

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

In the Matter of)
Assessment and Collection of Regulatory Fees for) MD Docket No. 15-121
Fiscal Year 2015)
Amendment of Part 1 of the Commission's Rules) MD Docket No. 15-121
Assessment and Collection of Regulatory Fees for) MD Docket No. 14-92
Fiscal Year 2014)

NOTICE OF PROPOSED RULEMAKING, REPORT AND ORDER, AND ORDER

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By the Commission: Commissioner Pai issuing a separate statement.

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I. INTRODUCTION

1. In this Notice of Proposed Rulemaking, Report and Order, and Order (Notice, Report and Order, and Order, respectively), we seek comment on the Federal Communications Commission's (FCC's or Commission's) proposed regulatory fees for fiscal year (FY) 2015.¹ In addition, we seek comment on the Puerto Rico Broadcasters Association's (PRBA's) request for relief from regulatory fee assessments for radio stations in Puerto Rico due to substantial financial hardships.²

2. In the Report and Order, we adopt a proposal from our *FY 2014 Further Notice of Proposed Rulemaking* to add a new subcategory in the existing cable television and Internet Protocol TV (IPTV) regulatory fee category for direct broadcast satellite (DBS) providers.³ In addition, we provide specific instructions regarding our new regulatory fee requirement for toll free numbers.⁴ We also remove amateur radio Vanity Call Signs and General Mobile Radio Service (GMRS) from the regulatory fee schedule.⁵ The addition of DBS to the cable television and IPTV category and removal of two wireless categories from the schedule are permitted amendments to the regulatory fee schedule and require Congressional notification.⁶

3. Finally, in the Order, we amend three sections of our rules⁷ to conform to the Digital Accountability and Transparency Act (DATA Act) concerning when claims should be transferred to the Secretary of the Treasury.⁸ In particular, we make the ministerial change to our rules to specify that debts owed to the Commission that have been delinquent for a period of 120 days shall be transferred to the Secretary of the Treasury. The rules previously specified transfer of delinquent debt to the Treasury after

¹ The proposed regulatory fees include a proposed five percent reduction in regulatory fees for submarine cable systems and bearer circuits, reflected in Appendix C.

² See Letter from Messrs. Francisco Montero, Esq. and Jonathan R. Markman, Esq., Counsel for the Puerto Rico Broadcasters Association, filed in Docket No. 14-92, to Marlene Dortch, Secretary, Federal Communications Commission (Dec. 10, 2014) (PRBA Letter).

³ *Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, Report and Order and Further Notice of Proposed Rulemaking, MD Docket No. 14-92, 29 FCC Rcd 10767, 10782-84, paras. 38-43 (2014) (*FY 2014 Report and Order* and *FY 2014 Further Notice of Proposed Rulemaking*, respectively). Commenters to the Further Notice of Proposed Rulemaking are listed in Appendix A.

⁴ In 2014, the Commission adopted a regulatory fee requirement for toll free numbers. See *FY 2014 Report and Order*, 29 FCC Rcd at 10777-10779, paras. 25-28.

⁵ We sought comment on eliminating these categories in our *FY 2014 NPRM. Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order, MD Docket No. 14-92, 29 FCC Rcd 6417, 6428-29, para. 32 (2014) (*FY 2014 NPRM*).

⁶ 47 U.S.C. § 159(b)(3)-(4)(requiring Congressional notification of permitted amendments not later than 90 days before the effective date of such amendment).

⁷ 47 C.F.R. §§ 1.1911(d), 1.1912(b)(1), 1.1917(c).

⁸ 31 U.S.C. § 3716(c)(6).

180 days.

II. BACKGROUND

4. The Commission is required by Congress to assess regulatory fees each year in an amount that can reasonably be expected to equal the amount of its appropriation.⁹ Regulatory fees, assessed each fiscal year, are to “be derived by determining the full-time equivalent number of employees performing” these activities, “adjusted to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission’s activities”¹⁰ Regulatory fees recover direct costs, such as salary and expenses; indirect costs, such as overhead functions; and support costs, such as rent, utilities, or equipment.¹¹ Regulatory fees also cover the costs incurred in regulating entities that are statutorily exempt from paying regulatory fees,¹² entities whose regulatory fees are waived,¹³ and entities that provide nonregulated services. Congress sets the amount the Commission must collect each year in the Commission’s fiscal year appropriations, and section 9(a)(2) of the Communications Act of 1934, as amended (Communications Act or Act) requires the Commission to collect fees sufficient to offset the amount appropriated.¹⁴ To calculate regulatory fees, the Commission allocates the total collection target, as mandated by Congress each year, across all regulatory fee categories. The allocation of fees to fee categories is based on the Commission’s calculation of full time employees (FTEs)¹⁵ in each regulatory fee category. Historically, the Commission has classified FTEs as “direct” if the employee is in one of the four “core” bureaus; otherwise, that employee was considered an “indirect” FTE.¹⁶ The total FTEs for each fee category includes the direct FTEs associated with that category, plus a proportional allocation of the indirect FTEs.

5. Section 9 of the Communications Act requires the Commission to make certain changes (*i.e.*, mandatory amendments) to the regulatory fee schedule if it “determines that the Schedule requires amendment to comply with the requirements” of section 9(b)(1)(A).¹⁷ In addition, the Commission must add, delete, or reclassify services in the fee schedule to reflect additions, deletions, or changes in the nature of its services “as a consequence of Commission rulemaking proceedings or changes in law.”¹⁸

⁹ 47 U.S.C. § 159(b)(1)(B).

¹⁰ 47 U.S.C. § 159(b)(1)(A).

¹¹ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11662, 11666, para. 11 (2004) (*FY 2004 Report and Order*).

¹² For example, governmental and nonprofit entities are exempt from regulatory fees under section 9(h) of the Act. 47 U.S.C. § 159(h); 47 C.F.R. § 1.1162.

¹³ 47 C.F.R. § 1.1166.

¹⁴ 47 U.S.C. § 159(a)(2).

¹⁵ One FTE, a “Full Time Equivalent” or “Full Time Employee,” is a unit of measure equal to the work performed annually by a full time person (working a 40 hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget.

¹⁶ The core bureaus are the Wireline Competition Bureau (172 FTEs), Wireless Telecommunications Bureau (91 FTEs), Media Bureau (155 FTEs), and part of the International Bureau (28 FTEs), totaling 446 “direct” FTEs. The “indirect” FTEs are the employees from the following bureaus and offices: Enforcement Bureau, Consumer & Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, Chairman and Commissioners’ offices, Office of the Managing Director, Office of General Counsel, Office of the Inspector General, Office of Communications Business Opportunities, Office of Engineering and Technology, Office of Legislative Affairs, Office of Strategic Planning and Policy Analysis, Office of Workplace Diversity, Office of Media Relations, and Office of Administrative Law Judges, totaling 1,037 “indirect” FTEs. These totals are as of Oct. 1, 2014 and exclude auctions FTEs.

¹⁷ 47 U.S.C. § 159(b)(3).

¹⁸ 47 U.S.C. § 159(b)(3).

These “permitted amendments” require Congressional notification.¹⁹ The changes in fees resulting from both mandatory and permitted amendments are not subject to judicial review.²⁰

6. The Commission continues to improve the regulatory fee process by ensuring a more equitable distribution of the regulatory fee burden among categories of Commission licensees under the statutory framework in section 9 of the Communications Act. For example, in 2013, the Commission updated the FTE allocations to more accurately align regulatory fees with the costs of Commission oversight and regulation,²¹ as recommended in the GAO Report, a report issued by the Government Accountability Office (GAO) in 2012.²² The Commission also reallocated some FTEs from the International Bureau as “indirect.”²³ Subsequently, in the *FY 2014 Report and Order*, the Commission adopted the new toll free number regulatory fee category²⁴ and, in the accompanying *FY 2014 Further Notice of Proposed Rulemaking*, the Commission sought additional comment on a new regulatory fee category for DBS.²⁵ In our Report and Order, we now add a subcategory for DBS providers in the cable television and IPTV regulatory fee category based on our finding that Media Bureau FTEs work on issues and proceedings that include DBS as well as other multichannel video programming distributors (MVPDs).

III. DISCUSSION

A. Notice of Proposed Rulemaking

1. Proposed Regulatory Fees

7. We propose to collect \$339,844,000 in regulatory fees for FY 2015, pursuant to section 9 of the Communications Act.²⁶ Of this amount, we project approximately \$21.3 million (6.28 percent of the total FTE allocation) in fees from the International Bureau regulatees;²⁷ \$69.3 million (20.40 percent of the total FTE allocation) in fees from the Wireless Telecommunications Bureau regulatees;²⁸ \$131.1 million (38.57 percent of the total FTE allocation) from Wireline Competition Bureau regulatees;²⁹ and \$118.1 million (34.75 percent of the total FTE allocation) from the Media Bureau regulatees.³⁰

¹⁹ 47 U.S.C. § 159(b)(4)(B).

²⁰ 47 U.S.C. § 159(b)(3). *But see Comsat Corp. v. FCC*, 114 F.3d 223, 227 (D.C.Cir. 1997) (“Where, as here, we find that the Commission has acted outside the scope of its statutory mandate, we also find that we have jurisdiction to review the Commission’s action.”)

²¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Report and Order, MD Docket No. 13-140, 28 FCC Rcd 12351, 12354-55, paras. 10-12 (2013) (*FY 2013 Report and Order*).

²² In 2012, the GAO concluded that the Commission should conduct an overall analysis of the regulatory fee categories and perform an updated FTE analysis by fee category. GAO “Federal Communications Commission Regulatory Fee Process Needs to be Updated,” GAO-12-686 (Aug. 2012) (GAO Report) at 36, (available at <http://www.gao.gov/products/GAO-12-686>).

²³ *FY 2013 Report and Order*, 28 FCC Rcd at 12355-58, paras. 13-20.

²⁴ *FY 2014 Report and Order*, 29 FCC Rcd at 10777-79, paras. 25-28.

²⁵ *FY 2014 Further Notice of Proposed Rulemaking*, 29 FCC Rcd at 10782-84, paras. 38-43.

²⁶ 47 U.S.C. § 159.

²⁷ Includes satellites, earth stations, submarine cable, and bearer circuits.

²⁸ Includes Commercial Mobile Radio Service (CMRS), CMRS messaging, Broadband Radio Service/Local Multipoint Distribution Service (BRS/LMDS), and multi-year wireless licensees.

²⁹ Includes Interstate Telecommunications Service Providers (ITSP) and toll free numbers.

³⁰ Includes AM radio, FM radio, television, low power/FM, cable and IPTV, DBS, and Cable Television Relay Service (CARS) licenses.

8. These regulatory fees are mandated by Congress and are collected “to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.”³¹ We seek comment on the proposed regulatory fee schedule in Appendix C.

9. This proposed fee schedule in Appendix C includes a new regulatory fee for DBS (a subcategory in the cable television and IPTV category) adopted in the Report and Order below.³² We estimate the number of payment units to be 34,000,000 and propose setting the initial rate at 12 cents per year, or one cent per month.³³ Because DBS regulatory fees offset cable television and IPTV fees, the cable television and IPTV rate would be reduced from \$1.01 to \$0.95 per subscriber at this rate for DBS. We seek comment on this rate. We also seek comment on whether setting the initial rate for DBS at one cent per customer per month would address DIRECTV and DISH’s contention that a “fee increase will cause rate shock.”³⁴

10. The proposed fee schedule also includes fees for toll free numbers (a subcategory in the ITSP category) adopted in our *FY 2014 Report and Order*.³⁵ We estimate the number of assessable toll-free numbers to be 36.5 million and propose setting the rate at 12 cents per year, or one cent per month.³⁶ Because toll-free number regulatory fees offset ITSP fees, the ITSP rate would be reduced from 0.00340 to 0.00329. We seek comment on this estimate and this rate.

11. In addition, the annual regulatory fees eliminated in the *FY 2014 Report and Order* will no longer be included in the regulatory fee schedule, *i.e.*, the annual regulatory fee for Broadcast Auxiliaries and Satellite TV Construction Permit, and one multi-year regulatory fee category (218-219 MHz). The projected revenues that would otherwise have been collected from the three regulatory fee categories that were eliminated last year are allocated proportionally to their respective service categories in the proposed regulatory fees in Appendix C. Specifically, the projected revenues from the 218-219 MHz fee category are proportionally allocated to the wireless service categories and the Satellite Television Construction Permit and Broadcast Auxiliary fee categories are proportionally allocated to the media service categories.

12. We also seek comment on revising the apportionment between International Bureau licensees to reduce the proportion paid by the submarine cable/terrestrial and satellite bearer circuits fee categories by approximately five percent. In the *FY 2014 Report and Order*, we concluded that the regulatory fee assessment for the submarine cable/terrestrial and satellite bearer circuits fee categories did not fairly take into account the Commission’s minimal oversight and regulation of the industry and we reduced the regulatory fee apportionment by five percent and stated that we would revisit the issue to

³¹ 47 U.S.C. § 159(a).

³² See section III.B.3.

³³ When the Commission added IPTV to the cable television category, it set the initial rate for IPTV equal to the cable television rate. See *FY 2013 Report and Order*, 28 FCC Rcd at 12362–63, paras. 32–33. Last year, we invited “further comment on whether regulatory fees paid by DBS providers should be included in the cable television and IPTV category and assessed in the same manner.” *FY 2014 NPRM*, 29 FCC Rcd at 6432, para. 43. In the *FY 2014 Further Notice of Proposed Rulemaking*, we sought comment on “whether DBS providers should pay a regulatory fee . . . at a much lower rate than that for other MVPDs, such as one-tenth of the anticipate revenue if DBS were combined with MVPD.” *FY 2014 Further Notice of Proposed Rulemaking*, 29 FCC Rcd at 10783, para. 41.

³⁴ DIRECTV and DISH Comments at 11.

³⁵ See *FY 2014 Report and Order*, 29 FCC Rcd at 10777-79, paras. 25-28.

³⁶ When the Commission first sought comment on assessing Responsible Organizations (or RespOrgs), it discussed a rate of one penny per month per number and estimated that regulatory fees for toll-free numbers would approximate \$4 million at that rate. See *FY 2014 NPRM*, 29 FCC Rcd at 6435, para. 51.

determine if additional adjustment is warranted.³⁷ Currently, the submarine cable and bearer circuit category is allocated 31.36 percent of the International Bureau regulatory fees. We propose a five percent decrease based on our tentative conclusion that the fee remains excessive relative to the minimal Commission oversight and regulation of this industry.

