Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

*F. National Technology Transfer and Advancement Act (NTTAA)*

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the NTTAA, 15 U.S.C. 272 note.

*V. Congressional Review Act (CRA)*

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 711**

Environmental protection, Chemicals, Confidential Business Information (CBI), Hazardous materials, Importer, Manufacturer, Reporting and recordkeeping requirements.

Dated: September 16, 2016.

**Jim Jones,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 711—[AMENDED]

■ 1. The authority citation for part 711 continues to read as follows:

**Authority:** 15 U.S.C. 2607(a).

■ 2. In § 711.20, revise the second and third sentences to read as follows.

**§ 711.20 When to report.**

* * * The 2016 CDR submission period is from June 1, 2016 to October 31, 2016. Subsequent recurring submission periods are from June 1 to September 30 at 4-year intervals, beginning in 2020.* * *

[FR Doc. 2016–22974 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 1

**[MD Docket No. 16–166; FCC 16–121]**

## Assessment and Collection of Regulatory Fees for Fiscal Year 2016

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission revises its Schedule of Regulatory Fees to recover an amount of $384,012,497 that Congress has required the Commission to collect for fiscal year 2016. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees for annual ''Mandatory Adjustments'' and ''Permitted Amendments'' to the Schedule of Regulatory Fees.

**DATES:** Effective September 26, 2016. To avoid penalties and interest, regulatory fees should be paid by the due date of September 27, 2016.

**FOR FURTHER INFORMATION CONTACT:** Roland Helvajian, Office of Managing Director at (202) 418–0444.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order (R&O), FCC 16–121, MD Docket No. 16–166, adopted on September 1, 2016 and released on September 2, 2016.

### I. Administrative Matters

*A. Final Regulatory Flexibility Analysis*

1. As required by the Regulatory Flexibility Act of 1980 (RFA),[1] the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is located towards the end of this document.

*B. Final Paperwork Reduction Act of 1995 Analysis*

2. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

*C. Congressional Review Act*

3. 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).

### II. Introduction

4. This *Report and Order* adopts a schedule of regulatory fees to assess and collect $384,012,497.00 in regulatory fees for Fiscal Year (FY) 2016, pursuant to Section 9 of the Communications Act of 1934, as amended (Communications Act or Act) and the Commission's FY 2016 Appropriation.[2] The schedule of regulatory fees for FY 2016 adopted here is attached in Table 4. These regulatory fees are due on September 27, 2016. The FY 2016 regulatory fees are based on the proposals in the *FY 2016 NPRM,*[3] considered in light of the comments received and Commission analysis. The FY 2016 regulatory fee schedule includes the following changes from last year: (1) An increase in regulatory fees across all fee categories to offset the Commission's facilities reduction costs;[4] (2) an updated regulatory fee for Direct Broadcast Satellite (DBS) providers, a subcategory in the cable television and Internet Protocol Television (IPTV) category; and (3) adjustments to the regulatory fees on radio and television broadcasters, based on type and class of service and on the population served.

### III. Background

5. Congress adopted a regulatory fee schedule in 1993[5] and authorized the Commission to assess and collect annual regulatory fees pursuant to the schedule, as amended by the Commission.[6] As a result, the Commission annually reviews the regulatory fee schedule, proposes changes to the schedule to reflect changes in the amount of its appropriation, and proposes increases or decreases to the schedule of regulatory fees.[7] The Commission makes changes to the regulatory fee schedule ''if the Commission determines that the schedule requires amendment to comply with the requirements''[8] of section 9(b)(1)(A) of the Act.[9] The Commission may also 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.'' Thus,

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 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).

[2] 47 U.S.C. 159. Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015.

[3] *Assessment and Collection of Regulatory Fees for Fiscal Year 2016,* Notice of Proposed Rulemaking, 81 FR 35680 (June 3, 2016) (2016) (*FY 2016 NPRM*).

[4] The proposed regulatory fee rates for FY 2016 includes a one-time amount of $44,168,497 to offset facilities reduction costs, *i.e.,* to reduce the office space footprint and/or move the FCC office location if necessary. Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015. *See* FCC's Lease Prospectus, *available at http://www.gsa.gov/portal/category/100435.*

[5] 47 U.S.C. 159(g) (showing original fee schedule prior to Commission amendment).

[6] 47 U.S.C. 159.

[7] 47 U.S.C. 159(b)(1)(B).

[8] 47 U.S.C. 159(b)(2).

[9] 47 U.S.C. 159(b)(1)(A).

for each fiscal year, the Commission proposes a fee schedule in the annual Notice of Proposed Rulemaking that reflects changes in the amount appropriated for the performance of the Commission's regulatory activities, changes in the industries represented by the regulatory fee payors, changes in FTE [10] levels, and any other issues of relevance to the proposed fee schedule.[11] After reviewing the comments, the Commission issues a Report and Order adopting the fee schedule for the fiscal year and sets out the procedures for payment of fees.

6. The Commission calculates the fees by first determining the number of FTEs performing the regulatory activities specified in section 9(a), ''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. . . .'' [12] FTEs are categorized as ''direct'' if they are performing regulatory activities in one of the ''core'' bureaus, *i.e.,* the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, and part of the International Bureau. All other FTEs are considered ''indirect.'' [13] The total FTEs for each fee category is calculated by counting the number of direct FTEs in the core bureau that regulates that category, plus a proportional allocation of indirect FTEs. Next, the Commission allocates the total amount to be collected among the various regulatory fee categories. This allocation is based on the number of FTEs assigned to work in each regulatory fee category. Each regulatee within a fee category pays its proportionate share based on an objective measure, *e.g.,* revenues, number of subscribers, or licenses.[14]

7. As part of its annual review, the Commission regularly seeks to improve its regulatory fee analysis.[15] For example, in FY 2013, the Commission updated FTE allocations to more accurately reflect the number of FTEs working on regulation and oversight of the regulatees in the various fee categories, and now updates the FTE allocations annually; [16] combined the UHF and VHF television stations into one regulatory fee category; [17] and included IPTV in the cable television fee category.[18] In FY 2014, we adopted a new fee category for toll free numbers, in the ITSP fee category; [19] increased the de minimis threshold; [20] and eliminated several categories from the regulatory fee schedule.[21] In FY 2015, we added a subcategory for DBS providers in the cable television and IPTV regulatory fee category.[22]

8. In our *FY 2016 NPRM,* we proposed to collect $384,012,497.00 in regulatory fees and included a detailed, proposed fee schedule. We received 17 comments and 10 reply comments.[23]

## IV. Discussion

9. In this *FY 2016 Report and Order,* we adopt a regulatory fee schedule for FY 2016, pursuant to section 9 of the Communications Act and our FY 2016 appropriation statute in order to collect $384,012,497.00 in regulatory fees.[24] Of this amount, we project approximately $21.3 million (5.6 percent of the total FTE allocation) in fees from the International Bureau regulatees; [25] $83.1 million (21.6 percent of the total FTE allocation) in fees from the Wireless Telecommunications Bureau regulatees; [26] $146.5 million (38.0 percent of the total FTE allocation) from Wireline Competition Bureau regulatees; [27] and $134.0 million (34.8 percent of the total FTE allocation) from the Media Bureau regulatees.[28] These regulatory fees are due on September 27, 2016. The schedule of regulatory fees for FY 2016 adopted here is attached as Table 4.

### 1. Facilities Reduction

10. The regulatory fee rates for FY 2016 include $339,844,000 for operational expenses and an additional one time amount of $44,168,497 to offset facilities reduction costs, *i.e.,* to reduce the FCC's office space footprint and/or move the FCC office location.[29] Due to the facilities reduction costs, regulatees' aggregate fees by category increased on average by approximately 11–13 percent for 2016. Some commenters disagree with this approach.[30] We are, however, required by Congress to collect this amount for FY 2016.[31]

[10] 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.

[11] Section 9(b)(2) discusses mandatory amendments to the fee schedule and Section 9(b)(3) discusses permissive amendments to the fee schedule. Both mandatory and permissive amendments are not subject to judicial review. 47 U.S.C. 159(b)(2) and (3).

[12] 47 U.S.C. 159(b)(1)(A). When section 9 was adopted, the total FTEs were to be calculated based on the number of FTEs in the Private Radio Bureau, Mass Media Bureau, and Common Carrier Bureau. (The names of these bureaus were subsequently changed.) Satellites, earth stations, and international bearer circuits were regulated through the Common Carrier Bureau before the International Bureau was created.

[13] The indirect FTEs are the employees from the International Bureau (in part), Enforcement Bureau, Consumer & Governmental Affairs Bureau, Public Safety & 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 1,046 indirect FTEs.

[14] *See Assessment and Collection of Regulatory Fees,* Notice of Proposed Rulemaking, 27 FCC Rcd 8458, 8461–62, paragraphs 8–11 (2012) (*FY 2012 NPRM*).

[15] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* MD Docket No. 08–65, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008) (*FY 2008 Further Notice*).

[16] *Assessment and Collection of Regulatory Fees for Fiscal Year 2013,* MD Docket No. 08–65, Report and Order, 28 FCC Rcd 12351, 12354–58, paragraphs 10–20 (2013) (*FY 2013 Report and Order*).

[17] *FY 2013 Report and Order,* 28 FCC Rcd at 12361–62, paragraphs 29–31.

[18] *Id.,* 28 FCC Rcd at 12362–63, paragraphs 32–33.

[19] *Assessment and Collection of Regulatory Fees for Fiscal Year 2014,* Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 10767, 10777–79, paras. 25–28 (2014) (*FY 2014 Report and Order*).

[20] *FY 2014 Report and Order,* 29 FCC Rcd at 10774–76, paragraphs 18–21.

[21] *Id.,* 29 FCC Rcd at 10776–77, paragraphs 22–24.

[22] *Assessment and Collection of Regulatory Fees for Fiscal Year 2015,* Notice of Proposed Rulemaking, Report and Order, and Order, 30 FCC Rcd 5354, 5364–5373, paragraphs 28–41 (2015) (*FY 2015 NPRM).* We also eliminated two additional fee categories. *See FY 2015 NPRM,* 30 FCC Rcd at 5361–62, paragraphs 19–22.

[23] Commenters to the *FY 2016 NPRM* are listed in Table 2.

[24] Section 9 regulatory fees are mandated by Congress and collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities. 47 U.S.C. 159(a). *See* Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015, requiring the Commission to collect, for FY 2016, $339,844,000 for operational expenses and an additional one time amount of $44,168,497 to offset facilities reduction costs.

[25] Includes satellites, earth stations, and international bearer circuits (submarine cable systems and satellite and terrestrial bearer circuits).

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

[27] Includes Interstate Telecommunications Service Providers (ITSP) and toll free numbers.

[28] Includes AM radio, FM radio, television (including low power and Class A, TV/FM translators and boosters, cable and IPTV, DBS, and Cable Television Relay Service (CARS) licenses.

[29] Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015. *See* FCC's Lease Prospectus*, available at http://www.gsa.gov/portal/category/100435.*

[30] *See, e.g.,* PMCM TV Comments at 2 (''Congress has never given the Commission a carte blanche to recover *all* of its costs through the regulatory fee mechanism.''); AT&T Comments at 3 (''This sum is especially unsuitable for inclusion in the regulatory fee request.'').

[31] Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015.

