oceania									

Traffic and Revenue Report

Schedule 1

U.S.-Billed and Foreign-Billed Facilities ICS Traffic - By Foreign Point

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	U.S.-Billed ICS							Foreign-Billed ICS	
Foreign Point	Customer Revenue	Minutes Completed on Foreign Fixed-Line Networks	Minutes Completed on Foreign Mobile Networks	Total Minutes Completed on Foreign Networks	Settlement Payouts for Call Completion on Foreign Fixed-Line Networks	Settlement Payouts for Call Completion on Foreign Mobile Networks	Total Settlement Payouts	Minutes	Settlement Receipts
Albania									
Armenia									
Azerbaijan									
Belarus									
Bosnia and Herzegovina									
Bulgaria									
Croatia									
Czech Republic									
Estonia									
Georgia									
Hungary									
Kosovo									
Latvia									
Lithuania									
Macedonia									
Moldova									
Montenegro									
Poland									
Romania									
Russia									
Serbia									
Slovakia									
Slovenia									
Ukraine									
Eastern Europe									

Traffic and Revenue Report

Schedule 1

U.S.-Billed and Foreign-Billed Facilities ICS Traffic - By Foreign Point

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
	U.S.-Billed ICS							Foreign-Billed ICS	
Foreign Point	Customer Revenue	Minutes Completed on Foreign Fixed-Line Networks	Minutes Completed on Foreign Mobile Networks	Total Minutes Completed on Foreign Networks	Settlement Payouts for Call Completion on Foreign Fixed-Line Networks	Settlement Payouts for Call Completion on Foreign Mobile Networks	Total Settlement Payouts	Minutes	Settlement Receipts
Antarctica									
International Mobile Satellite Systems									
Other Regions									
Total All Points									

Uncompensated Call Completion Services

	World-Total Minutes
(j) U.S.-Billed Facilities ICS - Minutes completed on foreign networks for which there is no settlement payout	
(k) Foreign-Billed ICS - Minutes for which there is no settlement receipt:	

Traffic and Revenue Report

Schedule 2

World-Total Data for U.S.-Billed and Traditional Transiting ICS

Name of Filing Entity:

Filing Date:

Reporting Period:

		World Totals	
		Minutes	**Customer Revenue**
1	**U.S.-Billed ICS – By Routing Arrangement**		
1.A	Total U.S.-Billed Facilities ICS		
1.B	Total ICS Resale		
1.T	Total U.S.-Billed ICS [= 1.A + 1.B]		
1.NR	Percentage of Customer Revenue in Line 1.T that is Non-Route-Specific Revenue		%
2	**U.S.-Billed ICS – By Customer Category**		
2.A	Residential and Mass Market		
2.B	Business and Government		
2.C	U.S. Resellers		
2.D	Reoriginated Foreign Traffic		
2 T	Total U.S.-Billed ICS [= 2.A + 2.B + 2.C + 2.D]		
3	**Traditional Transiting ICS**		
3.T	Total		

Note: Entries on Line 1.T should equal entries on Line 2.T.

Traffic and Revenue Report
Schedule 3
International Private Line Service

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)
	International Private Line Services			
	Service Provided Over Own Circuits		Service Provided Over Resold Circuits	
Foreign Point	Customer Revenue	64 Kbps equivalent Circuits	Customer Revenue	64 Kbps equivalent Circuits
Andorra				
Austria				
Belgium				
Cyprus				
Denmark				
Faroe Islands				
Finland				
France				
Germany				
Gibraltar				
Greece				
Greenland				
Holy See				
Iceland				
Ireland				
Italy				
Liechtenstein				
Luxembourg				
Malta				
Monaco				
Netherlands				
Norway				
Portugal				
San Marino				
Spain				
Sweden				
Switzerland				
Turkey				
United Kingdom				
Western Europe				

Traffic and Revenue Report
Schedule 3
International Private Line Service

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)
	International Private Line Services			
	Service Provided Over Own Circuits		Service Provided Over Resold Circuits	
Foreign Point	Customer Revenue	64 Kbps equivalent Circuits	Customer Revenue	64 Kbps equivalent Circuits
Algeria				
Angola				
Ascension Island				
Benin				
Botswana				
Burkina Faso				
Burundi				
Cameroon				
Canary Island				
Cape Verde				
Central African Republic				
Chad				
Comoros				
Congo, Democratic Republic of the				
Congo, Republic of the				
Cote d'Ivoire				
Djibouti				
Egypt				
Equatorial Guinea				
Eritrea				
Ethiopia				
Gabon				
Gambia, The				
Ghana				
Guinea				
Guinea-Bissau				
Kenya				
Lesotho				
Liberia				
Libya				
Madagascar				