13. We also seek comment on whether the Commission should review the apportionment of regulatory fees among broadcasters. First, we expect to collect \$28,356,435 from radio broadcasters and \$23,650,250 from television broadcasters in fiscal year 2015. We estimate that 10,226 radio broadcasters and 4,754 television broadcasters will pay these regulatory fees³⁸ and note that among the broadcasters that are statutorily exempt from paying fees, noncommercial education (NCE) radio stations significantly outnumber NCE television stations.³⁹ Nonetheless, should the Commission reexamine the number of FTEs devoted to the regulation of radio versus television broadcasters and adjust the fee paid by radio and television broadcasters to more accurately take into account factors related to “the benefits provided to the payor of the fee by the Commission’s activities”?⁴⁰ Second, we currently assess regulatory fees on television broadcasters based on the ranking of the market they serve (market nos. 1–10; 11–25; 26–50; 51–100; >100) but assess regulatory fees on radio broadcasters based on the population they serve (<25,000; 25,001–75,000; 75,001–150,000; 150,001–500,000; 500,001–1,200,000; 1,200,001–3,000,000; >3,000,000). Do the dividing points for higher fee levels for both television and radio broadcasters remain appropriate? Should we adjust the dividing points for radio broadcasters to account for demographic change? Should we assess radio broadcasters based on market served rather than population served, which may provide more stability and predictability for radio broadcasters? Third, we currently divide radio broadcasters into six categories by type and class of service (AM class A; AM class B; AM class C; AM class D; FM classes A, B1, & C3; FM classes B, C, C0, C1, & C2). We note that FM class B stations pay more than FM class A stations at every population level because FM class A stations serve the smallest areas of all FM station classes, whereas this relationship is inverted among the AM stations since AM Class A stations serve the largest areas among AM stations. But no single ratio apportions regulatory fees among AM and FM radio categories; for example, AM class A stations sometimes pay more than FM class A stations (when they serve fewer than 500,000 people) but other times pay more (when they serve more than 500,000 people).⁴¹ Should we consolidate these categories and reapportion the regulatory fees paid by each category such that regulatory fees collected are based either on population served or rank of market served? We seek comment on these and related questions concerning the apportionment of regulatory fees among broadcasters. We tentatively conclude that changes made to the assessment of regulatory fees on broadcasters would constitute a permitted amendment⁴² and therefore would not likely apply to FY 2015 regulatory fees.

³⁷ We adopted a reallocation for submarine cable systems and bearer circuits in the *FY 2014 Report and Order* and indicated that we would revisit this issue in future proceedings to determine if additional adjustment would be warranted. *See FY 2014 Report and Order*, 29 FCC Rcd at 10772, para. 11.

³⁸ *See* Appendix B, AM Class, A, B, C, D, and FM categories, total 10,226; TV digital markets 1-100 + remaining markets + the LPTV category, total 4,754.

³⁹ As of March 31, 2015, there were 5110 licensed NCE (including low power FM) radio stations and 395 licensed NCE television stations. *See Broadcast Station Totals as of March 31, 2015*, News Release (rel. Apr. 9, 2015).

⁴⁰ 47 U.S.C. § 159(b)(1)(A) (providing for adjustment of the FTE allocation to “take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission’s activities, including such factors as service area coverage, shared use versus exclusive use, and other factors that the Commission determines are necessary in the public interest.”)

⁴¹ Or compare AM class B and class D stations. In areas with fewer than 25,000 people, class B stations pay \$25 less than class D stations. In areas with 25,001–75,000, they pay \$300 more. Less again at 75,001–150,000 people; more again above that. *See* Appendix C.

⁴² 47 U.S.C. § 159(b)(3).

14. In addition, we seek comment generally on other regulatory fee reform measures we can adopt.⁴³ For example, should we raise the earth station regulatory fees and thereby reduce satellite fees?⁴⁴ Are there specific divisions within bureaus or offices that should be allocated as direct instead of indirect?⁴⁵ We welcome comment on these issues and other proposals for regulatory fee reform.

2. Puerto Rico Broadcasters Association's Request for Regulatory Fee Relief

15. On December 10, 2014, PRBA filed a letter seeking regulatory fee relief for the radio broadcasters in the Commonwealth of Puerto Rico. PRBA requests that the Commission take into consideration significant population declines and economic factors when determining the regulatory fees owed by radio station operators in Puerto Rico. In particular, PRBA requests that the Commission use more recent figures to determine the radio station population count for radio stations in Puerto Rico.⁴⁶ PRBA argues that economic challenges⁴⁷ and population decline⁴⁸ in Puerto Rico warrant regulatory relief. Specifically, PRBA contends that Puerto Rico has an unprecedented unemployment rate of almost 14 percent, well above the overall United States unemployment rate and much higher than the two states with the next highest unemployment rates.⁴⁹ In addition, PRBA asserts that the per capita income in Puerto Rico⁵⁰ is half of the per capita income of the state with the lowest per capita income⁵¹ and over one-third of the households in Puerto Rico receive food stamps.⁵² PRBA argues that due to the economic hardship in the territory, the population has decreased in the past nine years by almost six percent because of migration to the mainland United States and a declining birthrate.⁵³ Finally, PRBA contends that the radio listening market is limited because it is restricted to listeners within the boundaries of the island.⁵⁴

16. Every ten years the Commission updates its radio station population counts to reflect nationwide changes in the population using the "block level census data" from the U.S. Census. PRBA asks the Commission to examine population data every five years instead of every 10 years to increase the accuracy of the population counts in Puerto Rico. We are unable to adopt PRBA's suggestion because the "block level census data" is only available from the U.S. Census Bureau every 10 years. Further, even if

⁴³ These issues here were raised in an *ex parte* filed by SIA. See Letter from Tom Stroup, President, Satellite Industry Association, to Marlene H. Dortch, Secretary, FCC (Apr. 30, 2015). We welcome any suggestions from commenters on regulatory fee reform.

⁴⁴ Earth station fees were increased by 7.5 percent last year. See *FY 2014 Report and Order*, 29 FCC Rcd at 10772-73, para. 12.

⁴⁵ This issue was raised previously; see *FY 2014 NPRM*, 29 FCC Rcd at 6425-27, paras. 22-27.

⁴⁶ PRBA Letter at 2-4.

⁴⁷ PRBA Letter at 2-3.

⁴⁸ PRBA Letter at 3-4.

⁴⁹ PRBA Letter at 2; <http://www.ncsl.org/research/labor-and-employment/state-unemployment-update.aspx> for the December 2014 unemployment rates for each state. The unemployment rate for Puerto Rico is 13.7 percent; the next highest unemployment rates are those of the District of Columbia (7.3 percent), Mississippi (7.2 percent), and California, (7 percent).

⁵⁰ See <http://www.census.gov/newsroom/press-releases/2014/cb14-17.html> (Puerto Rico median household income 2010-2012 was \$19,518.)

⁵¹ See <https://www.census.gov/hhes/www/income/data/statemedian/> (Mississippi median income 2010-2013 was \$41,664).

⁵² PRBA Letter at 2-3. Instead of the Supplemental Nutrition Assistance Program (SNAP), qualifying Puerto Rican residents receive Nutrition Assistance for Puerto Rico (NAP).

⁵³ PRBA Letter at 3.

⁵⁴ PRBA Letter at 5.

such figures were available every five years, they would be unlikely to provide a basis for fee relief for radio stations in Puerto Rico because fees on AM and FM radio stations are not assessed at granular levels but instead over a wide strata of the population.⁵⁵

17. PRBA requests that the Commission provide relief through the reduction of regulatory fees for Puerto Rico radio broadcasters due to economic hardship, unique geography, and declining population. We seek comment on this proposal and on whether the unique circumstances described by PRBA should result in one of the following actions: (i) moving the Puerto Rico market stations to a different rate (*e.g.*, reducing them down to a lower population strata) because of the downward trend in the population and other factors; (ii) creating a separate fee category for the Puerto Rico market at a lower rate; or (iii) adopting a special provision in our rules for economically depressed geographic areas to seek a “fast track” waiver of regulatory fees. For any of these actions, commenters should also discuss how such a process could satisfy the requirement to demonstrate that compelling and extraordinary circumstances outweigh the public interest in recouping the Commission’s regulatory costs.

18. We recognize that fee relief is ordinarily processed through a waiver request.⁵⁶ PRBA has not identified whether every station in Puerto Rico is financially unable to pay the regulatory fee, and although we recognize that preparing and filing waiver requests, including supporting financial information for each radio station in Puerto Rico, may be administratively and financially burdensome, granting across-the-board relief for Puerto Rican stations may shift the burden of regulatory fees from stations better able to afford them to those less able. Therefore, we also seek comment on whether the ordinary waiver process is sufficient here, making clear that a regulatee may raise the same issues that PRBA has raised whenever it files a waiver request.

B. Report and Order

1. Eliminating Regulatory Fee Categories

19. In the *FY 2014 NPRM*,⁵⁷ we sought comment on eliminating several of the smaller regulatory fee categories such as amateur radio Vanity Call Signs⁵⁸ and GMRS.⁵⁹ In the *FY 2014 Report and Order*, we concluded that we did not yet have adequate support to determine whether the cost of

⁵⁵ The regulatory fee rate starts at population counts of 25,000 and below, and then increases to population counts of 25,001-75,000; 75,001-150,000; 150,001-500,000; 500,001-1,200,000; 1,200,001-3,000,000; and above 3,000,000.

⁵⁶ Fees may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of the fee would promote the public interest. 47 U.S.C. § 159(d); 47 C.F.R. § 1.1166. Fee relief may be granted based on a “sufficient showing of financial hardship.” *See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12761-62, para. 13 (1995). In such matters, however, “[m]ere allegations or documentation of financial loss, standing alone,” do not suffice and “it [is] incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fee and to maintain its service to the public.” *Id.*

⁵⁷ *FY 2014 NPRM*, 29 FCC Rcd at 6428-29, para. 32.

⁵⁸ Call signs assigned to newly licensed stations, *i.e.*, a sequential call sign, are assigned based on the licensee’s mailing address and class of operator license. 47 C.F.R. § 97.17(d). The licensee can request a specific unassigned but assignable call sign, known as a vanity call sign. 47 C.F.R. § 97.19. There is no fee for the sequential call sign.

⁵⁹ GMRS (formerly Class A of the Citizens Radio Service) is a personal radio service available for the conduct of an individual’s personal and family communications. *See* 47 C.F.R. § 95.1. We initially proposed eliminating regulatory fees for GMRS in the *FY 2008 Report and Order and Further Notice*. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388, 6409, para. 57 (2008) (*FY 2008 Report and Order and Further Notice*). The Commission has an open proceeding to review the Part 95, Personal Radio Service rules, which include GMRS. *See Review of the Commission’s Part 95 Personal Radio Services Rules*, WT Docket No. 10-119, Notice of Proposed Rulemaking and Memorandum Opinion and Order on Reconsideration, 25 FCC Rcd 7651, 7659-7668, paras. 23-42 (2010).

recovery and burden on small entities outweighed the collected revenue or whether eliminating the fee would adversely affect the licensing process.⁶⁰ We stated, however, that we would reevaluate this issue in the future. Since adoption of the *FY 2014 Report and Order*, Commission staff have had an opportunity to obtain and analyze support concerning the collection of fees from these regulatees.

20. The GMRS and amateur radio Vanity Call Sign regulatory fee categories comprise on average over 20,000 licenses that are newly obtained or renewed every five and 10 years, respectively. After five years, the GMRS licensee is responsible for renewing the license (or cancelling) and the Commission is responsible for maintaining accurate records of licenses coming up for renewal—an administrative burden on both GMRS users and on the Commission for renewing and maintaining records of these licenses. After analyzing the costs of processing fee payments for GMRS, we conclude that the Commission’s cost of collecting and processing this fee exceeds the payment amount of \$25. Our costs have increased over time and now that the costs exceed the amount of the regulatory fee, the increased relative administrative cost supports eliminating this regulatory fee category.

21. The Vanity Call Sign fee category has a small regulatory fee (\$21.40 in FY 2014) for a 10-year license. The Commission often receives multiple applications for the same vanity call sign, but only one applicant can be issued that call sign. In such cases, the Commission issues refunds for all the remaining applicants. In addition to staff and computer time to process payments and issue refunds, there is an additional expense to issue checks for the applicants who cannot be refunded electronically. The Commission spends more resources on processing the regulatory fees and issuing refunds than the amount of the regulatory fee payment. As our costs now exceed the regulatory fee, we are eliminating this regulatory fee category.

22. The Commission will therefore eliminate the GMRS and Vanity Call Sign regulatory fee categories after the required congressional notification is provided.⁶¹ Once eliminated, these licensees will no longer be financially burdened with such payments and the Commission will no longer incur these administrative costs that exceed the fee payments. The revenue that the Commission would otherwise collect from these regulatory fee categories will be proportionally assessed on other wireless fee categories. This is a “permitted amendment” as defined in section 9(b)(3) of the Act, which, pursuant to section 9(b)(4)(B), must be submitted to Congress at least 90 days before it becomes effective.⁶²

2. Toll Free Numbers

23. Toll free numbers, defined in section 52.101(f) of our rules,⁶³ allow callers to reach the called party without being charged for the call. Instead, the charge for the call is paid by the called party (the toll free subscriber).⁶⁴ Prior to the *FY 2014 Report and Order*, the Commission did not assess regulatory fees on toll free numbers based on the assumption that the entities controlling the numbers—wireline and wireless common carriers—were paying regulatory fees based on either revenues or subscribers.⁶⁵ In the *FY 2014 NPRM*, we observed this was no longer the case because many toll free

⁶⁰ *FY 2014 Report and Order*, 29 FCC Rcd at 10776-77, para. 23.

⁶¹ After the 90-day notification period for a permitted amendment, these two fee categories will be eliminated. We will not be issuing refunds to licensees who have paid the regulatory fee prior to the elimination of the fee.

⁶² 47 U.S.C. § 159(b)(3).

⁶³ Toll free numbers are telephone numbers for which the toll charges for completed calls are paid by the toll free subscriber. See 47 C.F.R. § 52.101(f). These are 800, 888, 877, 866, 855, and 844 numbers. SMS/800 (or the 800 Service Management System) is a centralized system that performs toll free number management. For a list of RespOrgs on the SMS/800, Inc. website, see <http://www.sms800.com/Controls/NAC/Serviceprovider.aspx>.

⁶⁴ 47 U.S.C. §§ 52.101 (e), (f).