2. Toll Free Numbers

11. In the *FY 2014 Report and Order,*[32] we adopted a regulatory fee category for each toll free number managed by a RespOrg.[33] In the *FY 2015 Report and Order,* we adopted a regulatory fee of 12 cents per toll free number.[34] We proposed a regulatory fee of 13 cents per toll free number in the *FY 2016 NPRM.*[35] AT&T objects to the increase from 12 cents to 13 cents per year, and contends that we have not demonstrated increased regulatory oversight of RespOrgs to justify this increase.[36] We identified in the *FY 2016 NPRM* that regulatory fees increased for all regulatee categories due to the one time increase for facilities reduction costs,[37] which includes a one cent fee increase for toll free numbers. Pursuant to our obligations under section 9 of the Act and related Commission orders, we therefore adopt the fee proposed in the *FY 2016 NPRM.*[38]

3. International Bureau Issues

a. International Bearer Circuits

12. Facilities-based common carriers must pay regulatory fees for terrestrial and satellite International Bearer Circuits (IBCs) active (used or leased) as of December 31 of the prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier.[39] 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.[40] In the *FY 2016 NPRM,* and previously in *FY 2015 Report and Order,* we sought comment on how to ensure that all providers calculate and report IBCs in the same manner and how we could improve our requirements and regulatory treatment of terrestrial and satellite IBC.[41]

13. We also sought comment on whether to eliminate the distinction between common carrier terrestrial circuits and non-common carrier terrestrial circuits for regulatory fee purposes.[42] In doing so, we observed the telecommunications industry and Commission's rules have evolved. We also sought comment on the least burdensome methodology for calculating fees, whether international revenue rather than the number of circuits would be a useful data source, and asked how to ensure accurate reporting of both common carrier and non-common carrier terrestrial circuits.[43]

14. Only Level 3 commented, proposing that we revise our regulatory fee methodology for terrestrial international bearer circuits and adopt a flat-fee methodology similar to the method we use to assess fees for submarine cable systems.[44] This proposal would include common carrier and non–common carrier circuits.[45] Level 3 contends that this would be simpler to administer and would reduce underreporting.[46] We agree with Level 3 that there is need to evaluate the changes in the international services marketplace and update our fee methodology to reflect the changes and make it simpler and more efficient to administer. We find, however, that the record in this proceeding is insufficient to make any comprehensive changes to the fee methodology at this time.[47] To adequately evaluate the changes to the marketplace, a separate rulemaking proceeding to comprehensively review the methodology used for assessing fees for terrestrial and satellite international bearer circuits is needed, including the allocation of the international bearer circuit fee category between terrestrial and satellite circuits and submarine cable systems. Accordingly, we make no changes to fee rules governing the IBCs based on the record in this proceeding.

b. Earth Stations

15. In the *FY 2014 NPRM,* we recognized that the International Bureau's oversight and regulation of the satellite industry involves FTEs working on legal, technical, and policy issues pertaining to both space station and earth station operations and is therefore interdependent to some degree.[48] For that reason, in the FY 2014 regulatory fee proceeding, we increased the regulatory fees paid by earth station licensees by approximately 7.5 percent based on analysis and review of the record.[49] In the *FY 2015 NPRM,* we sought comment on whether to raise the earth station regulatory fees again.[50] However, we declined to adopt an increase in fees in FY 2015 due to an ongoing proceeding concerning part 25 (Satellite Communications) of the Commission's rules which could affect the distribution of FTE work. In the *FY 2016 NPRM,* we sought comment on this issue—specifically on EchoStar's proposal to assess different levels of regulatory fees on different types of earth station licenses.[51]

16. EchoStar now observes that since it submitted its proposal, we have adopted reforms that streamlined the

[32] *FY 2014 Report and Order,* 29 FCC Rcd at 10777–79, paragraphs 25–28. We adopted this category for working, assigned, and reserved toll free numbers and for toll free numbers that are in the ''transit'' status, or any other status as defined in section 52.103 of the Commission's rules. The regulatory fee is limited to toll free numbers that are accessible within the United States.

[33] A Responsible Organization or RespOrg is a company that manages toll free telephone numbers for subscribers. RespOrgs use the SMS/800 database to verify the availability of specific numbers and to reserve the numbers for subscribers. *See* 47 CFR 52.101(b). Commission FTEs in the Wireline Competition Bureau and the Enforcement Bureau work on toll free numbering issues and other related activities. As a result, the Commission adopted a regulatory fee for each toll free number controlled or managed by a RespOrg because many toll free numbers are controlled or managed by RespOrgs that are not carriers, and therefore, had not been paying regulatory fees. In the *FY 2014 Report and Order,* we stated that: ''Based on evaluation, the FTEs involved in toll free issues are primarily from the Wireline Competition Bureau. . . . Accordingly, a regulatory fee assessed on toll free numbers reduces the ITSP regulatory fee total.'' *FY 2014 Report and Order,* 29 FCC Rcd at 10778, paragraph 27 (footnote omitted).

[34] Assessment and Collection of Regulatory Fees for Fiscal Year 2015, Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 10268, 10271–72, para. 9 (2015) (*FY 2015 Report and Order*).

[35] *FY 2016 NPRM,* 81 FR 35680 at 35689, Table 3.

[36] AT&T Comments at 4. Somos questions the increase and observes that the Commission's lease after the move (or facilities reduction) should decrease which should result in lower regulatory fees in the future. Somos Comments at 2–3.

[37] *FY 2016 NPRM,* 81 FR 35680, at 35683, note 20.

[38] *See supra* note 23.

[39] *See infra* paragraph 42.

[40] *Id.*

[41] *FY 2016 NPRM,* 81 FR 35680 at 35684, paragraphs 20–21.

[42] The Commission previously explored whether carriers should be assessed regulatory fees for their terrestrial non-common carrier circuits, but declined to do so at that time because of the ''complexity of the legal, policy and equity issues involved.'' *Assessment and Collection of Regulatory Fees for Fiscal Year 2009,* Report and Order, 24 FCC Rcd 10301, 10306–307, paragraphs 16–17 (2009) (*FY 2009 Report and Order*). On March 17, 2009, the Commission adopted in the *Submarine Cable Order* a new submarine cable bearer circuit methodology that allocates IBC costs among service providers in an equitable and competitively neutral manner, without distinguishing between common carriers and non-common carriers, by assessing a flat per cable landing license fee for all submarine cable systems. *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Second Report and Order, 24 FCC Rcd 4208, 4214–16, paragraphs 13–17 (2009) (*Submarine Cable Order*).

[43] *FY 2016 NPRM,* 81 FR at 35680, at 35685, paragraph 21.

[44] Level 3 Comments at 3 (citing *Submarine Cable Order*).

[45] *Id.* at 3, 5.

[46] *Id.* at 3–5. Level 3 explains that this proposal would reduce the burden on payors. *Id.* at 5.

[47] We received no comments in response to Level 3's proposed methodology.

[48] *FY 2014 NPRM,* 29 FCC Rcd at 6428, paragraph 29.

[49] *See FY 2014 Report and Order,* 29 FCC Rcd at 10772–73, paragraph 12.

[50] *FY 2015 NPRM,* 30 FCC Rcd at 5360, paragraph 14.

[51] *See* EchoStar July 20, 2015 Ex Parte.

reporting process for satellite earth stations, which has addressed an unequal reporting burden and reduced administrative burdens.[52] For this reason, EchoStar contends that all satellite earth stations should have the same regulatory fee, and no longer supports its earlier proposal.[53]

17. No parties commented in favor of the proposal. At this time, we see no basis to assess different levels of regulatory fees on different types of earth station licensees. Accordingly, we adopt the earth station fee proposed in the *FY 2016 NPRM*.

c. Submarine Cable

18. We did not specifically seek comment on issues pertaining to the submarine cable industry. The proposed rates in the *FY 2016 NPRM* contained a fee increase due to the one-time increase for facilities reduction expenses [54] and a change in submarine cable units. A group of submarine cable operators contends that the proposed rate is too high and not justified.[55] Specifically, the Submarine Cable Coalition questions the methodology for the proposed fees and argues that the proposed fees are disproportionate to the benefits received by submarine cable operators and the minimal regulatory oversight by the Commission, after the licensing process.[56] Further the Submarine Cable Coalition states that the Commission should not overcharge low-cost regulatees to subsidize for high-cost regulatees and recommends that the Commission reduce the regulatory fees commensurate with the amount of regulatory activity undertaken.[57] As we have previously stated, the regulatory fees paid by the submarine cable operators cover not just the services provided those entities, but also the services provided to the common carriers that use the submarine cables to provide service.[58] The regulatory fees are also not intended to recover only the costs of Title II regulation, but also the costs of our enforcement, policy and rulemaking, user information and international activities that benefit all entities involved in international telecommunications.[59] We also note that since release of the *FY 2016 NPRM,* the units used to calculate fees has been updated with more recent data. Accordingly, the fees listed in Table 3 are less than the amount proposed in the *FY 2016 NPRM.* Nevertheless, we remind all regulatees, including submarine cable operators, the FY 2016 regulatory fees include the facilities reduction costs.

4. FTE Reallocations

19. ITTA has proposed in past regulatory fee proceedings that wireless providers should be combined into the ITSP fee category so that all voice providers pay regulatory fees on the same basis.[60] ITTA continues to endorse this approach and contends that the wireline and wireless voice services are subject to many of the same regulatory policies, programs, and obligations and therefore combining these voice services into the ITSP category is an appropriate measure to comply with section 9 of the Act.[61] ITTA explains that due to changes in the communications industry and the convergence of technologies, the Wireline Competition Bureau FTEs' work is no longer focused on ITSPs.[62] According to ITTA, the work performed by Wireline Competition Bureau FTEs on universal service issues impacts various types of communications providers, not just ITSPs.[63]

20. Certain commenters agree with ITTA's proposals.[64] For example, NTCA contends that updating the ITSP category to include wireless revenues would be a ''rational step.'' [65] CenturyLink explains that this would be analogous to including VoIP providers in the ITSP category and DBS in the cable television/IPTV category.[66] Frontier states that the work of various Wireline Competition Bureau divisions is ''inseparable from wireless carriers'' and the divisions work ''for the benefit of . . . all telecommunications service providers.'' [67] These commenters also support allocating Wireless Telecommunications Bureau FTEs to the Wireline Competition Bureau for regulatory fee purposes.[68] In addition, Frontier supports requiring broadband Internet service providers to pay ITSP regulatory fees.[69]

21. ITTA and CenturyLink argue that if wireless and wireline voice services are not combined in the ITSP category or Wireline Competition Bureau FTEs are not allocated to the Wireless Telecommunications Bureau for regulatory fee purposes, we should reassign some Wireline Competition Bureau FTEs as indirect FTEs.[70] ITTA contends that the high-cost and Lifeline universal service programs benefit regulatees in addition to ITSPs and that we should therefore ''adjust its fee structure to account for this industry crossover.'' [71] Commenters contend that all Wireline Competition Bureau FTEs that work on ''cross-jurisdictional issues'' such as numbering and universal service should be reassigned as indirect.[72]

22. CTIA disagrees with the ITTA proposal and contends that there is no basis to reassign Wireline Competition Bureau FTEs to the Wireless Telecommunications Bureau because Wireless Telecommunications Bureau FTEs already participate in wireline proceedings to the extent they raise wireless issues.[73] Also, substantial differences exist between wireless and wireline services concerning regulatory oversight which militate against combining, based on revenues, the CMRS and ITSP fee categories.[74] Wireless providers are not subject to the regulations and requirements imposed on ITSPs, and logically combining CMRS into the ITSP category (based on

[52] EchoStar Comments at 3 (discussing elimination of the annual reporting requirement for blanket FSS earth station licenses in the 20/30 GHz bands). *See also Comprehensive Review of Licensing and Operation Rules for Satellite Services,* Second Report and Order, 30 FCC Rcd 14713 (2015).

[53] EchoStar Comments at 2–3.

[54] *FY 2016 NPRM,* 81 FR 35680, at 35683, note 20.

[55] Submarine Cable Coalition Comments at 3–7.

[56] *Id.* at 2–4, 6–7.

[57] *Id.*

[58] *See FY 2015 Report and Order,* 30 FCC Rcd at 10273–74, paragraph 12.

[59] *Assessment and Collection of Regulatory Fees for Fiscal Year 1997,* MD Docket No. 96–186, Report and Order, 12 FCC Rcd at 17188, paragraphs 68–69 (1997) (*FY 1997 Report and Order*).

[60] *See FY 2015 Report and Order,* 30 FCC Rcd at 10281–82, paragraphs 31–34; *FY 2014 NPRM,* 29 FCC Rcd at 6430–31, paragraphs 36–39; *FY 2013 NPRM,* 28 FCC Rcd at 7796, paragraph 12; *FY 2008 FNPRM,* 24 FCC Rcd at 6404–05, paragraphs 40–41.

[61] ITTA Comments at 6.

[62] *Id.*

[63] *Id.* at 7. ITTA also lists other issues that it contends are within the Wireline Competition Bureau but affect entities that are not ITSPs, such as number portability, 911 emergency access, special access, rate integration, customer proprietary network information, pole attachments, and CALEA. ITTA Comments at 7.

[64] *See, e.g.* , NTCA Comments at 2–4; CenturyLink Comments at 1–6; Frontier Comments at 1–9; ACA Comments at 11–14.

[65] NTCA Comments at 3.

[66] CenturyLink Comments at 4–5.

[67] Frontier Comments at 6.

[68] Frontier Comments at 7–8; NTCA Comments at 3; CenturyLink Comments at 6–8.

[69] Frontier Comments at 9.

[70] ITTA Comments at 8–9; CenturyLink Comments at 7–8.

[71] ITTA Comments at 7–8.

[72] Frontier Comments at 8 & 10; ITTA Comments at 10; CenturyLink Comments at 7. CenturyLink also contends that FTEs working on 911 issues should be indirect. CenturyLink Comments at 7. As CTIA observes, these FTEs are primarily in the Public Safety and Homeland Security Bureau and are indirect. CTIA Reply Comments at 5.

[73] CTIA Comments at 2 & Reply Comments at 2. CTIA also observes that the ITTA proposal would result in CMRS providers paying regulatory fees based on Wireless Telecommunications Bureau FTEs and Wireline Competition Bureau FTEs. CTIA Reply Comments at 3.

