

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

In the Matter of)
)
Assessment and Collection of Regulatory Fees for) MD Docket No. 17-134
Fiscal Year 2017)
)
)

NOTICE OF PROPOSED RULEMAKING

Adopted: May 22, 2017

Released: May 23, 2017

By the Commission:

Comment Date: June 22, 2017
Reply Comment Date: July 7, 2017

I. INTRODUCTION

1. In this Notice of Proposed Rulemaking, we seek comment on the Commission’s proposed regulatory fees for fiscal year (FY) 2017. We propose to collect \$356,710,992 in regulatory fees for FY 2017, as detailed in the proposed fee schedules attached in Appendix A.

II. BACKGROUND

2. The Commission is required by Congress to assess regulatory fees each year in an amount that can reasonably be expected to equal the amount of its appropriation.¹ Regulatory fees, mandated by Congress, are collected “to recover the costs of ... enforcement activities, policy and rulemaking activities, user information services, and international activities.”² Regulatory fees are to “be derived by determining the full-time equivalent number of employees performing” these activities, “adjusted to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission’s activities...”³ Regulatory fees recover direct costs, such as salary and expenses; indirect costs, such as overhead functions; and support costs, such as rent, utilities, or equipment.⁴ Regulatory fees also cover the costs incurred in regulating entities that are statutorily exempt from paying regulatory fees,⁵ entities whose regulatory fees are waived,⁶ and entities providing services for which we do not assess regulatory fees.

¹ 47 U.S.C. § 159(b)(1)(B). The Commission collected \$4.25 million above the required regulatory fee target goal in FY 2016, which the Commission deposited into the U.S. Treasury. The cumulative overcollection is \$102.62 million as of September 30, 2016.

² 47 U.S.C. § 159(a).

³ 47 U.S.C. § 159(b)(1)(A).

⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11662, 11666, para. 11 (2004) (*FY 2004 Report and Order*).

⁵ For example, governmental and nonprofit entities are exempt from regulatory fees under section 9(h). 47 U.S.C. § 159(h); 47 CFR § 1.1162.

3. Congress sets the amount the Commission must collect each year in the Commission's fiscal year appropriations. Section 9(a)(2) of the Communications Act of 1934, as amended (Communications Act or Act) requires the Commission to collect fees sufficient to offset the amount appropriated.⁷ To calculate regulatory fees, the Commission allocates the total collection target across all regulatory fee categories. The allocation of fees to fee categories is based on the Commission's calculation of Full Time Employees (or FTEs) in each regulatory fee category.⁸ FTEs are classified as "direct" if the employee is in one of the four "core" bureaus; otherwise, that employee is considered an "indirect" FTE.⁹ The total FTEs for each fee category includes the direct FTEs associated with that category, plus a proportional allocation of indirect FTEs.¹⁰ The Commission then allocates the total amount to be collected among the various regulatory fee categories within each of the core bureaus. Each regulatee within a fee category pays its proportionate share based on an objective measure, e.g., revenues or number of subscribers.¹¹

4. 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.¹² The Commission will make changes to the regulatory fee schedule "if the Commission determines that the schedule requires amendment to comply with the requirements"¹³ of section 9(b)(1)(A) of the Act.¹⁴ 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."¹⁵

5. As part of its annual review, the Commission regularly seeks to improve its regulatory fee analysis. For example, in the *FY 2013 Report and Order*, the Commission adopted updated FTE allocations to more accurately reflect the number of FTEs working on regulation and oversight of the regulatees in the various fee categories;¹⁶ reallocated some FTEs from the International Bureau as

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⁶ 47 CFR § 1.1166.

⁷ 47 U.S.C. § 159(a)(2).

⁸ One FTE 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.

⁹ The core bureaus are the Wireline Competition Bureau, Wireless Telecommunications Bureau, Media Bureau, and part of the International Bureau. The indirect FTEs are the employees from the following bureaus and offices: Enforcement Bureau, Consumer & Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, part of the International 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

¹⁰ The Commission observed in the *FY 2013 Report and Order* that "the high percentage of the indirect FTEs is indicative of the fact that many Commission activities and costs are not limited to a particular fee category and instead benefit the Commission as a whole." See *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Report and Order, 28 FCC Rcd 12351, 12357, para. 17 (2013) (*FY 2013 Report and Order*).

¹¹ See *Procedures for Assessment and Collection of Regulatory Fees*, Notice of Proposed Rulemaking, 27 FCC Rcd 8458, 8461-62, paras. 8-11 (2012) (*FY 2012 NPRM*).

¹² 47 U.S.C. § 159(b)(1)(B).

¹³ 47 U.S.C. § 159(b)(2).

¹⁴ 47 U.S.C. § 159(b)(1)(A).

¹⁵ 47 U.S.C. § 159(b)(3).

¹⁶ *FY 2013 Report and Order*, 28 FCC Rcd at 12354-58, paras. 10-20. The Commission now updates the FTE allocations annually. This was recommended in a report issued by the Government Accountability Office (GAO) in

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indirect;¹⁷ combined the UHF and VHF television stations into one regulatory fee category;¹⁸ and added Internet Protocol Television (IPTV) to the cable television regulatory fee category.¹⁹ Subsequently, in the *FY 2014 Report and Order*, the Commission adopted a new regulatory fee subcategory for toll free numbers within the Interstate Telecommunications Service Provider (ITSP)²⁰ category;²¹ increased the de minimis threshold to \$500 for annual regulatory fee payors;²² and eliminated several categories from the regulatory fee schedule.²³ In the *FY 2015 NPRM*, the Commission adjusted regulatory fees for radio and television broadcasters, based on the type and class of service and on the population served;²⁴ adopted an increase in the regulatory fee for Direct Broadcast Satellite (DBS) providers in the subcategory within the cable television and IPTV regulatory fee category;²⁵ and adopted an across the board fee increase for the Commission's moving expenses.²⁶

III. DISCUSSION

6. The Commission proposes to collect \$356,710,992 in regulatory fees for FY 2017,²⁷ pursuant to section 9 of the Communications Act.²⁸ These regulatory fees are mandated by Congress and are collected “to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.”²⁹ We seek comment on the proposed regulatory fee schedule in Appendix A.

A. Allocating FTEs for Regulatory Fee Purposes

7. Under section 9 of the Act, regulatory fees are to “be derived by determining the full-time equivalent number of employees performing” these activities, “adjusted to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission’s activities”³⁰ As a general matter, we reasonably expect that the work of the FTEs in the core bureaus

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2012. See GAO “Federal Communications Commission Regulatory Fee Process Needs to be Updated,” GAO-12-686 (Aug. 2012) (GAO Report) at 36 (available at <http://www.gao.gov/products/GAO-12-686>).

¹⁷ *FY 2013 Report and Order*, 28 FCC Rcd at 12355-58, paras. 13-20.

¹⁸ *Id.*, 28 FCC Rcd at 12361-62, paras. 29-31.

¹⁹ *Id.*, 28 FCC Rcd at 12362-63, paras. 32-33.

²⁰ The ITSP category includes interexchange carriers (IXCs), incumbent local exchange carriers, toll resellers, and other IXC service providers.

²¹ *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*).

²² *FY 2014 Report and Order*, 29 FCC Rcd at 10774-76, paras. 18-21.

²³ *Id.*, 29 FCC Rcd at 10776-77, paras. 22-24.

²⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, Report and Order, 31 FCC Rcd 10339, 10350-51, paras. 31-33 (2016) (*FY 2016 Report and Order*).

²⁵ *FY 2016 Report and Order*, 31 FCC Rcd at 10347-350, paras. 25-30.

²⁶ *Id.*, 31 FCC Rcd at 10341, para. 7.

²⁷ See Consolidated Appropriations Act, 2017, Division E - Financial Services and General Government Appropriations Act, 2017, Title V - Independent Agencies, Public Law 115-31 (May 5, 2017), available at <https://www.congress.gov/bill/115th-congress/house-bill/244/text>. This provides the Commission with \$356,710,992 for salaries and expenses, to be raised through section 9 regulatory fees, of which \$16,866,992 is directed to be spent on completing the Commission's move and/or restacking.

²⁸ 47 U.S.C. § 159.

²⁹ 47 U.S.C. § 159(a).

³⁰ 47 U.S.C. § 159(b)(1)(A).

should remain focused on the industry segment regulated by each of those bureaus. The work of the FTEs in the indirect bureaus and offices benefits the Commission and the telecommunications industry and is not specifically focused on the licensees of a particular core bureau. Given 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.³¹ For example, the Commission in the *FY 2016 Report and Order* declined to combine the regulatory fee categories for CMRS and ITSP categories, finding that doing so would not account for the substantial differences between the services in terms of regulatory oversight by the two bureaus.³²

8. The Commission has 1,431 FTEs funded by regulatory fees, of which 424 are currently direct FTEs.³³ Of these, 167 would be allocated to Wireline Competition Bureau regulatees, 141 would be allocated to Media Bureau regulatees, 92 would be allocated to Wireless Telecommunications Bureau regulatees, and 24 would be allocated to International Bureau regulatees.³⁴ As explained below, we propose to reallocate 38 FTEs associated with Universal Service Fund work as indirect and to reallocate four FTEs that work on wireless numbering issues to the Wireless Telecommunications Bureau. As a result of this proposed reallocation, we project that we would collect approximately 32.38 percent of regulatory fees (or \$115.5 million) from Wireline Competition Bureau regulatees, 36.53 percent of regulatory fees (or \$130.3 million) from Media Bureau regulatees, 24.87 percent of regulatory fees (or \$88.7 million) from Wireless Telecommunications Bureau regulatees, and 6.22 percent of regulatory fees (or \$22.2 million) from International Bureau regulatees.

1. Reallocating FTEs Associated with the Universal Service Fund

9. We believe that continuing changes to the USF regulatory landscape requires us to reexamine the appropriateness of treating Universal Service Fund FTEs as direct FTEs. To start, we estimate that there are approximately 51 FTEs in the Wireline Competition Bureau, including the bureau front office, devoted to the Universal Service Fund, with 13 of those FTEs devoted to the high-cost program. We also estimate that there are approximately 3 FTEs in the Wireless Telecommunications Bureau, including the bureau front office, devoted to implementing the Mobility Fund, a universal service high-cost support mechanism devoted exclusively to mobile services.³⁵ We note that other FTEs throughout the Commission working on universal service issues are assigned as indirect FTEs. This includes the many FTEs working on universal service issues in the Enforcement Bureau, the Office of the Managing Director, the Office of the Inspector General, and the Office of the General Counsel.

10. We propose to “adjust[]” the allocation of these direct FTEs “to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission’s activities”³⁶ Specifically, we propose to reallocate the 38 FTEs associated with the non-high-cost programs of the Universal Service Fund as indirect. *First*, we note that contributions to the Universal Service Fund are not only required from Wireline Competition Bureau regulatees but every provider using any technology that has end-user interstate telecommunications revenue is required to contribute to

³¹ *FY 2013 Report and Order*, 28 FCC Rcd at 12357, para. 19. The Commission observed that the International Bureau was a “singular case” because the work of those FTEs “primarily benefits licensees regulated by other bureaus.” *Id.*, 28 FCC Rcd at 12355, para. 14.