⁶⁵ *FY 2014 Report and Order*, 29 FCC Rcd at 10777, para. 25, note 74 (citing *Universal Service Contribution Methodology*, Further Notice of Proposed Rulemaking, 27 FCC Rcd 5357, 5463-64, para. 306 (2012)).

numbers are now controlled or managed by RespOrgs⁶⁶ that are not common carriers.⁶⁷ In the *FY 2014 Report and Order*, we adopted a regulatory fee obligation for toll free numbers beginning in FY 2015, finding that the Commission has both the legal authority and responsibility to assess regulatory fees on toll free numbers.⁶⁸ This regulatory fee assessed on RespOrgs for toll free numbers managed by a RespOrg,⁶⁹ is payable for all toll free numbers unless calls from only other countries can be completed using those toll free numbers.⁷⁰ This regulatory fee is assessed on RespOrgs for each working, assigned, reserved, in transit, or any other status of toll free number as defined in section 52.103 of the Commission's rules. Interstate Telecommunications Service Providers (ITSPs) that are RespOrgs and RespOrgs that are not ITSPs will be responsible for this regulatory fee.

24. The decision in 2014 to expand the pool of regulatory fee obligations to all RespOrgs created a system in which there are now numerous entities that play a role in toll free number administration and are required to pay annual regulatory fees but are not common carriers and therefore may lack familiarity with the Commission's rules. In the *FY 2014 Report and Order*, we did not adopt a specific enforcement mechanism to address circumstances where RespOrgs do not make regulatory fee payments but instead, sought further comment on the additional procedures for enforcement in such instances.⁷¹ Instead of adopting additional enforcement procedures at this time, however, we direct SMS/800, Inc.⁷² to provide the necessary outreach to the RespOrgs, through its tariff, website, or otherwise, to advise them that: "The Federal Communications Commission (FCC) has adopted a regulatory fee category for toll free numbers, assessed for each toll free number managed by a Responsible Organization (RespOrg). This regulatory fee, assessed on RespOrgs for toll free numbers managed by a RespOrg, is payable for all toll free numbers unless calls from only other countries can be completed using those toll free numbers. A RespOrg that fails to pay the regulatory fee assessed by the FCC will be subject to penalties."⁷³

⁶⁶ A RespOrg is a company that manages toll free telephone numbers for subscribers. RespOrgs use the SMS/800 data base to verify the availability of specific numbers and to reserve the numbers for subscribers. See 47 C.F.R. § 52.101(b).

⁶⁷ *FY 2014 NPRM*, 29 FCC Rcd at 6435, para. 51 (citing, *inter alia*, *Telseven, LLC, Calling 10, LLC, Patrick Hines a/k/a P. Brian Hines*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 15558, 15560, para. 3 (2012) (various corporations, including non-common carrier RespOrgs, owned and controlled by Patrick Hines, controlled approximately one million toll free numbers for Hines' "directory assistance" operation.))

⁶⁸ *FY 2014 Report and Order*, 29 FCC Rcd at 10778, paras. 26-27 (summarizing the legal rationale for adoption of a fee on toll free numbers and the FTEs involved in toll free issues) (citing *Toll Free Access Codes*, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-155, 12 FCC Rcd 11162, 11178-79, para. 22 (1997) (*Toll Free Second Report and Order*) (Sections 201(b) and 251(e) of the Act "empower the Commission to ensure that toll free numbers . . . are allocated in an equitable and orderly manner that serves the public interest.")).

⁶⁹ The proposed fee rate for toll free numbers for FY 2015 is in Appendix C.

⁷⁰ See *FY 2014 Report and Order*, 29 FCC Rcd at 10778, para. 27.

⁷¹ *FY 2014 Report and Order*, 29 FCC Rcd at 10782, paras. 36-37.

⁷² SMS/800, Inc. provides administration and routing for all toll free numbers in North America. The Commission has the ultimate authority over numbering resources and oversees the SMS Tariff and SMS/800 Board. See 47 U.S.C. § 251 (e)(1); see generally *Toll Free Service Access Codes*, CC Docket No. 95-155; Petition to Change the Composition of SMS/800, Inc., WC Docket No. 12-260, 28 FCC Rcd 15328 (2013) (*SMS Reauthorization Order*). Previously the Commission required SMS/800, Inc. to include language prohibiting toll free number hoarding and warehousing in the SMS Tariff. See *Toll Free Service Access Codes*, Second Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 11162, 11190, para. 39 (1997).

⁷³ See *Toll Free Second Report and Order*, 12 FCC Rcd at 11185, para. 29 ("We also may limit any RespOrg's allocation of toll free numbers or possibly decertify it as a RespOrg under § 251(e)(1) or § 4(i) [of the Communications Act].")

25. The imposition of a regulatory fee on RespOrgs is a new rule, adopted in the *FY 2014 Report and Order*, and non-common carriers may be unfamiliar with our regulatory fee process and unaware that delinquencies can result in penalties imposed by SMS/800, Inc., penalties imposed by the Commission pursuant to the Debt Collection Improvement Act of 1996 (DCIA), and/or enforcement action by the Enforcement Bureau, pursuant to delegated authority, or by the Commission.⁷⁴ As a result, OMD will coordinate with SMS/800, Inc. to ensure that all RespOrgs owing regulatory fees have sufficient information about this process and opportunity to pay the regulatory fee before the RespOrg is placed in red light status and enforcement procedures are initiated.⁷⁵

26. The basis for identifying the toll free number count upon which a regulatory fee will be assessed for each RespOrg will be derived from data provided by SMS/800, Inc.⁷⁶ The toll free number data will be determined by the toll free number count as of or around December 31st of each year. In addition to maintaining contact information with SMS/800, Inc., RespOrgs are also responsible for: (i) obtaining an FRN (FCC Registration Number);⁷⁷ (ii) maintaining current contact information in the Commission Registration System (CORES);⁷⁸ (iii) reviewing the Commission's Regulatory Fees Home Page for updates on regulatory fees;⁷⁹ and (iv) making timely regulatory fee payments using the Commission's Electronic Filing and Payment System (Fee Filer) located at: www.fcc.gov/feefiler. SMS/800, Inc. will provide the Commission with up-to-date contact information for the RespOrgs as needed to facilitate the timely payment of regulatory fees for toll free numbers. Under our bill collection procedures, delinquent RespOrgs will receive notice from the Commission before the matter is referred to the Enforcement Bureau for enforcement action and/or penalties imposed by SMS/800, Inc.

27. Any payments RespOrgs must pay SMS/800, Inc. for toll free number management and administration are unrelated to regulatory fees assessed by the Commission. Payment of regulatory fees to the Commission does not relieve a RespOrg from any payment obligations to SMS/800, Inc.

3. Direct Broadcast Satellite Providers

28. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic "dish" antenna at the subscriber's location. DBS providers are multichannel video programming distributors (MVPDs), as defined in section 602(13) of the Act.⁸⁰

⁷⁴ The Commission has a number of generally applicable mechanisms to ensure collection of delinquent debt which would also apply to RespOrgs. *See generally FY 2014 Report and Order*, 29 FCC Rcd at 10788, paras. 52-53 (summarizing the late payment penalty on unpaid regulatory fees under 47 U.S.C. § 159(c), the red-light rule set forth in section 1.1910 of the Commission's rules, 47 C.F.R. § 1.1910, and additional provisions contained in the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. § 3701 *et seq.*, *See Amendment of Parts 0 and 1 of the Commission's Rules*, MD Docket No. 02-339, Report and Order, 19 FCC Rcd 6540 (2004); 47 C.F.R. Part 1, Subpart O, Collection of Claims Owed the United States).

⁷⁵ Hypercube Telecom contends that the consumer end-users would be affected by our enforcement action against a RespOrg. Hypercube Telecom Reply Comments at 3-5. The notifications that are part of our delinquent bill collection process will give RespOrgs multiple opportunities to pay any delinquency before enforcement action.

⁷⁶ SMS/800, Inc. observes that some of its billing and contact information may contain additional proprietary and confidential data and that it would require the Commission to ensure the confidentiality of any such information provided. *See SMS/800, Inc. Comments* at 6. If SMS/800, Inc. is unable to provide the necessary information without including any confidential information it should submit, along with the responsive information and/or documents, a statement in accordance with section 0.459 of the Commission's rules. 47 C.F.R. § 0.459.

⁷⁷ Commission FRN numbers can be obtained by registering in the Commission's Registration System (CORES) located at: <https://apps.fcc.gov/coresWeb/publicHome.do>.

⁷⁸ Commission's Registration System (CORES) located at: <https://apps.fcc.gov/coresWeb/publicHome.do>.

⁷⁹ The Commission's Regulatory Fees Home Page is located at: <http://www.fcc.gov/regfees>.

⁸⁰ 47 U.S.C. § 522(13).

These operators of U.S. licensed geostationary space stations, which are used to provide one-way subscription video service to consumers in the United States, currently pay a fee per U.S.-licensed satellite under the category “Space Station (Geostationary Orbit)” in the regulatory fee schedule based on the International Bureau FTEs work associated with satellite regulation. Cable television and IPTV, also MVPDs, similarly provide subscription video services to consumers in the United States. These regulated entities pay a regulatory fee per subscriber under the fee category “Cable TV System, Including IPTV.”⁸¹ In the *Further Notice of Proposed Rulemaking* accompanying the *FY 2014 Report and Order*, the Commission proposed to adopt a fee to recover the costs incurred by the Media Bureau for regulation of DBS.⁸² Under our proposal, DBS providers would be subject to two regulatory fees. The first fee would recover the burden of regulation and oversight by International Bureau FTEs incurred as a result of its operation of satellites, and the other fee would recover the burden of regulation and oversight by Media Bureau FTEs as a result of DBS status as a MVPD. We conclude that DBS providers are subject to regulation and oversight of the Media Bureau and should share in the Media Bureau FTE burden attributed to MVPDs. Accordingly, pursuant to section 9(b)(3), we amend the regulatory fee schedule to replace the category “Cable TV System, Including IPTV” with the “Cable TV System, Including IPTV and DBS” category. This category will now have two rates: one for DBS (a subcategory) and another for cable television and IPTV.

29. *Background.* The Commission has considered the appropriate methodology for assessing regulatory fees on DBS providers on multiple occasions. The original fee schedule adopted by Congress in 1993, when the DBS service was a nascent industry,⁸³ did not include a specific fee category for DBS providers.⁸⁴ The Commission recognized this and declined to adopt a regulatory fee for DBS until fiscal year 1996.⁸⁵ In the *FY 1996 NPRM*, the Commission determined that including the fledgling DBS service in the regulatory fee imposed on geostationary orbit geosynchronous satellite category best reflected the regulatory burden born by the Commission at that time.⁸⁶ In the 2005,⁸⁷ 2006,⁸⁸ and 2008⁸⁹ regulatory fee

⁸¹ In FY 2014, the regulatory fee for “Cable TV System, Including IPTV” was \$0.99 per subscriber. *FY 2014 Report and Order*, 29 FCC Rcd at 10819, Appendix I. Cumulatively, the Cable TV System, Including IPTV fee category paid \$64.35 million in regulatory fees for FY 2014.

⁸² *FY 2014 Further Notice of Proposed Rulemaking*, 29 FCC Rcd at 10782-84, paras. 38-43.

⁸³ *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Report and Order, 9 FCC Rcd 5333, 5362, para. 85 (1994) (*FY 1994 Report and Order*) (declining to adopt a regulatory fee for DBS under the Mass Media fees and noting that DBS service is not expected to be offered prior to the time for calculating fee payments for FY 1994).

⁸⁴ In the Appendix to the *FY 1994 Report and Order* published in the Federal Register, the Commission noted that DBS was not included in the original fee schedule adopted by Congress and observed “that the omission of DBS and FM translators and boosters was inadvertent and that Congress did not intend to exempt all DBS permittees and licensees and licensees of FM translators and boosters from regulatory fees as these services result in the Commission incurring costs for necessary regulatory functions. . . . we intend to add regulatory fee categories for DBS licenses and for FM translators and boosters” 59 FR 30984, 31006, note 2.

⁸⁵ *Assessment and Collection of Regulatory Fees for Fiscal Year 1996*, Report and Order, 11 FCC Rcd 18774, 18822, Appendix F at para. 35 (1996) (*FY 1996 Report and Order*) (imposing regulatory fee for the first time on DBS relying on the analysis in the *FY 1996 NPRM*); *Assessment and Collection of Regulatory Fees for Fiscal Year 1996*, Notice of Proposed Rulemaking, 11 FCC Rcd 16515, 16526, para. 41 (1996) (*FY 1996 NPRM*) (proposing to assess DBS licensees the fee applicable to all geostationary orbit geosynchronous satellite licensees and, therefore, to include DBS for regulatory fee purposes in the Space Station fee category).

⁸⁶ *FY 1996 NPRM*, 11 FCC Rcd at 16526, para. 41.

⁸⁷ *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12264, para. 11 (*FY 2005 Report and Order*). In 2005, the Commission declined to adopt changes in the regulatory fee assessment methodology for DBS providers in response to the comments of the National Cable and Telecommunications Association and American Cable Association. *Id.* The

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proceedings, the Commission also considered whether DBS should pay a subscriber-based regulatory fee related to Media Bureau oversight instead of being included in the geosynchronous satellite category related to International Bureau oversight. In those proceedings, the Commission either declined to adopt a change or made no decision on the issue. In the *FY 2005 Report and Order*, in declining to make a change, the Commission noted its *FY 2005 NPRM* had not contained a proposal on the issue.⁹⁰ In the *FY 2006 Report and Order*, the Commission decided not to change the fee. In the *FY 2009 Report and Order*, the Commission declined to address the issue raised in the *FY 2008 Report and Order and Further Notice*.⁹¹

30. In August of 2012, the GAO Report concluded that regulatory fee reform at the Commission was long overdue.⁹² The GAO Report observed, among other things, that questions had been raised by commenters regarding whether the Commission's regulatory fee analysis was based on a "valid FTE analysis" of Media Bureau FTEs work related to the MVPDs including DBS.⁹³ Following the GAO Report, in the fiscal year 2013 regulatory fee proceeding, the Commission considered and adopted a number of significant regulatory fee reforms such as updating the FTEs allocated to each of the core bureaus and reclassifying most of the International Bureau FTEs as indirect.⁹⁴ The Commission also adopted other reforms such as broadening the cable television category to include IPTV providers as a "permitted amendment."⁹⁵ As part of its overall analysis of the cable television systems category, the Commission considered a change to the DBS fee schedule.⁹⁶ While the Commission declined to do so in 2013 to allow additional time to examine the proposal as part of larger reform efforts, the Commission noted its intent to revisit the issue in the future.⁹⁷ In 2014, the Commission again proposed to adopt a fee

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FY 2005 NPRM did not contain a proposal on this issue. See generally, *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Notice of Proposed Rulemaking, 20 FCC Rcd 3885 (2005) (*FY 2005 NPRM*).