[74] CTIA Comments at 2 & Reply Comments at 2–3.

revenues) merely because both offer voice services ignores the fundamental differences in the work done by FTEs in these two bureaus.[75] CTIA further contends that there is insufficient information to support a clear case for the reclassification of FTEs that work on universal service or numbering issues from direct to indirect.[76]

23. CTIA stresses that the number of FTEs working on any given issue could change significantly year-to-year depending on the individual proceedings the Commission undertakes in any given year, *e.g.,* there has been significant work within the past year on adopting and implementing various components of the Connect America Fund (CAF), reforming the Lifeline Program, and implementing procedures to allow VoIP providers to obtain numbers directly from the numbering administrator.[77] CTIA therefore recommends additional detailed analysis to demonstrate whether and how the number of FTEs working on particular issues may fluctuate and thus the impact of the potential reclassification of those FTEs as indirect.[78]

24. The Commission has emphasized that reallocation of some of the International Bureau's FTEs as indirect was a ''singular case'' because the work of those International Bureau FTEs ''primarily benefits licensees regulated by other bureaus.'' [79] We have further stated, ''apart from the unique nature of the International Bureau FTEs, the work of all the FTEs in a core bureau contributes to the cost of regulating and overseeing the licensees of that bureau.'' [80] We concluded that ''[g]iven the significant implications of reassignment of FTEs in our fee calculation, we make changes to FTE classifications only after performing considerable analysis and finding the clearest case for reassignment.'' [81]

25. After reviewing the record, we decline to adopt the ITTA proposal. In particular, we conclude that ITTA's proposal does not address this issue in a manner that is reasonable and in compliance with section 9 of the Act. ITTA does not contend that industries other than those in the ITSP regulatory fee category, *i.e.,* CMRS, are subject to the oversight and regulation of the Wireline Competition Bureau or that CMRS creates significant costs for the Wireline Competition Bureau due to such oversight and regulation. We recognize that the CMRS industry participates in the universal service Lifeline program, and that the Wireline Competition Bureau FTEs are responsible for the oversight and regulation of the universal service mechanisms. We are not convinced at this time that this relationship is sufficient to support a reassignment of the FTEs from the Wireline Competition Bureau to the Wireless Telecommunications Bureau, particularly when the FTEs closely involved in wireless Lifeline issues are indirect FTEs, in the Enforcement Bureau and elsewhere, addressing compliance with the Commission's rules.

26. Further, the number of FTEs working on any given issue changes significantly depending on the individual proceedings the Commission undertakes in any given year. We now update FTE allocations on an annual basis to more accurately reflect the number of FTEs working on regulation and oversight of the regulatees in the various fee categories.[82] To attempt to reallocate Wireline Competition Bureau FTEs each year based on particular work assignments is a subjective process that would likely result in unpredictable fluctuations in regulatory fees from year to year. In addition, to the extent wireline proceedings raise wireless issues, Wireless Telecommunications Bureau FTEs already are involved in work related to the wireless issues in such proceedings.[83]

27. ITTA's proposals also do not take into account that many indirect FTEs throughout the Commission outside of the Wireline Competition Bureau work on universal service and other wireline issues. For example, indirect FTEs in the Enforcement Bureau, Office of Managing Director, as well as other bureaus and offices work on various universal service issues. Therefore, it is incorrect to contend that primarily FTEs in the Wireline Competition Bureau are devoted to all of the universal service issues. Further, ITTA's proposal to reassign some or all of the Wireline Competition Bureau FTEs working on universal service as indirect FTEs ignores licensees not involved in high-cost and Lifeline universal service issues, such as radio and television broadcasters, that would be responsible for contributing to the cost of those Wireline Competition Bureau FTEs. Although we recognize Wireline Competition Bureau proceedings can affect other industries, such as CMRS, we are not convinced that this demonstrates the ''clearest case'' for reassignment of FTEs. For these reasons, we decline to adopt the ITTA proposal at this time.

5. DBS Rate Issues

28. In 2015, we adopted the initial regulatory fee for DBS as a subcategory in the cable television and IPTV category of 12 cents per year per subscriber, or one cent per month.[84] At that time, we stated that we would update the rate as necessary to ensure an appropriate level of regulatory parity and considering the resources dedicated to this subcategory.[85] Such examination is consistent with a report issued by the Government Accountability Office (GAO) in 2012, which observed it is important for the Commission to ''regularly update analyses to ensure that fees are set based on relevant information.'' [86] When we adopted this regulatory fee subcategory for DBS, we observed that numerous regulatory developments had increased the Media Bureau FTE activity involving regulation and oversight of multichannel video programming distributors (MVPDs), including DBS providers.[87] For example, DBS providers (and cable television operators) are permitted to file program access complaints [88] and retransmission consent complaints.[89] In addition, DBS providers are subject to MVPD requirements such as those pertaining to program carriage [90] and the requirement to negotiate retransmission consent in good faith.[91] We also observed that the Commission had recently adopted 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),[92] the Twenty-First Century Communications

[75] CTIA Comments at 2–3 (citing *FY 2016 NPRM,* 31 FCC Rcd at 5765–66, paragraph 18.).

[76] *Id.* at 3–5.

[77] CTIA Comments at 5 & Reply Comments at 3.

[78] CTIA Comments at 5 & Reply Comments at 3–5.

[79] *FY 2013 Report and Order,* 28 FCC Rcd at 12355, paragraph 14.

[80] *FY 2015 Report and Order,* 30 FCC Rcd at 10274, paragraph 15.

[81] *Id.* 30 FCC Rcd at 10274–75, paragraph 15.

[82] *See FY 2015 Report and Order,* 30 FCC Rcd at 10274, paragraph 15.

[83] CTIA Comments at 2.

[84] *FY 2015 Report and Order and FNPRM,* 30 FCC Rcd at 10276–77, paragraphs 19–20.

[85] *Id.,* 30 FCC Rcd at 10277, paragraph 20.

[86] GAO ''*Federal Communications Commission Regulatory Fee Process Needs to be Updated,*'' GAO–12–686 (August 2012) *at 12, available at http://www.gao.gov/products/GAO-12-686.*

[87] *See FY 2015 Report and Order,* 30 FCC Rcd at 5367–68, paragraph 31.

[88] 47 U.S.C. 548; 47 CFR 76.1000–1004.

[89] 47 U.S.C. 325(b)(1), (3)(C)(ii); 47 CFR 76.65(b).

[90] 47 U.S.C. 536; 47 CFR 76.1300–1302.

[91] 47 U.S.C. 325(b)(3)(C)(iii); 47 CFR 76.65(a)–(b).

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

and Video Accessibility Act of 2010 (CVAA),[93] as well as the Satellite Television Extension and Localism Act (STELA) Reauthorization Act of 2014 (STELAR).[94]

29. In the *FY 2016 NPRM,* we observed that DBS, along with other MVPDs, continues to receive increased oversight and regulation as a result of the work of Media Bureau FTEs. For example, we recently adopted a *Report and Order* requiring cable television operators, DBS providers, and certain other licensees to post their public file documents to the FCC-hosted online database.[95] In addition, we recently released a *Notice of Proposed Rulemaking* pertaining to set-top boxes of cable television and DBS operators.[96] These recent proceedings involving DBS further demonstrate that DBS providers impose regulatory costs and receive benefit from the activities of the Media Bureau FTEs that affect all MVPDs. In the *FY 2016 NPRM,* we sought comment on a higher regulatory fee rate of 27 cents per subscriber per year for FY 2016—a 24 cent per subscriber baseline with a proportional adjustment of three cents per subscriber associated with facilities reduction costs.[97] This fee would be slightly higher than two cents per month per subscriber and would remain significantly below the cable television/IPTV rate of $1.00 per year.[98]

30. Commenters representing the cable television industry agree that the Media Bureau FTEs increasingly devote time to issues involving the entire MVPD industry, and that DBS, cable television, and IPTV all receive oversight and regulation as a result of the work of the Media Bureau FTEs on MVPD issues.[99] These commenters argue that regulatory fee parity for all MVPDs paying into the cable television/IPTV fee category is therefore justified because there is a ''relatively small difference from a regulatory perspective'' between DBS and cable television/IPTV.[100] ACA observes [101] that AT&T, the nation's largest MVPD,[102] operates its U-verse IPTV service and its DirecTV DBS service,[103] yet will be assessed lower regulatory fees for its approximately 20 million DirecTV subscribers than it will pay for its approximately six million IPTV subscribers, although these services use comparable Media Bureau FTE resources.[104]

31. ACA agrees that the previously adopted phase-in period was the correct approach; however, DBS providers have already had the benefit of an adequate phase-in and should now be brought quickly up to parity with cable television and IPTV.[105] Thus, ACA and NCTA argue, the Commission should either assess all payors in the cable television/IPTV fee category the same level of fees, or, at a minimum, assess DBS fee payors a higher fee and commit to raising that by 2017 to the fees assessed on cable television operators and IPTV providers.[106]

32. The two DBS providers, AT&T and DISH, however, disagree with our proposal and argue that there is no justification for increasing the fee to 27 cents per subscriber per year for FY 2016.[107] AT&T contends that we have failed to demonstrate any specific reason for this fee increase for DBS providers.[108] DISH argues that the increase of an additional 15 cents per subscriber per year will subject DBS providers to ''rate shock'' and that we have abandoned our ''phased approach.'' [109] We disagree that this rate increase, still substantially below the cable television/IPTV rate, will cause ''rate shock.'' As NTCA observes, it is unpersuasive that rate shock will occur under ''a 27 cents annual fee for services that cost on average about $100 per month.'' [110]

33. The proposed fee of 27 cents per subscriber per year continues to follow our decision to assess fees for DBS in the cable television/IPTV category. In particular, the increase we adopt today is not based on an incremental increase in Media Bureau FTEs working on MVPD issues,[111] but is supported by data and analysis and wholly consistent

[93] Public Law 111–260, 124 Stat. 2751 (2010). *See also Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010,* Public Law 111–265, 124 Stat. 2795 (2010) (making corrections to the CVAA); 47 CFR part 79; *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* Notice of Proposed Rulemaking, 31 FCC Rcd 2463 (2016).

[94] The STELA Reauthorization Act of 2014 (STELAR), Public Law 113–200, 128 Stat. 2059 (2014). STELAR was enacted on Dec. 4, 2014 (H.R. 5728, 113th Cong.). Commission work on implementation of the Act was immediate. *See, e.g., Implementation of Sections 101, 103 and 105 of the STELA Reauthorization Act of 2014,* Order, 30 FCC Rcd 2380 (2015) (implementing certain STELAR provisions under the ''good cause'' exception to the Administrative Procedure Act); *Amendment to the Commission's Rules Concerning Market Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014,* Report and Order, 30 FCC Rcd 10406 (2015) (adopting satellite television market modification rules to enable satellite carriers, cable operators, and commercial television stations to better serve the interests of their local communities); *Implementation of Section 103 of the STELA Reauthorization Act of 2014,* Notice of Proposed Rulemaking, 30 FCC Rcd 10327 (2015) (seeking comment on potential updates to the ''totality of the circumstances'' test for good faith negotiation of retransmission consent); Final Report of the DSTAC, *available at https://transition.fcc.gov/dstac/dstac-report-final-08282015.pdf;* ''Media Bureau Seeks Comment on DSTAC Report,'' Public Notice, 30 FCC Rcd 15293 (MB 2015); ''Media Bureau Seeks Comment for Report Required by the STELA Reauthorization Act of 2014,'' Public Notice, 30 FCC Rcd 1904 (2015) (seeking information for a report to Congress on designated market areas and considerations for fostering increased localism).

[95] *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees,* Report and Order, 31 FCC Rcd 526 (2016).

[96] *Expanding Consumers' Video Navigation Choices, Commercial Availability of Navigation Devices,* Notice of Proposed Rulemaking and Memorandum Opinion and Order, 31 FCC Rcd 1544 (2016). *See also Promoting the Availability of Diverse and Independent Sources of Video Programming,* Notice of Inquiry, 31 FCC Rcd 1610 (2016).

[97] For FY 2015, we adopted a rate for DBS of 12 cents per subscriber per year, or one cent per month per subscriber. By way of comparison, the cable television and IPTV rate adopted for FY 2015 was 96 cents per subscriber per year.

[98] The agency is not required to calculate its costs with ''scientific precision.'' *Central & Southern Motor Freight Tariff Ass'n* v. *United States*, 777 F.2d 722, 736 (D.C. Cir. 1985). Reasonable approximations will suffice. *Id.;* Mississippi Power & Light, 601 F.2d at 232; National Cable Television Ass'n v. FCC, 554 F.2d 1094, 1105 (D.C. Cir. 1976); 36 Comp. Gen. 75 (1956).

[99] ACA Comments at 3–11; NCTA Reply Comments at 3–7.

[100] ACA Comments at 3–7; NCTA Reply Comments at 7.

[101] ACA Comments at 9.

[102] When the Commission sought comment on including IPTV into the cable television fee category, AT&T, an IPTV service provider, advocated a ''broader MVPD category . . . because it could encompass both cable service and non-cable service video offerings, like IPTV, and allow for evolution in the MVPD market.'' AT&T Comments (MD Docket No. 13–140) at 5.

[103] *Applications of AT&T Inc. and DirecTV; For Consent to Assign or Transfer Control of Licenses and Authorizations,* Memorandum Opinion and Order, 30 FCC Rcd 9131 (2016).