³² *FY 2016 Report and Order*, 31 FCC Rcd at 10346-47, para. 22.

³³ All numbers in this paragraph are for the current fiscal year (starting October 1, 2016) and exclude auction-funded FTEs.

³⁴ This includes space stations, earth stations, and submarine cable, terrestrial, and satellite international bearer circuits (IBCs).

³⁵ See *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011).

³⁶ 47 U.S.C. § 159(b)(1)(A).

the Universal Service Fund.³⁷ *Second*, we note that three of the distribution programs—E-Rate, Lifeline, and Rural Healthcare—tie funding eligibility to the beneficiary, whether it be a school, a library, a low-income individual or family, or a rural healthcare provider. None of these beneficiaries are Commission regulatees. *Third*, we note that wireless carriers now serve a substantial, if not majority, of Lifeline subscribers, and satellite operators, Wi-Fi network installers, and fiber builders may all receive funding through the E-Rate and Rural Healthcare programs. *Fourth*, we note that treating these FTEs as indirect would be more consistent with how FTEs working on universal service issues are treated elsewhere in the Commission. We seek comment on this proposal. We specifically seek comment on whether the statute requires us to impose regulatory fees on the regulatees of a single bureau even though the benefits provided by those FTEs accrue to regulatees of other bureaus as well as non-regulatees.

11. We also seek comment on alternatives. Although the high-cost program has historically been tied to Wireline Competition Bureau regulatees, the Commission’s recent actions such as the adoption of the Mobility Fund Phase II and the Connect America Fund Phase II reverse auctions open eligibility to many other providers. Do these recent changes justify reallocating the 13 Wireline Competition Bureau FTEs and three Wireless Telecommunications Bureau FTEs as indirect? Or should any such reallocation await the full implementation of these reverse auctions? Alternatively, should some portion of the 38 FTEs that work on non-high-cost programs of the Universal Service Fund not be reallocated as indirect? If so, what portion?

12. Commenters should provide legal and policy reasoning in support or opposition to the proposal and to the alternatives. We note that the Commission has said that it “would be inconsistent with section 9 to delay reallocating . . . FTEs, where the reallocation is clearly warranted, while we engage in painstaking examinations of less clear and more factually complex situations in other bureaus.”³⁸ We seek comment on whether reallocation is clearly warranted here, and we ask commenters to address the impact any change in the allocation of FTEs will have on payors in other fee categories as well as the Commission’s goal of ensuring that regulatory fees are administrable and sustainable.³⁹

2. Reallocating FTEs Associated with Numbering

13. We estimate that 7–8 FTEs in the Wireline Competition Bureau work on numbering issues. We propose to “adjust[]” the allocation of these direct FTEs “to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission’s activities”⁴⁰ Specifically, we estimate approximately half of the benefit of the work of these FTEs accrue to Wireless Telecommunications Bureau regulatees, who control 44.02 percent of assigned numbers under the North American Numbering Plan⁴¹ and 73.01 percent of voice subscriptions.⁴² We therefore propose to reallocate four of the Wireline Competition Bureau FTEs that work on numbering issues to the Wireless Telecommunications Bureau as direct FTEs for regulatory fee purposes. We seek comment on this proposal. We specifically seek comment on whether the statute requires us to impose regulatory fees on the regulatees of a single bureau even though the benefits provided by those FTEs accrue to regulatees of another bureau.

³⁷ 47 CFR § 54.706(a).

³⁸ *FY 2013 Report and Order*, 28 FCC Rcd at 12357-58, paras. 19-20.

³⁹ *Id.*, 28 FCC Rcd at 12354, para 9.

⁴⁰ 47 U.S.C. § 159(b)(1)(A).

⁴¹ Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, Numbering Resource Utilization in the United States NRUF Data as of June 30, 2010 at 12 Table 1 (2013).

⁴² Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, Voice Telephone Services: Status as of December 31, 2015 at 2 Figure 1 (2016).

14. Commenters should provide legal and policy reasoning in support or opposition to the proposal, as well as whether the Commission should consider any alternatives. We note that the Commission has said that it “would be inconsistent with section 9 to delay reallocating . . . FTEs, where the reallocation is clearly warranted, while we engage in painstaking examinations of less clear and more factually complex situations in other bureaus.”⁴³ We seek comment on whether reallocation is clearly warranted here, and we ask commenters to address the impact any change in the allocation of FTEs will have on payors in these two fee categories as well as the Commission’s goal of ensuring that regulatory fees are administrable and sustainable.⁴⁴

B. Direct Broadcast Satellite (DBS) Regulatory Fees

15. The proposed fee schedule includes an updated regulatory fee for DBS, a subcategory in the cable television and IPTV category.⁴⁵ In 2015, the Commission adopted an 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.⁴⁶ At that time, the Commission committed to updating the regulatory fee rate for FY 2016, as necessary for ensuring an appropriate level of regulatory parity with cable television and IPTV and considering the Media Bureau resources dedicated to this subcategory.⁴⁷ 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.”⁴⁸

16. 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. The two DBS providers, AT&T and DISH Network, are multichannel video programming distributors (MVPDs).⁴⁹ When the Commission adopted this regulatory fee subcategory, it recognized numerous recent regulatory developments increased Media Bureau FTE activity involving regulation and oversight of MVPDs, including DBS providers.⁵⁰ During the FY 2016 regulatory fee proceeding, commenters representing the cable television industry observed 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.⁵¹ Recognizing this, in the *FY 2016 Report and Order*, the Commission increased the regulatory fee for DBS providers to 24 cents,

⁴³ *FY 2013 Report and Order*, 28 FCC Rcd at 12357-58, paras. 19-20.

⁴⁴ *Id.*, 28 FCC Rcd at 12354, para 9.

⁴⁵ DBS also pays a regulatory fee per operational station in geostationary orbit.

⁴⁶ *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 10268, 10276-77, paras. 19-20 (2015) (*FY 2015 Report and Order*).

⁴⁷ *FY 2015 Report and Order*, 30 FCC Rcd at 10277, para. 20.

⁴⁸ GAO Report at 12, available at <http://www.gao.gov/products/GAO-12-686>.

⁴⁹ MVPD is defined in section 602(13) of the Act, 47 U.S.C. § 522(13).

⁵⁰ *FY 2015 NPRM*, 30 FCC Rcd at 5367-68, para. 31. See, e.g., *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Notice of Proposed Rulemaking, 31 FCC Rcd 2463 (2016); *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); *Implementation of Section 103 of the STELA Reauthorization Act of 2014*, Notice of Proposed Rulemaking, 30 FCC Rcd 10327 (2015); *Implementation of the Commercial Advertisement, Loudness Mitigation (CALM) Act*, Report and Order, 26 FCC Rcd 17222 (2011) (*CALM Act Report and Order*).

⁵¹ American Cable Association (ACA) Comments at 3-11 (filed in MD Docket No. 16-166); National Cable & Telecommunications Association (NCTA) Reply Comments at 3-7 (filed in MD Docket No. 16-166).

plus an across-the-board increase of three cents for the Commission's moving expenses, for a total of 27 cents per subscriber, per year.⁵² The increase was adopted in response to the increase in DBS oversight and regulation due to Media Bureau rulemakings regarding MVPD issues.⁵³ Nevertheless, the FY 2016 fee of 27 cents per subscriber adopted last year, increased from 12 cents, was still significantly below parity with the cable television/IPTV rate of \$1.00 per year.⁵⁴

17. Based on our updated analysis of the cable television/IPTV category, we find Media Bureau resources devoted to MVPD proceedings, including DBS,⁵⁵ supports revising the DBS regulatory fee rate again. Specifically, we propose a regulatory fee rate of 36 cents per subscriber per year, plus two cents due to the increase in the Commission's budget for moving expenses, for a total of 38 cents per subscriber per year for FY 2017, as set forth in the proposed fee schedule in Appendix A. This proposed incremental increase of approximately one cent per subscriber per month would result in bringing the DBS industry regulatory fees closer to those for cable television/IPTV. We seek comment on this proposal.

C. Broadcaster Regulatory Fees

18. In the *FY 2016 NPRM*, the Commission proposed to include a higher population row in the table for AM and FM broadcasters,⁵⁶ to standardize the incremental increase in fees,⁵⁷ and to better assess fees based on the type and class of service.⁵⁸ The Commission also proposed to adjust the television broadcasters table so that Top 10 market stations paid approximately twice what stations in markets 26-50 paid.⁵⁹ In response to the *FY 2016 NPRM*, several commenters contended that the proposed regulatory fees were too burdensome for small independent stations.⁶⁰ After reviewing the

⁵² *FY 2016 Report and Order*, 31 FCC Rcd at 10348-49, para. 26.

⁵³ *Id.*, 31 FCC Rcd at 10348-49, para. 26. Commenters representing the cable industry continue to observe that “[w]hile cable, IPTV, and DBS providers are not regulated identically, they offer similar multichannel video services, participate in the same proceedings at the same level in terms of the number of filings and meetings, and benefit in a similar fashion from Media Bureau regulation of MVPDs.” See Letter from Barbara Esbin, Cinnamon Mueller, attorney for ACA, to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 16, 2016) (ACA ex parte) at 1.

⁵⁴ 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.*; *National Cable Television Ass'n v. FCC*, 554 F.2d 1094, 1105 (D.C. Cir. 1976).

⁵⁵ See, e.g., *Expanding Consumers' Video Navigation Choices, Commercial Availability of Navigation Devices*, Notice of Proposed Rulemaking and Memorandum Opinion and Order, 31 FCC Rcd 1544 (2016); *Promoting the Availability of Diverse and Independent Sources of Video Programming*, Notice of Inquiry, 31 FCC Rcd 1610 (2016); *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); *Amendment of 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).

⁵⁶ *FY 2016 NPRM*, 31 FCC Rcd at 5762-63, para. 12. The Commission 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, para. 28.

⁵⁷ *Id.* Specifically, the Commission 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.*

⁵⁸ *Id.*

⁵⁹ *FY 2016 NPRM*, 31 FCC Rcd at 5763-64, para. 13. The Commission 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, para. 29.

⁶⁰ *FY 2016 Report and Order*, 31 FCC Rcd at 10351, para. 32.

record, including the comments filed by the industry identifying the economic hardship faced by small independent radio stations, the Commission adopted a revised version of the proposed table and reduced the regulatory fees in the two lowest population tiers for AM and FM broadcasters from the rates proposed in the *FY 2016 Report and Order*.⁶¹

19. We seek comment on further adjusting the regulatory fees for FY 2017. The following chart proposes regulatory fees for AM and FM broadcasters, with revised ratios so that the difference between each tier is proportional. The second chart, for illustrative purposes, has the regulatory fees with the ratios used in the proposal for FY 2016. The second chart does not include the reduction for the two lowest tiers adopted in FY 2016. We seek comment on this proposal. Commenters should also discuss whether the regulatory fees should be reduced further for the AM and FM broadcasters in the two lowest tiers.