⁸⁸ *Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, Report and Order, 21 FCC Rcd 8092, 8096-98, paras 10-16 (2006) (*FY 2006 Report and Order*) (declining to change the DBS regulatory fee from a per operational space station fee to a subscriber based fee); *Assessment and Collection of Regulatory Fees for Fiscal Year 2006*, Notice of Proposed Rulemaking, 21 FCC Rcd 3708, 3711, para. 8 (2006) (*FY 2006 NPRM*) (seeking comment on the appropriate regulatory fee structure for both cable operators and DBS providers).

⁸⁹ *FY 2008 Report and Order and Further Notice*, 24 FCC Rcd at 6407, para. 50 (seeking comment on whether the Commission should impose the same per subscriber fee on DBS that cable providers pay, or continue to assess a space station regulatory fee for the DBS industry and a subscriber-based structure for the cable industry).

⁹⁰ *FY 2005 Report and Order*, 20 FCC Rcd at 12264, para. 11.

⁹¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, Report and Order, 24 FCC Rcd 10301, 10303, para. 3 (2009) (*FY 2009 Report and Order*) (the Commission noted that the remaining outstanding issues from the *FY 2008 Report and Order and Further Notice* would be decided at a later time).

⁹² See note 22, *supra*. We have adopted significant regulatory fee reforms in our annual regulatory fee proceedings in response to the GAO Report. See, e.g., *FY 2013 Report and Order*, 28 FCC Rcd at 12354-55, paras. 10-12 (using current FTE data to calculate regulatory fees).

⁹³ GAO Report at 18-20.

⁹⁴ See *FY 2013 Report and Order*, 28 FCC Rcd at 12354-58, paras. 10-20.

⁹⁵ *Id.*, 28 FCC Rcd at 12362-63, paras. 32-33.

⁹⁶ *Id.*, 28 FCC Rcd at 12360-61, 12363, paras. 28 and 33; *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 28 FCC Rcd 7790, 7810-11, paras. 50-52 (2013) (*FY 2013 NPRM*).

⁹⁷ *FY 2013 Report and Order*, 28 FCC Rcd at 12361, 12363, para. 28 ("We will continue to examine these suggestions as we continue our regulatory fee reform, as well as our proposals that we do not reach in this Report and Order: to combine the ITSP and wireless categories, to use revenues in calculating all regulatory fees, and to include DBS providers in a new MVPD category. We find additional time is necessary and appropriate to examine these proposals under Section 9 of the Communications Act and analyze how these proposals account for changes in

(continued....)

to recover the costs incurred by the Media Bureau for regulation of DBS in the FY 2014 NPRM and the FY 2014 Further Notice of Proposed Rulemaking.⁹⁸ Alternatively, the Commission sought comment on whether Media Bureau FTEs working on DBS issues be assigned to the International Bureau as direct FTEs or assigned as indirect FTEs for regulatory fee purposes.⁹⁹

31. *Discussion.* Under section 9 of the Act, the Commission may make a permitted amendment to the fee schedule if it “determines that the Schedule requires amendment to comply with the requirements of” paragraph (1)(A) which mandates that the Commission allocate fees to cover the costs of certain regulatory activities in accordance with the benefits provided to the payor and other factors that the Commission determines are in the public interest.¹⁰⁰ The statute also provides, however, that, “[i]n making such amendments, the Commission shall add, delete, or reclassify services in the Schedule to reflect additions, deletions or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law.”¹⁰¹ We have conducted a review of the Media Bureau work devoted to MVPD matters and find that the recommendations in the GAO Report were correct.¹⁰² Analysis of the oversight and regulation of MVPDs (including the DBS industry) by the Media Bureau in various rulemaking proceedings reveal a cumulative effect of changes in law that have taken effect since the Commission adopted the current DBS regulatory fee structure in 1996. Due to these changes, we find that the DBS providers should be included in the same fee category as the other MVPDs, such as cable television and IPTV. There are certain rules that both DBS providers and cable operators including IPTV are subject to, and Media Bureau FTEs provide the oversight and regulation of the DBS industry as required by these rules.¹⁰³ For example, DBS providers (and cable television operators) are permitted to file program access complaints¹⁰⁴ and complaints seeking relief under the retransmission consent good faith rules.¹⁰⁵ In addition, DBS providers are subject to MVPD requirements such as those pertaining to program carriage¹⁰⁶ and the requirement to negotiate retransmission consent in good faith.¹⁰⁷ More recently, the Commission adopted a host of requirements that apply to all MVPDs and thus equally apply to DBS providers as part of its implementation of the Commercial Advertisement Loudness Mitigation Act (CALM Act),¹⁰⁸ the Twenty-First Century Communications and Video Accessibility Act of 2010

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the communications industry and the Commission’s regulatory processes and staffing.”) (footnotes omitted) and para. 33.

⁹⁸ *FY 2014 Further Notice of Proposed Rulemaking*, 29 FCC Rcd at 10782-84, paras. 38-43; *FY 2014 NPRM*, 29 FCC Rcd at 6431-33, paras. 41-46.

⁹⁹ *FY 2014 Further Notice of Proposed Rulemaking*, 29 FCC Rcd at 10784, para. 41.

¹⁰⁰ 47 U.S.C. § 159(b)(3).

¹⁰¹ *Id.*

¹⁰² The GAO Report did not have a specific recommendation with respect to the DBS regulatory fee, but observed that the National Cable and Telecommunications Association had argued that our regulatory fee process was competitively disadvantaging the cable television industry. GAO Report at 18-19. Competition *per se* is not part of the permitted amendment analysis; however, in this case the Media Bureau FTEs work on MVPD issues that include DBS.

¹⁰³ *See, e.g.*, 47 C.F.R. §§ 76.65(b); 76.1000-1004; 47 U.S.C. § 618(b).

¹⁰⁴ 47 U.S.C. § 548; 47 C.F.R. § 76.1000-1004.

¹⁰⁵ 47 U.S.C. §§ 325(b)(1), (3)(C)(ii); 47 C.F.R. § 76.65(b).

¹⁰⁶ 47 U.S.C. § 536; 47 C.F.R. §§ 76.1300-1302.

¹⁰⁷ 47 U.S.C. § 325(b)(3)(C)(iii); 47 C.F.R. § 76.65(a)-(b).

¹⁰⁸ *See Implementation of the Commercial Advertisement, Loudness Mitigation (CALM) Act*, Report and Order, 26 FCC Rcd 17222 (2011) (*CALM Act Report and Order*).

(CVAA),¹⁰⁹ as well as the Satellite Television Extension and Localism Act (STELA) Reauthorization Act of 2014 (STELAR).¹¹⁰ These regulatory developments increased the amount of regulatory activity by the Media Bureau FTEs involving regulation and oversight of MVPDs, including the DBS providers. The Media Bureau has been responsible for adopting many of these regulations and overseeing the MVPD industry. As MVPDs, DBS providers actively participate in Media Bureau proceedings involving MVPD oversight and regulation.¹¹¹

32. DIRECTV and DISH disagree that a permitted amendment is justified, contending that there has been no “meaningful increase in the regulation of DBS.”¹¹² To the contrary, as discussed above, implementation of the CALM Act, CVAA, and STELAR should alone provide adequate justification for a permitted amendment in this case. A permitted amendment under section 9(b)(3), however, does not require a sudden increase in regulation or oversight over a defined period of time. Circumstances have changed in the almost 20 years since the Commission first addressed the issue of DBS regulatory fees.¹¹³ At the time we adopted a DBS regulatory fee, it was a fledging service where the business model was uncertain and there were questions concerning whether it would operate as a subscription based service or a free to air broadcaster.¹¹⁴ The first DBS satellite was not launched until 1993 and did not become operational until 1994.¹¹⁵ In 2015, however, DBS had developed into a large MVPD¹¹⁶ and as such

¹⁰⁹ Pub. L. No. 111-260, 124 Stat. 2751 (2010). See also *Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010*, Pub. L. No. 111-265, 124 Stat. 2795 (2010) (making corrections to the CVAA); 47 C.F.R. Part 79.

¹¹⁰ The STELA Reauthorization Act of 2014 (STELAR), §§ 102, Pub. L. No. 113-200, 128 Stat. 2059, 2060-62 (2014) (codified at 47 U.S.C. § 338(1)). The STELAR was enacted on Dec. 4, 2014 (H.R. 5728, 113th Cong.). *Implementation of Section 102 of the STELA Reauthorization Act of 2014*, Notice of Proposed Rulemaking, MB Docket No. 15-71, FCC 15-34 (rel. Mar. 26, 2015) proposes satellite television “market modification” rules to implement section 102 of STELAR.

¹¹¹ NCTA and ACA Comments at 7, 10-11; ITTA Comments at 3. DIRECTV and DISH filed comments and *ex parte* statements in numerous Commission proceedings, in the Media Bureau dockets as well as other dockets. As of Mar. 17, 2015, in the past 12 months, DIRECTV filed 109 comments and *ex parte* statements in Media Bureau (and other) dockets. There are other proceedings, such as mergers, in which DIRECTV and DISH have participated. Regardless of whether the proceeding is merger-related or pertains strictly to MVPD regulation, DBS participation, and Media Bureau staff involvement, support our conclusion that DBS providers should be added to the cable television and IPTV category.

¹¹² DIRECTV and DISH Comments at 8-9.

¹¹³ The Commission’s annual MVPD Competition Report provides a history of MVPD services. *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Report, 9 FCC Rcd 7442 (1994) (*First Report*); 11 FCC Rcd 2060 (1996) (*Second Report*); 12 FCC Rcd 4358 (1997) (*Third Report*); 13 FCC Rcd 1034 (1998) (*Fourth Report*); 13 FCC Rcd 24284 (1998) (*Fifth Report*); 15 FCC Rcd 978 (2000) (*Sixth Report*); 16 FCC Rcd 6005 (2001) (*Seventh Report*); 17 FCC Rcd 1244 (2002) (*Eighth Report*); 17 FCC Rcd 26901 (2002) (*Ninth Report*); 19 FCC Rcd 1606 (2004) (*Tenth Report*); 20 FCC Rcd 2755 (2005) (*Eleventh Report*); 21 FCC Rcd 2503 (2006) (*Twelfth Report*); 24 FCC Rcd 542 (2007) (*Thirteenth Report*); 27 FCC Rcd 8610 (2012) (*Fourteenth Report*); 28 FCC Rcd 10496 (2013) (*Fifteenth Report*).

¹¹⁴ *FY 1996 Report and Order*, 11 FCC Rcd at 18822, Appendix F, para. 35. DBS space stations applicants must indicate in their license application whether they seek to operate on a broadcast or non-broadcast basis, which affects the length of their license terms. *Inquiry into the Development of Regulatory Policy in regard to Direct Broadcast Satellites for the Period Following the 1982 Regional Administrative Radio Conference*, Report and Order, 90 FCC 2d 676 (1982), *aff’d sub nom National Association of Broadcasters v. F.C.C.*, 740 F.2d 1190 (1984). To date, neither DIRECTV nor DISH has elected to operate as a broadcaster.

¹¹⁵ *First Report*, 9 FCC Rcd 7442, paras. 62-70 (1994).

¹¹⁶ *Fifteenth Report*, 28 FCC Rcd at 10546-49, paras. 110-117 (describing DBS MVPD business models and competitive strategies).

significant Media Bureau FTE resources are used in regulation and oversight of DBS. The GAO Report correctly noted that an evaluation of Media Bureau FTEs was long overdue¹¹⁷ and the result of such evaluation leads us to the conclusion that the Media Bureau FTEs regulate the DBS industry together with the other MVPDs. Thus, there is no reasonable basis to exclude DBS providers from sharing in the cost of MVPD oversight and regulation. With this Report and Order, we recognize the changes in fact and law since the adoption of the DBS fee in 1996 cumulatively require us to adopt a permitted amendment to ensure that DBS providers contribute equitably to the FTE burden of MVPD oversight.¹¹⁸

33. We also reject the argument raised by DIRECTV and DISH that section 9 of the Act requires us to “show that DBS and cable occupy a comparable number of FTEs.”¹¹⁹ The commenters’ argument that DBS is not involved in certain matters such as petitions for effective competition,¹²⁰ or other requirements that do not pertain to DBS,¹²¹ demonstrates that DBS is not identical to cable television. It does not, however, refute our conclusion that a significant number of Media Bureau FTEs work on MVPD issues that include DBS.¹²² The Commission has determined in other proceedings that services that are not technologically identical nevertheless warrant placement in the same regulatory fee category. Other fee categories, such as Interstate Telecommunications Service Providers (ITSP), also include a range of carriers that may not be regulated identically.¹²³ For example, when interconnected Voice over Internet Protocol (VoIP) providers were added to the ITSP category in a permitted amendment the Commission observed that “the costs and benefits associated with our regulation of interconnected VoIP providers are not identical as those associated with regulating interstate telecommunications service and CMRS.”¹²⁴ The Commission stated that “Section 9 is clear, however, that regulatory fee assessments are based on the burden imposed on the Commission, not benefits realized by regulatees.”¹²⁵ Concerning many aspects of MVPD regulation, Media Bureau FTEs bear the same burden regardless of the specific technology used by the service provider. Thus, although DBS is not identical to cable television and IPTV, the services all receive oversight and regulation as a result of the work of Media Bureau FTEs on MVPD issues. The burden imposed on the Commission is therefore similar.

34. DIRECTV and DISH also observe that there are more cable operators and cable systems than DBS operators, and that the cable industry has a larger filing and recordkeeping requirement than DBS.¹²⁶ While we agree that the two DBS providers and their trade association had fewer filings than the

¹¹⁷ GAO Report at 17-20.

¹¹⁸ 47 U.S.C. § 159(b)(3). *See, e.g.*, 47 C.F.R. §§ 76.65(b); 76.1000-1004; Part 79; 47 U.S.C. § 618(b).

¹¹⁹ DIRECTV and DISH Comments at 11 & Reply Comments at 4-9.

¹²⁰ DIRECTV and DISH Comments at 12.

¹²¹ DIRECTV and DISH Comments at 12 (these are (1) a requirement to encrypt the basic service tier, (2) the viewability requirements in sections 614 and 615 of the Act, and (3) the requirement to include certain digital interfaces on high definition set-top boxes).

¹²² *See, e.g., Closed Captioning Report and Order*, 29 FCC Rcd 2221; *CALM Act Report and Order*, 26 FCC Rcd 17222; 47 C.F.R. §§ 76.65(b); 76.1000-1004; Part 79; 47 U.S.C. § 618(b).

¹²³ ITSP, regulated by the Wireline Competition Bureau, includes interexchange carriers (IXCs), incumbent local exchange carriers (LECs), toll resellers, Voice over Internet Providers (VoIP), and other service providers, all of which involve different degrees of regulatory oversight. *See* NCTA and ACA Comments at 9 & Reply Comments at 8-9.

¹²⁴ *See Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15712, 15719, para. 19 (2007) (*FY 2007 Report and Order*).