[104] *See, e.g., Implementation of Section 103 of the STELA Reauthorization Act of 2014,* MB Docket Nos. 15–216 and 10–71, Ex Parte Letter to Marlene Dortch, Secretary, FCC, from Sean A. Lev, Counsel to AT&T Services, Inc. (filed March 16, 2016). Moreover, recent press reports indicate that AT&T's U-verse subscribers are declining, while their DirecTV subscribers are increasing, which will lower its Media Bureau regulatory fee burden. *See http://variety.com/2016/biz/news/directv-att-tv-shrinks-q2-2016-1201819654/; http://www.hollywoodreporter.com/news/at-t-loses-pay-tv-913277.*

[105] ACA Comments at 9–11 & Reply Comments at 15.

[106] ACA Comments at 9–11; NCTA Reply Comments at 9.

[107] AT&T Comments at 1–3; DISH Comments at 4–6 & Reply Comments at 2–3.

[108] AT&T Comments at 1–3.

[109] DISH Comments at 7–8.

[110] NTCA Reply Comments at 2–3 (footnote omitted); ACA Reply Comments at 2 (''claims . . . that the Commission's proposed increase will cause 'rate shock' . . . should not be given any credence.''). The two DBS providers, AT&T and DISH, are the largest and fourth largest MVPDs in the nation, and multi-billion dollar corporations. *Id.* at 14.

[111] This appears to be the DBS position. *See* AT&T Comments at 2; DISH Comments at 6 & Reply Comments at 3.

with the approach used in FY 2015.[112] We reiterate that the DBS and cable television/IPTV oversight and regulatory work of Media Bureau FTEs is similar.[113] As such, we remain committed as a goal to regulatory fee parity for all MVPDs paying into the cable television/IPTV fee category.[114] We find it appropriate to adopt the rate proposed in the *FY 2016 NPRM.*[115] For reasons similar to those discussed in the *FY 2015 NPRM,*[116] and based on our analysis of the resources dedicated to this subcategory, including the resources dedicated to the pending portfolio of MVPD proceedings, we revise the DBS fee rate. Specifically, in this FY 2016 regulatory fee proceeding, we adopt a DBS fee rate of 27 cents per subscriber per year for FY 2016, as set forth in the fee schedule. This fee includes a 24 cent per subscriber baseline with a proportional adjustment of three cents per subscriber associated with facilities reduction costs.

6. Broadcasters' Fees

a. AM and FM Broadcasters Serving the Smallest Two Market Levels (<=25,000 and 25,001–75,000)

34. In the *FY 2016 NPRM,* we proposed to include a higher population row in the table for AM and FM broadcasters, *i.e.,* to divide broadcasters that serve 3,000,001–6,000,000 from those that have a higher population coverage.[117] Similarly, we proposed to standardize the incremental increase in fees as the population served increases,[118] and to more consistently assess fees based on the type and class of service.[119] We also proposed to adjust the television broadcasters table so that Top 10 market stations should pay about twice what stations in markets 26–50 pay.[120]

35. Several commenters contend that our proposal is too burdensome for small independent radio and television stations.[121] One commenter contends that the addition of ''greater than 6 million'' is a welcome step for radio broadcasters, but that it does not go far enough because AM stations bill far less advertising revenue than FM stations.[122] Another commenter, representing a group of recording artists, observes that ''the [radio] stations that support us the most are the smaller independents not affiliated with the major networks. These smaller stations struggle on a day-to-day basis.'' [123] Several commenters suggest that we use a combination of revenue and a set fee instead of a market-based fee, to assess regulatory fees for radio and television broadcasters.[124]

36. We do not require broadcasters to report their revenues. Thus, the revenue-based proposal is not practicable at this time. We agree, however, that the proposed rates should be revised downward for the smaller AM and FM radio broadcast stations. Extending some relief to these small radio broadcasters may facilitate their continued ability to stay in business and serve their small and rural communities. Therefore, after reviewing the record, including the comments filed by the industry describing the economic hardship faced by many small rural independent radio stations, we are adopting a revised version of the proposed table in the *FY 2016 NPRM* and reducing the regulatory fees in the two lowest population tiers for AM and FM broadcasters from the amounts proposed.[125]

TABLE 1—FY 2016 AM AND FM 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 | $990 | $715 | $620 | $685 | $1,075 | $1,250 |
| 25,001–75,000 | 1,475 | 1,075 | 925 | 1,025 | 1,625 | 1,850 |
| 75,001–150,000 | 2,200 | 1,600 | 1,375 | 1,525 | 2,400 | 2,750 |
| 150,001–500,000 | 3,300 | 2,375 | 2,075 | 2,275 | 3,600 | 4,125 |
| 500,001–1,200,000 | 5,500 | 3,975 | 3,450 | 3,800 | 6,000 | 6,875 |
| 1,200,001–3,000,00 | 8,250 | 5,950 | 5,175 | 5,700 | 9,000 | 10,300 |
| 3,000,001–6,000,00 | 11,000 | 7,950 | 6,900 | 7,600 | 12,000 | 13,750 |

[112] *See FY 2015 Report and Order,* 30 FCC Rcd at 10277, paragraph 20 (finding that the initial rate of 12 cents per subscriber per year is a ''sensible fee supported by data and analysis.'')

[113] *FY 2016 NPRM,* 81 FRt 35680, at 35683, paragraphs 13–14.; *FY 2015 NPRM,* 30 FCC Rcd at 5369, paragraph 33.

[114] *See FY 2015 Report and Order,* 30 FCC Rcd at 10277, paragraph 20 (''In the FY 2016 regulatory fee proceeding, we will update this rate for future years, based on relevant information, as necessary for ensuring an appropriate level of regulatory parity and considering the resources dedicated to this new regulatory fee subcategory.'').

[115] *FY 2016 NPRM,* 81 FR 35680, at 35683 at paragraph 14.

[116] *FY 2015 NPRM,* 30 FCC Rcd at 5367–5373, paragraphs 31–41.

[117] *FY 2016 NPRM,* 81 FR 35680, at 35684, paragraph 17. We also sought comment on this issue in the Further Notice of Proposed Rulemaking attached to the *FY 2015 Report and Order. See FY 2015 Report and Order,* 30 FCC Rcd at 10280, paragraph 28.

[118] *Id.* Specifically, we sought comment on standardizing the incremental increase in fees as radio broadcasters increase the population they serve, such as by requiring that fee adjustments between tiers monotonically increase as the population served increases. *Id.*

[119] *Id.* We sought comment on assessing fees based on the relative type and class of service, such as by assessing FM class B, C, C0, C1, & C2 stations at twice the rate of AM class C stations, and FM class A, B1, & C3 stations assessed at 75 percent more than AM class C stations. For AM stations, we sought comment on assessing AM class A stations at 60 percent more, AM class B stations at 15 percent more, and AM class D stations at 10 percent more than AM class C stations. *Id.*

[120] *FY 2016 NPRM,* 81 FR 35680, at 35685, paragraph 19. We also sought comment on this issue in the Further Notice of Proposed Rulemaking attached to the *FY 2015 Report and Order. See FY 2015 Report and Order,* 30 FCC Rcd at 10280–81, paragraph 29.

[121] Marquee Broadcasting Comments at 1 (''[The proposal] places a disproportional burden on small, independent broadcast [television] stations, the very group the FCC should hope to encourage in an industry of giants.''); Koor Communications Reply Comments at 1 (''The present system of calculating regulatory fees is very lopsided and unfair especially to small market AM Broadcasters.''); P & M Radio Reply Comments at 1 (''I, along with many owner-operators of independent AM stations, have been struggling in the past decade just to stay on the air.''); Blackbelt Broadcasting Comments at 1 (''the proposed fee increase (and structure) [should be] revaluated [to] consider the burden this will put on many small rural [FM] broadcasters.''); Fitzgerald Comments at 2 (''Stations with populations under 25,000 served are for the most part, very small 'Mom and Pop' style stations. These [proposed] massive increases will greatly harm these . . . [radio] stations which generate very small amounts of revenue.''); Faxon Reply Comments at 1 (''The proposed regulatory fees for 2016 do not make sense and place an extreme burden on small market radio stations.'').

[122] Bittner Comments at 1.

[123] Brigham Reply Comments at 1.

[124] Bittner Broadcasting Comments at 1–3; Marquee Broadcasting Comments at 1; Brigham Reply Comments at 1; Koor Communications Reply Comments at 1; P & M Radio Reply Comments at 1; Faxon Reply Comments at 1.

[125] PMCM TV suggests that we assess a lower fee for VHF TV stations than UHF stations. PMCM TV Comments at 3–4. We decline to adopt this proposal here, but intend to seek comment on it in the FY 2017 Notice of Proposed Rulemaking.

TABLE 1—FY 2016 AM AND FM RADIO STATION REGULATORY FEES—Continued

| 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 |
|---|---|---|---|---|---|---|
| >6,000,000 | 13,750 | 9,950 | 8,625 | 9,500 | 15,000 | 17,175 |

b. Puerto Rico Broadcasters Association Proposal

37. The PRBA and Arso comment on the issues set forth in the PRBA December 10, 2014 letter (PRBA Letter),[126] seeking regulatory fee relief for the radio broadcasters in the Commonwealth of Puerto Rico due to economic hardship, unique geography, and declining population.[127] In the PRBA Letter, PRBA requested that the Commission use more recent figures to determine the radio station population count for radio stations in Puerto Rico.[128] PRBA stated 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.[129] Finally, PRBA contended that the radio listening market is limited because it is restricted to listeners within the boundaries of the island.[130]

38. PRBA and Arso contend that the economic situation has worsened since the PRBA Letter was filed, and that it is crucial that the Commission provide relief from regulatory fee obligations for Puerto Rican broadcasters.[131] PRBA contends that requiring each radio and television station to submit a waiver request would negate any benefit of the Commission's efforts.[132] Arso observes that it would be burdensome for companies to pay the regulatory fee when requesting a fee reduction.[133] Instead, PRBA contends, the Commission should either move the Puerto Rican stations to a lower population stratum [134] or create a separate fee category for the Puerto Rican market.[135] PRBA urges the Commission to adopt the second proposal—a separate fee category for the entire Puerto Rican market—at a rate 30 percent lower than the normal rate for each station.[136]

39. We decline to adopt the PRBA proposal at this time. Fee relief is ordinarily processed through a waiver request or payment deferral.[137] While we recognize that the economic situation in Puerto Rico is difficult in general, without the specific information needed to justify a waiver request or payment deferral we would not know the particular circumstances of the regulatee or licensee to support a request for relief. Information concerning how to request fee relief can be found on our Web site, *e.g., https://www.fcc.gov/document/fy-2015-waiver-regulatory-fees-fact-sheet.* As discussed above, we are adopting a revised version of the proposed table and thus reducing the regulatory fees in the two lowest population tiers from the amount proposed for radio broadcasters, which should provide some amount of fee relief to eleven of the PRBA stations.[138]

c. Broadcast Television Incentive Auction—Reminder To Pay FY 2016 and FY 2017 Regulatory Fees

40. The Commission's Broadcast Television Incentive Auction (Incentive Auction) is underway, and all broadcast television licensees are reminded that they continue to be responsible for payment of FY 2016 regulatory fees if they held a license or construction permit as of October 1, 2015, as well as for payment of FY 2017 regulatory fees if they continue to hold their license or construction permit as of October 1, 2016. Licensees must pay the required regulatory fees to avoid any delay of payments resulting from the Incentive Auction.[139] Finally, regulatees are reminded that non-payment of regulatory fees, if required, will place them in red light status and prevent them from conducting business with the Commission.

## V. Procedural Matters

### *A. Payment of Regulatory Fees*

1. Payments by Check Will Not Be Accepted for Payment of Annual Regulatory Fees

41. Pursuant to an Office of Management and Budget (OMB) directive,[140] the Commission is moving towards a paperless environment, extending to disbursement and collection of select federal government

[126] PRBA Comments at 1–5; Arso Comments at 1–7.

[127] We previously sought comment on: (i) Moving the Puerto Rico market stations to a different rate (or a lower population stratum) 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. *See FY 2015 NPRM,* 30 FCC Rcd at 5360–61, paragraphs 15–18. Arso observes that the ''fast track'' proposal would require a rulemaking procedure, which would be time-consuming, and the Puerto Rican stations need immediate relief. Arso Comments at 4.

[128] PRBA Letter at 2–4. PRBA asked 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. The Commission explained that radio station population counts are updated every ten years to reflect nationwide changes in the population using the ''block level census data'' from the U.S. Census, therefore we could not 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 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. *See* FY 2015 NPRM, 30 FCC Rcd at 5360–61, paragraphs 15–18.

[129] PRBA Letter at 3.

[130] *Id.* at 5.

[131] PRBA Comments at 2; Arso Comments at 3.

[132] PRBA Comments at 3. Arso Comments at

[133] Arso Comments at 3–4.

[134] PRBA suggests moving two levels down to account for population loss and economic difficulties. PRBA Comments at 4.

[135] PRBA Comments at 3–4. Arso Comments at

[136] PRBA Comments at 4. Arso Comments at

[137] 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 CFR 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, paragraph 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.*

[138] The remaining radio stations in Puerto Rico are situated in the top three fee category tiers. In addition to providing relief to eleven Puerto Rican radio stations, a reduction in the fees of the two lowest fee categories also provides relief to many small non-Puerto Rican stations, including several dozen radio stations in the U.S. territories in the Pacific and in the Caribbean (*e.g.,* Guam, American Samoa, Saipan, and U.S. Virgin Islands).