⁶¹ *Id.*, 31 FCC Rcd at 10351, para. 33.

Proposed FY 2017 RADIO STATION REGULATORY FEES						
This uses the proposed ratios for FY 2017						
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	\$1,050	\$750	\$650	\$715	\$1,150	\$1,300
25,001 – 75,000	\$1,575	\$1,125	\$975	\$1,075	\$1,725	\$1,950
75,001 – 150,000	\$2,375	\$1,700	\$1,475	\$1,600	\$2,600	\$2,925
150,001 – 500,000	\$3,550	\$2,525	\$2,200	\$2,425	\$3,875	\$4,400
500,001 – 1,200,000	\$5,325	\$3,800	\$3,300	\$3,625	\$5,825	\$6,575
1,200,001 – 3,000,00	\$7,975	\$5,700	\$4,950	\$5,425	\$8,750	\$9,875
3,000,001 – 6,000,00	\$11,950	\$8,550	\$7,400	\$8,150	\$13,100	\$14,800
>6,000,000	\$17,950	\$12,825	\$11,100	\$12,225	\$19,650	\$22,225

FY 2017 RADIO STATION REGULATORY FEES, based on proposed FY 2016 fees						
This chart uses the proposed ratios in FY 2016						
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	\$1,125	\$825	\$710	\$780	\$1,250	\$1,425
25,001 – 75,000	\$1,700	\$1,250	\$1,075	\$1,175	\$1,875	\$2,150
75,001 – 150,000	\$2,250	\$1,650	\$1,425	\$1,550	\$2,500	\$2,850
150,001 – 500,000	\$3,375	\$2,475	\$2,125	\$2,350	\$3,750	\$4,275
500,001 – 1,200,000	\$5,625	\$4,125	\$3,550	\$3,900	\$6,250	\$7,125
1,200,001 – 3,000,00	\$8,450	\$6,200	\$5,325	\$5,850	\$9,375	\$10,700
3,000,001 – 6,000,00	\$11,250	\$8,250	\$7,100	\$7,800	\$12,500	\$14,250
>6,000,000	\$14,075	\$10,325	\$8,875	\$9,750	\$15,625	\$17,825

D. Broadcast Television Satellites

20. Broadcast television satellite stations pay a lower regulatory fee than standalone, full-service broadcast television stations, and are designated as such pursuant to note 5 to section 73.3555 of the Commission's rules.⁶² In 1995, the Commission made a permissive amendment to the regulatory fees

⁶² E.g., for FY 2016, satellite television was assessed \$1,750, whereas digital broadcast UHF and VHF TV was assessed \$5,000 to \$60,675, depending on the market size.

schedule to permit television satellite stations that had received authorization to retransmit programming of the primary station to pay a fee separate from the fee for fully operational television stations. This amount is based upon the fee passed by the House of Representatives for television satellite stations for FY 1994.⁶³ Other full-service television licensees remain subject to the regulatory fee payment required for the class of station and market. Of note, since 1995, we have consistently defined, and thereby limited, a television satellite station as one commonly owned, authorized under note 5 of section 73.3555 of the Commission's rules, and also shown as such in the Television and Cable Factbook. Periodically, the Television and Cable Factbook includes information concerning satellite status that is inconsistent with our records.

21. There is a standalone full-service station usually within the same market that serves as the "parent" to the satellite station that could not be commonly owned or controlled with the satellite, but for such a waiver. Section 76.55(e)(2) of the Commission's rules specifies that a commercial broadcast television station's market is its Designated Market Area (DMA), which reflects viewing patterns, as determined by Nielsen Media Research and published in its Nielsen Station Index Directory and Nielsen Station Index US Television Household Estimates or any successor publications.⁶⁴ We are unaware of the existence of any reliable published source that can identify which television stations are serving small markets at the fringe of larger DMA's.⁶⁵ In a particular situation, the licensee of a broadcast television satellite station that is not carried by cable, satellite, or alternate methods, may have signal contours that cover the fringes of a DMA (generally, rural communities), whereas other full-service TV stations have greater over-the-air coverage of the DMA market. As a result, advertisers may devote more commercial spending to other full-service TV stations rather than to the more limited broadcast television satellite stations in the same DMA market. Such broadcast television satellite stations may originate their own programming, multicast their broadcasts, and with cable or satellite carriage, provide programming to the entire DMA market. For purposes of paying regulatory fees, the Commission identifies those stations that it deems to be broadcast satellite television stations based on Consolidated Data Base System (CDBS) and other Media Bureau data. However, some stations claim to operate as "satellites," and pay a lower regulatory fee (\$1,750 in FY 2016), although they have not been officially granted satellite status by the Commission. Because satellite status may be derived only as a result of Commission action, only stations granted such status by the Commission may pay the satellite television regulatory fee; other stations that claim such status must pay the fee for a full-service station. Attached as Appendix E is a list of the *bona fide* licensed broadcast satellite television stations, according to the Media Bureau records. This list is

⁶³ *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, Report and Order, 10 FCC Rcd 13512, 13534-35, para. 60 (1995). See also *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Report and Order, 9 FCC Rcd 5333, para. 82 (1994) ("Section 9(g)'s fee schedule establishes specific fees for commercial television stations. These fees are to be assessed against a licensee solely on the basis of the market in which the station operates. The text of the schedule makes no distinction between commercial stations that are fully operational and those that are satellite stations.").

⁶⁴ 47 CFR § 76.55(e)(2); *Assessment and Collection of Regulatory Fees for Fiscal Year 2000*, Report and Order, 15 FCC Rcd 14478, 14492, para. 34 (2000) (*FY 2000 Report and Order*) ("Fees for television stations are based on market size as determined by Nielsen. This is the only consistent source the Commission has for determining which market a station serves."). See also *Amendment to the Commission's Rules Concerning Market Modification*, 30 FCC Rcd 10406, para. 6, n. 19 (2015) ("The Nielsen Company delineates television markets by assigning each U.S. county (except for certain counties in Alaska) to one market based on measured viewing patterns both off-air and via MVPD distribution."); *Designated Market Areas: Report to Congress*, 31 FCC Rcd 5463, 5465-66, para. 6 (2015).

⁶⁵ *FY 2000 Report and Order*, 15 FCC Rcd 14478, 14492, para. 34 (Commission rejected commenter's "argu[ment] that small television stations located near large designated market areas (DMA) are assessed disproportionately high fees because the A.C. Nielsen ratings include them in the DMA but they do not serve households in the DMA. Fees for television stations are based on market size as determined by Nielsen. This is the only consistent source the Commission has for determining which market a station serves.").

generated from the Commission's CDBS and other information provided to the Media Bureau. We invite comment on the accuracy of this list.

22. Recognizing that the Commission permitted a lesser fee for television satellite stations, we seek comment on whether we should increase the regulatory fees for broadcast satellite television stations to ensure that all television broadcasters are paying an appropriate regulatory fee based on Media Bureau FTE oversight and regulation. The circumstances that existed in 1994 when the Commission explained that it would permit consideration of a reduced fee in very limited circumstances have changed.⁶⁶ As it relates to television satellite stations, should the satellite regulatory fee be increased to a higher percentage of standalone full-service broadcast television stations for "remaining markets"? In particular, we seek comment on whether the fee for broadcast television satellite stations should be increased to 50 or 75 percent of the regulatory fee for remaining markets for FY 2017 applicable if the station were not a broadcast satellite station, but a full-service standalone broadcast station. Commenters supporting an increase in the broadcast satellite television fee should explain why the fee should be closer to the regular standalone full-service broadcast television fee.

E. International Bearer Circuits

23. Historically, regulatory fees for international bearer circuits (IBCs) have been paid by facilities-based common carriers based on the number of active international bearer circuits they have in a transmission facility used to provide service to specified types of entities—specifically, by facilities-based common carriers that have active international bearer circuits in any transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates.⁶⁷ In 2009, the Commission revised this methodology by allocating submarine IBC costs among service providers in an equitable and competitively neutral manner, without distinguishing between common carriers and non-common carriers, and assessing a flat per cable landing license fee for all submarine cable systems.⁶⁸ It nonetheless declined to simplify terrestrial and satellite IBCs at that time because of the "complexity of the legal, policy and equity issues involved."⁶⁹ In the *FY 2016 NPRM*, the Commission revisited the disparate treatment of terrestrial and satellite IBCs vis-à-vis submarine IBCs,⁷⁰ but decided in the *FY 2016 Report and Order*, that the record was insufficient to change the fee methodology at that time.⁷¹

⁶⁶ See *Implementation of Section 9 of the Communications Act and Assessment and Collection of Regulatory Fees of the 1994 Fiscal Year*, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12763, para. 21 (1995) (Applicants considered for relief "were generally UHF stations ... lack[ing] network affiliations ... located outside of the principle city's metropolitan area and do not provide a Grade B signal to a substantial portion of the market's metropolitan areas. Often these stations are not carried by cable systems serving the principal metropolitan areas."); *Assessment and Collection of Regulatory Fees for Fiscal Year 1996*, Report and Order, 11 FCC Rcd 18774, 18786, para. 32 (1996) ("We ... rely on Nielsen's DMA market rankings ... Nielsen data is generally accepted throughout the industry and will be updated and published annually ... We will consider the equities concerning the fees of licensees that change markets on a case-by-case basis, upon request, and, where a licensee demonstrates that it does not serve its assigned market, we will consider reducing the assigned fees to a more equitable level, based upon the area actually served by the licensee.").

⁶⁷ *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order, 24 FCC Rcd 4208, 4211, para. 4 (2009) (*Subcable Order*).

⁶⁸ *Subcable Order*, 24 FCC Rcd at 4214–16, paras. 13–17.

⁶⁹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, Report and Order, 24 FCC Rcd 10301, 10306–07, paras. 16–17 (2009).

⁷⁰ *FY 2016 NPRM*, 31 FCC Rcd at 5764-65, paras. 15-16.

⁷¹ *FY 2016 Report and Order*, 31 FCC Rcd at 10343, para. 11.

24. The international services marketplace has continued to evolve and we seek comment on how to update and improve our regulatory fee assessment for terrestrial and satellite IBCs to reflect these changes.⁷² We seek comment on how to make our fee assessment more efficient, equitable, and less burdensome. In particular, we seek comment on adopting a flat, per-provider fee similar to how we treat submarine cable regulatory fees, with a tiered regulatory fee methodology for terrestrial IBCs based on capacity. Similar to the regulatory fee treatment of submarine cable IBCs, under this proposal, terrestrial and satellite IBCs would be treated the same regardless of whether they are offered on a common-carrier or non-common-carrier basis. We seek comment on this proposal and how to divide the terrestrial IBCs into categories based on capacity.

