



Federal Communications Commission
Washington, D.C. 20554

May 27, 2009

DA 09-1109

Small Entity Compliance Guide

Local Telephone Competition and Broadband Reporting (FCC Form 477)

Report and Order and Order on Reconsideration

FCC 08-89

FCC 08-148

WC Docket No. 07-38

Released June 12, 2008

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—to comply with the new rule/s adopted in the above-referenced FCC rulemaking docket/s. This Guide is not intended to replace the rule/s and, therefore, final authority rests solely with the rule/s. Although we have attempted to cover all parts of the rule/s that might be especially important to small entities, the coverage may not be exhaustive. As a result, in any civil or administrative action against a small entity for a violation of a rule or rules, the content of the Small Entity Compliance Guide may be considered only as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. This Guide may not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

TTY: 1-888-TELL-FCC (1-888-835-5322)

Fax: 202-418-0232

fccinfo@fcc.gov

COMPLIANCE REQUIREMENTS

Objectives of the proceeding

FCC Form 477 (Local Telephone Competition and Broadband Reporting) collects data on the local telephone service lines, mobile telephony service subscriptions, and interconnected Voice over Internet Protocol (VoIP) service subscriptions in the United States. This information assists the Commission and the public in understanding how successfully these providers are competing to acquire voice service customers. Form 477 also collects data on the wired and wireless connections that are delivering broadband Internet access service to subscribers. This information assists the Commission and the public in understanding the extent to which broadband Internet access services of different technology types and service speeds are being purchased by American households and businesses. The Commission most recently amended the Form 477 in 2008.

Rules and procedures that the Commission amended in 2008

- The Commission **adopted Census Tracts** as the geographic unit for which facilities-based providers (other than mobile wireless) of broadband service must report numbers of broadband connections in service, broken down by speed tier and technology type.
- The Commission **expanded the number of broadband reporting speed tiers** to capture more precise information about upload and download broadband speeds in the marketplace.
- The Commission **added the requirement that mobile wireless broadband providers** must report the number of subscribers whose mobile wireless devices permit them to access the lawful Internet content of their choice and clarified how to report residential subscribers.
- The Commission **adopted a requirement that providers of interconnected VoIP service** must report numbers of customers and methods of service delivery.

Deadlines for Form 477 semi-annual filings

- No later than **March 1** (reporting data as of December 31 of the preceding year).
- No later than **September 1** (reporting data as of June 30 of the same year).

Impact on small entities

The *Report and Order* that adopted the amendments to Form 477 used Small Business Administration and Federal Communication Commission definitions for small entities.

A small entity is required to file Form 477 semi-annually if it is (1) a **facilities-based broadband provider** with at least one broadband connection in service to an end-user location, (2) an incumbent or competitive **local exchange carrier** (ILEC or CLEC) with at least one voice telephone service line, (3) a provider of interconnected VoIP service to at least one subscriber, or (4) a **facilities-based provider of mobile telephony service** to at least one subscriber. For the purposes of Form 477:

- Entities that are facilities-based providers of **broadband connections** – which, for purposes of this information collection, are wired “lines” or wireless “channels” that enable the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kbps in at least one direction – must submit the applicable portions of Form 477 for each state in which the entity provides one or more such connections to **end user** locations.
- An entity is a “**facilities-based**” provider of broadband connections to end user locations if any of the following conditions are met: (1) it owns the portion of the physical facility that terminates at the end user location; (2) it obtains unbundled network elements (UNEs), special access lines, or other leased facilities that terminate at the end user location and provisions/equips them as broadband; or (3) it provisions/equips a broadband wireless channel to the end user location over licensed or unlicensed spectrum.

A **non-exhaustive** list of examples of such entities includes ILECs and CLECs, cable system operators, fixed wireless service providers (including “wireless ISPs”), terrestrial and satellite mobile wireless service providers, Broadband Radio Service providers, electric utilities, municipalities, and other entities. Such entities do not include equipment suppliers unless the equipment supplier uses the equipment to provision a broadband connection that it offers to the public for sale. Such entities also do not include providers of terrestrial fixed wireless services (*e.g.*, “Wi-Fi” and other wireless Ethernet, or wireless local area network, applications) that only enable local distribution and sharing of a premises broadband facility, and they do not include air-to-ground services. The applicable portions of Form 477 for facilities-based broadband providers are: 1) Login & Filer Identification; 2) the relevant portion(s) of Part I; 3) Part IV (if necessary); and 4) Part VI.

- An **end user** is a residential, business, institutional, or government entity who uses services for its own purposes and who does not resell such services to other entities. For purposes of Form 477, an Internet Service Provider (ISP) is not an end user of a broadband connection.
- A **local exchange carrier** is an entity that is engaged in the provision of telephone exchange service or exchange access service (47 U.S.C. § 153(26)). ILECs and CLECs must complete and file the applicable portions of the form for each state in which they provide local exchange service to one or more end user customers (which may include “dial-up” ISPs). For such entities, the applicable portions of the form are: 1) Login & Filer Identification; 2) Part II.A; 3) Part IV (if necessary); and 4) Part V.
 - An **incumbent local exchange carrier (ILEC)** is any entity that was providing telephone exchange service (“local” phone service) in a particular area on February 8, 1996, the date on which the Telecommunications Act of 1996 was enacted into law or which has since been declared to be an ILEC. *See* 47 U.S.C. § 251(h); 47 C.F.R. § 51.5.
 - A **non-ILEC** is any entity that is not an ILEC as defined above. Information about ILEC and non-ILEC operations in a state must be reported separately.
- **Interconnected VoIP** is a service that enables real-time, two-way voice communications; requires a broadband connection from the user’s location; requires Internet-protocol compatible customer premises equipment; and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. *See* 47 C.F.R. § 9.3. Interconnected VoIP service providers must submit the applicable portions of the form for each

state in which they provide interconnected VoIP service to one or more subscribers, with the state determined for reporting purposes by the location of the subscriber's broadband connection or the subscriber's "Registered Location" as of the data-collection date. The applicable portions of Form 477 are: 1) Login & Filer Identification; 2) Part II.B; 3) Part IV (if necessary); and 4) Part V.