[139] *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding,* Public Notice, 30 FCC Rcd 11034, 11041–42, paragraphs 12–14 (WTB 2015); *see also Expanding the Economic and Innovation Opportunities of Spectrum Though Incentive Auctions,* Report and Order, 29 FCC Rcd at 6567, 6785, n.1512 (2014).

[140] Office of Management and Budget (OMB) Memorandum M–10–06, Open Government Directive, Dec. 8, 2009; *see also http://www.whitehouse.gov/the-press-office/2011/06/13/executive-order-13576-delivering-efficient-effective-and-accountable-gov.*

payments and receipts.[141] The initiative to reduce paper and curtail check payments for regulatory fees is expected to produce cost savings, reduce errors, and improve efficiencies across government. In FY 2015, we stopped accepting checks (including cashier's checks and money orders) and the accompanying hardcopy forms (*e.g.,* Forms 159, 159–B, 159–E, 159–W) for the payment of regulatory fees.[142] The paperless procedure requires that all payments be made by online Automated Clearing House (ACH) payment, online credit card, or wire transfer. Any other form of payment (*e.g.,* checks, cashier's checks, or money orders) will be rejected. For payments by wire, a Form 159–E should still be transmitted via fax in order to associate the wire payment with the correct regulatory fee information.[143]

2. Revised Credit Card Transaction Levels

42. Since June 1, 2015, 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 limited to $24,999.99.[144] 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, 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 2016 regulatory fee collection in Fact Sheets, available at *https://www.fcc.gov/regfees.*

3. Payment Methods

43. During the fee season for collecting FY 2016 regulatory fees, regulatees can pay their fees by credit card through *Pay.gov*,[145] ACH, debit card,[146] or by wire transfer. Additional payment instructions are posted at *http://transition.fcc.gov/fees/regfees.html.* The receiving bank for all wire payments is the U.S. Treasury, New York, New York. When making a wire transfer, regulatees must fax a copy of their Fee Filer generated Form 159–E to the Federal Communications Commission at (202) 418–2843 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at *http://ransition.fcc.gov/fees/wiretran.html*.

4. De Minimis Regulatory Fees

44. Regulatees whose total FY 2016 annual regulatory fee liability, including all categories of fees for which payment is due, is $500 or less are exempt from payment of FY 2015 regulatory fees. The *de minimis* threshold applies only to filers of annual regulatory fees (not regulatory fees paid through multi-year filings), and is not a permanent exemption. Regulatees will need to reevaluate their total fee liability each fiscal year to determine whether they meet the *de minimis* exemption.

5. Standard Fee Calculations and Payment Dates

45. 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, 2015 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, 2015. For providers of DBS service, regulatory fees should be paid based on a subscriber count on or about December 31, 2015. In instances where a permit or license is transferred or assigned after October 1, 2015, 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, 2015. In instances where a permit or license is transferred or assigned after October 1, 2015, 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.[147] For RespOrgs that manage Toll Free Numbers (TFN), regulatory fees should be paid on all working, assigned, and reserved toll free numbers, including those toll free numbers that are in transit status, or any other status as defined in section 52.103 of the Commission's rules. The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2015.
- *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, 2015. The number of subscribers, units, or telephone numbers on December 31, 2015 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, 2015, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireless Services, Multi-year fees:* The first eight regulatory fee categories in our Schedule of Regulatory Fees 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 Table 3*) to publicize our estimates of the number of ''small multi-year wireless'' licenses that will be renewed or newly obtained in FY 2016.

[141] *See* U.S. Department of the Treasury, Open Government Plan 2.1, Sept. 2012.

[142] *FY 2015 Report and Order,* 30 FCC Rcd at 10282–83, paragraph 35.

[143] As we explained in 2015, payors should note that to the extent certain entities have to date paid both regulatory fees and application fees at the same time via paper check, they will no longer be able to do so as the regulatory fees payment via paper check will no longer be accepted.

[144] 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.

[145] In accordance with U.S. Treasury Financial Manual Announcement No. A–2014–04 (July 2014), the amount that may be charged on a credit card for transactions with federal agencies has been reduced to $24,999.99.

[146] In accordance with U.S. Treasury Financial Manual Announcement No. A–2012–02, the maximum dollar-value limit for debit card transactions is eliminated. Only Visa and MasterCard branded debit cards are accepted by *Pay.gov.*

[147] Audio bridging services are toll teleconferencing services.

• *Multichannel Video Programming Distributor Services (cable television operators and CARS licensees):* Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2015.[148] Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2015. In instances where a permit or license is transferred or assigned after October 1, 2015, 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, 2015. In instances where a permit or license is transferred or assigned after October 1, 2015, 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, 2015. In instances where a license is transferred or assigned after October 1, 2015, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2016 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

• *International Services: (Terrestrial and Satellite Services):* Regulatory fees for Terrestrial and Satellite 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, 2015 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 used 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. For these purposes, ''active circuits'' include backup and redundant circuits as of December 31, 2015. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits.[149] In instances where a permit or license is transferred or assigned after October 1, 2015, 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 2016 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.[150]

### *B. Commercial Mobile Radio Service (CMRS) Cellular and Mobile Services Assessments*

46. The Commission will compile data from the Numbering Resource Utilization Forecast (NRUF) report that is based on ''assigned'' telephone number (subscriber) counts that have been adjusted for porting to net Type 0 ports (''in'' and ''out'').[151] This information of telephone numbers (subscriber count) will be posted on the Commission's electronic filing and payment system (Fee Filer) along with the carrier's Operating Company Numbers (OCNs).

47. A carrier wishing to revise its telephone number (subscriber) count can do so by accessing Fee Filer and follow the prompts to revise their telephone number counts. Any revisions to the telephone number counts should be accompanied by an explanation or supporting documentation.[152] The Commission will then review the revised count and supporting documentation and either approve or disapprove the submission in Fee Filer. If the submission is disapproved, the Commission will contact the provider to afford the provider an opportunity to discuss its revised subscriber count and/or provide additional supporting documentation. If we receive no response from the provider, or we do not reverse our initial disapproval of the provider's revised count submission, the fee payment must be based on the number of subscribers listed initially in Fee Filer. Once the timeframe for revision has passed, the telephone number counts are final and are the basis upon which CMRS regulatory fees are to be paid. Providers can view their final telephone counts online in Fee Filer. A final CMRS assessment letter will not be mailed out.

48. Because some carriers do not file the NRUF report, they may not see their telephone number counts in Fee Filer. In these instances, the carriers should compute their fee payment using the standard methodology that is currently in place for CMRS Wireless services (*i.e.,* compute their telephone number counts as of December 31, 2015), and submit their fee payment accordingly. Whether a carrier reviews its telephone number counts in Fee Filer or not, the Commission reserves the right to audit the number of telephone numbers for which regulatory fees are paid. In the event that the Commission determines that the number of telephone numbers that are paid is inaccurate, the Commission will bill the carrier for the difference between what was paid and what should have been paid.

### *C. Enforcement*

49. To be considered timely, regulatory fee payments must be made electronically by the payment due date for regulatory fees. Section 9(c) of the Act requires us to impose a late payment penalty of 25 percent of the unpaid amount to be assessed on the first day following the deadline for filing these fees.[153] Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in section 1.1910 of the Commission's rules,[154] which generally requires the Commission to withhold action on ''applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission'' and in the DCIA.[155] We

[148] Cable television system operators 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 may base their count on ''a typical day in the last full week'' of December 2015, rather than on a count as of December 31, 2015.

[149] We encourage terrestrial and satellite service providers to seek guidance from the International Bureau's Policy Division to verify their IBC reporting processes to ensure that their calculation methods comply with our rules.

[150] We remind facilities-based common carriers to review their reporting processes to ensure that they accurately calculate and report IBCs.

[151] *See FY 2005 Report and Order,* 20 FCC Rcd at 12264, paragraphs 38–44.

[152] In the supporting documentation, the provider will need to state a reason for the change, such as a purchase or sale of a subsidiary, the date of the transaction, and any other pertinent information that will help to justify a reason for the change.

[153] 47 U.S.C. 159(c).

[154] *See* 47 CFR 1.1910.

[155] Delinquent debt owed to the Commission triggers the ''red light rule,'' which places a hold on the processing of pending applications, fee offsets, and pending disbursement payments. 47 CFR 1.1910, 1.1911, 1.1912. In 2004, the Commission adopted rules implementing the requirements of the DCIA. *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 CFR part

Continued

also assess administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the debt pursuant to the DCIA and section 1.1940(d) of the Commission's rules.[156] These administrative processing charges will be assessed on any delinquent regulatory fee, in addition to the 25 percent late charge penalty. In the case of partial payments (underpayments) of regulatory fees, the payor will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or not timely paid, then the 25 percent late charge penalty (and other charges and/or sanctions, as appropriate) will be assessed on the portion that is not paid in a timely manner.

50. Pursuant to the ''red light rule,'' we will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made.[157] Failure to pay regulatory fees can also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).[158] Pursuant to a pilot program, we have initiated procedures to transfer debt to the Centralized Receivables Service at the U.S. Treasury, as described below.

*D. Transfers of Unpaid Debt to Centralized Receivables Service (CRS), U.S. Treasury*

51. Under section 9 of the Act, Commission rules, and federal debt collection laws, a licensee's regulatory fee is due on the first day of the fiscal year and payable at a date established in the Commission's annual regulatory fee Report and Order. In October 2015, the Commission, under revised procedures, began transferring unpaid regulatory fee receivables directly to the CRS at the U.S. Treasury rather than trying to collect the debt itself and then transferring the remaining unpaid debts to Treasury. Under revised procedures, the Commission can transfer delinquent debt to Treasury for further collection action within 120 days after the date of delinquency.[159] However, regulatees will not likely see any substantial change in the current procedures of how past due debts are to be paid, except that the debts will be handled by CRS (U.S. Treasury) rather than by the Commission.

*E. Effective Date*

52. Providing a 30 day period after **Federal Register** publication before this Report and Order becomes effective as required by 5 U.S.C. 553(d) will not allow sufficient time to collect the FY 2016 fees before FY 2016 ends on September 30, 2016. For this reason, pursuant to 5 U.S.C. 553(d)(3), we find there is good cause to waive the requirements of section 553(d), and this *Report and Order* will become effective upon publication in the **Federal Register**. Because payments of the regulatory fees will not actually be due until late September, persons affected by this *Report and Order* will still have a reasonable period in which to make their payments and thereby comply with the rules established herein.

**VI. Additional Tables**

TABLE 2—LIST OF COMMENTERS—INITIAL COMMENTS

| Commenter | Abbreviation |
|---|---|
| American Cable Association | ACA. |
| Arso Radio Corporation | Arso. |
| AT&T Services, Inc. | AT&T. |
| Robert Bittner, Bob Bittner Broadcasting Co. | Bittner Broadcasting. |
| CTIA | CTIA. |
| CenturyLink, Inc. | CenturyLink. |
| Damon Collins, Blackbelt Broadcasting, Inc. | Blackbelt Broadcasting. |
| DISH Network, L.L.C. | DISH. |
| EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC | EchoStar. |
| Kevin M. Fitzgerald | Fitzgerald. |
| Frontier Communications Corporation | Frontier. |
| Patricia Lane, Marquee Broadcasting | Marquee Broadcasting. |
| Level 3 Communications, LLC | Level 3. |
| NTCA—The Rural Broadband Association | NTCA. |
| Puerto Rico Broadcasters Association | PRBA. |
| Somos, Inc. | Somos. |
| Submarine Cable Coalition | Submarine Cable Coalition. |
| **List of Commenters—Reply Comments** | |
| American Cable Association | ACA. |
| Adrian Brigham | Brigham. |
| CTIA | CTIA. |
| DISH Network, L.L.C. | DISH. |
| Shawn Faxon | Faxon. |
| Robert L. Vinikoor, Koor Communications, Inc. | Koor Communications. |
| National Cable & Telecommunications Association | NCTA. |
| NTCA—The Rural Broadband Association | NTCA. |
| Phillip G. Drumheller, President, P & M Radio, LLC. | P & M Radio. |
| PMCM TV, LLC | PMCM TV. |

1, subpart O, Collection of Claims Owed the United States.

[156] 47 CFR 1.1940(d).

[157] *See* 47 CFR 1.1161(c), 1.1164(f)(5), and 1.1910.

[158] 47 U.S.C. 159.

[159] *See* 31 U.S.C. 3711(g); 31 CFR 285.12; 47 CFR 1.1917.