25. Level 3 states that non-common carrier terrestrial IBCs should not be exempt from regulatory fees, as it finds the practice to be administratively burdensome, not equitable or competitively neutral, and a disincentive to compliance with the Commission's regulatory fee rules.⁷³ Level 3, for example, states that it "spends dozens of person hours each year polling multiple systems to identify international terrestrial facilities in service, generating reports of the circuits that have been sold over those facilities, and identifying whether any of the circuits were sold on a non-common carrier basis."⁷⁴ Level 3 asserts that the disparate treatment of common carrier and non-common carrier circuits is neither equitable nor competitively neutral as "[p]roviders that offer international terrestrial service on a common carrier basis are at a significant disadvantage *vis a vis* providers that characterize their service as non-common carrier."⁷⁵ Level 3 states that "[c]arriers currently have a strong incentive to characterize circuits as non-common carrier circuits in order to reduce their regulatory fee burden."⁷⁶ According to Level 3, a flat fee will improve compliance with the Commission's regulatory fee requirements⁷⁷ and "a flat-fee system will remove incentives for providers to not deploy terrestrial IBCs, or to sell international capacity over submarine cable systems instead of terrestrial IBCs."⁷⁸ We seek comment on these arguments and whether we should harmonize the regulatory treatment of common carrier and non-common carrier terrestrial circuits.

26. We also seek comment on whether we should make changes to the IBC fees for satellite circuits. The number of satellite IBCs are relatively small as compared to terrestrial IBCs.⁷⁹ We also note

⁷² The Commission has a pending proceeding that seeks comment on the federal need for the international services reporting requirements set forth in Section 43.62 of the Commission's rules. *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 16-131 and 17-55, Notice of Proposed Rulemaking, 32 FCC Rcd 2606 (2017). Relevant to this proceeding, the Commission seeks comment on whether there are ways to further streamline the Circuit Capacity Reports, which require providers of international telecommunications services to file annual reports identifying the submarine cable, satellite, and terrestrial capacity between the United States and foreign points. As noted below, we rely on the reporting requirements for terrestrial, satellite, and submarine cable capacity data to administer the annual regulatory fees established in Section 9 of the Act. *See infra* at Appx. C; *see* 47 CFR § 43.62(a)(1).

⁷³ Level 3 Comments, MD Docket No. 16-166, at 5.

⁷⁴ *Id.* at 5.

⁷⁵ *Id.* at 6 (stating that "the fact that non-common carrier circuits are 'unregulated' is not relevant to the Commission's authority to collect regulatory fees on those circuits. All terrestrial IBCs are 'telecommunications' subject to the Commission's jurisdiction, and benefit from the Commission's 'international activities,' including cross-border coordination with Canada and Mexico").

⁷⁶ *Id.* at 5.

⁷⁷ *Id.* at 5.

⁷⁸ *Id.* at 4.

⁷⁹ For example, for data as of December 31, 2014, there were a total of 21,911,703 circuit units (64 kbps) with terrestrial circuits accounting for 99.63 percent (21,830,546) while satellite accounted for only 0.37 percent

(continued....)

that in addition to being assessed regulatory fees on their common carrier and non-common carrier circuits, earth station, geostationary orbit space station, and non-geostationary orbit space station licensees pay separate regulatory fees for their facilities that are licensed and operational.⁸⁰ We seek comment on whether there is a basis to eliminate the IBC regulatory fee for satellite providers of international communications. If we retain the IBC regulatory fees for satellite circuits, should we adopt the methodology discussed herein for assessing the number of active circuits (either only assessing fees on systems active as of December 31 of the prior year, or assessing fees on IBCs that were active at any point during the preceding calendar year)? If we adopt the proposal for a flat-fee methodology, should we apply it to satellite circuits as well as terrestrial circuits? Are there any other steps we should take to harmonize our regulatory fee treatment of terrestrial and satellite IBCs?

27. We also seek comment on whether we should continue to assess regulatory fees based on IBCs that were active as of December 31 of the prior year.⁸¹ Commenters should discuss whether instead we should assess regulatory fees based on IBCs that were active at any point during the preceding calendar year.⁸²

28. Finally, we tentatively conclude that adding non-common carrier international bearer circuits to the regulatory fee schedule would be a permitted amendment as defined in section 9(b)(3) of the Act,⁸³ and pursuant to section 9(b)(4)(B) must be submitted to Congress at least 90 days before it would become effective.⁸⁴

F. Revising the De Minimis Threshold and Eliminating Regulatory Fee Categories

29. Under the Commission's current de minimis rule for regulatory fee payments, a regulatee is exempt from paying regulatory fees if the sum total of all of its regulatory fee liabilities for annual regulatory fees is \$500 or less for the fiscal year.⁸⁵ The Commission increased the de minimis threshold from \$10 to \$500 in the *FY 2014 Report and Order*.⁸⁶ The higher threshold reflected the estimated costs of collecting an unpaid regulatory fee, i.e., at least \$350 in direct costs, and the benefits to these entities of a higher de minimis threshold. The Commission's estimate of approximately \$350 excluded overhead or other costs involved in regulatory fee collection.⁸⁷ In addition, the Commission observed that setting the de minimis threshold at \$500 was unlikely to reduce fee collections to an amount below the full amount of the Commission's annual appropriation.⁸⁸

30. In the FY 2014 regulatory fee proceeding, commenters argued the threshold should be increased to \$750 or \$1,000.⁸⁹ For example, ACA suggested that the Commission adopt a threshold of 1000 or fewer subscribers for cable operators and the National Association of Broadcasters (NAB) argued

(Continued from previous page) _____
(81,157). FCC, International Bureau, 2014 U.S. International Circuit Capacity Report at 3 (IB 2016), https://apps.fcc.gov/edocs_public/attachmatch/DOC-337257A2.pdf.

⁸⁰ See *infra* para. 39; *FY 2016 Report and Order*, 31 FCC Rcd at 10356, para. 42.

⁸¹ 47 CFR 43.62(a)(1); see *infra* para. 30.

⁸² We recognize that this could require modification of Section 43.62(a)(1) of our rules and any successor rules. 47 CFR § 43.62(a)(1).

⁸³ 47 U.S.C. § 159(b)(3).

⁸⁴ 47 U.S.C. § 159(b)(4)(B).

⁸⁵ *FY 2014 Report and Order*, 29 FCC Rcd at 10774-76, paras. 18-21.

⁸⁶ *Id.*

⁸⁷ *Id.*, 29 FCC Rcd at 10775, para. 20 & n. 62.

⁸⁸ *Id.*

⁸⁹ *Id.*

that the Commission should adopt a de minimis threshold of \$750 or \$1,000 in order to provide relief for smaller entities.⁹⁰ These commenters explained that a higher de minimis threshold may contribute to the difference between a small operator staying in business or closing operations.⁹¹ NAB also observed that a higher de minimis threshold would allow stations in smaller markets to devote more resources to improved programming and signal quality.⁹² The Commission adopted a new threshold of \$500 for annual regulatory fee and committed to further monitor the de minimis threshold and consider whether to increase the threshold or revise on some other basis.⁹³

31. Consistent with this commitment, we seek comment on increasing the de minimis threshold to \$1,000 to improve the cost effectiveness of the Commission's collection of regulatory fees and to provide regulatory fee relief to smaller entities, particularly those that have little Commission regulation or oversight.⁹⁴ As we explained in the *FY 2014 Report and Order*, smaller entities with limited funds are less likely to be able to budget for regulatory fees on a timely basis and therefore may incur late fees and consequently use more Commission resources for fee collection.⁹⁵ The administrative burden on small regulatees, and the Commission's operational costs associated with processing and collecting these smaller fees, likely outweigh the benefits of such payments. For example, payors between \$500 and \$1,000 account for less than one percent of all regulatory fee payments. In addition, the cost of researching, creating, and sending a bill to a non-payer, and completing all follow-up discussion and correspondence, totals more than \$350. Added to this cost is the overhead and the costs of administering the regulatory fee program.⁹⁶ We seek comment on whether it makes sense to incur upwards of \$350 in administrative costs to collect not even that much in regulatory fees that can offset the costs fees paid by other regulatees (as is the case for regulatees that owe \$501 to \$700). We seek comment on whether a \$1,000 threshold is high enough to ensure that the regulatory fees collected from any regulatee substantially exceed the costs of collection. We invite comment whether the cost of collections and burden on small entities outweigh the associated regulatory fee payments.

32. We also seek comment on whether we should include multi-year wireless licenses in the de minimis threshold. If we adopt a de minimis threshold for multi-year wireless licensees, should the threshold be fee-based, or should it be determined by the number of licenses, frequencies, or paths the licensee holds? We recognize that some entities hold many multi-year licenses and the licenses can be renewed at different times of the year. Commenters should discuss whether including multi-year licenses in the de minimis threshold would be too administratively burdensome. We also seek comment on whether we should adopt a de minimis threshold based on number of cable television subscribers, as suggested by ACA.⁹⁷

⁹⁰ *Id.*

⁹¹ *Id.*, 29 FCC Rcd at 10774-75, para. 19.

⁹² *Id.*

⁹³ *Id.*, 29 FCC Rcd at 10775, para. 20.

⁹⁴ *Id.* (observing that many small entities "are subject to little Commission oversight and regulation which serves to further exacerbate this inequity [of the administrative burden].").

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ ACA observes that "exempting cable/IPTV providers serving fewer than 1,000 subscribers from the Cable/IPTV fee category would be consistent with other exemptions the Commission has created for these operators, and would serve similar purposes." ACA *ex parte* at 4. ACA suggests a progressive fee structure, with the level of rates gradually increasing based on the number of subscribers. *Id.* at 5-6.

33. In addition, we seek comment on eliminating regulatory fee categories, such as CMRS Messaging (Paging).⁹⁸ This category accounts for a very small amount of regulatory fees; we seek comment on the benefits of discontinuing such collections. Commenters should discuss other changes to the regulatory fee framework that would facilitate the goal of ensuring that regulatory fees are administrable and sustainable. For example, are there categories of regulatory fee payors that now have very little Commission oversight or regulation, apart from the application fee process? We seek comment on whether there are regulatory fees adopted for some categories in the past where now there is a clear case to conclude that the fee is no longer “reasonably related to the benefits provided to the payer of the fee by the Commission’s activities. . . .”⁹⁹

34. We tentatively conclude that eliminating categories from our regulatory fee schedule would be a permitted amendment as defined in section 9(b)(3) of the Act,¹⁰⁰ and pursuant to section 9(b)(4)(B) must be submitted to Congress at least 90 days before it would become effective.¹⁰¹

G. Other Reforms

35. We also seek comment on ways to further improve our regulatory fee process to make it less burdensome for all entities. In particular, we seek comment on ways we can communicate better with smaller regulatees, such as mass emails (instead of through the U.S. Postal Service), and if we should therefore require a current email address for all regulatory fee payors.