Traffic and Revenue Report
Schedule 3
International Private Line Service

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)
	International Private Line Services			
	Service Provided Over Own Circuits		Service Provided Over Resold Circuits	
Foreign Point	Customer Revenue	64 Kbps equivalent Circuits	Customer Revenue	64 Kbps equivalent Circuits
Malawi				
Mali				
Mauritania				
Mauritius				
Mayotte				
Morocco				
Mozambique				
Namibia				
Niger				
Nigeria				
Reunion				
Rwanda				
Saint Helena				
Sao Tome and Principe				
Senegal				
Seychelles				
Sierra Leone				
Somalia				
South Africa				
South Sudan				
Sudan				
Swaziland				
Tanzania				
Togo				
Tunisia				
Uganda				
Western Sahara				
Zambia				
Zimbabwe				
Africa				

Traffic and Revenue Report
Schedule 3
International Private Line Service

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)
	International Private Line Services			
	Service Provided Over Own Circuits		Service Provided Over Resold Circuits	
Foreign Point	Customer Revenue	64 Kbps equivalent Circuits	Customer Revenue	64 Kbps equivalent Circuits
Bahrain				
Iran				
Iraq				
Israel				
Jordan				
Kuwait				
Lebanon				
Oman				
Palestinian Territories				
Qatar				
Saudi Arabia				
Syria				
United Arab Emirates				
Yemen				
Middle East				
Anguilla				
Antigua and Barbuda				
Aruba				
Bahamas, The				
Barbados				
Bermuda				
Cayman Islands				
Cuba				
Curacao				
Dominica				
Dominican Republic				
French Antilles (except Guadeloupe)				
Grenada				
Guadeloupe				
Haiti				
Jamaica				
Montserrat				
Netherlands Caribbean Special Municipalities				
Saint Kitts and Nevis				
Saint Lucia				
Saint Vincent and the Grenadines				
Sint Maarten				
Trinidad and Tobago				
Turks and Caicos Islands				
Virgin Islands, British				
Caribbean				

Traffic and Revenue Report
Schedule 3
International Private Line Service

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)
	International Private Line Services			
	Service Provided Over Own Circuits		Service Provided Over Resold Circuits	
Foreign Point	Customer Revenue	64 Kbps equivalent Circuits	Customer Revenue	64 Kbps equivalent Circuits
Belize				
Canada				
Costa Rica				
El Salvador				
Guatemala				
Honduras				
Mexico				
Nicaragua				
Panama				
Saint Pierre and Miquelon				
North and Central America				
Argentina				
Bolivia				
Brazil				
Chile				
Colombia				
Ecuador				
Falkland Islands (Islas Malvinas)				
French Guiana				
Guyana				
Paraguay				
Peru				
Suriname				
Uruguay				
Venezuela				
South America				

Traffic and Revenue Report
Schedule 3
International Private Line Service

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)
	International Private Line Services			
	Service Provided Over Own Circuits		Service Provided Over Resold Circuits	
Foreign Point	Customer Revenue	64 Kbps equivalent Circuits	Customer Revenue	64 Kbps equivalent Circuits
Afghanistan				
Bangladesh				
Bhutan				
Brunei				
Burma				
Cambodia				
Chagos Archipelago				
China				
French Southern and Antarctic Lands				
Hong Kong				
India				
Indonesia				
Japan				
Kazakhstan				
Korea, North				
Korea, South				
Kyrgyzstan				
Laos				
Macau				
Malaysia				
Maldives				
Mongolia				
Nepal				
Pakistan				
Philippines				
Singapore				
Sri Lanka				
Taiwan				
Tajikistan				
Thailand				
Timor-Leste				
Turkmenistan				
Uzbekistan				
Vietnam				
Asia				

Traffic and Revenue Report
Schedule 3
International Private Line Service

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)
	International Private Line Services			
	Service Provided Over Own Circuits		Service Provided Over Resold Circuits	
Foreign Point	Customer Revenue	64 Kbps equivalent Circuits	Customer Revenue	64 Kbps equivalent Circuits
Australia				
Christmas Island				
Cook Islands				
Fiji				
French Polynesia				
Kiribati				
Marshall Islands				
Micronesia, Federated States of				
Nauru				
New Caledonia				
New Zealand				
Niue				
Norfolk Island				
Palau				
Papua New Guinea				
Pitcairn Island				
Samoa (Independent State of)				
Solomon Islands				
Tonga				
Tuvalu				
Vanuatu				
Wallis and Futuna				
Oceania				