TABLE 3—CALCULATION OF FY 2016 REVENUE REQUIREMENTS AND PRO-RATA FEES

[Regulatory fees for the first seven fee categories below 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 2016 payment units | Years | FY 2015 revenue estimate | Pro-rated FY 2016 revenue requirement | Computed FY 2016 reg. fee | Rounded FY 2016 reg. fee | Expected FY 2016 revenue |
|---|---|---|---|---|---|---|---|
| PLMRS (Exclusive Use) | 2,500 | 10 | 546,000 | 625,000 | 25 | 25 | 625,000 |
| PLMRS (Shared use) (includes Rural Radio Service (47 CFR part 22) | 31,100 | 10 | 3,100,000 | 3,110,000 | 10 | 10 | 3,110,000 |
| Microwave | 12,500 | 10 | 2,520,000 | 3,125,000 | 25 | 25 | 3,125,000 |
| Marine (Ship) | 6,900 | 10 | 945,000 | 1,035,000 | 15 | 15 | 1,035,000 |
| Aviation (Aircraft) | 4,700 | 10 | 420,000 | 470,000 | 10 | 10 | 470,000 |
| Marine (Coast) | 480 | 10 | 171,500 | 192,000 | 40 | 40 | 192,000 |
| Aviation (Ground) | 1,100 | 10 | 180,000 | 220,000 | 20 | 20 | 220,000 |
| AM Class A [4] | 66 | 1 | 281,125 | 313,996 | 4,758 | 4,750 | 313,500 |
| AM Class B [4] | 1,535 | 1 | 3,499,125 | 3,888,014 | 2,533 | 2,525 | 3,875,875 |
| AM Class C [4] | 889 | 1 | 1,244,600 | 1,407,418 | 1,583 | 1,575 | 1,400,175 |
| AM Class D [4] | 1,492 | 1 | 4,103,000 | 4,601,097 | 3,084 | 3,075 | 4,587,900 |
| FM Classes A, B1 & C3 [4] | 3,122 | 1 | 8,613,000 | 9,649,637 | 3,091 | 3,100 | 9,678,200 |
| FM Classes B, C, C0, C1 & C2 [4] | 3,139 | 1 | 10,607,625 | 11,820,313 | 3,766 | 3,775 | 11,849,725 |
| AM Construction Permits [1] | 15 | 1 | 17,110 | 9,300 | 620 | 620 | 9,300 |
| FM Construction Permits [1] | 179 | 1 | 136,500 | 192,425 | 1,075 | 1,075 | 192,425 |
| Satellite TV | 128 | 1 | 200,025 | 224,000 | 1,750 | 1,750 | 224,000 |
| Digital TV Markets 1–10 | 139 | 1 | 6,274,550 | 8,433,889 | 60,675 | 60,675 | 8,433,825 |
| Digital TV Markets 11–25 | 139 | 1 | 5,918,400 | 6,348,889 | 45,675 | 45,675 | 6,348,825 |
| Digital TV Markets 26–50 | 181 | 1 | 5,000,125 | 5,523,889 | 30,519 | 30,525 | 5,525,025 |
| Digital TV Markets 51–100 | 283 | 1 | 4,605,825 | 4,304,746 | 15,211 | 15,200 | 4,301,600 |
| Digital TV Remaining Markets | 365 | 1 | 1,838,150 | 1,825,000 | 5,000 | 5,000 | 1,825,000 |
| Digital TV Construction Permits [1] | 3 | 1 | 9,700 | 15,000 | 5,000 | 5,000 | 15,000 |
| LPTV/Translators/Boosters/Class A TV | 3,924 | 1 | 1,601,600 | 1,785,420 | 455 | 455 | 1,785,420 |
| CARS Stations | 285 | 1 | 198,000 | 220,875 | 775 | 775 | 220,875 |
| Cable TV Systems, including IPTV | 64,200,000 | 1 | 61,920,000 | 64,200,000 | 1.000 | 1.00 | 64,200,000 |
| Direct Broadcast Satellite (DBS) | 34,000,000 | 1 | 4,080,000 | 9,180,000 | .2700 | .27 | 9,180,000 |
| Interstate Telecommunication Service Providers | 38,200,000,000 | 1 | 128,428,000 | 141,722,000 | 0.003710 | 0.00371 | 142,722,000 |
| Toll Free Numbers | 36,500,000 | 1 | 4,380,000 | 4,745,000 | 0.1300 | 0.13 | 4,745,000 |
| CMRS Mobile Services (Cellular/Public Mobile) | 366,000,000 | 1 | 60,180,000 | 73,200,000 | 0.1954 | 0.20 | 73,200,000 |
| CMRS Messag. Services | 2,300,000 | 1 | 208,000 | 184,000 | 0.0800 | 0.080 | 184,000 |
| BRS [2] | 890 | 1 | 565,150 | 645,250 | 725 | 725 | 645,250 |
| LMDS | 395 | 1 | 238,125 | 286,375 | 725 | 725 | 286,375 |
| Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common) | 31,900,000 | 1 | 657,000 | 776,617 | .0243 | .02 | 638,000 |
| Submarine Cable Providers (see chart in Appendix B) [3] | 41.19 | 1 | 4,652,576 | 5,486,427 | 133,205 | 133,200 | 5,486,242 |
| Earth Stations | 3,400 | 1 | 1,023,000 | 1,173,000 | 345 | 345 | 1,173,000 |
| Space Stations (Geostationary) | 95 | 1 | 11,438,400 | 13,155,125 | 138,475 | 138,475 | 13,155,125 |
| Space Stations (Non-Geostationary) | 6 | 1 | 792,750 | 911,700 | 151,950 | 151,950 | 911,700 |
| ****** Total Estimated Revenue to be Collected | | | 340,593,961 | 385,006,402 | | | 384,890,362 |
| ****** Total Revenue Requirement | | | 339,844,000 | 384,012,497 | | | 384,012,497 |
| Difference | | | 749,961 | 993,905 | | | 877,865 |

**Notes on Table 3**

[1] The AM and FM Construction Permit revenues were adjusted, respectively, to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service.

[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, paragraph 6 (2004).

[3] The chart at the end of Table 4 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008) and *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 2016 Regulatory Fee" constitute a weighted average media regulatory fee by class of service. The actual FY 2016 regulatory fees for AM/FM radio stations are listed on a grid located at the end of Table 4.

TABLE 4—FY 2016 SCHEDULE OF REGULATORY FEES

[Regulatory fees for the first eight fee categories below 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) | 25 |
| Microwave (per license) (47 CFR part 101) | 25 |
| Marine (Ship) (per station) (47 CFR part 80) | 15 |
| Marine (Coast) (per license) (47 CFR part 80) | 40 |
| 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) | 20 |
| CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) | .20 |
| 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) | 725 |
| Local Multipoint Distribution Service (per call sign) (47 CFR, part 101) | 725 |
| AM Radio Construction Permits | 620 |
| FM Radio Construction Permits | 1,075 |
| Digital TV (47 CFR part 73) VHF and UHF Commercial | |
| Markets 1–10 | 60,675 |
| Markets 11–25 | 45,675 |
| Markets 26–50 | 30,525 |
| Markets 51–100 | 15,200 |
| Remaining Markets | 5,000 |
| Construction Permits | 5,000 |
| Satellite Television Stations (All Markets) | 1,750 |
| Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74) | 455 |
| CARS (47 CFR part 78) | 775 |
| Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV | 1.00 |
| Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act) | .27 |
| Interstate Telecommunication Service Providers (per revenue dollar) | .00371 |
| Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules) | .13 |
| Earth Stations (47 CFR part 25) | 345 |
| Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100) | 138,475 |
| Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) | 151,950 |
| International Bearer Circuits–Terrestrial/Satellites (per 64KB circuit) | .02 |
| Submarine Cable Landing Licenses Fee (per cable system) | See Table Below |

FY 2016 SCHEDULE OF REGULATORY FEES:

[Table 4 continued]

FY 2016 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 | $990 | $715 | $620 | $685 | $1,075 | $1,250 |
| 25,001–75,000 | 1,475 | 1,075 | 925 | 1,025 | 1,625 | 1,850 |
| 75,001–150,000 | 2,200 | 1,600 | 1,375 | 1,525 | 2,400 | 2,750 |
| 150,001–500,000 | 3,300 | 2,375 | 2,075 | 2,275 | 3,600 | 4,125 |
| 500,001–1,200,000 | 5,500 | 3,975 | 3,450 | 3,800 | 6,000 | 6,875 |
| 1,200,001–3,000,00 | 8,250 | 5,950 | 5,175 | 5,700 | 9,000 | 10,300 |
| 3,000,001–6,000,00 | 11,000 | 7,950 | 6,900 | 7,600 | 12,000 | 13,750 |
| >6,000,000 | 13,750 | 9,950 | 8,625 | 9,500 | 15,000 | 17,175 |

FY 2016 SCHEDULE OF REGULATORY FEES

[International Bearer Circuits—Submarine Cable (Table 4 continued)]

| Submarine cable systems (capacity as of December 31, 2015) | Fee amount |
| --- | --- |
| < 2.5 Gbps | $8,325 |
| 2.5 Gbps or greater, but less than 5 Gbps | 16,650 |

FY 2016 SCHEDULE OF REGULATORY FEES—Continued

[International Bearer Circuits—Submarine Cable (Table 4 continued)]

| Submarine cable systems (capacity as of December 31, 2015) | Fee amount |
| --- | --- |
| 5 Gbps or greater, but less than 10 Gbps | 33,300 |

FY 2016 SCHEDULE OF REGULATORY FEES—Continued

[International Bearer Circuits—Submarine Cable (Table 4 continued)]

| Submarine cable systems (capacity as of December 31, 2015) | Fee amount |
| --- | --- |
| 10 Gbps or greater, but less than 20 Gbps | 66,600 |
| 20 Gbps or greater | 133,200 |

**Table 5—Sources of Payment Unit Estimates for FY 2016**

In order to calculate individual service fees for FY 2016, we adjusted FY 2015 payment units for each service to more accurately reflect expected FY 2016 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 2016 estimates with actual FY 2015 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 2016 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 2016 payment units are based on FY 2015 actual payment units, it does not necessarily mean that our FY 2016 projection is exactly the same number as in FY 2015. We have either rounded the FY 2016 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 2015 payment data. |
| CMRS Messaging Services | Based on WTB reports, and FY 2015 payment data. |
| AM/FM Radio Stations | Based on CDBS data, adjusted for exemptions, and actual FY 2015 payment units. |
| Digital TV Stations (Combined VHF/UHF units) | Based on CDBS data, adjusted for exemptions, and actual FY 2015 payment units. |
| AM/FM/TV Construction Permits | Based on CDBS data, adjusted for exemptions, and actual FY 2015 payment units. |
| LPTV, Translators and Boosters, Class A Television. | Based on CDBS data, adjusted for exemptions, and actual FY 2015 payment units. |
| BRS (formerly MDS/MMDS) | Based on WTB reports and actual FY 2015 payment units. |
| LMDS | Based on WTB reports and actual FY 2015 payment units. |
| Cable Television Relay Service (CARS) Stations. | Based on data from Media Bureau's COALS database and actual FY 2015 payment units. |
| Cable Television System Subscribers, Including IPTV Subscribers. | Based on publicly available data sources for estimated subscriber counts and actual FY 2015 payment units. |
| Interstate Telecommunication Service Providers | Based on FCC Form 499–Q data for the four quarters of calendar year 2015, the Wireline Competition Bureau projected the amount of calendar year 2015 revenue that will be reported on 2016 FCC Form 499–A worksheets in April, 2016. |
| Earth Stations | Based on International Bureau (IB) licensing data and actual FY 2015 payment units. |
| Space Stations (GSOs & NGSOs) | Based on IB data reports and actual FY 2015 payment units. |
| International Bearer Circuits | Based on IB reports and submissions by licensees, adjusted as necessary. |
| Submarine Cable Licenses | Based on IB license information. |

**Table 6—Factors, Measurements, and Calculations That Determines Station Signal Contours and Associated Population Coverages**

AM Stations

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (RMS) figure (milliVolt per meter (mV/m) @ 1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in sections 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

The greater of the horizontal or vertical effective radiated power (ERP) (kW) and respective height above average terrain (HAAT) (m) combination was used. Where the antenna height above mean sea level (HAMSL) was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50–50) propagation curves specified in 47 CFR 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

TABLE 7—FY 2015 SCHEDULE OF REGULATORY FEES

[Regulatory fees for the first eight fee categories below 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) | 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) | 20 |
| 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) | 635 |
| Local Multipoint Distribution Service (per call sign) (47 CFR, part 101) | 635 |
| AM Radio Construction Permits | 590 |
| FM Radio Construction Permits | 750 |
| Digital TV (47 CFR part 73) VHF and UHF Commercial: | |
| Markets 1–10 | 46,825 |
| Markets 11–25 | 43,200 |
| Markets 26–50 | 27,625 |
| Markets 51–100 | 16,275 |
| Remaining Markets | 4,850 |
| Construction Permits | 4,850 |
| Satellite Television Stations (All Markets) | 1,575 |
| Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74) | 440 |
| CARS (47 CFR part 78) | 660 |
| Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV | .96 |
| Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act) | .12 |
| Interstate Telecommunication Service Providers (per revenue dollar) | .00331 |
| Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules) | .12 |
| Earth Stations (47 CFR part 25) | 310 |
| Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100) | 119,150 |
| Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) | 132,125 |
| International Bearer Circuits—Terrestrial/Satellites (per 64KB circuit) | .03 |
| Submarine Cable Landing Licenses Fee (per cable system) | See Table Below |

FY 2015 SCHEDULE OF REGULATORY FEES

[Table 7 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 (Table 7 continued)]

| Submarine cable systems (capacity as of December 31, 2014) | Fee amount |
|---|---|
| < 2.5 Gbps | $7,175 |
| 2.5 Gbps or greater, but less than 5 Gbps | 14,350 |
| 5 Gbps or greater, but less than 10 Gbps | 28,675 |
| 10 Gbps or greater, but less than 20 Gbps | 57,350 |

FY 2015 SCHEDULE OF REGULATORY FEES—Continued

[International bearer circuits—submarine cable (Table 7 continued)]

| Submarine cable systems (capacity as of December 31, 2014) | Fee amount |
|---|---|
| 20 Gbps or greater | 114,700 |

## VII. 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 *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 conclude the Assessment and Collection of Regulatory Fees for Fiscal Year (FY) 2016 proceeding to collect $384,012,497.00 in regulatory fees for FY 2016, pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act).[4] These regulatory fees will be due on September 27, 2016. Under section 9 of the Communications Act, regulatory fees are mandated by Congress and collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities in an amount that can be reasonably expected to equal the amount of the Commission's annual appropriation.[5]

3. This *FY 2016 Report and Order* adopts a regulatory fee schedule that includes the following noteworthy changes from prior years: (1) An increase in regulatory fees across all fee categories to offset the Commission's facilities reduction costs; (2) an updated regulatory fee for Direct Broadcast Satellite (DBS) providers, a subcategory in the cable television and Internet Protocol Television (IPTV) category; and (3) adjustments to the regulatory fees on radio and television broadcasters, based on type and class of service and on the population served.