IV. PROCEDURAL MATTERS

A. Payment of Regulatory Fees

1. Checks Will Not Be Accepted for Payment of Annual Regulatory Fees

36. Pursuant to an Office of Management and Budget (OMB) directive,¹⁰² the Commission is moving towards a paperless environment, extending to disbursement and collection of select federal government payments and receipts.¹⁰³ In 2015, the Commission 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.¹⁰⁴ All regulatory fee payments must 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 so that the Commission can associate the wire payment with the correct regulatory fee information.

⁹⁸ The Commission has sought comment on this issue previously. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, Notice of Proposed Rulemaking, 29 FCC Rcd 6417, 6429, para. 32 (2014) (*FY 2014 NPRM*).

⁹⁹ 47 U.S.C. § 159(b)(1)(A). We note, however, that the Communications Act provides for “waiver, reduction, and deferment” of a regulatory fee in any specific instance for good cause shown, where such action would promote the public interest. As a result, commenters should not focus suggestions on the merits of individual regulatory fee payors but rather improvements to the system that are consistent with Congressional directive contained in section 9 of the Communications Act.

¹⁰⁰ 47 U.S.C. § 159(b)(3).

¹⁰¹ 47 U.S.C. § 159(b)(4)(B).

¹⁰² 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>.

¹⁰³ *See* U.S. Department of the Treasury, Open Government Plan 2.1, Sept. 2012.

¹⁰⁴ *FY 2015 Report and Order*, 30 FCC Rcd at 10282-83, para. 35. *See* 47 CFR § 1.1158.

2. Credit Card Transaction Levels

37. 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 is \$24,999.99.¹⁰⁵ 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 2017 regulatory fee collection in Fact Sheets, available at <https://www.fcc.gov/regfees>.

3. De Minimis Regulatory Fees

38. Under the Commission's present de minimis rule for regulatory fee payments, a regulatee is exempt from paying regulatory fees if the sum total of all of its annual regulatory fee liabilities is \$500 or less for the fiscal year. The de minimis threshold applies only to filers of annual regulatory fees (not regulatory fees paid through multi-year filings), and it is not a permanent exemption. Each regulatee will need to reevaluate the total annual fee liability each fiscal year to determine whether they meet the de minimis exemption. This de minimis threshold could change as a result of this Notice of Proposed Rulemaking.

4. Standard Fee Calculations and Payment Dates

39. 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, 2016 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, 2016.
- *Wireline (Common Carrier) Services*: Regulatory fees must be paid for authorizations that were granted on or before October 1, 2016. In instances where a permit or license is transferred or assigned after October 1, 2016, 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.¹⁰⁶ For Responsible Organizations (RespOrgs) that manage Toll Free Numbers (TFN), regulatory fees should be paid on all working, assigned, and reserved toll free numbers as well as toll free numbers in any other status as defined in section 52.103 of the Commission's rules.¹⁰⁷ The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2016.
- *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, 2016. The number of subscribers, units, or telephone

¹⁰⁵ 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.

¹⁰⁶ Audio bridging services are toll teleconferencing services.

¹⁰⁷ 47 CFR § 52.103.

numbers on December 31, 2016 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, 2016, 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 to publicize our estimates of the number of “small multi-year wireless” licenses that will be renewed or newly obtained in FY 2017.
- *Multichannel Video Programming Distributor Services (cable television operators, CARS licensees, DBS, and IPTV)*: Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2016.¹⁰⁸ Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2016. In instances where a permit or license is transferred or assigned after October 1, 2016, responsibility for payment rests with the holder of the permit or license as of the fee due date. For providers of Direct Broadcast Satellite (DBS) service and IPTV-based MVPDs, regulatory fees should be paid based on a subscriber count on or about December 31, 2016. In instances where a permit or license is transferred or assigned after October 1, 2016, 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, 2016. In instances where a permit or license is transferred or assigned after October 1, 2016, 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, 2016. In instances where a license is transferred or assigned after October 1, 2016, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2017 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 IBCs are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31, 2016 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, 2016. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active

¹⁰⁸ 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 2016, rather than on a count as of December 31, 2016.

circuits.¹⁰⁹ In instances where a permit or license is transferred or assigned after October 1, 2016, 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 2017 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.¹¹⁰

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

40. 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”).¹¹¹ 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).

41. 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.¹¹² 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.

42. 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, 2016), 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. Initial Regulatory Flexibility Analysis

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

¹⁰⁹ We encourage terrestrial and satellite service providers to seek guidance from the International Bureau’s Telecommunications and Analysis Division to verify their particular IBC reporting processes to ensure that their calculation methods comply with our rules.

¹¹⁰ We remind facilities-based common carriers to review their reporting processes to ensure that they accurately calculate and report IBCs.

¹¹¹ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12264, paras. 38-44 (2005).

¹¹² 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.

D. Initial Paperwork Reduction Act of 1995 Analysis

44. 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).

E. Filing Instructions

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

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

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

F. Ex Parte Information

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

be written ex parte presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

V. ORDERING CLAUSE

48. Accordingly, **IT IS ORDERED** that, pursuant to Section 9 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 159, this Notice of Proposed Rulemaking **IS HEREBY ADOPTED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Calculation of FY 2017 Revenue Requirements and Pro-Rata Fees

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

Fee Category	FY 2017 Payment Units	Years	FY 2016 Revenue Estimate	Pro-Rated FY 2017 Revenue Requirement	Computed FY 2017 Regulatory Fee	Rounded FY 2017 Reg. Fee	Expected FY 2017 Revenue
PLMRS (Exclusive Use)	1,300	10	625,000	326,950	25	25	325,000
PLMRS (Shared use)	16,000	10	3,110,000	1,609,600	10	10	1,600,000
Microwave	11,800	10	3,125,000	2,967,700	25	25	2,950,000
Marine (Ship)	8,100	10	1,035,000	1,222,290	15	15	1,215,000
Aviation (Aircraft)	4,200	10	470,000	422,520	10	10	420,000
Marine (Coast)	150	10	192,500	60,360	40	40	60,000
Aviation (Ground)	1,100	10	220,000	221,329	20	20	220,000
AM Class A ⁴	65	1	313,500	307,333	4,728	4,725	307,125
AM Class B ⁴	1,523	1	3,875,875	3,830,345	2,515	2,525	3,845,575
AM Class C ⁴	870	1	1,400,175	1,356,591	1,559	1,550	1,348,500
AM Class D ⁴	1,492	1	4,587,900	4,502,856	3,018	3,025	4,513,300
FM Classes A, B1 & C3 ⁴	3,150	1	9,678,200	9,427,478	2,993	3,000	9,450,000
FM Classes B, C, C0, C1 & C2 ⁴	3,114	1	11,849,725	11,590,931	3,722	3,725	11,599,650
AM Construction Permits ¹	10	1	9,300	6,500	650	650	6,500
FM Construction Permits ¹	113	1	192,425	129,950	1,150	1,150	129,950
Satellite TV	126	1	224,000	218,654	1,735	1,725	217,350
Digital TV Markets 1-10	139	1	8,433,825	8,355,082	60,109	60,100	8,353,900
Digital TV Markets 11-25	131	1	6,348,825	5,933,665	45,295	45,300	5,934,300
Digital TV Markets 26-50	181	1	5,525,025	5,471,684	30,230	30,225	5,470,725
Digital TV Markets 51-100	285	1	4,301,600	4,314,986	15,140	15,150	4,317,750
Digital TV Remaining Markets	367	1	1,825,000	1,818,320	4,955	4,950	1,816,650
Digital TV Construction Permits ¹	3	1	15,000	14,864	4,955	4,950	14,850
LPTV/Translators/Boosters/Class A TV	4,051	1	1,785,420	1,752,382	433	435	1,762,185
CARS Stations	230	1	220,875	216,340	941	940	216,200
Cable TV Systems,	62,000,000	1	64,200,000	59,253,400	.9557	.96	59,520,000

Fee Category	FY 2017 Payment Units	Years	FY 2016 Revenue Estimate	Pro-Rated FY 2017 Revenue Require- ment	Computed FY 2017 Regulatory Fee	Rounded FY 2017 Reg. Fee	Expected FY 2017 Revenue
including IPTV							
Direct Broadcast Satellite (DBS)	32,500,000	1	9,180,000	12,424,100	.38	.38	12,350,000
Interstate Telecommunication Service Providers	\$37,300,000,000	1	142,722,000	112,571,400	0.003018	0.00302	112,646,000
Toll Free Numbers	32,700,000	1	4,745,000	3,947,544	0.1207	0.12	3,924,000
CMRS Mobile Services (Cellular/Public Mobile)	385,000,000	1	73,200,000	81,336,108	0.211	0.21	80,850,000
CMRS Messag. Services	2,100,000	1	184,000	168,000	0.0800	0.080	168,000
BRS ²	870	1	645,250	561,398	805	805	700,350
LMDS	395	1	286,375	456,976	805	805	317,975
Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common)	26,500,000	1	638,000	791,219	.0299	.03	795,000
Submarine Cable Providers (see chart in Appendix C) ³	41.19	1	5,486,242	5,589,583	135,709	135,700	5,589,212
Earth Stations	3,400	1	1,173,000	1,228,896	361	360	1,224,000
Space Stations (Geostationary)	95	1	13,155,125	13,725,182	144,476	144,475	13,725,125
Space Stations (Non- Geostationary)	6	1	911,700	951,190	158,532	158,525	951,150
***** Total Estimated Revenue to be Collected			384,890,362	359,083,693			358,855,322
***** Total Revenue Requirement			384,012,497	356,710,992			356,710,992
Difference			877,865	2,372,701			2,144,330

Notes on Appendix A

¹ The AM and FM Construction Permit revenues and the Digital (VHF/UHF) 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. Reductions in the Digital (VHF/UHF) Construction Permit revenues, and in the AM and FM Construction Permit revenues, were offset by increases in the revenue totals for Digital television stations by market size, and in the AM and FM radio stations by class size and population served, respectively.

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

³ The chart at the end of Appendix B lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, 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 2017 Regulatory Fee" constitute a weighted average broadcast regulatory fee by class of service. The actual FY 2017 regulatory fees for AM/FM radio station are listed on a grid located at the end of Appendix B.