- A **facilities-based provider of mobile telephony services** is an entity that serves **mobile voice telephony subscribers** over its **own facilities**. These subscribers include subscribers the entity bills directly and also subscribers that are billed by a mobile telephony service reseller. Entities that **purely resell** mobile telephony service should not file Form 477.
- A **mobile voice telephony subscriber** is a mobile handset, car-phone, or other revenue-generating, active, voice unit that has a unique phone number and that can place and receive calls from the public switched network.
- **Own facilities** means spectrum for which the mobile telephony service provider holds a license or that it manages.
- The term **state** includes the District of Columbia and the "Territories and possessions" (47 U.S.C. § 153(40)).

Steps a small entity must take to comply with the new rules

For each semi-annual filing, a small entity should:

1. Determine whether it must file and the number of required Form 477 files.

- Obtain the Form 477 filing instructions from the Form 477 Resources for Filers page at <http://www.fcc.gov/form477/> or from the FCC Forms page at <http://www.fcc.gov/formpage.html>. Updated filing materials will be posted several weeks in advance of each semi-annual filing deadline.

Entities that are not able to download the Form 477 filing instructions may obtain assistance by e-mailing 477INFO@fcc.gov or telephoning (202) 418-0940 or (202) 418-0484 (for users of TTY equipment) and asking to speak with a member of the FCC Form 477 Team.

- Identify those specific states in which the small entity is a facilities-based broadband provider, LEC, interconnected VoIP service provider, or facilities-based provider of mobile telephony services.

Form 477 must be filed on a **state-by-state** basis. Information about operations in different states **may not** be combined in a single Form 477.

- Identify those states (if any) in which the small entity has both ILEC operations and other types of operations (non-ILEC operations) in the state. These two categories of operations must be reported on separate forms. A small entity may, however, choose to combine information for multiple ILEC operations (in a single state) into a single Form 477. Similarly, it may choose to combine information for multiple non-ILEC operations (in a single state) into a single Form 477.

2. File electronically.

- The Commission has adopted a user-friendly web electronic filing interface. Filers may begin their web filing by going to <http://www.fcc.gov/form477/> and clicking on the “Electronic Filing” link on the left side of the page or by clicking on the “Electronic Filing” link at the FCC Form page at <http://www.fcc.gov/formpage.html>. The electronic filing interface will be updated to accept data for a new semi-annual filing several weeks in advance of the deadline for that particular filing.
- The Commission has developed two user guides that explain in great detail how to create and complete the electronic filing. These documents, entitled “Form 477 System Guide” and “Form 477 Tutorial” may be found at <http://www.fcc.gov/form477/> as links on the left side of the page.

3. Complete the relevant Parts of each Form 477 electronic filing.

- The “Filing Instructions” and the “Form 477 Tutorial” links at <http://www.fcc.gov/form477/> explain to small entities which parts of Form 477 to complete and how to complete them. A **Summary Chart of Applicable Portions of Form 477** appears on the last page of this compliance guide.
- To assist entities in using Census Tracts to file broadband data, the Commission developed a Census Tract Information page on its website, <http://www.fcc.gov/form477/censustracts.html>. This page provides information about Census Tract definitions and identification codes and provides links to additional Census Tract resources. Linked resources include a look-up tool for matching individual **service location addresses** with their Census Tracts, a Census Bureau list of some of the many vendors of bulk-matching services, and links to Census Bureau web pages that include maps of county boundaries and the boundaries of the Census Tracts within each county.
- The Commission also created a document entitled “Technical FAQs,” available at <http://www.fcc.gov/form477/techfaqs.html>, to help filers troubleshoot common issues.

Filing fee. There is no filing fee associated with Form 477.

Recordkeeping requirements and obligation to file revisions. There are no recordkeeping requirements associated specifically with Form 477. Entities must submit **revised filings** if they discover a significant error in the filed information (see page 19 of the “Filing Instructions”).

Internet links to related documents and forms

- **FCC Form 477 and Instructions for how to complete the form:** “Electronic Filing” and “Instructions” may be found at <http://www.fcc.gov/form477> as links on the left side of the page.
- **Census Tract Information:** <http://www.fcc.gov/form477/censustracts.html>.
- **Tutorial and Guide for Using the Electronic Filing Interface:** “Form 477 System Guide” and “Form 477 Tutorial” may be found at <http://www.fcc.gov/form477/> as links on the left side of the page.

- **Form 477 Technical Frequently Asked Questions (FAQs):**
<http://www.fcc.gov/form477/techfaqs.html>.
- **Report and Order and Order on Reconsideration** – Released on June 12, 2008.
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-89A1.pdf.
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-148A1.pdf.
- **Order Extending Initial Filing Deadline to March 16, 2009** – Released on February 23, 2009.
http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-430A1.pdf.

Summary Chart of Applicable Portions of Form 477

	Login / Filer Information	Part I	Part II	Part III	Part IV	Part V	Part VI
Facilities-based Providers of Broadband Connections to End User Locations	Yes	Yes			Yes (if necessary)		Yes
Providers of Wired or Fixed Wireless Local Exchange Telephone Service	Yes		Yes		Yes (if necessary)	Yes	
Providers of Interconnected Voice over Internet Protocol (VoIP) Service	Yes		Yes		Yes (if necessary)	Yes	
Providers of Mobile Telephony Services	Yes			Yes	Yes (if necessary)		