### *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.[6] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[7] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[8] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[9] Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.[10]

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.''[11] 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.[12] Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[13] 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.[14] According to Commission data, census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[15] 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

[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), Public Law 104–121, Title II, 110 Stat. 847 (1996).

[2] *Assessment and Collection of Regulatory Fees for Fiscal Year 2016,* Notice of Proposed Rulemaking, MD Docket No. 16–166, 81 FR 35680 (2016) (*FY 2016 NPRM).*

[3] 5 U.S.C. 604.

[4] 47 U.S.C. 159.

[5] 47 U.S.C. 159(a).

[6] 5 U.S.C. 603(b)(3).

[7] 5 U.S.C. 601(6).

[8] 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**.''

[9] 15 U.S.C. 632.

[10] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf.*

[11] *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[12] *See* 13 CFR 120.201, NAICS Code 517110.

[13] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[14] 13 CFR 121.201, NAICS code 517110.

[15] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[16] According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees.[17] 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) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.[18] Of this total, an estimated 1,006 have 1,500 or fewer employees.[19]

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.[20] U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[21] 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.[22] Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees.[23] 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.[24] Also, 72 carriers have reported that they are Other Local Service Providers.[25] Of this total, 70 have 1,500 or fewer employees.[26] 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.

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.[27] U.S. Census data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[28] According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[29] Of this total, an estimated 317 have 1,500 or fewer employees.[30] Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules adopted.

11. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business definition specifically for prepaid calling card providers. The most appropriate NAICS code-based category for defining 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. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are included in this industry.[31] Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[32] U.S. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[33] 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.[34] All 193 carriers have 1,500 or fewer employees.[35] 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.* Neither the Commission nor the SBA has developed a small business size standard specifically for 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.[36] Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[37] 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.[38] Of this total, an estimated 211 have 1,500 or fewer employees.[39] 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.[40] Under that size standard, such a business is small if it has 1,500

[16] 13 CFR 121.201, NAICS code 517110.

[17] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

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

[19] *Id.*

[20] 13 CFR 121.201, NAICS code 517110.

[21] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

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

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] 13 CFR 121.201, NAICS code 517110.

[28] Includes AM radio, FM radio, television (including low power and Class A), TV/FM translators and boosters, cable and IPTV, DBS, and Cable Television Relay Service (CARS) licenses.

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

[30] *Id.*

[31] *http://www.census.gov/cgi-bin/ssd/naics/naicsrch.*

[32] 13 CFR 121.201, NAICS code 517911.

[33] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

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

[35] *Id.*

[36] 13 CFR 121.201, NAICS code 517911.

[37] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

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

[39] *Id.*

[40] 13 CFR 121.201, NAICS code 517911.

or fewer employees.[41] Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[42] 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.[43] Of this total, an estimated 857 have 1,500 or fewer employees.[44] Consequently, the Commission estimates that the majority of toll resellers are small entities.

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.[45] Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[46] 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.[47] Of these, an estimated 279 have 1,500 or fewer employees.[48] Consequently, the Commission estimates that most Other Toll Carriers are small entities.

15. W*ireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services.[49] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.[50] Of this total, an estimated 261 have 1,500 or fewer employees.[51] Thus, using available data, we estimate that the majority of wireless firms can be considered small.

16. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.'' [52] These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for Television Broadcasting firms: Those having $38.5 million or less in annual receipts.[53] The 2012 Economic Census reports that 751 television broadcasting firms operated during that year. Of that number, 656 had annual receipts of less than $25 million per year. Based on that Census data we conclude that a majority of firms that operate television stations are small. The Commission has estimated the number of licensed commercial television stations to be 1,387.[54] In addition, according to Commission staff review of the BIA Advisory Services, LLC's *Media Access Pro Television Database,* on March 28, 2012, about 950 of an estimated 1,300 commercial television stations (or approximately 73 percent) had revenues of $14 million or less.[55] We therefore estimate that the majority of commercial television broadcasters are small entities.

17. In assessing whether a business concern qualifies as small under the above definition, business (control) affiliations [56] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

18. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 396.[57] These stations are non-profit, and therefore considered to be small entities.[58] There are also 2,528 low power television stations, including Class A stations (LPTV).[59] Given the nature of these services, we will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

19. *Radio Stations.* This Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated

[41] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[42] *Id.*

[43] *Trends in Telephone Service,* at Table 5.3.

[44] *Id.*

[45] 13 CFR 121.201, NAICS code 517110.

[46] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[47] *Trends in Telephone Service,* at Table 5.3.

[48] *Id.*

[49] NAICS Code 517210. *See http://www.census.gov/cgi-bin/ssd/naics/naicsrch.*

[50] *Trends in Telephone Service,* at Table 5.3.

[51] *Id.*

[52] U.S. Census Bureau, 2012 NAICS Code Economic Census Definitions, *http://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[53] 13 CFR 121.201, NAICS code 515120.

[54] *See FCC News Release,* ''Broadcast Station Totals as of December 31, 2011,'' dated January 6, 2012; *http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0106/DOC-311837A1.pdf.*

[55] We recognize that BIA's estimate differs slightly from the FCC total given *supra.*

[56] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.'' 13 CFR 21.103(a)(1).

[57] *See FCC News Release,* ''Broadcast Station Totals as of December 31, 2011,'' dated January 6, 2012; *http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0106/DOC-311837A1.pdf.*

[58] *See generally* 5 U.S.C. 601(4), (6).

[59] *See FCC News Release,* ''Broadcast Station Totals as of December 31, 2011,'' dated January 6, 2012; *http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0106/DOC-311837A1.pdf.*

network, or from external sources.'' [60] The SBA has established a small business size standard for this category, which is: Such firms having $38.5 million or less in annual receipts.[61] Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year.[62] According to Commission staff review of BIA Advisory Services, LLC's *Media Access Pro Radio Database,* on March 28, 2012, about 10,759 (97 percent) of 11,102 commercial radio stations had revenues of $38.5 million or less. Therefore, the majority of such entities are small entities.

20. In assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included.[63] In addition, to be determined to be a ''small business,'' the entity may not be dominant in its field of operation.[64] We note that it is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

21.*Cable Television and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.[65] The SBA has established a size standard for this industry of $38.5 million or less. Census data for 2012 shows that there were 367 firms that operated that year. Of this total, 319 operated with annual receipts of less than $25 million.[66] 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.

22. *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.[67] Industry data indicate that there are currently 4,600 active cable systems in the United States.[68] Of this total, all but ten cable operators nationwide are small under the 400,000-subscriber size standard.[69] In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[70] Current Commission records show 4,600 cable systems nationwide.[71] Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records.[72] Thus, under this standard as well, we estimate that most cable systems are small entities.

23. *Cable System Operators (Telecom Act Standard).* The Communications Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [73] There are approximately 52,403,705 cable video subscribers in the United States today.[74] Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[75] Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.[76] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[77] Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

24. *Direct Broadcast Satellite (DBS) Service.* 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 is now included in SBA's economic census category ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers 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 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.[78] The SBA determines that a wireline business is small if it has fewer than 1,500 employees.[79] Census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[80] Based on that data, we conclude that the majority of

[60] *https://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[61] 13 CFR 121.201, NAICS code 515112.

[62] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[63] ''Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists.'' 13 CFR 121.103(a)(1) (an SBA regulation).

[64] 13 CFR 121.102(b) (an SBA regulation).

[65] *https://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[66] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US-51SSSZ5&prodType=Table.*

[67] 47 CFR 76.901(e).

[68] August 15, 2015 Report from the Media Bureau based on data contained in the Commission's Cable Operations and Licensing System (COALS). *See www/fcc.gov/coals.*

[69] *See* SNL KAGAN at *www.snl.com/interactiveX/top cableMSOs aspx?period2015Q1&sortcol=subscribersbasic&sortorder=desc.*

[70] 47 CFR 76.901(c).

[71] *See* footnote 2, *supra.*

[72] August 5, 2015 report from the Media Bureau based on its research in COALS. *See www.fcc.gov/coals.*

[73] 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

[74] *See* SNL KAGAN at *www.snl.com/interactivex/MultichannelIndustryBenchmarks.aspx.*

[75] 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

[76] *See* SNL KAGAN at *www.snl.com/interactivex/TopCable MSOs.aspx.*

[77] The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.901(f) of the Commission's rules. *See* 47 CFR 76.901(f).

[78] *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[79] NAICs CODE 517110; 13 CFR 121.201.

[80] *http://factfinder.census.gov/faces/tableservices.jasf/pages/productview.xhtml?pid+ECN_2012_US.51SSSZ4&prodType=table.*

wireline firms are small under the applicable standard. However, currently only two entities provide DBS service, which requires a great deal of capital for operation: AT&T and DISH Network.[81] AT&T and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we must conclude that internally developed FCC data are persuasive that in general DBS service is provided only by large firms.

25. *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.[82] 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.[83] For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million.[84] Thus, a majority of ''All Other Telecommunications'' firms potentially affected by the rules adopted can be considered small.

26. *RespOrgs.* RespOrgs, *i.e.,* Responsible Organizations, are entities chosen by toll free subscribers to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber.[85] Although RespOrgs are often wireline carriers, they can also include non-carrier entities. Therefore, in the definition herein of RespOrgs, two categories are presented, *i.e.,* Carrier RespOrgs and Non-Carrier RespOrgs.

27. *Carrier RespOrgs.* Neither the Commission, the U.S. Census, nor the SBA have developed a definition for Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS Code-based definitional categories for Carrier RespOrgs are Wired Telecommunications Carriers,[86] and Wireless Telecommunications Carriers (except satellite).[87]

28. The U.S. Census Bureau defines Wired Telecommunications Carriers 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.[88] 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.[89] Census data for 2012 show that there were 3,117 Wired Telecommunications Carrier firms that operated for that entire year. Of that number, 3,083 operated with less than 1,000 employees.[90] Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireline-based technology are small.

29. The U.S. Census Bureau defines Wireless Telecommunications Carriers (except satellite) as 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.[91] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[92] Census data for 2012 show that 967 Wireless Telecommunications Carriers operated in that year. Of that number, 955 operated with less than 1,000 employees.[93] Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireless-based technology are small.

30. *Non-Carrier RespOrgs.* Neither the Commission, the Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS Code-based definitional categories for Non-Carrier RespOrgs are ''Other Services Related To Advertising'' [94] and ''Other Management Consulting Services.'' [95]

31. The U.S. Census defines Other Services Related to Advertising as comprising establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services? [96] The SBA has established a size standard for this industry as annual receipts of $15 million dollars or less.[97] Census data for 2012 show that 5,804 firms operated in this industry for the entire year. Of that number, 5,249 operated with annual receipts of less than $10 million.[98] Based on that data we conclude that the majority of Non-Carrier RespOrgs who provide TFN-related advertising services are small.

32. The U.S. Census defines Other Management Consulting Services as establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting). Establishments providing telecommunications or utilities management consulting services are included in this industry.[99] The SBA has established a size standard for this industry of $15 million dollars or

[81] *See 15th Annual Video Competition Report,* 28 FCC Rcd at 1057, Section 27.

[82] *http://www.census.gov/cgi-bin/ssssd/naics/naicsrch.*

[83] 13 CFR 121.201; NAICS Code 517919.

[84] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[85] *See* 47 CFR 52.101(b).

[86] 13 CFR 121.201, NAICS Code 517110.

[87] 13 CFR 121.201, NAICS Code 517210.

[88] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[89] 13 CFR 120,201, NAICS Code 517110.

[90] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[91] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[92] 13 CFR 120.201, NAICS Code 517120.