APPENDIX B

Proposed Regulatory Fees

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

Fee Category	Annual Regulatory Fee (U.S. \$'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	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)	.21
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)	805
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	805
AM Radio Construction Permits	650
FM Radio Construction Permits	1,150
Digital TV (47 CFR part 73) VHF and UHF Commercial	
Markets 1-10	60,100
Markets 11-25	45,300
Markets 26-50	30,225
Markets 51-100	15,150
Remaining Markets	4,950
Construction Permits	4,950
Satellite Television Stations (All Markets)	1,725
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	435
CARS (47 CFR part 78)	940
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	.96

Fee Category	Annual Regulatory Fee (U.S. \$'s)
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act)	.38
Interstate Telecommunication Service Providers (per revenue dollar)	.00302
Toll Free (per toll free subscriber) (47 C.F.R. section 52.101 (f) of the rules)	.12
Earth Stations (47 CFR part 25)	360
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	144,475
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	158,525
International Bearer Circuits - Terrestrial/Satellites (per 64KB circuit)	.03
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2017 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	\$1,050	\$750	\$650	\$715	\$1,150	\$1,300
25,001 – 75,000	\$1,575	\$1,125	\$975	\$1,075	\$1,725	\$1,950
75,001 – 150,000	\$2,375	\$1,700	\$1,475	\$1,600	\$2,600	\$2,925
150,001 – 500,000	\$3,550	\$2,525	\$2,200	\$2,425	\$3,875	\$4,400
500,001 – 1,200,000	\$5,325	\$3,800	\$3,300	\$3,625	\$5,825	\$6,575
1,200,001 – 3,000,00	\$7,975	\$5,700	\$4,950	\$5,425	\$8,750	\$9,875
3,000,001 – 6,000,00	\$11,950	\$8,550	\$7,400	\$8,150	\$13,100	\$14,800
>6,000,000	\$17,950	\$12,825	\$11,100	\$12,225	\$19,650	\$22,225

International Bearer Circuits - Submarine Cable

Submarine Cable Systems (capacity as of December 31, 2016)	Fee amount
< 2.5 Gbps	\$8,475
2.5 Gbps or greater, but less than 5 Gbps	\$16,975
5 Gbps or greater, but less than 10 Gbps	\$33,925
10 Gbps or greater, but less than 20 Gbps	\$67,850
20 Gbps or greater	\$135,700

APPENDIX C

Sources of Payment Unit Estimates for FY 2017

In order to calculate individual service fees for FY 2017, we adjusted FY 2016 payment units for each service to more accurately reflect expected FY 2017 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 2017 estimates with actual FY 2016 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 2017 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 2017 payment units are based on FY 2016 actual payment units, it does not necessarily mean that our FY 2017 projection is exactly the same number as in FY 2016. We have either rounded the FY 2017 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 16 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 16 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2016 payment units.
Digital TV Stations (Combined VHF/UHF units)	Based on CDBS data, adjusted for exemptions, and actual FY 2016 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2016 payment units.
LPTV, Translators and Boosters, Class A Television	Based on CDBS data, adjusted for exemptions, and actual FY 2016 payment units.
BRS (formerly MDS/MMDS)	Based on WTB reports and actual FY 2016 payment units.
LMDS	Based on WTB reports and actual FY 2016 payment units.
Cable Television Relay Service (CARS) Stations	Based on data from Media Bureau's COALS database and actual FY 2016 payment units.
Cable Television System	Based on publicly available data sources for estimated subscriber

Subscribers, Including IPTV Subscribers	counts and actual FY 2016 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499-Q data for the four quarters of calendar year 2016, the Wireline Competition Bureau projected the amount of calendar year 2016 revenue that will be reported on 2017 FCC Form 499-A worksheets due in April, 2017.
Earth Stations	Based on International Bureau (“IB”) licensing data and actual FY 2016 payment units.
Space Stations (GSOs & NGSOs)	Based on IB data reports and actual FY 2016 payment units.
International Bearer Circuits	Based on IB reports and submissions by licensees, adjusted as necessary.
Submarine Cable Licenses	Based on IB license information.

APPENDIX D**Factors, Measurements, and Calculations that Determine 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.

APPENDIX E

LIST OF THE LICENSED SATELLITE TELEVISION STATIONS BASED ON
COMMISSION RECORDS (ALL MARKETS)

<u>FCC ID</u>	<u>Call Sign</u>	<u>TV Market</u>	<u>Licensee as of September 28, 2016</u>
11912	KAAS-TV	Wichita - Hutchinson, KS	KSAS LICENSEE, LLC
48659	KABY-TV	Sioux Falls-Mitchell, SD	GRAY TELEVISION LICENSEE, LLC
4145	KAIH-TV	Honolulu, HI	LIN LICENSE COMPANY, LLC
13813	KATN	Fairbanks, AK	VISION ALASKA II LLC
48556	KBIM-TV	Albuquerque-Santa Fe, NM	LIN OF NEW MEXICO, LLC
55370	KBRR	Fargo-Valley City, ND	RED RIVER BROADCAST CO., LLC
66414	KBSD-DT	Wichita - Hutchinson, KS	GRAY TELEVISION LICENSEE, LLC
66415	KBSH-DT	Wichita - Hutchinson, KS	GRAY TELEVISION LICENSEE, LLC
66416	KBSL-DT	Wichita - Hutchinson, KS	GRAY TELEVISION LICENSEE, LLC
6669	KBTX-TV	Waco-Temple-Bryan, TX	GRAY TELEVISION LICENSEE, LLC
35909	KBVO	Austin, TX	KXAN LLC
49750	KCBY-TV	Eugene, OR	SINCLAIR EUGENE LICENSEE, LLC
9632	KCCO-TV	Minneapolis - St. Paul, MN	CBS BROADCASTING INC.
9640	KCCW-TV	Minneapolis - St. Paul, MN	CBS BROADCASTING INC.
18079	KCFW-TV	Missoula, MT	BLUESTONE LICENSE HOLDINGS INC.
41969	KCLO-TV	Rapid City, SD	YOUNG BROADCASTING OF RAPID CITY, INC.
60740	KDKF	Medford-Klamath Falls, OR	OREGON TV LICENSE COMPANY LLC
41975	KDLO-TV	Sioux Falls-Mitchell, SD	YOUNG BROADCASTING OF SIOUX FALLS, INC.
55375	KDLV-TV	Sioux Falls-Mitchell, SD	RED RIVER BROADCAST CO., LLC
56029	KEPR-TV	Yakima-Pasco-Richland -Kennewick, WA	SINCLAIR YAKIMA LICENSEE, LLC
125	KFCT	Denver, CO	TRIBUNE BROADCASTING DENVER LICENSE
21613	KFNE	Casper-Riverton, WY	WYOMEDIA CORPORATION
21612	KFNR	Casper-Riverton, WY	WYOMEDIA CORPORATION
83714	KFTC	Minneapolis - St. Paul, MN	FOX TELEVISION STATIONS, LLC
7894	KGIN	Lincoln-Hastings-Kearney, NE	GRAY TELEVISION LICENSEE, LLC
36914	KGMD-TV	Honolulu, HI	HITV LICENSE SUBSIDIARY, INC.
36920	KGMV	Honolulu, HI	HITV LICENSE SUBSIDIARY, INC.
63162	KGWL-TV	Casper-Riverton, WY	MARK III MEDIA, INC.
63170	KGWR-TV	Casper-Riverton, WY	MARK III MEDIA, INC.
4146	KHAW-TV	Honolulu, HI	LIN LICENSE COMPANY, LLC
34846	KHBC-TV	Honolulu, HI	KHNL/KGMB LICENSE SUBSIDIARY, LLC
60354	KHOG-TV	Ft. Smith-Fayetteville -Springdale-Rogers, AR	KHBS HEARST TELEVISION INC.
34348	KHSD-TV	Rapid City, SD	GRAY TELEVISION LICENSEE, LLC
64544	KHVO	Honolulu, HI	KITV, INC.
55364	KJRR	Fargo-Valley City, ND	RED RIVER BROADCAST CO., LLC
1283	KJWP	Philadelphia, PA	PMCM TV, LLC
65523	KLBY	Wichita - Hutchinson, KS	KNOXVILLE TV LLC

664	KLEI-TV	Honolulu, HI	MAUNA KEA BROADCASTING COMPANY, INC.
56032	KLEW-TV	Spokane, WA	SINCLAIR LEWISTON LICENSEE, LLC
64551	KMAU	Honolulu, HI	KITV, INC.
35183	KMCB	Eugene, OR	KMTR TELEVISION, LLC
22127	KMCY	Minot-Bismarck-Dickinson, ND	KBMY-KMCY, LLC
41425	KMOT	Minot-Bismarck-Dickinson, ND	GRAY TELEVISION LICENSEE, LLC
82615	KNDM	Minot-Bismarck-Dickinson, ND	LEGACY BROADCASTING, LLC
12427	KNDU	Yakima-Pasco-Richland -Kennewick, WA	KHQ, INCORPORATED
17683	KNEP	Cheyenne, WY-Scottsbluff, NE	GRAY TELEVISION LICENSEE, LLC
55362	KNRR	Fargo-Valley City, ND	RED RIVER BROADCAST CO., LLC
29557	KNWA-TV	Ft. Smith-Fayetteville -Springdale-Rogers, AR	NEXSTAR BROADCASTING, INC.
35321	KOBF	Albuquerque-Santa Fe, NM	KOB-TV, LLC
62272	KOBR	Albuquerque-Santa Fe, NM	KOB-TV, LLC
83181	KOCW	Wichita - Hutchinson, KS	KSAS LICENSEE, LLC
34859	KOGG	Honolulu, HI	KHNL/KGMB LICENSE SUBSIDIARY, LLC
8284	KOTI	Medford-Klamath Falls, OR	CALIFORNIA OREGON BROADCASTING, INC.
61551	KPIC	Eugene, OR	SOUTH WEST OREGON TV BROAD. CORP.
41964	KPLO-TV	Sioux Falls-Mitchell, SD	YOUNG BROADCASTING OF SIOUX FALLS, INC.
73998	KPOB-TV	Paducah-Cape Girardeau -Harrisburg-Mt Vernon	WSIL-TV, INC.
48660	KPRY-TV	Sioux Falls-Mitchell, SD	GRAY TELEVISION LICENSEE, LLC
41430	KQCD-TV	Minot-Bismarck-Dickinson, ND	GRAY TELEVISION LICENSEE, LLC
17686	KQME	Rapid City, SD	LEGACY BROADCASTING OF RAPID CITY LLC
70578	KREG-TV	Denver, CO	NEXSTAR BROADCASTING, INC.
70579	KREY-TV	Grand Junction-Montrose, CO	NEXSTAR BROADCASTING, INC.
48589	KREZ-TV	Albuquerque-Santa Fe, NM	LIN OF COLORADO, LLC
82698	KRII	Duluth, MN-Superior, WI	KBJR LICENSE, LLC
82613	KRTN-TV	Albuquerque-Santa Fe, NM	RAMAR COMMUNICATIONS, INC.
84157	KRWB-TV	Albuquerque-Santa Fe, NM	KASY-TV LICENSEE LLC
35585	KRWF	Minneapolis - St. Paul, MN	KSAX-TV, INC.
307	KSAN-TV	San Angelo, TX	MISSION BROADCASTING, INC.
35584	KSAX	Minneapolis - St. Paul, MN	KSAX-TV, INC.
17680	KSGW-TV	Rapid City, SD	GRAY TELEVISION LICENSEE, LLC
72359	KSNC	Wichita - Hutchinson, KS	LIN LICENSE COMPANY, LLC
72361	KSNG	Wichita - Hutchinson, KS	LIN LICENSE COMPANY, LLC
72362	KSNK	Wichita - Hutchinson, KS	LIN LICENSE COMPANY, LLC
63182	KSTF	Cheyenne, WY-Scottsbluff, NE	GRAY TELEVISION LICENSEE, LLC
35187	KTCW	Eugene, OR	KMTR TELEVISION, LLC
68541	KTRE	Tyler-Longview, TX	KLTV/KTRE LICENSE SUBSIDIARY, LLC
28501	KTTM	Sioux Falls-Mitchell, SD	INDEPENDENT COMMUNICATIONS, INC.
18066	KTVM-TV	Butte-Bozeman, MT	BLUESTONE LICENSE HOLDINGS INC.