Traffic and Revenue Report
Schedule 3
International Private Line Service

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)
	International Private Line Services			
	Service Provided Over Own Circuits		Service Provided Over Resold Circuits	
Foreign Point	Customer Revenue	64 Kbps equivalent Circuits	Customer Revenue	64 Kbps equivalent Circuits
Albania				
Armenia				
Azerbaijan				
Belarus				
Bosnia and Herzegovina				
Bulgaria				
Croatia				
Czech Repùblic				
Estonia				
Georgia				
Hungary				
Kosovo				
Latvia				
Lithuania				
Macedonia				
Moldova				
Montenegro				
Poland				
Romania				
Russia				
Serbia				
Slovakia				
Slovenia				
Ukraine				
Eastern Europe				

Traffic and Revenue Report
Schedule 3
International Private Line Service

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)
	International Private Line Services			
	Service Provided Over Own Circuits		Service Provided Over Resold Circuits	
Foreign Point	Customer Revenue	64 Kbps equivalent Circuits	Customer Revenue	64 Kbps equivalent Circuits
Antarctica				
International Mobile Satellite Systems				
Other Regions				
Total All Points				

Traffic and Revenue Report
Schedule 4
International Miscellaneous Services

Name of Filing Entity:

Filing Date:

Reporting Period:

World-Total Customer Revenue

Miscellaneous Service # 1

1 Name of Miscellaneous Service

2 Description of Miscellaneous Service

3 Revenue for reporting period

Miscellaneous Service # 2

1 Name of Miscellaneous Service

2 Description of Miscellaneous Service

3 Revenue for reporting period

Traffic and Revenue Report
Schedule 4
International Miscellaneous Services

Name of Filing Entity:

Filing Date:

Reporting Period:

		World-Total Customer Revenue
Miscellaneous Service # 3		
1	Name of Miscellaneous Service	
2	Description of Miscellaneous Service	
3	Revenue for reporting period	
Miscellaneous Service # 4		
1	Name of Miscellaneous Service	
2	Description of Miscellaneous Service	
3	Revenue for reporting period	

Traffic and Revenue Report
Schedule 4
International Miscellaneous Services

Name of Filing Entity:

Filing Date:

Reporting Period:

World-Total Customer Revenue

Miscellaneous Service # 5

1 Name of Miscellaneous Service

2 Description of Miscellaneous Service

3 Revenue for reporting period

Miscellaneous Service # 6

1 Name of Miscellaneous Service

2 Description of Miscellaneous Service

3 Revenue for reporting period

Circuit Status Report

Terrestrial and Satellite Circuits

As of December 31 of the Reporting Period

Name of Filing Entity:

Filing Date:

Reporting Period:

Terrestrial and Satellite World Total Active Circuits

	64 Equivalent Kbps Circuits
Terrestrial Common Carrier Active Circuits	
Satellite Common Carrier Active Circuits	
Satellite Non-Common Carrier Active Circuits	
Total Circuits	

Circuit Status Report

Submarine Cables

As of December 31 of the Reporting Period

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
	Cable Operators (Gpbs)		Capacity Holders (STMs)					
	Available Capacity	Planned Capacity	Owned Capacity	Net IRUs	Net Inter-Carrier Leaseholds	Net Capacity Held (f) = (c) + (d) + (e) (f) = (g) + (h)	Activated Capacity	Non-Activated Capacity
Atlantic Region								
Atlantic Crossing (AC-1)								
Columbus III								
Level 3								
AC-2								
TAT-14								
FLAG Atlantic - 1								
Hibernia Atlantic								
TGN - Atlantic								
Apollo Cable								
Other Cable (Enter Name)								
Total Atlantic Region								

Circuit Status Report

Submarine Cables

As of December 31 of the Reporting Period

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
	Cable Operators (Gpbs)		Capacity Holders (STMs)					
	Available Capacity	Planned Capacity	Owned Capacity	Net IRUs	Net Inter-Carrier Leaseholds	Net Capacity Held (f) = (c) + (d) + (e) (f) = (g) + (h)	Activated Capacity	Non-Activated Capacity
America Region								
Taino - Carb								
Antillas 1								
BAHAMAS II								
Pan American Cable System								
AmeriCan - 1								
Americas II								
Mid-Atlantic Crossing (MAC)								
PAC								
Maya - 1								
GlobeNet								
SAC								
ARCOS - 1								
Sam - 1								
Bahamas Internet Cable Network (BICS)								
SMPR - 1								
Global Caribbean Network (GCN)								
Antilles Crossing								
CFX - 1 Cable System								
Gemini Bermuda System								
CB - 1								
Other Cable (Name)								
Total Americas Region								

Circuit Status Report
Submarine Cables
As of December 31 of the Reporting Period

Name of Filing Entity:

Filing Date:

Reporting Period:

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
	Cable Operators (Gpbs)		Capacity Holders (STMs)					
	Available Capacity	Planned Capacity	Owned Capacity	Net IRUs	Net Inter-Carrier Leaseholds	Net Capacity Held (f) = (c) + (d) + (e) (f) = (g) + (h)	Activated Capacity	Non-Activated Capacity
Pacific Region								
PC-1								
Guam - Philippines								
China - U.S. Cable Network								
Southern Cross								
Japan - U.S. Cable Network								
Australia - Japan Cable (Guam)								
TGN - Pacific								
Trans - Pacific Express Cable System (TPE)								
Telestra Endeavour (formerly Sydney - Hawaii)								
Asia America Gateway Consortium (AAG)								
PPC 1								
American Samoa Hawaii Cable								
HANTRU1								
Unity Cable System								
Tahiti - Hawaii Cable (Honotua)								
Other Cable (Name)								
Total Pacific Region								

STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN

Re: *Reporting Requirements for U.S. Providers of International Telecommunications Services, Amendment of Part 43 of the Commission's Rules, IB Docket No. 04-112*

With this Order, the Commission takes another important step in updating our reporting requirements to better reflect the current state of the international telecommunications market. The increasing demand for wired and wireless services includes international communications, and consumers expect the same diversity of options, when contacting family, friends, and colleagues abroad, as they have when contacting people right here in the U. S. They want a choice of platforms, networks, and service providers.

This creates challenges for communications companies, both large and small. These businesses must manage their costs and invest in infrastructure in order to keep pace with the increased demand on their networks. They must also, however, continually adjust their business models by bringing more innovation to the market, to effectively compete.

The Commission should do as much as it can to foster this type of innovation, because it may have huge benefits for American consumers. One way the FCC can help is by removing unnecessary regulation and filing requirements so that companies spend less time and money dealing with us, and devote more resources towards bringing higher quality international communications services to consumers.

While the Commission will continually work to that end, it still needs information about the international communications market to comply with its statutory obligations, and when necessary, take actions that serve the public interest. To meet these responsibilities, we commit to continually evaluating the way we collect data so that we may properly assess those dynamic changes. I commend Chairman Genachowski for recognizing this early in his tenure, and directing the staff to start a Data Innovation Initiative to modernize and streamline the data we collect and use. In my opinion, this effort works best when the staff takes a comprehensive approach, proposes creative ways to get the data it needs with the least amount of burden, and collaborates with industry to ensure we do not create unintended consequences.

The Orders adopted in this proceeding, are excellent examples of these principles in action. Last year, in our First Report and Order, we eliminated more than 20 outdated reporting requirements and proposed additional changes that we will adopt today. The Commission is further modernizing and streamlining the remaining requirements that ask international telecommunications carriers to provide information about the circuits they use, the volume of traffic, and their revenues. To keep pace with developments in the market, we will now request information about VoIP service and mobile settlement rates. International VoIP services are a significant and growing component of international calling markets, and to properly understand their impact, we need adequate traffic and revenue data. The high mobile settlement rates charged in many countries have been a source of controversy in the United States and internationally, and since there is little information currently available on mobile settlement rates, it is appropriate for us to gather additional information about them.

The most notable streamlining measure, in this Order however, is the establishment of a $5 million revenue threshold, below which an entity need not file annual traffic and revenue data for international resale services. This will substantially reduce the amount of information that more than one thousand small resale carriers now have to provide the FCC. This filing threshold also applies to VoIP service providers. We are also easing reporting burdens by eliminating a number of requirements such as

the use of billing codes, providing traditional transit traffic data on a route-by-route basis, and providing the number of international telephone messages.

I want to thank the Chairman, my other colleagues and the staff, for working with my Office, and more importantly, for listening to the concerns of the industry, about the details of a few of the proposals, especially the one regarding the protection of confidential information. To be sure, there is an interest in making traffic and revenue data public. But, we must balance that interest with the filer's interest in not revealing competitively sensitive information. Several parties made persuasive arguments how disclosure of certain confidential information could not only lead to unnecessary administrative costs, but also possibly harm competition in the international services market. The proposal we adopt today, aligns our international reporting rules with our reporting requirements for domestic wireline and mobile services.

I applaud Mindel De La Torre for her leadership throughout this proceeding. I also thank Rod Porter, Mark Uretsky, Francis Gutierrez, David Krech, and Jim Ball for briefing me on this item, as well as all of the staff who worked on this item.