¹²⁵ *FY 2007 Report and Order*, 22 FCC Rcd at 15719-15720, para. 19.

¹²⁶ DIRECTV and DISH Comments at 13. DIRECTV and DISH compare the number of filings in our electronic comment filing system (ECFS) and observe that over a two year period DIRECTV and DISH and their trade association filed 4,870 pages in 401 proceedings and the top 25 cable companies and their two trade associations filed 93,673 pages in 2,217 proceedings. DIRECTV and DISH Comments at 13, note 53.

top 25 cable operators and their two trade associations (combined), we are not persuaded that this demonstrates a lack of Media Bureau oversight and regulation of the DBS industry.¹²⁷ We are therefore including DBS providers into the same regulatory fee category as cable television and IPTV because many Media Bureau issues involve the entire MVPD industry. We find that it is appropriate under section 9 of the Act to recover the costs associated with Media Bureau FTE work.¹²⁸ As we explain below, however, DBS will have an opportunity to raise questions concerning the rate calculation between it and other members of the same fee category for fiscal year 2015 and in the future.¹²⁹ The video programming and distribution industry continues to change¹³⁰ and the appropriate allocation between and among regulatees with respect to Media Bureau FTEs working on MVPD issues may change over time as different regulatory and legal issues are presented to the Commission.

35. To the extent that DIRECTV and DISH are suggesting by these arguments that the number of FTEs dedicated to a service is wholly determinative of their regulatory fees, we disagree. Although the statute requires us to calculate FTEs initially, we are also required to “adjust[]” that number “to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission’s activities.”¹³¹ Since DBS providers generally benefit from the regulatory activities of the Media Bureau, much like cable operators and IPTV providers, the Commission can attribute Media Bureau FTEs to DBS providers and require them to pay Media Bureau regulatory fees.

36. DIRECTV and DISH also argue that because we declined to include DBS in the cable television and IPTV regulatory fee category previously, we must provide a reasoned explanation for changing our fee determination.¹³² We agree that it serves the public interest to explain our rationale. A prior decision, however, does not preclude us from making a different determination in light of the facts and circumstances presented to the Commission in 2015. When the Commission first determined to include DBS in the geosynchronous satellite regulatory fee, DBS was a new service with an uncertain business model. Imposing a subscription based fee derived from Media Bureau FTEs risked failing to compensate the Commission for the substantive work regulating DBS as a satellite industry.¹³³ When we examined the issue again in 2005, 2006, and 2008, contemporaneously there was a significant amount of regulatory work being done by the International Bureau related to making new spectrum available for

¹²⁷ In the 12 months prior to Mar. 17, 2015, Comcast Corporation (the largest cable company in the country) had 297 total ECFS filings, DIRECTV had 109, and DISH Network had 134 (some filings were by DIRECTV and DISH together), a not unexpected relative volume of ECFS filings for the top three MVPDs in the country.

¹²⁸ 47 U.S.C. § 159(a)(1).

¹²⁹ Even when an industry has oversight generally by one organizational unit within the Commission, we are sensitive to the fact that balance between members of the same industry may require adjustments to FTE allocations. *See, e.g.*, recent changes in FTE allocations between space station and earth stations even though such systems are may operate in the same spectrum and be part of the same telecommunication system. *FY 2014 Report and Order*, 29 FCC Rcd at 10771-73, paras. 8-12.

¹³⁰ *See, e.g., Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services*, Notice of Proposed Rulemaking, 29 FCC Rcd 15995 (2014) (seeking comment on, *inter alia*, expanding the definition of MVPD to include providers of multiple linear streams of video programming, regardless of the technology used to distribute it.)

¹³¹ 47 U.S.C. § 159(b)(1)(A).

¹³² DIRECTV and DISH Comments at 15-17 & Reply Comments at 10-11.

¹³³ *FY 1996 NPRM*, 11 FCC Rcd at 16526, para. 41 (“Moreover, because DBS licensees are not restricted to the provision of video programming, but rather may provide various non-video services, we concluded that a facility-based fee would ensure that each DBS licensee contributed equitably to the cost of DBS regulation without the need to impose possibly burdensome and overly intrusive reporting requirements necessary to gather information identifying the services offered by individual DBS operators.”)

satellite based video services.¹³⁴ Thus, it is not surprising that the Commission concluded in 2006 that the existing methodology adequately ensured recovery of International Bureau FTE burden of oversight and regulation. Further, removing DBS from the geosynchronous satellite regulatory fee category at a time when that fee category bore the burden of substantial rulemakings relating to new satellite spectrum would have been a complex issue. While the burden of new satellite rulemakings was not mentioned by the Commission in the *FY 2006 Report and Order*, review of the context in which decisions are made is appropriate here. Further, in the past, changes to the DBS regulatory fee was frequently described as either a fee assessed based on International Bureau FTEs or a fee based on Media Bureau FTEs. In contrast, our proposal presents a more nuanced approach of recognizing that the work of both the International Bureau FTEs and the Media Bureau FTEs provide oversight and regulation of DBS. As a result, while the decisions made in the past are understandable in their context, we are not bound to disregard the FTE burden born by the Media Bureau in regulating DBS as a MVPD simply because we previously declined to change the methodology of assessing fees on DBS providers.

37. Regulatory fee reform is a logistical challenge due to the time constraints in regulatory fee proceedings which typically must be completed in a year in order to satisfy our statutory mandate. Unfortunately, at times we must decline to adopt a proposal or take an incremental approach, not because a proposal lacks merit, but simply because there is insufficient time to address the substantive comments raised in the record in the time allotted.¹³⁵ In this instance, however, we have the benefit of comments regarding this issue from the *FY 2013 NPRM*, the *FY 2014 NPRM*, and the *FY 2014 Further Notice of Proposed Rulemaking*. As a result, unlike prior review of this issue, we have had more time within which to review the significant issue of adopting an additional fee category for DBS providers. The GAO Report also brought new focus to conducting the necessary analysis of Media Bureau FTEs as part of our overall regulatory fee reform.¹³⁶ Had the Commission performed this analysis of Media Bureau FTEs and regulation and oversight of DBS earlier, we may have reached this result at that time. The Commission may update its regulatory fee methodology when, among other things, it is supported by updated data, analysis, and changes in the regulation and oversight of the industry. As the GAO Report observed, it is important to “regularly update analyses to ensure that fees are set based on relevant information.”¹³⁷

38. Finally, DISH and DIRECTV contend that a “fee increase will cause rate shock”¹³⁸ and argue that we must explain the basis of any regulatory fee increase exceeding 7.5 percent relying upon a cap we adopted for FY 2013.¹³⁹ We note first that it is somewhat premature to address this concern since the rate for DBS providers is merely proposed in the accompanying NPRM, and DISH and DIRECTV, the two DBS providers, may provide comments on the rate for this year and in subsequent years. As to

¹³⁴ *Establishment of Policies and Service Rules for the Broadcasting Satellite Service at the 17.3-17.7 GHz Frequency Band and at the 17.7-17.8 GHz Frequency Band Internationally, and at the 24.75-25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Broadcasting Satellite Service Operating Bidirectionally in the 17.3-17.7 GHz Frequency Band*, Notice of Proposed Rulemaking, 21 FCC Rcd 7426 (2006), Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8842 (2007); *Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service*, Notice of Proposed Rulemaking, 21 FCC Rcd 9443 (2006). See *Thirteenth Report*, 24 FCC Rcd at 585-87, paras. 85-90 (noting regulatory issues).

¹³⁵ See, e.g., *FY 2006 Report and Order*, 21 FCC Rcd at 8098, para. 16 (“Finally, as a practical matter, we do not have sufficient time available to modify the section 9 regulatory fee classification and methodology as proposed by NCTA and still comply with the 90-day congressional notification requirement before we start our regulatory fee collections in the August/September time frame.”)

¹³⁶ See, e.g., *FY 2013 Report and Order*, 28 FCC Rcd at 12354-55, paras. 10-12.

¹³⁷ GAO Report at 12.

¹³⁸ DIRECTV and DISH Comments at 11.

¹³⁹ DIRECTV and DISH Comments at 15-17 & Reply Comments at 10-11.

the substance of the complaint, we note that this cap was adopted due to the significant regulatory fee changes adopted that year and our concern on the impact on small entities; neither DISH nor DIRECTV claim that they are small entities. We are not required to adopt a cap every year and we are not seeking comment on such a cap for FY 2015 in our NPRM above. Due to their concern that the regulatory fee would have such an impact on their customers, we have decided to phase in the DBS fee and introduce it initially as a subcategory of the cable television and IPTV category.¹⁴⁰ This phased approach is consistent with the interim approach the Commission took in the *FY 2013 Report and Order* to “avoid sudden and large changes in the amount of fees”¹⁴¹ and addresses DIRECTV and DISH’s concerns.¹⁴²

39. We also note that we sought comment on whether the operator of the satellite or the provider of DBS service should be the entity that pays the regulatory fee.¹⁴³ As the fee is based on subscriber numbers, the DBS service provider would be the entity with this information and it would be more efficient for those DBS providers to be responsible for the regulatory fee. For purposes of calculating regulatory fees, the subscriber count includes single family dwellings as well as individuals in multiple dwelling units (*e.g.*, apartments, condominiums, mobile home parks) based on the formula in the footnote below.¹⁴⁴

40. In the *FY 2014 Further Notice of Proposed Rulemaking*, we further sought comment on whether, in lieu of a permitted amendment, Media Bureau FTEs working on DBS issues should be assigned to the International Bureau as direct FTEs or assigned as indirect FTEs.¹⁴⁵ These alternatives would, in some ways, allocate the Media Bureau FTEs for regulatory fee purposes in a way that is fairer than the current allocation. DBS providers would be paying regulatory fees for some of the Media Bureau FTEs, if reallocated as direct FTEs to the International Bureau. If we reallocated some Media Bureau FTEs as indirect, the regulatory fee burden would be spread among all regulatory fee payors, which would relieve the burden on the cable television and IPTV industry. Although these two alternatives would serve to reallocate a portion of the Media Bureau FTEs, such reallocation would either shift the burden to all International Bureau regulatees or to all regulatory fee payors, instead of to the DBS providers. Thus, although those two alternative proposals might be an improvement over the status quo, including DBS in the same category as cable television and IPTV, and basing the regulatory fee on Media Bureau FTEs, is the more straightforward and equitable approach because the DBS regulation and oversight is done by the Media Bureau FTEs.

41. Under section 9 of the Act, the Commission must add, delete, or reclassify services in the fee schedule to reflect additions, deletions, or changes in the nature of its services “as a consequence of Commission rulemaking proceedings or changes in law.”¹⁴⁶ As explained above, after analyzing the

¹⁴⁰ Commenters propose a three-year phase-in period. See NCTA and ACA Comments at 14-15.

¹⁴¹ *FY 2013 Report and Order*, 28 FCC Rcd at 12358-59, paras. 21-25.

¹⁴² In FY 2014, DIRECTV and DISH paid approximately \$2.49 million in international regulatory fees for 20 satellites and 141 earth stations. Assuming these DBS providers pay for the same number of satellite and earth station units, the Commission estimates that in FY 2015 their total fees paid would be \$2.72 million (satellites and earth stations) plus \$2.72 million (media services) for a total of \$5.44 million.

¹⁴³ *FY 2014 Further Notice of Proposed Rulemaking*, 29 FCC Rcd at 10784, para. 41.

¹⁴⁴ DBS providers, cable television system operators, and IPTV providers should compute their number of basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Providers and operators may base their count on “a typical day in the last full week” of December 2014, rather than on a count as of December 31, 2014.

¹⁴⁵ *FY 2014 Further Notice of Proposed Rulemaking*, 29 FCC Rcd at 10784, para. 41.

¹⁴⁶ 47 U.S.C. § 159(b)(3).

oversight and regulation of MVPDs (including DBS) by the Media Bureau in various rulemaking proceedings, MVPDs (including DBS providers) are subject to increased regulation and oversight due to changes in law, and therefore DBS should be included in the same fee category as cable television and IPTV, as a permitted amendment. Since two different sets of FTE resources are involved, the Commission is assessing two separate fees on DBS providers, a satellite fee based on International Bureau FTEs and a fee based on Media Bureau FTEs, assessed per DBS subscriber. This adoption of a fee subcategory for DBS within the cable television and IPTV category is a permitted amendment as defined in section 9(b)(3) of the Act, which, pursuant to section 9(b)(4)(B), must be submitted to Congress at least 90 days before it becomes effective.¹⁴⁷

C. Order

42. In this Order, we make ministerial changes to sections 1.911(d), 1.1912(b)(1), and 1.1917(c) of the Commission's rules¹⁴⁸ to conform to the Digital Accountability and Transparency Act (DATA Act).¹⁴⁹ In particular, we amend rule provisions to specify that debts owed to the Commission that have been delinquent for a period of 120 days shall be transferred to the Secretary of the Treasury.¹⁵⁰ These amendments are to conform the Commission's rules to the DATA Act and the notice and comment and effective date provisions of the Administrative Procedure Act are inapplicable.¹⁵¹

IV. PROCEDURAL MATTERS

A. Payment of Regulatory Fees

1. Revised Credit Card Transaction Levels

43. In accordance with U.S. Treasury Announcement No. A-2014-04 (July 2014), the amount that can be charged on a credit card for transactions with federal agencies has been reduced to \$24,999.99.¹⁵² Previously, the credit card limit was \$49,999.99. This lower transaction amount is effective June 1, 2015. Transactions greater than \$24,999.99 will be rejected. This limit applies to single payments or bundled payments of more than one bill. Multiple transactions to a single agency in one day may be aggregated and treated as a single transaction subject to the \$24,999.99 limit. Customers who wish to pay an amount greater than \$24,999.99 should consider available electronic alternatives such as Visa or MasterCard debit cards, Automated Clearing House (ACH) debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in Fee Filer. Further details will be provided regarding payment methods and procedures at the time of FY 2015 regulatory fee collection.

44. Customers who owe an amount on a bill, debt, or other obligation due to the federal government are prohibited from splitting the total amount due into multiple payments. Splitting an amount owed into several payment transactions violates the credit card network and Fiscal Service rules. An amount owed that exceeds the Fiscal Service maximum dollar amount, \$24,999.99, may not be split into two or more payment transactions in the same day by using one or multiple cards. Also, an amount owed that exceeds the Fiscal Service maximum dollar amount may not be split into two or more transactions over multiple days by using one or more cards.

¹⁴⁷ 47 U.S.C. § 159(b)(4)(B).

¹⁴⁸ 47 C.F.R. §§ 1.1911(d), 1.1912(b)(1), 1.1917(c).

¹⁴⁹ 31 U.S.C. § 3716(c)(6).

¹⁵⁰ The full text of the new rules are contained in Appendix E.

¹⁵¹ 5 U.S.C. § 553(b)(3)(A).

¹⁵² Treasury Financial Manual, Announcement No. A-2014-04 (July 2014).

2. De Minimis Regulatory Fees

45. Regulatees whose total FY 2015 regulatory fee liability, including all categories of fees for which payment is due, is \$500 or less, are exempted from payment of FY 2015 regulatory fees. The *de minimis* threshold of \$500 or less applies only to filers of annual regulatory fees (not regulatory fees paid through multi-year filings) between October 1 and September 30. If the sum total of all annual regulatory fee obligations is \$500 or less, the regulatee is exempt from paying regulatory fees for that fiscal year. This *de minimis* status is not a permanent exemption from regulatory fees. Rather, each regulatee will need to reevaluate their total fee liability each fiscal year to determine whether they meet the *de minimis* exemption.

3. Standard Fee Calculations and Payment Dates

46. The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- *Media Services*: Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2014 for AM/FM radio stations, VHF/UHF full service television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2014. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireline (Common Carrier) Services*: Regulatory fees must be paid for authorizations that were granted on or before October 1, 2014. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date. Audio bridging service providers are included in this category.¹⁵³
- *Wireless Services*: CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2014. The number of subscribers, units, or telephone numbers on December 31, 2014 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- The first eight regulatory fee categories in our Schedule of Regulatory Fees (*see* Appendix C) pay “small multi-year wireless regulatory fees.” Entities pay these regulatory fees in advance for the entire amount period covered by the five-year or ten-year terms of their initial licenses, and pay regulatory fees again only when the license is renewed or a new license is obtained. We include these fee categories in our rulemaking (*see* Appendix C) to publicize our estimates of the number of “small multi-year wireless” licenses that will be renewed or newly obtained in FY 2015.
- *Multichannel Video Programming Distributor Services (cable television operators, IPTV providers, DBS providers, and CARS licensees)*: Regulatory fees must be paid for the number of basic cable tier subscribers, IPTV subscribers, and DBS subscribers as of December 31, 2014.¹⁵⁴

¹⁵³ Audio bridging services are toll teleconferencing services.

¹⁵⁴ Cable television system operators, DBS providers, and IPTV providers should compute their number of basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators/providers may base their count on “a typical day in the last full week” of December 2014, rather than on a count as of December 31, 2014.

Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2014. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date.

- *International Services:* Regulatory fees must be paid for (1) earth stations and (2) geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2014. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services: Submarine Cable Systems:* Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on circuit capacity as of December 31, 2014. In instances where a license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2015 will be 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.
- *International Services: Terrestrial and Satellite Services:* Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31, 2014 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier. When calculating the number of such active circuits, the facilities-based common carriers must include circuits held by themselves or their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit they and their affiliates hold and each circuit sold or leased to any customer, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. “Active circuits” for these purposes include backup and redundant circuits as of December 31, 2014. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date. For regulatory fee purposes, the allocation in FY 2015 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

B. Final Regulatory Flexibility Analysis

47. As required by the Regulatory Flexibility Act of 1980 (RFA),¹⁵⁵ the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is contained in Appendix G.

C. Initial Regulatory Flexibility Analysis

48. An initial regulatory flexibility analysis (IRFA) is contained in Appendix F. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on the Further Notice of Proposed Rulemaking. The Commission will send a copy of the Further Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

D. Initial Paperwork Reduction Act of 1995 Analysis

49. This document solicits possible proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and

¹⁵⁵ 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. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

the Office of Management and Budget (OMB) to comment on the possible proposed information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

E. Congressional Review Act.

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

F. Filing Instructions

51. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using ECFS.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
 - Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

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

G. Ex Parte Information

53. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page

and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

V. ORDERING CLAUSES

54. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 159, and 303(r), this Report and Order, Notice of Proposed Rulemaking, and Order **IS HEREBY ADOPTED**.

55. **IT IS FURTHER ORDERED** that Part 1 of the Commission's rules are amended as set forth in paragraph 42 and Appendix E, effective upon publication in the Federal Register.

56. **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 Analysis in Appendix G, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A**List of Commenters****Initial Comments**

Commenter	Abbreviation
DIRECTV, LLC and DISH Network, L.L.C.	DIRECTV and DISH
ITTA—The Voice of Mid-Size Communications Companies	ITTA
National Cable and Telecommunications Association and the American Cable Association	NCTA and ACA
Satellite Industry Association	SIA
SMS/800, Inc.	SMS/800

Reply Comments

Commenter	Abbreviation
CenturyLink	CenturyLink
DIRECTV, LLC and DISH Network, L.L.C.	DIRECTV and DISH
Hypercube Telecom, LLC	Hypercube
National Cable and Telecommunications Association and the American Cable Association	NCTA and ACA

APPENDIX B

Calculation of FY 2015 Revenue Requirements and Pro-Rata Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	FY 2015 Payment Units	Yrs	FY 2014 Revenue Estimate	Pro-Rated FY 2015 Revenue Require- ment	Computed FY 2015 Regulatory Fee	Rounded FY 2015 Reg. Fee	Expected FY 2015 Revenue
PLMRS (Exclusive Use)	1,800	10	595,000	543,780	30	30	540,000
PLMRS (Shared use)	31,000	10	3,000,000	3,121,700	10	10	3,100,000
Microwave	12,000	10	2,550,000	2,537,640	20	20	2,520,000
Marine (Ship)	6,300	10	780,000	951,615	15	15	945,000
Aviation (Aircraft)	4,200	10	420,000	422,940	10	10	420,000
Marine (Coast)	490	10	165,000	172,701	35	35	171,500
Aviation (Ground)	460	10	153,000	162,127	35	35	161,000
AM Class A ⁴	65	1	274,700	278,184	4,280	4,275	277,875
AM Class B ⁴	1,505	1	3,410,900	3,447,842	2,291	2,300	3,461,500
AM Class C ⁴	889	1	1,212,750	1,230,932	1,385	1,375	1,222,375
AM Class D ⁴	1,492	1	4,033,300	4,169,282	2,794	2,800	4,177,600
FM Classes A, B1 & C3 ⁴	3,132	1	8,466,575	8,594,443	2,744	2,750	8,613,000
FM Classes B, C, C0, C1 & C2 ⁴	3,143	1	10,437,175	10,444,503	3,323	3,325	10,450,475
AM Construction Permits ¹	29	1	17,700	17,110	590	590	17,110
FM Construction Permits ¹	182	1	138,750	136,500	750	750	136,500
Satellite TV	127	1	196,850	198,228	1,561	1,550	196,850
Digital TV Markets 1-10	134	1	6,161,700	6,223,883	46,447	46,450	6,224,300
Digital TV Markets 11-25	137	1	5,809,800	5,871,584	42,858	42,850	5,870,450
Digital TV Markets 26-50	181	1	4,909,450	4,959,846	27,402	27,400	4,959,400
Digital TV Markets 51-100	283	1	4,524,000	4,570,532	16,150	16,150	4,570,450
Digital TV Remaining Markets	379	1	1,805,000	1,822,393	4,808	4,800	1,819,200
Digital TV Construction Permits ¹	2	1	23,750	9,600	4,800	4,800	9,600
LPTV/Translators/Boosters/Class A TV	3,640	1	1,570,300	1,576,156	433	435	1,583,400

Fee Category	FY 2015 Payment Units	Yrs	FY 2014 Revenue Estimate	Pro-Rated FY 2015 Revenue Require- ment	Computed FY 2015 Regulatory Fee	Rounded FY 2015 Reg. Fee	Expected FY 2015 Revenue
CARS Stations	300	1	196,625	196,365	655	655	196,500
Cable TV Systems, including IPTV	64,500,000	1	64,746,000	61,054,410	.94658	.95	61,275,000
Direct Broadcast Satellite (DBS)	34,000,000	1		4,108,560	.12	.12	4,080,000
Interstate Telecommunication Service Providers	\$38,800,000,000	1	131,369,000	127,764,132	0.0032929	0.00329	127,652,000
Toll Free Numbers	36,500,000	1		4,410,660	0.1208	0.12	4,380,000
CMRS Mobile Services (Cellular/Public Mobile)	347,000,000	1	60,300,000	59,404,386	0.1712	0.17	58,990,000
CMRS Messag. Services	2,600,000	1	232,000	208,000	0.0800	0.080	208,000
BRS ²	890	1	643,500	560,144	629	630	560,700
LMDS	375	1	135,850	236,016	629	630	236,250
Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common) ⁵	3,800,000	1	941,640	840,033	.2211	.22	836,000
Submarine Cable Providers (see chart in Appendix C) ^{3,5}	39.19	1	6,586,731	5,934,424	151,437	151,425	5,933,967
Earth Stations ⁵	3,300	1	1,003,000	1,129,854	342	340	1,122,000
Space Stations (Geostationary) ⁵	95	1	11,505,600	12,713,879	133,830	133,825	12,713,375
Space Stations (Non- Geostationary) ⁵	5	1	797,100	881,125	176,225	176,225	881,125
***** Total Estimated Revenue to be Collected			339,847,246	340,905,507			340,512,502
***** Total Revenue Requirement			339,844,000	339,844,000			339,844,000
Difference			3,246	1,061,507			668,502

Notes on Appendix B

¹ The AM and FM Construction Permit revenues and the Digital (VHF/UHF) Construction Permit revenues were adjusted to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. The reductions in the AM and FM Construction Permit revenues were so small that there was no need to offset them with increases in the revenue totals for AM and FM radio stations, respectively. Reductions in the Digital (VHF/UHF) Construction Permit revenues, however, were offset by increases in the revenue totals for various Digital television stations by market size, respectively.

² MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, para. 6 (2004).

³ The chart at the end of Appendix C lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order, 24 FCC Rcd 4208 (2009).

⁴ The fee amounts listed in the column entitled "Rounded New FY 2015 Regulatory Fee" constitute a weighted average media regulatory fee by class of service. The actual FY 2015 regulatory fees for AM/FM radio station are listed on a grid located at the end of Appendix C.

⁵ As a continuation of our regulatory fee reform for the submarine cable and bearer circuit fee categories, the allocation percentage for these two categories, in relation to the satellite (GSO and NGSO) and earth station fee categories, was reduced by approximately 5 percent. This allocation reduction of 5 percent resulted in an increase in the allocation for the satellite and earth station fee categories, and a fee rate increase from FY 2014.

APPENDIX C

Proposed Regulatory Fees

FY 2015 Schedule of Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	Annual Regulatory Fee (U.S. \$)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	30
Microwave (per license) (47 CFR part 101)	20
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	35
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	35
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.17
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/ MDS) (per license) (47 CFR part 27)	630
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	630
AM Radio Construction Permits	590
FM Radio Construction Permits	750
Digital TV (47 CFR part 73) VHF and UHF Commercial	
Markets 1-10	46,450
Markets 11-25	42,850
Markets 26-50	27,400
Markets 51-100	16,150
Remaining Markets	4,800
Construction Permits	4,800
Satellite Television Stations (All Markets)	1,550
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	435
CARS (47 CFR part 78)	655

Fee Category	Annual Regulatory Fee (U.S. \$)
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	.95
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act)	.12
Interstate Telecommunication Service Providers (per revenue dollar)	.00329
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	.12
Earth Stations (47 CFR part 25)	340
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	133,825
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	176,225
International Bearer Circuits - Terrestrial/Satellites (per 64KB circuit)	.22
International Bearer Circuits - Submarine Cable	See Table Below

FY 2015 SCHEDULE OF REGULATORY FEES: (continued)

FY 2015 RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	\$775	\$645	\$590	\$670	\$750	\$925
25,001 – 75,000	\$1,550	\$1,300	\$900	\$1,000	\$1,500	\$1,625
75,001 – 150,000	\$2,325	\$1,625	\$1,200	\$1,675	\$2,050	\$3,000
150,001 – 500,000	\$3,475	\$2,750	\$1,800	\$2,025	\$3,175	\$3,925
500,001 – 1,200,000	\$5,025	\$4,225	\$3,000	\$3,375	\$5,050	\$5,775
1,200,001 – 3,000,00	\$7,750	\$6,500	\$4,500	\$5,400	\$8,250	\$9,250
>3,000,000	\$9,300	\$7,800	\$5,700	\$6,750	\$10,500	\$12,025

FY 2015 SCHEDULE OF REGULATORY FEES
International Bearer Circuits - Submarine Cable

Submarine Cable Systems (capacity as of December 31, 2014)	Fee amount
< 2.5 Gbps	\$9,475
2.5 Gbps or greater, but less than 5 Gbps	\$18,925
5 Gbps or greater, but less than 10 Gbps	\$37,850
10 Gbps or greater, but less than 20 Gbps	\$75,725
20 Gbps or greater	\$151,425

APPENDIX D

Sources of Payment Unit Estimates for FY 2015

In order to calculate individual service fees for FY 2015, we adjusted FY 2014 payment units for each service to more accurately reflect expected FY 2015 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System (ULS), International Bureau Filing System (IBFS), Consolidated Database System (CDBS) and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast*.

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2015 estimates with actual FY 2014 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2015 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2015 payment units are based on FY 2014 actual payment units, it does not necessarily mean that our FY 2015 projection is exactly the same number as in FY 2014. We have either rounded the FY 2015 number or adjusted it slightly to account for these variables.

FEE CATEGORY	SOURCES OF PAYMENT UNIT ESTIMATES
Land Mobile (All), Microwave, Marine (Ship & Coast), Aviation (Aircraft & Ground), Domestic Public Fixed	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 14 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 14 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2014 payment units.
Digital TV Stations (Combined VHF/UHF units)	Based on CDBS data, adjusted for exemptions, and actual FY 2014 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2014 payment units.
LPTV, Translators and Boosters, Class A Television	Based on CDBS data, adjusted for exemptions, and actual FY 2014 payment units.
BRS (formerly MDS/MMDS) LMDS	Based on WTB reports and actual FY 2014 payment units. Based on WTB reports and actual FY 2014 payment units.

APPENDIX E**Rule Changes**

Part 1 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 1--PRACTICE AND PROCEDURE**Subpart O—Collection of Claims Owed the United States**

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

Authority: 15 U.S.C. 79 *et seq.*, 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303, and 309.

2. Sections 1.1911(d), 1.1912(b)(1), and 1.1917(c) are amended by replacing “180 days” with “120 days.”

APPENDIX F

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),¹ the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (*Notice*). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this *Notice*. The Commission will send a copy of the *Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the *Notice* and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Notice

2. The *Notice* seeks comment regarding the Commission's proposed amendment of its schedule of regulatory fees in the amount of \$339,844,000, the amount that Congress has required the Commission to recover. The Commission seeks to collect the necessary amount through its proposed schedule of regulatory fees in a manner that will not administratively burden the public. The Commission also seeks comment on a request by the Puerto Rico Broadcasters Association to provide regulatory fee relief to radio stations in Puerto Rico; revising the apportionment between International Bureau licensees to reduce the regulatory fees for the submarine cable/bearer circuit category; revising the apportionment of regulatory fees among radio and television broadcasters; raising the earth station regulatory fees and lowering the regulatory fees for space stations; and other proposals for regulatory fee reform.

B. Legal Basis:

3. This action, including publication of proposed rules, is authorized under Sections (4)(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended.⁴

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

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.⁵ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁶ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁷ A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field

¹ 5 U.S.C. § 603. The RFA, 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. 847 (1996).

² 5 U.S.C. § 603(a).

³ *Id.*

⁴ 47 U.S.C. §§ 154(i) and (j), 159, and 303(r).

⁵ 5 U.S.C. § 603(b)(3).

⁶ 5 U.S.C. § 601(6).

⁷ 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."

of operation; and (3) satisfies any additional criteria established by the SBA.⁸

5. **Small Entities.** Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected by the proposals under consideration.⁹ As of 2009, small businesses represented 99.9 percent of the 27.5 million businesses in the United States, according to the SBA.¹⁰ In addition, a “small organization is generally any not-for-profit enterprise which is independently owned and operated and not dominant in its field.”¹¹ Nationwide, as of 2007, there were approximately 1,621,215 small organizations.¹² Finally the term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”¹³ Census Bureau data for 2011 indicate that there were 90,056 local governmental jurisdictions in the United States.¹⁴ We estimate that, of this total, as many as 89,327 entities may qualify as “small governmental jurisdictions.”¹⁵ Thus, we estimate that most local government jurisdictions are small.

6. **Wired Telecommunications Carriers.** The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.”¹⁶ The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.¹⁷ Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.¹⁸ Thus, under this size standard, the majority of firms in this industry can be considered small.

7. **Local Exchange Carriers (LECs).** Neither the Commission nor the SBA has developed

⁸ 15 U.S.C. § 632.

⁹ See 5 U.S.C. § 601(3)-(6).

¹⁰ See SBA, Office of Advocacy, “Frequently Asked Questions”, available at <http://www.sba.gov/faqs/faqindex.cfm?arealD=24>.

¹¹ 5 U.S.C. § 601(4).

¹² See Independent Sector, *The New Nonprofit Almanac and Desk Reference* (2010).

¹³ 5 U.S.C. § 601(5).

¹⁴ See SBA, Office of Advocacy, “Frequently Asked Questions,” available at http://www.sba.gov/sites/default/files/FAQ_March_2011_Opdf.

¹⁵ The 2011 Census Data for small governmental organizations are not presented based on the size of the population in each organization. As stated above, there were 90,056 local governmental organizations in 2011. As a basis for estimating how many of these 90,056 local organizations were small, we note that there were a total of 729 cities and towns (incorporated places and civil divisions) with populations over 50,000. See <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>. If we subtract the 729 cities and towns that exceed the 50,000 population threshold, we conclude that approximately 789, 237 are small.

¹⁶ See <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>

¹⁷ See 13 C.F.R. § 120.201, NAICS Code 517110.

¹⁸ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5 &prodType=table.

a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁹ According to Commission data, census data for 2007 shows that there were 3,188 establishments that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.²⁰ The Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the *Notice*.

8. **Incumbent LECs.** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.²¹ According to Commission data, 3,188 firms operated in that year. 1,307 carriers reported that they were incumbent local exchange service providers.²² Of this total, 3,144 operated with fewer than 1,000 employees.²³ Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies proposed in the *Notice*. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.²⁴ Of this total, an estimated 1,006 have 1,500 or fewer employees.²⁵

9. **Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.²⁶ U.S. Census data for 2007 indicate that 3,188 firms operated during that year. Of that number, 3,144 operated with fewer than 1,000 employees.²⁷ Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.²⁸ Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.²⁹ In addition, 72 carriers have reported that they are Other Local Service Providers.³⁰ Of this total, 70 have 1,500 or fewer employees.³¹ Consequently, the Commission

¹⁹ 13 C.F.R. § 121.201, NAICS code 517110.

²⁰ *See id.*

²¹ 13 C.F.R. § 121.201, NAICS code 517110.

²² *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*).

²³ *See id.*

²⁴ *See id.*

²⁵ *Id.*

²⁶ 13 C.F.R. § 121.201, NAICS code 517110.

²⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=%20table.

²⁸ *See Trends in Telephone Service*, at tbl. 5.3.

²⁹ *Id.*

³⁰ *Id.*

estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the proposals in this *Notice*.

10. **Interexchange Carriers (IXCs).** Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this IRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.³² According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.³³ Of this total, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.³⁴ Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the *Notice*.

11. **Prepaid Calling Card Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate NAICS Code category for prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Mobile virtual networks operators (MVNOs) are included in this industry.³⁵ Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.³⁶ U.S. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.³⁷ Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.³⁸ All 193 carriers have 1,500 or fewer employees.³⁹ Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules adopted pursuant to the *Notice*.

12. **Local Resellers.** 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.⁴⁰ Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.⁴¹ Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision

(Continued from previous page) _____

³¹ *Id.*

³² 13 C.F.R. § 121.201, NAICS code 517110.

³³ *See Trends in Telephone Service*, at tbl. 5.3.

³⁴ *Id.*

³⁵ <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

³⁶ 13 C.F.R. § 121.201, NAICS code 517911.

³⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

³⁸ *See Trends in Telephone Service*, at tbl. 5.3.

³⁹ *Id.*

⁴⁰ 13 C.F.R. § 121.201, NAICS code 517911.

⁴¹ *Id.*

of local resale services.⁴² Of this total, an estimated 211 have 1,500 or fewer employees.⁴³ Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the proposals in this *Notice*.

13. **Toll Resellers.** The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers, and 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.⁴⁴ Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.⁴⁵ Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.⁴⁶ Of this total, an estimated 857 have 1,500 or fewer employees.⁴⁷ Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our proposals in the *Notice*.

14. **Other Toll Carriers.** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.⁴⁸ Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.⁴⁹ Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.⁵⁰ Of these, an estimated 279 have 1,500 or fewer employees.⁵¹ Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules and policies adopted pursuant to the *Notice*.

15. **Wireless Telecommunications Carriers (except Satellite).** This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.⁵² The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census Data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to

⁴² See *Trends in Telephone Service*, at tbl. 5.3.

⁴³ *Id.*

⁴⁴ 13 C.F.R. § 121.201, NAICS code 517911.

⁴⁵ *Id.*

⁴⁶ *Trends in Telephone Service*, at tbl. 5.3.

⁴⁷ *Id.*

⁴⁸ 13 C.F.R. § 121.201, NAICS code 517110.

⁴⁹ *Id.*

⁵⁰ *Trends in Telephone Service*, at tbl. 5.3.

⁵¹ *Id.*

⁵² NAICS Code 517210. See <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.⁵³ Of this total, an estimated 261 have 1,500 or fewer employees.⁵⁴ Consequently, the Commission estimates that approximately half of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

16. **Cable Television and other Subscription Programming.**⁵⁵ Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers. That category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.”⁵⁶ The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees.⁵⁷ Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 had fewer than 1,000 employees.⁵⁸ Thus under this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules adopted pursuant to the *Notice*.

17. **Cable Companies and Systems.** The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers, nationwide.⁵⁹ Industry data indicate that at the

⁵³ *Trends in Telephone Service*, at tbl. 5.3.

⁵⁴ *Id.*

⁵⁵ In 2014, “Cable and Other Subscription Programming,” NAICS Code 515210, replaced a prior category, now obsolete, which was called “Cable and Other Program Distribution.” Cable and Other Program Distribution, prior to 2014, were placed under NAICS Code 517110, Wired Telecommunications Carriers. Wired Telecommunications Carriers is still a current and valid NAICS Code Category. Because of the similarity between “Cable and Other Subscription Programming” and “Cable and other Program Distribution,” we will, in this proceeding, continue to use Wired Telecommunications Carrier data based on the U.S. Census. The alternative of using data gathered under Cable and Other Subscription Programming (NAICS Code 515210) is unavailable to us for two reasons. First, the size standard established by the SBA for Cable and Other Subscription Programming is annual receipts of \$38.5 million or less. Thus to use the annual receipts size standard would require the Commission either to switch from existing employee based size standard of 1,500 employees or less for Wired Telecommunications Carriers, or else would require the use of two size standards. No official approval of either option has been granted by the Commission as of the time of the release of this Regulatory Fees NPRM and its associated Report and Order and Order. Second, the data available under the size standard of \$38.5 million dollars or less is not applicable at this time, because the only currently available U.S. Census data for annual receipts of all businesses operating in the NAICS Code category of 515210 (Cable and other Subscription Programming) consists only of total receipts for all businesses operating in this category in 2007 and of total annual receipts for all businesses operating in this category in 2012. Hence the data do not provide any basis for determining, for either year, how many businesses were small because they had annual receipts of \$38.5 million or less. See http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51I2&prodType=table.

⁵⁶ U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers” (partial definition), (Full definition stated in paragraph 6 of this IRFA) available at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁵⁷ 13 C.F.R. § 121.201, NAICS code 517110.

⁵⁸ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=Table.

⁵⁹ See 47 C.F.R. § 76.901(e). The Commission determined that this size standard equates approximately to a size standard of \$100 million or less in annual revenues. See *Implementation of Sections of the 1992 Cable Television Consumer Protection and Competition Act: Rate Regulation*, MM Docket Nos. 92-266, 93-215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408, para. 28 (1995).

end of June 2012, of 1,141 cable companies were in operation; of this total, all but ten cable operators are small under this size standard.⁶⁰ In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers.⁶¹ Industry data indicate that of 4,945 systems nationwide, 4,380 systems have fewer than 20,000 subscribers.⁶² Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the *Notice*.

18. **All Other Telecommunications.** "All Other Telecommunications" is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.⁶³ The SBA has developed a small business size standard for "All Other Telecommunications," which consists of all such firms with gross annual receipts of \$32.5 million or less.⁶⁴ For this category, census data for 2007 show that there were 2,383 firms that operated for the entire year. Of these firms, a total of 2,346 had gross annual receipts of less than \$25 million.⁶⁵ Thus, a majority of "All Other Telecommunications" firms potentially affected by the proposals in the *Notice* can be considered small.

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

19. This *Notice* does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements.

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

20. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.⁶⁶

21. This *Notice* seeks comment on the Commission's regulatory fee collection for Fiscal Year 2015. Our regulatory fee rules now have a significantly higher *de minimis* threshold (\$500) than in previous years (\$10), which takes into account the differing needs of smaller entities. With the increase

⁶⁰ These data are derived from R.R. BOWKER, BROADCASTING & CABLE YEARBOOK 2006, "Top 25 Cable/Satellite Operators," pages A-8 & C-2 (data current as of June 30, 2005); WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, "Ownership of Cable Systems in the United States," pages D-1805 to D-1857.

⁶¹ See 47 C.F.R. § 76.901(c).

⁶² WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, "U.S. Cable Systems by Subscriber Size," page F-2 (data current as of Oct. 2007). The data do not include 851 systems for which classifying data were not available.

⁶³ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁶⁴ 13 C.F.R. 121.201; NAICs Code 517919.

⁶⁵ http://factfinder.census.gov/faces/tableservices.jsf/pages/productview.xhtml?_afPnid+ECN_2007_US.51SSSZ4&prodType=table.

⁶⁶ 5 U.S.C. § 603(c)(1)–(c)(4).

in the *de minimis* threshold, entities that have total annual fees below the threshold will not have to submit payment, which reduces the administrative burden on small entities, as well as on the Commission. The threshold was raised to \$500 to reduce the financial and administrative burden on small entities, as well as the burden that the previous \$10 threshold placed on the Commission to process payments, and when applicable, to pursue non-payers whose total regulatory fee obligation exceeded \$10. In the future, the Commission may increase the *de minimis* threshold to a higher level. In addition, the Commission is also seeking comment on additional regulatory fee relief for the radio stations in Puerto Rico.

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

22. None.

APPENDIX G**Final Regulatory Flexibility Analysis**

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ an Initial Regulatory Flexibility Analysis (IRFA) was included in the Report and Order and Further Notice of Proposed Rulemaking.² The Commission sought written public comment on these proposals including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the IRFA.³

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

2. In this Report and Order, we eliminate two categories from the regulatory fee schedule: amateur radio Vanity Call Signs and General Mobile Radio Service (GMRS). We also include direct broadcast satellite (DBS) providers in the cable television and IPTV regulatory fee category, as a subcategory. To aid in the implementation of new regulatory fees for Responsible Organizations (RespOrgs) adopted in the fiscal year 2014 proceeding, we direct the Managing Director to coordinate with SMS/800, Inc. to ensure that all RespOrgs owing regulatory fees have sufficient information about this process and opportunity to pay the regulatory fee before the RespOrg is placed in red light status and enforcement procedures are initiated.

3. Our regulatory fee for DBS providers, adopted herein, will include DBS providers in the category of cable television operators and IPTV providers, but at a lower regulatory fee rate. This rule was adopted because the Media Bureau staff spend approximately as much time working on issues that include DBS as cable television and IPTV. For the most part, the rules and policies addressed by the Media Bureau include DBS and cable television, as well as IPTV. Under section 9 of the Commission's rules, the DBS industry should contribute to these regulatory fees, otherwise the cable television and IPTV industries are paying for costs that should be shared with DBS.

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

4. None.

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

5. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, 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

¹ 5 U.S.C. § 603. The RFA, 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. 847 (1996).

² *Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, Report and Order and Further Notice of Proposed Rulemaking, MD Docket No. 14-92, 29 FCC Rcd 10767 (2014) (*Further Notice*).

³ 5 U.S.C. § 604.

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

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business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁷ Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.⁸

6. **Wired Telecommunications Carriers.** The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.”⁹ The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.¹⁰ Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with less than 1,000 employees.¹¹ Thus, under this size standard, the majority of firms in this industry can be considered small.

7. **Local Exchange Carriers (LECs).** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.¹² According to Commission data, census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.¹³ The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

8. **Incumbent LECs.** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁴ According to Commission data, 3,188 firms operated in that year. Of this total, 3,144 operated with fewer than 1,000 employees.¹⁵ Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307)

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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.

⁸ See SBA, Office of Advocacy, “Frequently Asked Questions,” http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf.

⁹ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

¹⁰ See 13 C.F.R. § 120.201, NAICS Code 517110.

¹¹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

¹² 13 C.F.R. § 121.201, NAICS code 517110.

¹³ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

¹⁴ 13 C.F.R. § 121.201, NAICS code 517110.

¹⁵ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.¹⁶ Of this total, an estimated 1,006 have 1,500 or fewer employees.¹⁷

9. **Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁸ U.S. Census data for 2007 indicate that 3,188 firms operated during that year. Of that number, 3,144 operated with fewer than 1,000 employees.¹⁹ Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.²⁰ Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees.²¹ In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.²² Also, 72 carriers have reported that they are Other Local Service Providers.²³ Of this total, 70 have 1,500 or fewer employees.²⁴ Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by the rules adopted.

10. **Interexchange Carriers (IXCs).** Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.²⁵ U.S. Census data for 2007 indicates that 3,188 firms operated during that year. Of that number, 3,144 operated with fewer than 1,000 employees.²⁶ According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.²⁷ Of this total, an estimated 317 have 1,500 or fewer employees.²⁸ Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules adopted.

¹⁶ 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*).

¹⁷ *Id.*

¹⁸ 13 C.F.R. § 121.201, NAICS code 517110.

¹⁹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

²⁰ See *Trends in Telephone Service*, at tbl. 5.3.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ 13 C.F.R. § 121.201, NAICS code 517110.

²⁶ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

²⁷ See *Trends in Telephone Service*, at tbl. 5.3.

²⁸ *Id.*

11. **Prepaid Calling Card Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate NAICS Code category for prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Mobile virtual networks operators (MVNOs) are included in this industry.²⁹ Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.³⁰ U.S. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.³¹ Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.³² All 193 carriers have 1,500 or fewer employees.³³ Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by the rules adopted.

12. **Local Resellers.** 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.³⁴ Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.³⁵ Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.³⁶ Of this total, an estimated 211 have 1,500 or fewer employees.³⁷ Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the rules adopted.

13. **Toll Resellers.** The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers, and 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.³⁸ Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.³⁹ Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.⁴⁰ Of this total, an estimated 857

²⁹ <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

³⁰ 13 C.F.R. § 121.201, NAICS code 517911.

³¹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

³² See *Trends in Telephone Service*, at tbl. 5.3.

³³ *Id.*

³⁴ 13 C.F.R. § 121.201, NAICS code 517911.

³⁵ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

³⁶ See *Trends in Telephone Service*, at tbl. 5.3.

³⁷ *Id.*

³⁸ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

³⁹ *Id.*

⁴⁰ *Trends in Telephone Service*, at tbl. 5.3.

have 1,500 or fewer employees.⁴¹ Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by the rules adopted.

14. **Other Toll Carriers.** Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.⁴² Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.⁴³ Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.⁴⁴ Of these, an estimated 279 have 1,500 or fewer employees.⁴⁵ Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules and policies adopted.

15. **Wireless Telecommunications Carriers (except Satellite).** This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.⁴⁶ The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.⁴⁷ Of this total, an estimated 261 have 1,500 or fewer employees.⁴⁸ Consequently, the Commission estimates that approximately half of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

16. **Cable Television and Other Subscription Programming.**⁴⁹ Since 2007, these services

⁴¹ *Id.*

⁴² 13 C.F.R. § 121.201, NAICS code 517110.

⁴³ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

⁴⁴ *Trends in Telephone Service*, at tbl. 5.3.

⁴⁵ *Id.*

⁴⁶ NAICS Code 517210. See <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

⁴⁷ *Trends in Telephone Service*, at tbl. 5.3.

⁴⁸ *Id.*

⁴⁹ In 2014, “Cable and Other Subscription Programming,” NAICS Code 515210, replaced a prior category, now obsolete, which was called “Cable and Other Program Distribution.” Cable and Other Program Distribution, prior to 2014, was placed under NAICS Code 517110, Wired Telecommunications Carriers. Wired Telecommunications Carriers is still a current and valid NAICS Code Category. Because of the similarity between “Cable and Other Subscription Programming” and “Cable and other Program Distribution,” we will, in this proceeding, continue to use Wired Telecommunications Carrier data based on the U.S. Census. The alternative of using data gathered under Cable and Other Subscription Programming (NAICS Code 515210) is unavailable to us for two reasons. First, the size standard established by the SBA for Cable and Other Subscription Programming is annual receipts of \$38.5 million or less. Thus to use the annual receipts size standard would require the Commission either to switch from

(continued...)

have been defined within the broad economic census category of Wired Telecommunications Carriers. That category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.”⁵⁰ The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees.⁵¹ Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 had fewer than 1,000 employees.⁵² Thus under this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules adopted.

17. **Cable Companies and Systems.** The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers, nationwide.⁵³ Industry data indicate that at the end of June 2012, 1,141 cable companies were in operation.⁵⁴ Of this total, all but ten cable operators were small under this size standard. In addition, under the Commission’s rules, a “small system” is a cable system serving 15,000 or fewer subscribers.⁵⁵ Industry data indicate that of 4,945 systems nationwide, 4,380 systems have fewer than 20,000.⁵⁶ Thus, under this second size standard, most cable systems are small and may be affected by the rules adopted.

18. **All Other Telecommunications.** “All Other Telecommunications” is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.

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existing employee based size standard of 1,500 employees or less for Wired Telecommunications Carriers, or else would require the use of two size standards. No official approval of either option has been granted by the Commission as of the time of the release of this Regulatory Fees NPRM and its associated Report and Order and Order. Second, the data available under the size standard of \$38.5 million dollars or less is not applicable at this time, because the only currently available U.S. Census data for annual receipts of all businesses operating in the NAICS Code category of 515210 (Cable and other Subscription Programming) consists only of total receipts for all businesses operating in this category in 2007 and of total annual receipts for all businesses operating in this category in 2012. The data do not provide any basis for determining, for either year, how many businesses were small because they had annual receipts of \$38.5 million or less. See http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51I2&prodType=table.

⁵⁰ U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers” (partial definition), (Full definition stated in paragraph 6 of this IRFA) available at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁵¹ 13 C.F.R. § 121.201, NAICS code 517110.

⁵² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=Table.

⁵³ See 47 C.F.R. § 76.901(e). The Commission determined that this size standard equates approximately to a size standard of \$100 million or less in annual revenues. See *Implementation of Sections of the 1992 Cable Television Consumer Protection and Competition Act: Rate Regulation*, MM Docket Nos. 92-266, 93-215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408, para. 28 (1995).

⁵⁴ NCTA, Industry Data, Number of Cable Operating Companies. See <http://www.ncta.com/Statistics.aspx>.

⁵⁵ See 47 C.F.R. § 76.901(c).

⁵⁶ The number of active, registered cable systems comes from the Commission’s Cable Operations Licensing System (COALS) database on August 28, 2013.

Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.⁵⁷ The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less.⁵⁸ For this category, census data for 2007 show that there were 2,383 firms that operated for the entire year. Of these firms, a total of 2,346 had gross annual receipts of less than \$25 million.⁵⁹ Thus, a majority of “All Other Telecommunications” firms potentially affected by the rules adopted can be considered small.

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

19. This Report and Order does not adopt any new reporting, recordkeeping, or other compliance requirements, other than the requirement that DBS providers pay regulatory fees based on Media Bureau FTEs, as a subcategory of the cable television operators and IPTV category. These two companies are already subject to our regulatory fee requirements.

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

20. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.⁶⁰

21. This Report and Order does not adopt any new reporting requirements. Therefore no adverse economic impact on small entities will be sustained based on reporting requirements. There will be a regulatory fee increase on DBS providers, but these companies are not small entities. We are also advising SMS/800, Inc. to provide information to Responsible Organizations, or RespOrgs, to ensure that they comply with their new previously adopted regulatory fee requirements. These entities may be small entities; however, the regulatory fee per toll free number is very small and could easily be paid and then passed on to the subscriber if the number is in use, in which case compliance would not be an issue. (We also note that there is a previously adopted *de minimis* threshold of \$500, per year.) If the toll free number is not used by a subscriber, the RespOrg can either choose to pay the regulatory fee or return the toll free number to the 800/SMS, Inc. database. The Commission expends resources to address toll free issues, and so parties should either be responsible for the payment of the resources used or the toll free numbers should be returned for others to use.

22. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. In addition, the Commission’s rules provide a process by which regulatory fee payors may seek waivers or other relief on the basis of financial hardship. See 47 C.F.R. §1.1166.

F. Federal Rules that May Duplicate, Overlap, or Conflict

23. None.

⁵⁷ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁵⁸ 13 C.F.R 121.201; NAICS Code 517919

⁵⁹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.

⁶⁰ 5 U.S.C. § 603(c)(1)–(c)(4).

APPENDIX H

FY 2014 Schedule of Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	Annual Regulatory Fee (U.S. \$'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	35
Microwave (per license) (47 CFR part 101)	15
218-219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	80
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	55
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	30
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	2.14
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.18
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/ MDS) (per license) (47 CFR part 27)	715
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	715
AM Radio Construction Permits	590
FM Radio Construction Permits	750
Digital TV (47 CFR part 73) VHF and UHF Commercial	
Markets 1-10	44,650
Markets 11-25	42,100
Markets 26-50	26,975
Markets 51-100	15,600
Remaining Markets	4,750
Construction Permits	4,750
Satellite Television Stations (All Markets)	1,550

Fee Category	Annual Regulatory Fee (U.S. \$'s)
Construction Permits – Satellite Television Stations	1,300
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	410
Broadcast Auxiliaries (47 CFR part 74)	10
CARS (47 CFR part 78)	605
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	.99
Interstate Telecommunication Service Providers (per revenue dollar)	.00343
Earth Stations (47 CFR part 25)	295
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	122,400
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	132,850
International Bearer Circuits - Terrestrial/Satellites (per 64KB circuit)	.21
International Bearer Circuits - Submarine Cable	See Table Below

FY 2014 SCHEDULE OF REGULATORY FEES: Maintain Allocation (continued)

FY 2014 RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	\$775	\$645	\$590	\$670	\$750	\$925
25,001 – 75,000	\$1,550	\$1,300	\$900	\$1,000	\$1,500	\$1,625
75,001 – 150,000	\$2,325	\$1,625	\$1,200	\$1,675	\$2,050	\$3,000
150,001 – 500,000	\$3,475	\$2,750	\$1,800	\$2,025	\$3,175	\$3,925
500,001 – 1,200,000	\$5,025	\$4,225	\$3,000	\$3,375	\$5,050	\$5,775
1,200,001 – 3,000,00	\$7,750	\$6,500	\$4,500	\$5,400	\$8,250	\$9,250
>3,000,000	\$9,300	\$7,800	\$5,700	\$6,750	\$10,500	\$12,025

**FY 2014 SCHEDULE OF REGULATORY FEES
International Bearer Circuits - Submarine Cable**

Submarine Cable Systems (capacity as of December 31, 2013)	Fee amount
< 2.5 Gbps	\$10,250
2.5 Gbps or greater, but less than 5 Gbps	\$20,500
5 Gbps or greater, but less than 10 Gbps	\$40,975
10 Gbps or greater, but less than 20 Gbps	\$81,950
20 Gbps or greater	\$163,900

**STATEMENT OF
COMMISSIONER AJIT PAI**

Re: *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, MD Docket No. 15-121; *Amendment of Part 1 of the Commission's Rules*, MD Docket No. 15-121; *Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, MD Docket No. 14-92.

Each year, the FCC must update its schedule of regulatory fees to “reflect . . . changes in the nature of its services”⁶¹ so that regulatory fees reflect the Commission’s current activities and the benefits regulated entities receive from those activities.⁶² In 2012, the Government Accountability Office evaluated the FCC’s performance of this annual function and told the Commission something that it and most regulatees already knew: Our assessment of regulatory fees lacked “transparency” and was “based on obsolete data” from 1998.⁶³ Most fundamentally, our fee assessments didn’t reflect the advent of cross-platform convergence in the communications marketplace—that is, companies from formerly distinct niches competing to offer the same services—or the accompanying change to our substantive regulatory framework. Intermodal competitors faced radically different fee requirements based on little more than historical accident. That violates the bedrock principle that similar services should be regulated similarly.

So over the last three years, I’ve welcomed the opportunity to work first with Chairman Genachowski, then Chairwoman Clyburn, and now Chairman Wheeler to improve our assessment of regulatory fees and carry out the statutory command. I am pleased with the progress that we’ve been making. In 2013, for example, we updated our data and reassessed regulatory fees accordingly.⁶⁴ This year, we begin to correct a long-time imbalance in the treatment of multichannel video programming distributors (MVPDs) that exempted two of the nation’s largest MVPDs from contributing to the regulatory costs of the Media Bureau because they happened to be satellite operators.⁶⁵ And perhaps next year we will reexamine and revise the regulatory fees that broadcasters pay.⁶⁶

Of course, some issues are out of our hands. For example, when we collect too much in regulatory fees, we cannot use that excess to offset future assessments. But Congress can change that. In fact, they’ve already begun to dig into the issue of regulatory fees through the FCC reauthorization

⁶¹ See Communications Act § 9(b)(3) (“[T]he Commission shall, by regulation, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires amendment to comply with the requirements of paragraph (1)(A). In making such amendments, the Commission shall add, delete, or reclassify services in the Schedule to reflect additions, deletions, or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law.”).

⁶² See Communications Act § 9(b)(1)(A) (“The fees assessed . . . shall . . . be derived by determining the full-time equivalent number of employees . . . within the . . . offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission’s activities . . .”).

⁶³ Government Accountability Office, *Federal Communications Commission Regulatory Fee Process Needs to be Updated*, GAO-12-686 (Aug. 2012).

⁶⁴ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2013 et al.*, MD Docket Nos. 13-140, 12-201, 08-65, Report and Order, 28 FCC Rcd 12351 (2013).

⁶⁵ *Order* at para. 28. As the Commission noted last year, “DBS providers currently pay less than nine percent of the regulatory fees they would be assessed if the Commission . . . required DBS to pay the same rate as cable television and IPTV.” *Assessment and Collection of Regulatory Fees for Fiscal Year 2014 et al.*, MD Docket Nos. 14-92, 13-140, 12-201, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 10767, 10782, para. 39 (2014).

⁶⁶ *Order* at para. 13.

process. In the House of Representatives, the Energy and Commerce Committee recently highlighted the need to reform regulatory fees in draft legislation.⁶⁷ Among other things, that legislation would correct a quirk in the law in order to allow application fees (which are intended to offset the FCC's costs) to offset regulatory fees rather than just being deposited in the Treasury as they are now. And the reauthorization effort is bicameral—the Senate Commerce, Science, and Transportation Committee has held a hearing on the topic.

I commend the initiatives at the Commission and in Congress to bring the FCC's assessment of regulatory fees in line with the 21st century communications marketplace. I stand ready to work further with my colleagues and all interested parties to ensure that this goal is met.

⁶⁷ Walden Releases Draft Bill to Reauthorize FCC (Mar. 17, 2015), <http://energycommerce.house.gov/press-release/walden-releases-draft-bill-reauthorize-fcc>.