41429	KUMV-TV	Minot-Bismarck-Dickinson, ND	GRAY TELEVISION LICENSEE, LLC
65535	KUPK	Wichita - Hutchinson, KS	KNOXVILLE TV LLC
2495	KVEW	Yakima-Pasco-Richland -Kennewick, WA	APPLE VALLEY BROADCASTING, INC.
40450	KVIH-TV	Amarillo, TX	KVII LICENSEE, LLC
33078	KVTV	Laredo, TX	EAGLE CREEK BROADCASTING OF LAREDO
42008	KWAB-TV	Odessa-Midland, TX	KWES LICENSE SUBSIDIARY, LLC
21162	KWNB-TV	Lincoln-Hastings-Kearney, NE	KHGI LICENSEE, LLC
55684	KXMA-TV	Minot-Bismarck-Dickinson, ND	NEXSTAR BROADCASTING, INC.
55686	KXMB-TV	Minot-Bismarck-Dickinson, ND	NEXSTAR BROADCASTING, INC.
55683	KXMD-TV	Minot-Bismarck-Dickinson, ND	NEXSTAR BROADCASTING, INC.
60384	KYLE-TV	Waco-Temple-Bryan, TX	NEXSTAR BROADCASTING, INC.
5237	KYUS-TV	Billings, MT	KYUS-TV BROADCASTING CORPORATION
76001	WBKP	Marquette, MI	LAKE SUPERIOR COMMUNITY BROAD. CORP.
69544	WCCU	Champaign-Springfield -Decatur, IL	GOCOM MEDIA OF ILLINOIS, LLC
74419	WCDC-TV	Albany-Schenectady-Troy, NY	YOUNG BROADCASTING OF ALBANY, INC.
42116	WCIX	Champaign-Springfield -Decatur, IL	NEXSTAR BROADCASTING, INC.
22124	WDAZ-TV	Fargo-Valley City, ND	FORUM COMMUNICATIONS COMPANY
71325	WDBB	Birmingham, AL	WDBB-TV, INC.
6476	WDPX-TV	Boston, MA	ION MEDIA BOSTON LICENSE, INC.
2709	WEUX	La Crosse-Eau Claire, WI	NEXSTAR BROADCASTING, INC.
60553	WFTY-DT	New York, NY	UNIVISION NEW YORK LLC
25395	WFUP	Traverse City-Cadillac, MI	CADILLAC TELECASTING CO.
59279	WGTQ	Traverse City-Cadillac, MI	TRAVERSE CITY (WGTU-TV) LICENSEE, INC.
48668	WHLT	Hattiesburg-Laurel, MS	MEDIA GENERAL COMMUNICATIONS HOLDINGS
25684	WICD	Champaign-Springfield -Decatur, IL	WICD LICENSEE, LLC
39887	WIRS	San Juan, PR	AMERICA-CV STATION GROUP, INC.
71336	WIRT-DT	Duluth, MN-Superior, WI	WDIO-TV, LLC
68519	WJKT	Jackson, TN	NEXSTAR BROADCASTING, INC.
86537	WJLP	New York, NY	PMCM TV, LLC
9630	WJMN-TV	Marquette, MI	NEXSTAR BROADCASTING, INC.
58342	WJWN-TV	San Juan, PR	AMERICA-CV STATION GROUP, INC.
58341	WKPV	San Juan, PR	AMERICA-CV STATION GROUP, INC.
73336	WNJX-TV	San Juan, PR	TELEVICENTRO OF PUERTO RICO, LLC
73344	WNNE	Burlington, VT-Plattsburgh, NY	HEARST STATIONS INC.
16539	WNTZ-TV	Alexandria, LA	NEXSTAR BROADCASTING, INC.
64865	WORA-TV	San Juan, PR	TELECINCO, INC.
48406	WPXG-TV	Boston, MA	ION MEDIA BOSTON LICENSE, INC.
37971	WPXU-TV	Greenville-New Bern -Washington, NC	ION MEDIA JACKSONVILLE LICENSE, INC.

64550	WQOW	La Crosse-Eau Claire, WI	WXOW-WQOW LICENSE, LLC
19776	WSUR-DT	San Juan, PR	WLII/WSUR LICENSE PARTNERSHIP, G.P.
26681	WTIN-TV	San Juan, PR	TELEVICENTRO OF PUERTO RICO, LLC
21254	WTOM-TV	Traverse City-Cadillac, MI	WPBN LICENSEE, LLC
56526	WTTK	Indianapolis, IN	TRIBUNE BROADCASTING INDIANAPOLIS, LLC
61573	WVEO	San Juan, PR	SPANISH BROAD. SYSTEM HOLDING CO.
24812	WWCW	Roanoke-Lynchburg, VA	NEXSTAR BROADCASTING, INC.
23264	WWPX-TV	Washington, DC	ION MEDIA MARTINSBURG LICENSE, INC.
26993	WWUP-TV	Traverse City-Cadillac, MI	HERITAGE BROAD. COMPANY OF MICHIGAN
35582	WYDO	Greenville-New Bern -Washington, NC	ESTEEM BROADCASTING OF NORTH CAROLINA
77789	WYOW	Wausau-Rhineland, WI	WAOW-WYOW LICENSE, LLC
83270	WZVI	Virgin Islands	ALPHA BROADCASTING CORPORATION

APPENDIX F

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (*Notice*). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this *Notice*. The Commission will send a copy of the *Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the *Notice* and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Notice

2. The *Notice* seeks comment regarding adopting proposed regulatory fees for Fiscal Year 2017. The proposed regulatory fees are attached to the *Notice* in Appendix A. This regulatory fee Notice is needed each year because the Commission is required by Congress to adopt regulatory fees each year “to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.”⁴ The objective of the Notice is to propose regulatory fees for fiscal year 2017 and adopt regulatory fee reform to improve the regulatory fee process. The *Notice* seeks comment on the following proposals. (i) The *Notice* proposes an increase in the DBS fee rate to 38 cents per DBS subscriber so that the DBS fee would be approaching parity with the cable television/IPTV fee, based on the Media Bureau FTEs devoted to issues that include DBS. (ii) The *Notice* seeks comment on revising rates for AM and FM broadcasters and further reducing rates for those broadcasters in smaller markets. (iii) The Notice seeks comment on correctly identifying satellite television operators and ensuring that they pay the regulatory fee associated with satellite television. (iv) The *Notice* seeks comment on adopting a new methodology for determining terrestrial international bearer circuit regulatory fees. (v) The *Notice* seeks comment on providing additional regulatory fee relief to smaller entities by increasing the de minimis threshold from \$500 to \$1,000; allowing multiyear fee categories to be de minimis if the licensees’ total fee for the year is no greater than the de minimis threshold; and eliminating certain fee categories from regulatory fees. (vi) The *Notice* seeks comment on a proposal to reassign certain Wireline Competition Bureau FTEs and Wireless Telecommunications Bureau FTEs as indirect FTEs and reassign certain Wireline Competition Bureau FTEs as Wireless Telecommunications Bureau FTEs, for regulatory fee purposes.

B. Legal Basis

3. This action, including publication of proposed rules, is authorized under sections (4)(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended.⁵

¹ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996).

² 5 U.S.C. § 603(a).

³ *Id.*

⁴ 47 U.S.C. § 159(a).

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

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

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

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

6. **Wired Telecommunications Carriers.** The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using

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 5 U.S.C. § 601(3)-(6).

¹¹ See SBA, Office of Advocacy, “Frequently Asked Questions,” available at https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.

¹² 5 U.S.C. § 601(4).

¹³ 5 U.S.C. § 601(5).

¹⁴ See SBA, Office of Advocacy, “Frequently Asked Questions,” available at https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.

¹⁵ The 2011 U.S. Census Data for small governmental organizations are not presented based on the size of the population in each organization. As stated above, there were 90,056 local governmental organizations in 2011. As a basis for estimating how many of these 90,056 local governmental organizations were small, we note that there were a total of 729 cities and towns (incorporated places and civil divisions) with populations over 50,000. See http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodTtype=table. If we subtract the 729 cities and towns that exceed the 50,000 population threshold, we conclude that approximately 789,237 are small.

wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.”¹⁶ The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.¹⁷ Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.¹⁸ Thus, under this size standard, the majority of firms in this industry can be considered small.

7. **Local Exchange Carriers (LECs).** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS code category is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁹ According to census data from 2012, there were 3,117 establishments that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.²⁰ The Commission estimates that most providers of local exchange service are small entities that may be affected by the rules proposed in the *Notice*.

8. **Incumbent LECs.** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS code category is Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.²¹ According to census data from 2012, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees.²² According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.²³ Of this total of 1,307 incumbent local exchange service providers, an estimated 1,006 operated with 1,500 or fewer employees.²⁴ Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules proposed in this *Notice*.

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. Under that size standard, such a business is small if it has 1,500 or fewer employees.²⁵ U.S. Census data for 2012 indicate

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

¹⁷ See 13 CFR § 120.201, NAICS code 517110.

¹⁸ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

¹⁹ 13 CFR § 121.201, NAICS code 517110.

²⁰ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

²¹ 13 CFR § 121.201, NAICS code 517110.

²² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

²³ See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

²⁴ See *id.*

²⁵ 13 CFR § 121.201, NAICS code 517110.

that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.²⁶ 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 the Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.²⁷ Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.²⁸ Also, 72 carriers have reported that they are Other Local Service Providers.²⁹ Of this total, 70 have 1,500 or fewer employees.³⁰ Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules proposed in this *Notice*.

10. **Interexchange Carriers (IXCs).** Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this IRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.³¹ 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.³² According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.³³ Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules proposed in this *Notice*.

11. **Prepaid Calling Card Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate NAICS code category for prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are included in this industry.³⁴ Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.³⁵ 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.³⁶ Thus, under this category and the associated small business size standard, the majority of these prepaid calling card

²⁶ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

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

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ 13 CFR § 121.201, NAICS code 517110.

³² http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

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

³⁴ <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

³⁵ 13 CFR § 121.201, NAICS code 517911.

³⁶ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

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.³⁷ All 193 carriers have 1,500 or fewer employees.³⁸ Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules proposed in this *Notice*.

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.³⁹ Census data for 2012 show that 1,341 firms provided resale services during that year.⁴⁰ Of that number, 1,341 operated with fewer than 1,000 employees.⁴¹ Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.⁴² Of this total, an estimated 211 have 1,500 or fewer employees.⁴³ Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules proposed in this *Notice*.

13. **Toll Resellers.** The Commission has not developed a definition for Toll Resellers. The closest NAICS code Category is Telecommunications Resellers, and the SBA has developed a small business size standard for the category of Telecommunications Resellers.⁴⁴ Under that size standard, such a business is small if it has 1,500 or fewer employees.⁴⁵ Census data for 2012 show that 1,341 firms provided resale services during that year.⁴⁶ Of that number, 1,341 operated with fewer than 1,000 employees.⁴⁷ 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.⁴⁸ Of this total, an estimated 857 have 1,500 or fewer employees.⁴⁹ Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by the rules proposed in the *Notice*.

14. **Other Toll Carriers.** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid

³⁷ See *Trends in Telephone Service*, at tbl. 5.3.

³⁸ *Id.*

³⁹ 13 CFR § 121.201, NAICS code 517911.

⁴⁰ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

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

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

⁴³ *Id.*

⁴⁴ 13 CFR § 121.201, NAICS code 517911.

⁴⁵ *Id.*

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

⁴⁷ *Id.*

⁴⁸ *Trends in Telephone Service*, at tbl. 5.3.

⁴⁹ *Id.*

calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS code category is for Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.⁵⁰ Census data for 2012 shows that there were 3,117 firms that operated that year.⁵¹ Of this total, 3,083 operated with fewer than 1,000 employees.⁵² Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.⁵³ Of these, an estimated 279 have 1,500 or fewer employees.⁵⁴ Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules proposed in the *Notice*.

15. **Wireless Telecommunications Carriers (except Satellite).** This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. 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.⁵⁵ 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.⁵⁶ Of this total, 955 firms had fewer than 1,000 employees.⁵⁷ 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 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.⁵⁸ Of this total, an estimated 261 have 1,500 or fewer employees.⁵⁹ Thus, using available data, we estimate that the majority of wireless firms can be considered small and may be affected by rules proposed in this *Notice*.

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.”⁶⁰ 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

⁵⁰ 13 CFR § 121.201, NAICS code 517110.

⁵¹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

⁵² *Id.*

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

⁵⁴ *Id.*

⁵⁵ NAICS code 517210. See <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

⁵⁶ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

⁵⁷ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

⁵⁸ *Trends in Telephone Service*, at tbl. 5.3.

⁵⁹ *Id.*

⁶⁰ U.S. Census Bureau, 2012 NAICS code Economic Definitions, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

million or less in annual receipts.⁶¹ 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 1,387.⁶² 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.⁶³ 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) affiliations⁶⁴ 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 396.⁶⁵ These stations are non-profit, and therefore considered to be small entities.⁶⁶ There are also 2,528 low power television stations, including Class A stations (LPTV).⁶⁷ 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 Broadcasting.** 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 network, or from external sources."⁶⁸ 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.⁶⁹ U.S. Census data for 2012 show that 2,849 radio station firms operated during that year.⁷⁰ Of that number, 2,806 operated with annual receipts of less than \$25 million per year.⁷¹ According to

⁶¹ 13 CFR § 121.201, NAICS code 515120.

⁶² 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.

⁶³ We recognize that BIA's estimate differs slightly from the FCC total given *supra*.

⁶⁴ "[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).

⁶⁵ 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.

⁶⁶ See generally 5 U.S.C. §§ 601(4), (6).

⁶⁷ 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.

⁶⁸ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁶⁹ 13 CFR § 121.201, NAICS code 515112.

⁷⁰ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

⁷¹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

Commission staff review of BIA Advisory Services, LLC's *Media Access Pro Radio Database* on March 28, 2012, about 10,759 (97%) 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.⁷² In addition, to be determined to be a "small business," the entity may not be dominant in its field of operation.⁷³ 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.⁷⁴ 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.⁷⁵ Of this total, 319 operated with annual receipts of less than \$25 million.⁷⁶ 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 proposed in this *Notice*.

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.⁷⁷ Industry data indicate that there are currently 4,600 active cable systems in the United States.⁷⁸ Of this total, all but ten cable operators nationwide are small under the 400,000-subscriber size standard.⁷⁹ In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers.⁸⁰ Current Commission records show 4,600 cable systems nationwide.⁸¹ Of this total, 3,900 cable systems have less than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records.⁸² Thus, under this standard as well, the Commission estimates that most cable systems are small entities.

⁷² "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).

⁷³ 13 CFR § 121.102(b) (an SBA regulation).

⁷⁴ <https://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁷⁵ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

⁷⁶ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=Table.

⁷⁷ 47 CFR § 76.901(e).

⁷⁸ 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.

⁷⁹ See SNL KAGAN at www.snl.com/interactiveX/top_cableMSOs.aspx?period2015Q1&sortcol=subscribersbasic&sortorder=desc.

⁸⁰ 47 CFR § 76.901(c).

⁸¹ See footnote 2, *supra*.

⁸² August 5, 2015 report from the Media Bureau based on its research in COALS. See www.fcc.gov/coals.

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.”⁸³ There are approximately 52,403,705 cable video subscribers in the United States today.⁸⁴ 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.⁸⁵ Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.⁸⁶ The Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.⁸⁷ Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, 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.⁸⁸ The SBA determines that a wireline business is small if it has fewer than 1500 employees.⁸⁹ 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.⁹⁰ Based on that data, we conclude that the majority of 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.⁹¹ 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 DBS service is provided only by large firms.

⁸³ 47 CFR § 76.901 (f) and notes ff. 1, 2, and 3.

⁸⁴ See SNL KAGAN at www.snl.com/interactivex/MultichannelIndustryBenchmarks.aspx.

⁸⁵ 47 CFR § 76.901(f) and notes ff. 1, 2, and 3.

⁸⁶ See SNL KAGAN at www.snl.com/Interactivex/TopCable_MSOs.aspx.

⁸⁷ 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 47 CFR § 76.901(f) of the Commission’s rules. See 47 CFR § 76.901(f).

⁸⁸ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁸⁹ NAICs code 517110; 13 CFR § 121.201.

⁹⁰ http://factfinder.census.gov/faces/tableservices.jsf/pages/productview.xhtml?pid+ECN_2012_US.51SSSZ4&prodType=table.

⁹¹ See 15th Annual Video Competition Report, 28 FCC Rcd at 1057, Section 27.

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.⁹² 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.⁹³ 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.⁹⁴ Thus, a majority of “All Other Telecommunications” firms potentially affected by the proposals in the *Notice* can be considered small.

26. **RespOrgs.** Responsible Organizations, or RespOrgs, 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.⁹⁵ 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,⁹⁶ and Wireless Telecommunications Carriers (except satellite).⁹⁷

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.⁹⁸ 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.⁹⁹ 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.¹⁰⁰ Based on that data, we conclude that the majority of Carrier RespOrgs that

⁹² <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁹³ 13 CFR § 121.201; NAICS code 517919.

⁹⁴ http://factfinder.census.gov/faces/tableservices.jsf/pages/productview.xhtml?pid+ECN_2012_US.51SSSZ4&prodType=table.

⁹⁵ See 47 CFR § 52.101(b).

⁹⁶ 13 CFR § 121.201, NAICS code 517110.

⁹⁷ *Id.*

⁹⁸ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

⁹⁹ 13 CFR § 120,201, NAICS code 517110.

¹⁰⁰ <http://factfinder.census.gov/faces/tableservices.jsf/pages/productview.xhtml?>

(continued....)

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.¹⁰¹ The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.¹⁰² 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.¹⁰³ 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 U.S. 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”¹⁰⁴ and “Other Management Consulting Services.”¹⁰⁵

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).¹⁰⁶ The SBA has established a size standard for this industry as annual receipts of \$15 million dollars or less.¹⁰⁷ 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.¹⁰⁸ Based on that data we conclude that the majority of Non-Carrier RespOrgs who provide toll-free number (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.¹⁰⁹ The SBA has established a size standard for this industry of \$15 million dollars or less.¹¹⁰ 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

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[pid=ECN_2012_US_51SSSZ4&prodType=table.](http://www.fcc.gov/ecn/2012/US_51SSSZ4&prodType=table)

¹⁰¹ [http://www.census.gov/cgi-bin/sssd/naics.naicsrch.](http://www.census.gov/cgi-bin/sssd/naics.naicsrch)

¹⁰² 13 CFR § 120.201, NAICS code 517120.

¹⁰³ [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table)

¹⁰⁴ 13 CFR § 120.201, NAICS code 541890.

¹⁰⁵ 13 CFR § 120.201, NAICS code 541618.

¹⁰⁶ [http://www.census.gov/cgi-bin/sssd/naics.naicsrch.](http://www.census.gov/cgi-bin/sssd/naics.naicsrch)

¹⁰⁷ 13 CFR § 120.201, NAICS code 541890.

¹⁰⁸ [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table)

¹⁰⁹ [http://www.census.gov/cgi-bin/sssd/naics.naicsrch.](http://www.census.gov/cgi-bin/sssd/naics.naicsrch)

¹¹⁰ 13 CFR § 120.201, NAICS code 514618.

receipts.¹¹¹ Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.¹¹²

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.

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

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

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

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.¹¹³

36. This *Notice* seeks comment on the Commission's regulatory fee collection for Fiscal Year 2017, as required by Congress each year. Specifically, we ask for comments each year in the Regulatory Flexibility Analysis on how to minimize adverse economic impact, imposed by our proposed rules, on small entities. The regulatory fees proposed in this *Notice* do not include any new fee categories. However, the proposal to reduce fees for smaller broadcast entities may provide financial relief to smaller entities if it is adopted. The proposal to increase the de minimis threshold from \$500 to \$1,000 would, if adopted, allow additional smaller entities to pay no regulatory fees if their annual total amount of fees is no greater than \$1,000. The proposal to allow multiyear licenses to be de minimis based on the total amount of fees owed each year, if adopted, would allow smaller entities with multiyear licenses to pay no regulatory fees depending on the total amount owed each year. Finally, the proposal to exclude certain licenses from regulatory fees may, if adopted, provide financial relief to smaller entities because they would not have to pay regulatory fees for those particular licenses at all.

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

37. None.

¹¹¹ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.

¹¹² 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.

¹¹³ 5 U.S.C. § 603(c)(1)–(c)(4).

APPENDIX G

FY 2016 Schedule of Regulatory Fees

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

Fee Category	Annual Regulatory Fee (U.S. \$s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	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

Fee Category	Annual Regulatory Fee (U.S. \$s)
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: (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 (continued)**International Bearer Circuits - Submarine Cable**

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
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