[93] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[94] 13 CFR 120.201, NAICS Code 541890.

[95] 13 CFR 120.201, NAICS Code 541618.

[96] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[97] 13 CFR 120.201, NAICS Code 541890.

[98] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[99] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

less.[100] Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than $10 million in annual receipts.[101] Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.[102]

33. In addition to the data contained in the four (see above) U.S. Census NAICS Code categories that provide definitions of what services and functions the Carrier and Non-Carrier RespOrgs provide, Somos, the trade association that monitors RespOrg activities, compiled data showing that as of July 1, 2016 there were 23 RespOrgs operational in Canada and 436 RespOrgs operational in the United States, for a total of 459 RespOrgs currently registered with Somos.[103]

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

34. This *Report and Order* does not adopt any new reporting, recordkeeping, or other compliance requirements.

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

35. 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.[104]

36. 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.

37. 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. For example, beginning last year, in FY 2015, the Commission increased the *de minimis* threshold from under $10 to $500 (the total of all annual regulatory fees), which will impact many small entities that pay regulatory fees for ITSP, paging, cellular, cable, and Low Power Television/FM Translators. Historically, many of these small entities have been late in making their fee payments to the Commission by the due date. This increase in the *de minimis* threshold to $500 will relieve regulatees both financially and administratively. This *Report and Order* also adopts regulatory fees for the smaller market AM and FM stations at a lower amount than had been proposed. Finally, regulatees may also seek waivers or other relief on the basis of financial hardship. *See* 47 CFR 1.1166.

*F. Federal Rules That May Duplicate, Overlap, or Conflict*

38. None.

**VIII. Ordering Clauses**

39. 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* IS HEREBY ADOPTED.

40. IT IS FURTHER ORDERED that this *Report and Order* SHALL BE EFFECTIVE September 26, 2016.

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

**List of Subjects in 47 CFR Part 1**

Administrative practice and procedure, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Marlene H. Dortch.**

*Secretary.*

**Rule Changes**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR, part 1 as follows:

## PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. 151, 154(i), 155, 157, 225, 303(r), 309, 1403, 1404, 1451, and 1452.

■ 2. Section 1.1152 is revised to read as follows:

**§ 1.1152 Schedule of annual regulatory fees for wireless radio services.**

| Exclusive use services (per license) | Fee amount [1] |
|---|---|
| 1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR part 90) | |
| (a) New, Renew/Mod (FCC 601 & 159) | $25.00 |
| (b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) | 25.00 |
| (c) Renewal Only (FCC 601 & 159) | 25.00 |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159) | 25.00 |
| 220 MHz Nationwide: | |
| (a) New, Renew/Mod (FCC 601 & 159) | 25.00 |
| (b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) | 25.00 |
| (c) Renewal Only (FCC 601 & 159) | 25.00 |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159) | 25.00 |
| 2. Microwave (47 CFR Pt. 101) (Private) | |
| (a) New, Renew/Mod (FCC 601 & 159) | 25.00 |
| (b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) | 25.00 |
| (c) Renewal Only (FCC 601 & 159) | 25.00 |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159) | 25.00 |
| 3. Shared Use Services Land Mobile (Frequencies Below 470 MHz—except 220 MHz) | |

[100] 13 CFR 120.201, NAICS CODE 514618.

[101] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[102] The four NAICS Code-based categories selected above to provide definitions for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs. Therefore, all RespOrgs, including those not identified specifically or individually, must comply with the rules adopted in the Regulatory Fees Report and Order associated with this Final Regulatory Flexibility Analysis.

[103] Email from Jennifer Blanchard of Somos dated July 1, 2016.

[104] 5 U.S.C. 603(c)(1) through (c)(4).

| Exclusive use services (per license) | Fee amount[1] |
|---|---|
| (a) New, Renew/Mod (FCC 601 & 159) | 10.00 |
| (b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) | 10.00 |
| (c) Renewal Only (FCC 601 & 159) | 10.00 |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159) | 10.00 |
| Rural Radio (Part 22): | |
| (a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159) | 10.00 |
| (b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159) Marine Coast | 10.00 |
| (a) New Renewal/Mod (FCC 601 & 159) | 40.00 |
| (b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159) | 40.00 |
| (c) Renewal Only (FCC 601 & 159) | 40.00 |
| (d) Renewal Only (Electronic Filing) (FCC 601 & 159) | 40.00 |
| Aviation Ground: | |
| (a) New, Renewal/Mod (FCC 601 & 159) | 20.00 |
| (b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159) | 20.00 |
| (c) Renewal Only (FCC 601 & 159) | 20.00 |
| (d) Renewal Only (Electronic Only) (FCC 601 & 159) | 20.00 |
| Marine Ship | |
| (a) New, Renewal/Mod (FCC 605 & 159) | 15.00 |
| (b) New, Renewal/Mod (Electronic Filing) (FCC 605 & 159) | 15.00 |
| (c) Renewal Only (FCC 605 & 159) | 15.00 |
| (d) Renewal Only (Electronic Filing) (FCC 605 & 159) | 15.00 |
| Aviation Aircraft: | |
| (a) New, Renew/Mod (FCC 605 & 159) | 10.00 |
| (b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159) | 10.00 |
| (c) Renewal Only (FCC 605 & 159) | 10.00 |
| (d) Renewal Only (Electronic Filing) (FCC 605 & 159) | 10.00 |
| 4. CMRS Cellular/Mobile Services (per unit) (FCC 159) | [2] .20 |
| 5. CMRS Messaging Services (per unit) (FCC 159) | [3].08 |
| 6. Broadband Radio Service (formerly MMDS and MDS) | 725 |
| 7. Local Multipoint Distribution Service | 725 |

[1] Note that "small fees" are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by the 10-year license term to arrive at the total amount of regulatory fees owed. Also, application fees may apply as detailed in section 1.1102 of this chapter.
[2] These are standard fees that are to be paid in accordance with section 1.1157(b) of this chapter.
[3] These are standard fees that are to be paid in accordance with section 1.1157(b) of this chapter.

■ 3. Section 1.1153 is revised to read as follows:

**§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.**

| Radio [AM and FM] (47 CFR part 73) | Fee amount |
|---|---|
| 1. *AM Class A:* | |
| <=25,000 population | $990 |
| 25,001–75,000 population | 1,475 |
| 75,001–150,000 population | 2,200 |
| 150,001–500,000 population | 3,300 |
| 500,001–1,200,000 population | 5,500 |
| 1,200,001–3,000,000 population | 8,250 |
| 3,000,001–6,000,000 population | 11,000 |
| >6,000,000 population | 13,750 |
| 2. *AM Class B:* | |
| <=25,000 population | 715 |
| 25,001–75,000 population | 1,075 |
| 75,001–150,000 population | 1,600 |
| 150,001–500,000 population | 2,375 |
| 500,001–1,200,000 population | 3,975 |
| 1,200,001–3,000,000 population | 5,950 |
| 3,000,001–6,000,000 population | 7,950 |
| >6,000,000 population | 9,950 |
| 3. *AM Class C:* | |
| <=25,000 population | 620 |
| 25,001–75,000 population | 925 |
| 75,001–150,000 population | 1,375 |
| 150,001–500,000 population | 2,075 |
| 500,001–1,200,000 population | 3,450 |
| 1,200,001–3,000,000 population | 5,175 |
| 3,000,001–6,000,000 population | 6,900 |
| >6,000,000 population | 8,625 |
| 4. *AM Class D:* | |
| <=25,000 population | 685 |
| 25,001–75,000 population | 1,025 |
| 75,001–150,000 population | 1,525 |
| 150,001–500,000 population | 2,275 |
| 500,001–1,200,000 population | 3,800 |
| 1,200,001–3,000,000 population | 5,700 |
| 3,000,001–6,000,000 population | 7,600 |
| >6,000,000 population | 9,500 |
| 5. AM Construction Permit | 620 |
| 6. *FM Classes A, B1 and C3:* | |
| <=25,000 population | 1,075 |
| 25,001–75,000 population | 1,625 |
| 75,001–150,000 population | 2,400 |
| 150,001–500,000 population | 3,600 |
| 500,001–1,200,000 population | 6,000 |
| 1,200,001–3,000,000 population | 9,000 |
| 3,000,001–6,000,000 population | 12,000 |
| >6,000,000 population | 15,000 |
| 7. *FM Classes B, C, C0, C1 and C2:* | |
| <=25,000 population | 1,250 |
| 25,001–75,000 population | 1,850 |
| 75,001–150,000 population | 2,750 |
| 150,001–500,000 population | 4,125 |
| 500,001–1,200,000 population | 6,875 |
| 1,200,001–3,000,000 population | 10,300 |
| 3,000,001–6,000,000 population | 13,750 |
| >6,000,000 population | 17,175 |
| 8. FM Construction Permits | 1,075 |
| **TV (47 CFR, part 73)** | |
| Digital TV (UHF and VHF Commercial Stations): | |
| 1. Markets 1 thru 10 | $60,675 |
| 2. Markets 11 thru 25 | 45,675 |
| 3. Markets 26 thru 50 | 30,525 |

| Radio [AM and FM] (47 CFR part 73) | Fee amount |
|---|---|
| 4. Markets 51 thru 100 | 15,200 |
| 5. Remaining Markets | 5,000 |
| 6. Construction Permits | 5,000 |
| Satellite UHF/VHF Commercial: | |
| 1. All Markets | 1,750 |
| Low Power TV, Class A TV, TV/FM Translator, & TV/FM Booster (47 CFR part 74) | 455 |

■ 4. Section 1.1154 is revised to read as follows:

**§ 1.1154 Schedule of annual regulatory charges for common carrier services.**

| Radio facilities | Fee amount |
|---|---|
| 1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159). | $25.00. |
| Carriers | |
| 1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499–A). | $.00371. |
| 2. Toll Free Number Fee | $.13 per Toll Free Number. |

■ 5. Section 1.1155 is revised to read as follows:

**§ 1.1155 Schedule of regulatory fees for cable television services.**

| | Fee amount |
|---|---|
| 1. Cable Television Relay Service. | $775. |
| 2. Cable TV System, Including IPTV (per subscriber). | $1.00. |
| 3. Direct Broadcast Satellite (DBS). | $.27 per subscriber. |

■ 6. Section 1.1156 is revised to read as follows:

**§ 1.1156 Schedule of regulatory fees for international services.**

(a) The following schedule applies for the listed services:

| Fee category | Fee amount |
|---|---|
| Space Stations (Geostationary Orbit). | $138,475. |
| Space Stations (Non-Geostationary Orbit). | $151,950. |
| Earth Stations: Transmit/Receive & Transmit only (per authorization or registration). | $345. |

(b) *International Terrestrial and Satellite.* (1) 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 of the prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. ''Active circuits'' for these purposes include backup and redundant circuits. In addition, whether circuits are used specifically for voice or data is not relevant in determining that they are active circuits.

(2) The fee amount, per active 64 KB circuit or equivalent will be determined for each fiscal year.

| International terrestrial and satellite (capacity as of December 31, 2015) | Fee amount |
|---|---|
| Terrestrial Common Carrier<br>Satellite Common Carrier.<br>Satellite Non-Common Carrier. | $0.02 per 64 KB Circuit. |

(c) *Submarine cable:* Regulatory fees for submarine cable systems will be paid annually, per cable landing license, for all submarine cable systems operating as of December 31 of the prior year. The fee amount will be determined by the Commission for each fiscal year.

| Submarine cable systems (capacity as of Dec. 31, 2015) | Fee amount |
|---|---|
| <2.5 Gbps | $8,325. |
| 2.5 Gbps or greater, but less than 5 Gbps. | $16,650. |
| 5 Gbps or greater, but less than 10 Gbps. | $33,300. |
| 10 Gbps or greater, but less than 20 Gbps. | $66,600. |
| 20 Gbps or greater | $133,200. |

[FR Doc. 2016–22216 Filed 9–23–16; 8:45 am]

BILLING CODE 6712–01–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 64**

**[CG Docket No. 10–210; FCC 16–101]**

## Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) adopts rules to convert the National Deaf-Blind Equipment Distribution Program (NDBEDP) from a pilot program to a permanent program. The NDBEDP supports the distribution of communications devices to low-income individuals who are deaf-blind.

**DATES:** The addition of 47 CFR 64.6201, 64.6203, and 64.6205 of the Commission's rules are effective July 1, 2017. The addition of 47 CFR part 64, subpart GG, consisting of §§ 64.6207, 64.6209, 64.6211, 64.6213, 64.6215, 64.6217, and 64.6219, contains information collection requirements that are not effective until approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date for those sections.

**FOR FURTHER INFORMATION CONTACT:** Rosaline Crawford, Disability Rights Office, Consumer and Governmental Affairs Bureau, at (202) 418–2075 or email *Rosaline.Crawford@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Report and Order, document FCC 16–101, adopted on August 4, 2016, and released on August 5, 2016, in CG Docket No. 10–210. The full text of document FCC 16–101 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Document FCC 16–101 can also be downloaded in Word or Portable Document Format (PDF) at *http://www.fcc.gov/ndbedp.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov*