

Dated: September 6, 2018.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[MD Docket No. 18–175; FCC 18–126]

### Assessment and Collection of Regulatory Fees for Fiscal Year 2018

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission revises its Schedule of Regulatory Fees to recover an amount of \$322,035,000 that Congress has required the Commission to collect for fiscal year 2018. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees under sections 9(b)(2) and 9(b)(3), respectively, for annual “Mandatory Adjustments” and “Permitted Amendments” to the Schedule of Regulatory Fees.

**DATES:** Effective September 18, 2018, except for the amendment to § 1.1940, which is effective October 1, 2018. To avoid penalties and interest, regulatory fees should be paid by the due date of September 25, 2018.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Report and Order*, FCC 18–126, MD Docket No. 18–175, adopted on August 28, 2018 and released on August 29, 2018. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission’s website at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2017/db0906/FCC-17-111A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0906/FCC-17-111A1.pdf).

### I. Administrative Matters

#### A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980 (RFA),<sup>1</sup> the

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601–612, has been amended by the Small Business

Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is located towards the end of this document.

#### B. Final Paperwork Reduction Act of 1995 Analysis

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

#### C. Congressional Review Act

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

## II. Introduction

1. This Report and Order adopts a schedule of regulatory fees to assess and collect \$322,035,000 in regulatory fees for fiscal year (FY) 2018, pursuant to section 9<sup>2</sup> of the Communications Act of 1934, as amended, and the Commission’s FY 2018 Appropriation.<sup>3</sup> The schedule of regulatory fees for FY 2018 adopted herein is attached in Table 4. The regulatory fees for all payors are due in September 2018.

2. Additionally, we amend our rules in accordance with the directives of the RAY BAUM’S Act regarding the collection of delinquent debts.<sup>4</sup> This rule change will become effective on October 1, 2018.

## III. Background

3. 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

Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

<sup>2</sup> 47 U.S.C. 159. Although the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, or the RAY BAUM’S Act of 2018, amended sections 8 and 9 and added section 9A to the Communications Act, those provisions do not become effective until October 1, 2018. Consolidated Appropriations Act, 2018, Public Law Number 115–141, 132 Stat. 1084, Division P—RAY BAUM’S Act of 2018, Title I, 103 (2018).

<sup>3</sup> Consolidated Appropriations Act, 2018, Division E—Financial Services and General Government Appropriations Act, 2018, Title V—Independent Agencies, Public Law 115–141 (March 23, 2018) (FCC FY 2018 Appropriation).

<sup>4</sup> See *supra* note 1.

appropriation.<sup>5</sup> Regulatory fees, mandated by Congress, are collected “to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.”<sup>6</sup> 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. . . .”<sup>7</sup> Regulatory fees recover direct costs, such as salary and expenses; indirect costs, such as overhead functions; and support costs, such as rent, utilities, and equipment.<sup>8</sup> Regulatory fees also cover the costs incurred in regulating entities that are statutorily exempt from paying regulatory fees,<sup>9</sup> entities whose regulatory fees are waived,<sup>10</sup> and entities providing services for which we do not assess regulatory fees.

4. Congress sets the amount of regulatory fees the Commission must collect each year in the Commission’s fiscal year appropriations. Section 9(a)(2) of the Communications Act requires the Commission to collect fees sufficient to offset the amount appropriated.<sup>11</sup> 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 (FTEs) in each regulatory fee category.<sup>12</sup> FTEs are classified as “direct” if the employee is in one of the four “core” bureaus; otherwise, that employee is considered an “indirect” FTE.<sup>13</sup> The

<sup>5</sup> 47 U.S.C. 159(b)(1)(B).

<sup>6</sup> 47 U.S.C. 159(a).

<sup>7</sup> 47 U.S.C. 159(b)(1)(A).

<sup>8</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11662, 11666, paragraph 11 (2004) (FY 2004 Report and Order), 69 FR 41028 (July 7, 2004).

<sup>9</sup> 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.

<sup>10</sup> 47 CFR 1.1166.

<sup>11</sup> 47 U.S.C. 159(a)(2).

<sup>12</sup> 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.

<sup>13</sup> The core bureaus, which have the direct FTEs, are the Wireline Competition Bureau (124), Wireless Telecommunications Bureau (101), Media Bureau (135), and part of the International Bureau (24). The indirect FTEs are the employees from the following bureaus and offices: Enforcement Bureau (203), Consumer & Governmental Affairs Bureau (136), Public Safety and Homeland Security Bureau (104), part of the International Bureau (72), part of the Wireline Competition Bureau (38), Chairman and Commissioners’ offices (15), Office of the

Continued

total FTEs for each fee category includes the direct FTEs associated with that category, plus a proportional allocation of indirect FTEs.<sup>14</sup> 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).<sup>15</sup> These calculations are illustrated in Table 3. The sources for the unit estimates that are used in these calculations are listed in Table 5.

5. 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.<sup>16</sup> As part of its annual review, the Commission also regularly seeks to improve the regulatory fee process.<sup>17</sup>

6. In the *FY 2018 Notice of Proposed Rulemaking*, the Commission proposed to collect \$322,035,000 in regulatory fees for FY 2018 and sought comment on a detailed proposed fee schedule.<sup>18</sup>

Managing Director (149), Office of General Counsel (74), Office of the Inspector General (46), Office of Communications Business Opportunities (8), Office of Engineering and Technology (73), Office of Legislative Affairs (9), Office of Strategic Planning and Policy Analysis (15), Office of Workplace Diversity (5), Office of Media Relations (14), and Office of Administrative Law Judges (4).

<sup>14</sup> 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, paragraph 17 (2013) (*FY 2013 Report and Order*), 78 FR 52433 (Aug. 23, 2013).

<sup>15</sup> See *Procedures for Assessment and Collection of Regulatory Fees*, Notice of Proposed Rulemaking, 27 FCC Rcd 8458, 8461–62, paragraphs 8–11 (2012) (*FY 2012 NPRM*), 77 FR 29275 (May 17, 2012).

<sup>16</sup> 47 U.S.C. 159(b)(1)(B).

<sup>17</sup> 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 regulatees in the fee categories. *FY 2013 Report and Order*, 28 FCC Rcd at 12354–58, paragraphs 10–20. This was recommended in a report issued by the Government Accountability Office (GAO) in 2012. See GAO “Federal Communications Commission Regulatory Fee Process Needs to be Updated,” GAO–12–686 (August 2012) (GAO Report) at 36, <http://www.gao.gov/products/GAO-12-686>. The Commission has since updated the FTE allocations annually. In addition, the Commission reallocated some FTEs from the International Bureau as indirect; combined the UHF and VHF television stations into one regulatory fee category; and added internet Protocol Television (IPTV) to the cable television regulatory fee category. *FY 2013 Report and Order*, 28 FCC Rcd at 12355–63, paragraphs 13–33.

<sup>18</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2018*, Report and Order and Notice

The Commission sought comment specifically on an incremental increase in the DBS regulatory fee<sup>19</sup> and on proposed regulatory fees for terrestrial and satellite international bearer circuits for FY 2018.<sup>20</sup> Additionally, the Commission sought comment on the methodology for calculating broadcast television station regulatory fees for FY 2018<sup>21</sup> and whether to adopt a new regulatory fee category for small satellites for FY 2019, and if so, what the appropriate regulatory fee for small satellites should be.<sup>22</sup> We received 9 comments and four reply comments on the *FY 2018 NPRM*.<sup>23</sup>

#### IV. Report and Order

7. In this *FY 2018 Report and Order*, we adopt the regulatory fee schedule proposed in the *FY 2018 NPRM* for FY 2018, pursuant to section 9 of the Communications Act, to collect \$322,035,000 in regulatory fees. Of this amount, we project approximately \$20.3 million (6.25 percent of the total FTE allocation) in fees from the International Bureau regulatees; \$84.7 million (26.3 percent of the total FTE allocation) in fees from the Wireless Telecommunications Bureau regulatees; \$103.99 million (32.29 percent of the total FTE allocation) in fees from the Wireline Competition Bureau regulatees; and \$113.22 million (35.16 percent of the total FTE allocation) in fees from the Media Bureau regulatees. These regulatory fees are due in September 2018. The schedule of regulatory fees for FY 2018 adopted herein is attached as Table 4.

#### *FY 2018 Adjustment: Video Distribution Provider Regulatory Fees*

8. Among other activities, the Media Bureau oversees the regulation of video distribution providers like multichannel video programming distributors (MVPDs), i.e., regulated companies that make available for purchase, by subscribers or customers, multiple channels of video programming. The Media Bureau relies on a common pool of FTEs to carry out its oversight of

of Proposed Rulemaking, FCC 18–65 (2018) (*FY 2018 NPRM*), 83 FR 27846 (June 14, 2018).

<sup>19</sup> *Id.* paragraphs 17–20.

<sup>20</sup> *Id.* paragraphs 22–26.

<sup>21</sup> *Id.* paragraphs 27–31.

<sup>22</sup> *Id.* paragraphs 32–33. We defer consideration of a new regulatory fee category, and the appropriate regulatory fee, for small satellites until we adopt a definition of “small satellites” in the pending *Small Satellite NPRM* proceeding. See *Streamlining Licensing Procedures for Small Satellites*, IB Docket No. 18–86, Notice of Proposed Rulemaking, FCC 18–44 (2018) (*Small Satellite NPRM*), 83 FR 24064 (May 24, 2018).

<sup>23</sup> Commenters to the *FY 2018 NPRM* are listed in Appendix A.

MVPDs and other video distribution providers. These responsibilities include market modifications, local-to-local, must-carry and retransmission consent disputes, program carriage and program access complaints, over-the-air reception device declaratory rulings and waivers, media rule modernization, media ownership, and proposed transactions.<sup>24</sup>

9. For these activities in FY 2018, the Commission must collect \$62,330,000 in regulatory fees from three categories of providers: Cable TV systems, IPTV providers, and direct broadcast satellite (DBS) operators. Although the Commission decided to assess cable TV systems and IPTV providers the same for regulatory fee purposes—assessing each provider based on its subscribership—the Commission took a different approach when it began to assess Media Bureau-based regulatory fees on DBS operators. Specifically, the Commission decided to phase in the new Media Bureau-based regulatory fee for DBS, starting at 12 cents per subscriber per year.<sup>25</sup> At the same time, the Commission committed to updating the regulatory fee rate in future years “as necessary for ensuring an appropriate level of regulatory parity and considering the resources dedicated to this new regulatory fee subcategory.”<sup>26</sup> Accordingly, the Commission increased the regulatory fee for DBS operators to 27 cents (including a three cent moving fee) and then 38 cents (including a two cent moving fee) per subscriber per year, with the regulatory fees paid by DBS operators reducing those paid by other MVPDs.<sup>27</sup>

10. For FY 2018, the Commission proposed to continue the transition by increasing the DBS regulatory fee rate to 48 cents per subscriber per year, thereby leaving other MVPDs with a regulatory fee of 77 cents per subscriber per year.<sup>28</sup> Although a common pool of FTEs work on MVPD and related issues for DBS operators, IPTV providers, and cable TV systems, which some commenters argue justifies immediate parity in regulatory

<sup>24</sup> See NCTA Comments at 6–7; ACA Comments at 4 & n.13.

<sup>25</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Report and Order, 30 FCC Rcd 10268, 10277, paragraph 20 (2015) (*FY 2015 Report and Order*), 80 FR 55775 (Sept. 17, 2015).

<sup>26</sup> *FY 2015 Report and Order*, 30 FCC Rcd at 10277, paragraph 20.

<sup>27</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Report and Order, 32 FCC Rcd 7057, 7067, paragraph 20 (2017) (*FY 2017 Report and Order*), 82 FR 44322 (Sept. 22, 2017); *Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, Report and Order, 31 FCC Rcd 10339, 10350, paragraph 30 (2016) (*FY 2016 Report and Order*), 81 FR 65926 (Sept. 26, 2016).

<sup>28</sup> *FY 2018 NPRM* at paragraph 19.

fees across these providers,<sup>29</sup> we believe it prudent to adopt our proposal to increase such rates by less than one cent per subscriber per month, or 10 cents per subscriber per year. Doing so reflects the statutory imperative to take into account the FTEs devoted to oversight of this common category of regulatees, “adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission’s activities, including . . . factors that the Commission determines are necessary in the public interest,”<sup>30</sup> such as our concern to mitigate the impact of increases on MVPDs should we move to immediate parity (which a regulatory fee of 67 cents per subscriber per year would achieve).<sup>31</sup>

11. AT&T and DISH—the two DBS operators—reiterate several arguments against any increase in DBS regulatory fees that they have raised, and the Commission has rejected, in previous years. For example, AT&T and DISH claim that the proposed fee increase will result in “rate shock,”<sup>32</sup> even though last year the Commission held an increase of about one penny per subscriber per month would not cause such shock.<sup>33</sup> AT&T and DISH also claim the Commission cannot increase DBS regulatory fees without an allocation of “additional FTEs to handle DBS matters,”<sup>34</sup> even though last year the Commission held that the DBS regulatory fee is based on the significant number of Media Bureau FTEs that work on MVPD issues that include DBS, “not a particular number of FTEs focused solely on DBS” or “specific recent proceedings.”<sup>35</sup> For these reasons, we reject these arguments and agree with commenters that the continued participation of DBS

operators in Commission proceedings, along with the use of a common pool of FTEs to oversee MVPD matters (including matters related to DBS operators in particular), justifies an increase in the DBS regulatory fee rate.

#### *FY 2018 Adjustment: Terrestrial and Satellite International Bearer Circuits*

12. As discussed in the *FY 2018 NPRM*, the Commission has previously sought comment on adopting a tiered methodology for assessing terrestrial and satellite international bearer circuit regulatory fees, and we should have sufficient information from payors in September 2018 to be able to consider a tiered rate structure for FY 2019.<sup>36</sup> In the meantime, the Commission proposed to continue assessing terrestrial and satellite IBC regulatory fees on a per-circuit basis for FY 2018, using Gbps as the measurement rather than 64 kbps.<sup>37</sup> CenturyLink observes that the proposed rate of \$0.02 per circuit in Appendix B to the *FY 2018 NPRM* used 64 kbps instead of Gbps.<sup>38</sup> We agree with CenturyLink that the measurement listed in the *FY 2018 NPRM* should have been Gbps instead of 64 kbps, and we are therefore adopting the proposed per-circuit fee of \$176, using Gbps, in lieu of 64 kbps. No commenter opposed this proposal.

#### *FY 2019 Amendment: Broadcast Television Stations*

13. Full service television station licensees are subject to regulatory fee payments based on the market served. Historically, broadcast full service television stations pay regulatory fees based on the schedule of regulatory fees established in section 9(g) of the Communications Act, which consolidated stations into market groupings 1–10, 11–25, 26–50, 51–100, and remaining markets.<sup>39</sup> The Commission subsequently established a separate fee category for broadcast television satellite stations.<sup>40</sup> The Commission uses Nielsen Designated Market Areas (DMAs) to define the

market a station serves. For FY 2017, the regulatory fees for full service stations ranged from \$1,725 for satellite stations to \$59,750 for stations in markets 1–10.

14. In the *FY 2018 NPRM*, we sought comment on whether we could more accurately ascertain the actual market served by a station for purposes of assessing regulatory fees by examining the actual population covered by the station’s contours rather than using DMAs.<sup>41</sup> Specifically we sought comment on whether, for FY 2019 and going forward, regulatory fees should be assessed for full-power broadcast television stations based on the population covered by the station’s contour, instead of DMAs.<sup>42</sup> No commenter opposed this proposal. In the *FY 2018 NPRM*, we also sought comment on whether to phase in the implementation of this methodology over a two-year, or longer, period of time.<sup>43</sup> In order to facilitate the transition to this new fee structure, for FY 2019, we plan to adopt a fee based on an average of the current DMA methodology and the population covered by a full-power broadcast station’s contour. Thereafter, in 2020, we plan to assess regulatory fees for full-power broadcast stations based on the population covered by the station’s contour. Such an approach is consistent with the methodology used for AM and FM broadcasters, in which fees are based on population served and the class of service based on the signal contours. In addition, this approach addresses concerns about the assessment of regulatory fees on broadcast television satellite stations serving small markets at the fringe of larger DMAs.<sup>44</sup> The population data for broadcasters’ service areas will be extracted annually from the TVStudy database, based on a station’s projected noise-limited service contour, consistent with our rules,<sup>45</sup> and we will enable broadcasters to review population data for their service area in our annual regulatory fee NPRM. We will multiply the population by a factor for which we will seek comment in the annual regulatory fee NPRM, e.g., 0.63 cents (\$.0063).

15. The adoption of these methodologies for assessing regulatory fees for broadcast television stations is a permitted amendment as defined in

<sup>29</sup> ACA Comments at 1–3; NCTA Comments at 4.

<sup>30</sup> 47 U.S.C. 159(b)(1)(A).

<sup>31</sup> For similar reasons, we reject NCTA’s request to increase the DBS regulatory fee to at least 60 cents per subscriber per year (and reduce the proposed cable television/IPTV regulatory fee to 72 cents per subscriber per year) in order to accommodate cable television providers’ chosen billing systems. See NCTA Comments at 8 & n.23.

<sup>32</sup> DISH and AT&T Comments at 9.

<sup>33</sup> See also *FY 2017 Report and Order*, 32 FCC Rcd at 7067, paragraph 21 (rejecting the claim that a regulatory fee increase of several cents per subscriber, per month would harm customers given that “such an increase is a negligible fraction of a monthly bill”).

<sup>34</sup> AT&T and DISH Comments at 3.

<sup>35</sup> *FY 2017 Report and Order*, 32 FCC Rcd at 7067–68, paragraphs 22–23; see also *FY 2015 NPRM and Report and Order*, 30 FCC Rcd 5354, 5369, paragraph 33 (2015) (*FY 2015 NPRM and Report and Order*), 80 FR 37206 (June 30, 2015) (“We also reject the argument raised by DIRECTV and DISH that section 9 of the Act requires us to ‘show that DBS and cable occupy a comparable number of FTEs.’”).

<sup>36</sup> See *FY 2018 NPRM*, paragraphs 22–26. SIA raises a number of arguments in opposition to a tiered methodology for assessing terrestrial and satellite IBC regulatory fees. See SIA Comments at 1–2 (“SIA continues to oppose use of a tier-based system to calculate fees . . . . Instead, the Commission should reconsider exempting satellite IBCs from IBC [regulatory] fees or retain the current assessment method.”); *id.* at 2–5. Because we do not adopt a tiered methodology at this time, we do not address SIA’s arguments here.

<sup>37</sup> *FY 2018 NPRM*, paragraph 26.

<sup>38</sup> CenturyLink Comments at 1–2.

<sup>39</sup> 47 U.S.C. 159(g).

<sup>40</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, Report and Order, 10 FCC Rcd 13512, 13534, paragraph 60 (1995), 60 FR 34004 (June 29, 1995).

<sup>41</sup> *FY 2018 NPRM* at paragraph 28.

<sup>42</sup> *FY 2018 NPRM* at paragraph 28.

<sup>43</sup> *FY 2018 NPRM* at paragraph 28.

<sup>44</sup> See, e.g., *FY 2017 NPRM*, 32 FCC Rcd at 4534–36, paragraphs 20–22, 82 FR 26019 (June 6, 2017) (discussing concerns about the regulatory fees assessed on broadcast satellite television stations serving small markets at the fringe of larger DMAs).

<sup>45</sup> 47 CFR 73.622(e).

section 9(b)(3) of the Act,<sup>46</sup> and pursuant to section 9(b)(4)(B), it must be submitted to Congress at least 90 days before it would become effective.<sup>47</sup> Therefore, for FY 2018, we will assess regulatory fees for all broadcast television stations using the same methodology as we did for FY 2017.<sup>48</sup> The regulatory fees for broadcast television stations for FY 2018 are in Table 4.

### V. Order—Collection Costs for Regulatory and Application Fees

16. The Commission's rules requires the assessment of administrative costs incurred for processing and handling delinquent debts.<sup>49</sup> However, the RAY BAUM'S Act amended the Communications Act, in relevant part, prohibiting the Commission from assessing its administrative costs of collecting delinquent regulatory and application fee debt (or related penalties), effective October 1, 2018.<sup>50</sup> Therefore, we amend our rules to reflect these statutory changes.<sup>51</sup> This rule change will become effective on October 1, 2018.

17. We find good cause under section 553(b)(B) of the Administrative Procedure Act<sup>52</sup> to adopt this change without prior notice and comment. Section 553(b)(B) provides that notice and public comment procedures do not apply when "impracticable, unnecessary, or contrary to the public interest." New section 9A of the Communications Act is clear in its directive that the Commission must cease applying to regulatory and application fees or penalties the provisions of section 3717 of Title 31, United States Code, that do not involve interest rates. The Commission is thus afforded no discretion to apply such provisions of section 3717 to such fees or penalties because its prior authority has been eliminated by statute. As a

result, prior notice or comment is unnecessary.<sup>53</sup>

### VI. Procedural Matters

#### Broadcast Television Licenses, Post-Incentive Auction

18. On March 29, 2016, the Commission commenced the incentive auction to allow broadcast television stations to make their spectrum available for wireless broadband licensees. On April 13, 2017, the Commission released a Public Notice formally closing the auction<sup>54</sup> and beginning the 39-month post-auction transition period during which some broadcast television stations will transition to new channel assignments and other stations will go off the air. We remind licensees that those who held a broadcast television station license on October 1, 2017 are responsible for FY 2018 regulatory fees for that license.<sup>55</sup> Licensees who have relinquished their licenses by September 30, 2017 are not responsible for FY 2018 regulatory fees for the cancelled license.<sup>56</sup>

#### Payment of Regulatory Fees

##### 1. Checks Are Not Accepted for Payment of Annual Regulatory Fees

19. 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.

##### 2. Credit Card Transaction Levels

20. 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.<sup>57</sup> 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 2018 regulatory fee collection in Fact Sheets, available at <https://www.fcc.gov/regfees>.

### 3. Payment Methods

21. During the fee season for collecting FY 2018 regulatory fees, regulatees can pay their fees by credit card through *Pay.gov*,<sup>58</sup> ACH, debit card,<sup>59</sup> or by wire transfer. Additional filing and payment instructions are posted on the Commission's website at <https://www.fcc.gov/licensing-databases/fees/regulatory-fees>. The receiving bank for all wire payments is the U.S. Treasury, New York, New York. When making a wire transfer, regulatees must fax a copy of their Fee Filer generated Form 159-E to the Federal Communications Commission at (202) 418-2843 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be

<sup>57</sup> 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.

<sup>58</sup> In accordance with U.S. Treasury Financial Manual Announcement No. A-2014-04 (July 2014), the amount that may be charged on a credit card for transactions with federal agencies has been reduced to \$24,999.99.

<sup>59</sup> In accordance with U.S. Treasury Financial Manual Announcement No. A-2012-02, the maximum dollar-value limit for debit card transactions is eliminated. Only Visa and MasterCard branded debit cards are accepted by *Pay.gov*.

<sup>46</sup> 47 U.S.C. 159(b)(3).

<sup>47</sup> 47 U.S.C. 159(b)(4)(B).

<sup>48</sup> See e.g., *FY 2018 NPRM* at Appendix H.

<sup>49</sup> 47 CFR 1.1940(c). This provision implements 31 U.S.C. 3717(e), part of the Debt Collection Improvement Act.

<sup>50</sup> New section 9A(c)(2) requires the Commission to charge interest at the rate set forth in 31 U.S.C. 3717 on delinquent regulatory and application fee debt as well as the 25 percent penalty prescribed in new section 9A(c)(1). However, new section 9A(c)(2) provides that section 3717 shall not otherwise apply to such a fee or penalty. Thus, while new section 9A(c)(2) of the Communications Act leaves intact those parts of § 1.1940 of the Commission's rules pertaining to interest charges, the Commission is no longer authorized to assess its administrative costs on these delinquent debts.

<sup>51</sup> See "Final Rules" section at the end of this document (amending § 1.1940(c) of the Commission's rules).

<sup>52</sup> 5 U.S.C. 553(b)(B).

<sup>53</sup> The Commission previously has applied the unnecessary prong to encompass rule amendments that involve little or no exercise of agency discretion. See, e.g., *Amendment of Parts 0, 1, 73, and 74 of the Commission's Rules*, Order, 26 FCC Rcd 13538, 13544, 13539-41, 13543, 13545, paragraphs 4-5, 10, 15 (OMD 2011), 76 FR 70904 (Nov. 16, 2011) (deleting or amending obsolete rule provisions, including those superseded by an Act of Congress).

<sup>54</sup> *Incentive Auction Closing and Channel Reassignment Public Notice*, Public Notice, 32 FCC Rcd 2786 (MB, WTB 2017).

<sup>55</sup> See "Standard Fee Calculation and Payment Dates," paragraph 20, *infra*.

<sup>56</sup> Cancelled licenses from May 31, 2017 through September 30, 2017 are, according to the Commission's records, the following call signs: KSPR, WIFR, WAGT, WDLP-CD, WEMM-CD, KMMA-CD, WAZF-CD, WLPH-CD, WQVC-CD, WQCH-CD, WBOA-CD, WMUN-CD, WTSD-CD, WATA-CD, WHTV, WMEI, WWIS-CD.

initiated and completed before the deadline. Complete instructions for making wire payments are posted at <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

#### 4. De Minimis Regulatory Fees

22. Under the Commission's 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 \$1,000 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.

#### 5. Standard Fee Calculations and Payment Dates

23. 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, 2017 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, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the permit or license as of the fee due date.

- **Wireline (Common Carrier) Services:** Regulatory fees must be paid for authorizations that were granted on or before October 1, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, 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.<sup>60</sup> 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 § 52.103 of the Commission's rules.<sup>61</sup> The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2017.

<sup>60</sup> Audio bridging services are toll teleconferencing services.

<sup>61</sup> 47 CFR 52.103.

- **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, 2017. The number of subscribers, units, or telephone numbers on December 31, 2017 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, 2017, 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 2018.

- **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, 2017.<sup>62</sup> Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, 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, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, 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

<sup>62</sup> 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 2017, rather than on a count as of December 31, 2017.

stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2017. In instances where a permit or license is transferred or assigned after October 1, 2017, 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 for all systems that are licensed and operational as of October 1, 2017. The fee is based on circuit capacity as of December 31, 2017. In instances where a license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2018 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 based on active (used or leased) international bearer circuits as of December 31, 2017 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, entities must include circuits used by themselves or their affiliates. For these purposes, "active circuits" include backup and redundant circuits as of December 31, 2017 and include both common carrier and non-common carrier circuits for both terrestrial and satellite services. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits.<sup>63</sup> In instances where a permit or license is transferred or assigned after October 1, 2017, responsibility for payment rests with the holder of the permit or license as of the fee due date based on circuit counts as of December 31, 2017. For regulatory fee purposes, the allocation in FY 2018 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

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

24. The Commission will compile data from the Numbering Resource Utilization Forecast (NRUF) report that is based on "assigned" telephone

<sup>63</sup> 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.

number (subscriber) counts that have been adjusted for porting to net Type 0 ports (“in” and “out”).<sup>64</sup> 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).

25. 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.<sup>65</sup> 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.

26. 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, 2017), 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

<sup>64</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12264, paragraphs 38–44 (2005).

<sup>65</sup> 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.

difference between what was paid and what should have been paid.

#### Enforcement

27. To be considered timely, regulatory fee payments must be made electronically by the payment due date for regulatory fees. Section 9(c) of the Act requires us to impose a late payment penalty of 25 percent of the unpaid amount to be assessed on the first day following the deadline for filing these fees.<sup>66</sup> Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in § 1.1910 of the Commission’s rules,<sup>67</sup> which generally requires the Commission to withhold action on “applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission” and in the DCIA.<sup>68</sup> We also assess administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the debt pursuant to the DCIA and § 1.1940(c) of the Commission’s rules.<sup>69</sup> These administrative processing charges will be assessed on any delinquent FY 2018 regulatory fee, in addition to the 25 percent late charge penalty. In the case of partial payments (underpayments) of regulatory fees, the payor will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or not timely paid, then the 25 percent late charge penalty (and other charges and/or sanctions, as appropriate) will be assessed on the portion that is not paid in a timely manner.

28. In addition to financial penalties, section 9(c)(3) of the Act,<sup>70</sup> and § 1.1164(f) of the Commission’s rules<sup>71</sup>

<sup>66</sup> 47 U.S.C. 159(c).

<sup>67</sup> See 47 CFR 1.1910.

<sup>68</sup> Delinquent debt owed to the Commission triggers the “red light rule,” which places a hold on the processing of pending applications, fee offsets, and pending disbursement payments. 47 CFR 1.1910, 1.1911, 1.1912. In 2004, the Commission adopted rules implementing the requirements of the DCIA. See *Amendment of Parts 0 and 1 of the Commission’s Rules*, MD Docket No. 02–339, Report and Order, 19 FCC Rcd 6540 (2004), 69 FR 27843 (May 17, 2004); 47 CFR part 1, subpart O, Collection of Claims Owed the United States.

<sup>69</sup> 47 CFR 1.1940(c). As discussed in Part IV above, the amendment to § 1.1940(c) of the Commission’s rules that we adopt to reflect amendments to the Communications Act by the RAY BAUM’S Act does not take effect until October 1, 2018. Therefore, the Commission will assess administrative processing charges for failure to timely pay FY 2019 regulatory fees, which are due in September 2018.

<sup>70</sup> 47 U.S.C. 159(c)(3).

<sup>71</sup> 47 CFR 1.1164(f).

grant the FCC the authority to revoke authorizations for failure to pay regulatory fees in a timely fashion. Should a fee delinquency not be rectified in a timely manner the Commission may require the licensee to file with documented evidence within sixty (60) calendar days that full payment of all outstanding regulatory fees has been made, plus any associated penalties as calculated by the Secretary of Treasury in accordance with § 1.1164(a) of the Commission’s rules,<sup>72</sup> or show cause why the payment is inapplicable or should be waived or deferred. Failure to provide such evidence of payment or to show cause within the time specified may result in revocation of the station license.<sup>73</sup>

29. Pursuant to the “red light rule,” we will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made.<sup>74</sup> Failure to pay regulatory fees can also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).<sup>75</sup>

#### Effective Date

##### 6. Report and Order—FY 2018 Regulatory Fees

30. Providing a 30-day period after **Federal Register** publication before this Report and Order becomes effective as required by 5 U.S.C. 553(d) will not allow sufficient time to collect the FY 2018 fees before FY 2018 ends on September 30, 2018. For this reason, pursuant to 5 U.S.C. 553(d)(3), we find there is good cause to waive the requirements of section 553(d), and this Report and Order will become effective upon publication in the **Federal Register**. Because payments of the regulatory fees will not actually be due until late September, persons affected by this Report and Order will still have a reasonable period in which to make their payments and thereby comply with the rules established herein.

##### 7. Order—Collection Costs for Regulatory and Application Fees

31. In our Order above, we amend § 1.1940 of our rules and find that there

<sup>72</sup> 47 CFR 1.1164(a).

<sup>73</sup> See, e.g., *Cortaro Broadcasting Corp.*, Order to Pay or Show Cause, 32 FCC Rcd 9336 (MB 2017).

<sup>74</sup> See 47 CFR 1.1161(c), 1.1164(f)(5), and 1.1910.

<sup>75</sup> 47 U.S.C. 159.

is good cause under 5 U.S.C. 553(b)(B) to adopt the clarification without following the notice and comment procedures of the Administrative

Procedure Act.<sup>76</sup> Similarly, under these circumstances, we find that these actions fall under the good cause exemption to the 5 U.S.C. 553(d)

effective date requirements and the clarification of § 1.1940 of our rules will become effective on October 1, 2018.

**VII. Additional Tables**

**TABLE 1—LIST OF COMMENTERS**

Commenter	Abbreviated name
American Cable Association	ACA.
Astro Digital, US, Inc., Planet, Inc., and Spire Global, Inc	Astro Digital, Planet, and Spire.
CenturyLink, Inc	CenturyLink.
DISH Network L.L.C. and AT&T Services, Inc	DISH and AT&T.
Richard A. Golden	Golden.
NCTA—The Internet and Television Association	NCTA.
Satellite Industry Association	SIA.
Somos, Inc	Somos.
University Small-Satellite Researchers	Small-Satellite Researchers.

**TABLE 2—LIST OF REPLY COMMENTERS**

AT&T Services, Inc	AT&T.
CenturyLink, Inc	CenturyLink.
EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC	EchoStar.
NCTA—The Internet & Television Association and the American Cable Association	NCTA and ACA.

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.

**TABLE 3—CALCULATION OF FY 2018 REVENUE REQUIREMENTS AND PRO-RATA FEES**

Fee category	FY 2018 payment units	Years	FY 2017 revenue estimate	Pro-rated FY 2018 revenue requirement	Computed FY 2018 regulatory fee	Rounded FY 2018 regulatory fee	Expected FY 2018 revenue
PLMRS (Exclusive Use)	340	10	325,000	85,000	25	25	85,000
PLMRS (Shared use)	12,500	10	1,600,000	1,250,000	10	10	1,250,000
Microwave	7,750	10	2,950,000	1,937,500	25	25	1,937,500
Marine (Ship)	7,150	10	1,215,000	1,072,500	15	15	1,072,500
Aviation (Aircraft)	4,000	10	420,000	400,000	10	10	400,000
Marine (Coast)	75	10	60,000	30,000	40	40	30,000
Aviation (Ground)	1,000	10	220,000	200,000	20	20	200,000
AM Class A <sup>1</sup>	63	1	305,500	266,175	4,214	4,225	266,175
AM Class B <sup>1</sup>	1,523	1	3,807,500	3,274,450	2,162	2,150	3,274,450
AM Class C <sup>1</sup>	872	1	1,348,500	1,177,200	1,352	1,350	1,177,200
AM Class D <sup>1</sup>	1,503	1	4,476,000	3,907,800	2,592	2,600	3,907,800
FM Classes A, B1 & C3 <sup>1</sup>	3,166	1	9,371,250	8,152,450	2,582	2,575	8,152,450
FM Classes B, C, C0, C1 & C2 <sup>1</sup>	3,128	1	11,521,800	10,009,600	3,203	3,200	10,009,600
AM Construction Permits <sup>2</sup>	9	1	5,550	4,950	550	550	4,950
FM Construction Permits <sup>2</sup>	109	1	110,740	105,185	965	965	105,185
Satellite TV	126	1	217,350	189,000	1,497	1,500	189,000
Digital TV Mkt 1–10	144	1	8,305,250	7,164,000	49,739	49,750	7,164,000
Digital TV Mkt 11–25	140	1	5,898,275	5,243,000	37,455	37,450	5,243,000
Digital TV Mkt 26–50	189	1	5,439,050	4,729,725	25,013	25,025	4,729,725
Digital TV Mkt 51–100	290	1	4,267,875	3,617,750	12,470	12,475	3,617,750
Digital TV Remaining Markets	389	1	1,807,475	1,594,900	4,099	4,100	1,594,900
Digital TV Construction Permits <sup>2</sup>	3	1	14,775	12,300	4,100	4,100	12,300
LPTV/Translators/Boosters/Class A TV	3,989	1	1,741,930	1,515,820	378	380	1,515,820
CARS Stations	175	1	215,050	188,125	1,068	1,075	188,125
Cable TV Systems, including IPTV	61,000,000	1	58,900,000	46,970,000	.7658	.77	46,970,000
Direct Broadcast Satellite (DBS)	32,000,000	1	32,000,000	15,360,000	.480	.48	15,360,000
Interstate Telecommunication Service Providers	\$34,600,000,000	1	111,740,000	100,686,000	0.002906	0.00291	100,686,000
Toll Free Numbers	33,200,000	1	3,924,000	3,320,000	0.10405	0.10	3,320,000
CMRS Mobile Services (Cellular/Public Mobile) ...	404,000,000	1	82,530,000	80,800,000	0.195	0.20	80,800,000
CMRS Messag. Services	1,000,000	1	168,000	80,000	0.0800	0.080	80,000
BRS/ <sup>3</sup>	1,175	1	696,000	567,050	600	600	705,000
LMDS	400	1	316,000	378,250	600	600	240,000
Per Gbps circuit Int'l Bearer Circuits Terrestrial (Common and Non-Common) & Satellite (Common & Non-Common)	2,831	1	901,680	685,102	176	176	685,102
Submarine Cable Providers (see chart in Table 4) <sup>4</sup>	41.19	1	5,660,261	4,959,228	120,405	120,400	4,959,035
Earth Stations	3,400	1	1,224,000	1,105,000	326	325	1,105,000

<sup>76</sup> See *supra* Section V.



TABLE 3—CALCULATION OF FY 2018 REVENUE REQUIREMENTS AND PRO-RATA FEES—Continued

Fee category	FY 2018 payment units	Years	FY 2017 revenue estimate	Pro-rated FY 2018 revenue requirement	Computed FY 2018 regulatory fee	Rounded FY 2018 regulatory fee	Expected FY 2018 revenue
Space Stations (Geostationary) .....	97	1	13,669,725	12,401,450	127,839	127,850	12,401,450
Space Stations (Non-Geostationary) .....	7	1	947,450	859,425	122,776	122,775	859,425
***** Total Estimated Revenue to be Collected .....			358,670,986	324,323,753			324,365,671
***** Total Revenue Requirement .....			356,710,992	322,035,000			322,035,000
Difference .....			1,959,994	2,288,753			2,330,671

**Notes on Table 3:**

<sup>1</sup> The fee amounts listed in the column entitled "Rounded New FY 2018 Regulatory Fee" constitute a weighted average broadcast regulatory fee by class of service. The actual FY 2018 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table 4.

<sup>2</sup> 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.

<sup>3</sup> MDS/MMDS category was renamed Broadband Radio Service (BRS). See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands, Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, paragraph 6 (2004), 69 FR 72048 (Dec. 10, 2004).

<sup>4</sup> The chart at the end of Table 4 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of 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), 73 FR 5028 (Aug. 26, 2008) and Assessment and Collection of Regulatory Fees for Fiscal Year 2008, Second Report and Order, 24 FCC Rcd 4208 (2009), 74 FR 22104 (May 12, 2009).

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.

TABLE 4—FY 2018 REGULATORY FEES

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) .....	600
Local Multipoint Distribution Service (per call sign) (47 CFR part 101) .....	600
AM Radio Construction Permits .....	550
FM Radio Construction Permits .....	965
Digital TV (47 CFR part 73) VHF and UHF Commercial:	
Markets 1–10 .....	49,750
Markets 11–25 .....	37,450
Markets 26–50 .....	25,025
Markets 51–100 .....	12,475
Remaining Markets .....	4,100
Construction Permits .....	4,100
Satellite Television Stations (All Markets) .....	1,500
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74) .....	380
CARS (47 CFR part 78) .....	1,075
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV .....	.77
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act) .....	.48
Interstate Telecommunication Service Providers (per revenue dollar) .....	.00291
Toll Free (per toll free subscriber) (47 CFR 52.101(f) of the rules) .....	.10
Earth Stations (47 CFR part 25) .....	325
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100) .....	127,850
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) .....	122,775
International Bearer Circuits—Terrestrial/Satellites (per Gbps circuit) .....	176
Submarine Cable Landing Licenses Fee (per cable system) .....	See Table Below



FY 2018 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 .....	\$880	\$635	\$550	\$605	\$965	\$1,100
25,001–75,000 .....	\$1,325	\$950	\$825	\$910	\$1,450	\$1,650
75,001–150,000 .....	\$1,975	\$1,425	\$1,250	\$1,350	\$2,175	\$2,475
150,001–500,000 .....	\$2,975	\$2,150	\$1,850	\$2,050	\$3,250	\$3,725
500,001–1,200,000 .....	\$4,450	\$3,225	\$2,775	\$3,050	\$4,875	\$5,575
1,200,001–3,000,00 .....	\$6,700	\$4,825	\$4,175	\$4,600	\$7,325	\$8,350
3,000,001–6,000,00 .....	\$10,025	\$7,225	\$6,275	\$6,900	\$11,000	\$12,525
>6,000,000 .....	\$15,050	\$10,850	\$9,400	\$10,325	\$16,500	\$18,800

FY 2018 INTERNATIONAL BEARER CIRCUITS—SUBMARINE CABLE SYSTEMS

Submarine cable systems (capacity as of December 31, 2017)	Fee amount for FY 2018
Less than 50 Gbps .....	\$9,850
50 Gbps or greater, but less than 250 Gbps .....	19,725
250 Gbps or greater, but less than 1,000 Gbps .....	39,425
1,000 Gbps or greater, but less than 4,000 Gbps .....	78,875
4,000 Gbps or greater .....	157,750

**Table 5—Sources of Payment Unit Estimates for FY 2018**

In order to calculate individual service fees for FY 2018, we adjusted FY 2017 payment units for each service to more accurately reflect expected FY 2018 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 2018 estimates with actual FY 2017 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 2018 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 2018 payment units are based on FY 2017 actual payment units, it does not necessarily mean that our FY 2018 projection is exactly the same number as in FY 2017. We have either rounded the FY 2018 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 17 payment data.
CMRS Messaging Services .....	Based on WTB reports, and FY 17 payment data.
AM/FM Radio Stations .....	Based on CDBS data, adjusted for exemptions, and actual FY 2017 payment units.
Digital TV Stations .....	Based on CDBS data, adjusted for exemptions, and actual FY 2017 payment units.
(Combined VHF/UHF units) .....	
AM/FM/TV Construction Permits ....	Based on CDBS data, adjusted for exemptions, and actual FY 2017 payment units.
LPTV, Translators and Boosters, Class A Television.	Based on CDBS data, adjusted for exemptions, and actual FY 2017 payment units.
BRS (formerly MDS/MMDS) .....	Based on WTB reports and actual FY 2017 payment units.
LMDS .....	Based on WTB reports and actual FY 2017 payment units.
Cable Television Relay Service (CARS) Stations.	Based on data from Media Bureau’s COALS database and actual FY 2017 payment units.
Cable Television System Subscribers, Including IPTV Subscribers.	Based on publicly available data sources for estimated subscriber counts and actual FY 2017 payment units.
Interstate Telecommunication Service Providers.	Based on FCC Form 499–Q data for the four quarters of calendar year 2017, the Wireline Competition Bureau projected the amount of calendar year 2017 revenue that will be reported on 2018 FCC Form 499–A worksheets due in April, 2018.
Earth Stations .....	Based on International Bureau (“IB”) licensing data and actual FY 2017 payment units.
Space Stations (GSOs & NGSOs)	Based on IB data reports and actual FY 2017 payment units.
International Bearer Circuits .....	Based on IB reports and submissions by licensees, adjusted as necessary.

Fee category	Sources of payment unit estimates
Submarine Cable Licenses .....	Based on IB license information.

TABLE 6—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 §§ 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations:

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

Table 7—FY 2017 Schedule of Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the

Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee category	Annual regulatory fee (U.S. \$)
PLMRS (per license) (Exclusive Use) (47 CFR part 90) .....	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) .....	800
Local Multipoint Distribution Service (per call sign) (47 CFR part 101) .....	800.
AM Radio Construction Permits .....	555
FM Radio Construction Permits .....	980
Digital TV (47 CFR part 73) VHF and UHF Commercial:	
Markets 1–10 .....	59,750
Markets 11–25 .....	45,025
Markets 26–50 .....	30,050
Markets 51–100 .....	14,975
Remaining Markets .....	4,925
Construction Permits .....	4,925
Satellite Television Stations (All Markets) .....	1,725
Low Power TV, Class A TV, TV/FM Trans. & Boosters (47 CFR part 74) .....	430
CARS (47 CFR part 78) .....	935
Cable Television Systems (per subscriber) (47 CFR part 76), including IPTV .....	.95
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act) .....	.38
Interstate Telecommunication Service Providers (per revenue dollar) .....	.00302
Toll Free (per toll free subscriber) (47 CFR 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) .....	140,925

Fee category	Annual regulatory fee (U.S. \$s)
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	135,350
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	\$895	\$640	\$555	\$610	\$980	\$1,100
25,001–75,000	1,350	955	830	915	1,475	1,650
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
1,200,001–3,000,000	7,975	5,700	4,950	5,425	8,750	9,875
3,000,001–6,000,000	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 REGULATORY FEES INTERNATIONAL BEARER CIRCUITS—SUBMARINE CABLE**

Submarine cable systems (capacity as of December 31, 2016)	Fee amount
<2.5 Gbps	\$8,600
2.5 Gbps or greater, but less than 5 Gbps	17,175
5 Gbps or greater, but less than 10 Gbps	34,350
10 Gbps or greater, but less than 20 Gbps	68,725
20 Gbps or greater	137,425

**VIII. Final Regulatory Flexibility Analysis**

32. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>77</sup> an Initial Regulatory Flexibility Analysis (IRFA) was included in the *Notice of Proposed Rulemaking (NPRM)*.<sup>78</sup> The Commission sought written public comment on these proposals including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the IRFA.<sup>79</sup>

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

33. In this Report and Order we adopt our proposal in the Notice of Proposed Rulemaking on collecting \$322,035,000 in regulatory fees for FY 2018, pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act).<sup>80</sup> These regulatory fees will be due in September 2018. Under

<sup>77</sup> 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law Number 104–121, Title II, 110 Stat. 847 (1996).

<sup>78</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7057 (2017), 82 FR 50598 (Nov. 1, 2017).

<sup>79</sup> 5 U.S.C. 604.

<sup>80</sup> 47 U.S.C. 159.

section 9 of the Communications Act, regulatory fees are mandated by Congress and collected to recover the regulatory costs associated with the Commission’s enforcement, policy and rulemaking, user information, and international activities in an amount that can be reasonably expected to equal the amount of the Commission’s annual appropriation.<sup>81</sup> This Report and Order adopts the regulatory fees proposed in the Notice of Proposed Rulemaking.

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

34. None.

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

35. 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.<sup>82</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>83</sup> In

<sup>81</sup> 47 U.S.C. 159(a).

<sup>82</sup> 5 U.S.C. 603(b)(3).

<sup>83</sup> 5 U.S.C. 601(6).

addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>84</sup> 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.<sup>85</sup> Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.<sup>86</sup>

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

<sup>84</sup> 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*.”

<sup>85</sup> 15 U.S.C. 632.

<sup>86</sup> See SBA, Office of Advocacy, “Frequently Asked Questions,” [https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016\\_WEB.pdf](https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf).

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.<sup>87</sup> 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.<sup>88</sup> 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.<sup>89</sup> Thus, under this size standard, most firms in this industry can be considered small.

37. *Local Exchange Carriers (LECs)*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.<sup>90</sup> According to Commission data, census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.<sup>91</sup> The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

38. *Incumbent LECs*. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>92</sup> According to Commission data, 3,117 firms operated in that year.

<sup>87</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>88</sup> See 13 CFR 120.201, NAICS code 517110.

<sup>89</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>90</sup> 13 CFR 121.201, NAICS code 517110.

<sup>91</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>92</sup> 13 CFR 121.201, NAICS code 517110.

Of this total, 3,083 operated with fewer than 1,000 employees.<sup>93</sup> Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.<sup>94</sup> Of this total, an estimated 1,006 have 1,500 or fewer employees.<sup>95</sup>

39. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers*. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>96</sup> 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.<sup>97</sup> Based on this data, the Commission concludes that most Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.<sup>98</sup> Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees.<sup>99</sup> 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.<sup>100</sup> Also, 72 carriers have reported that they are Other Local Service Providers.<sup>101</sup> Of this total, 70 have 1,500 or fewer employees.<sup>102</sup> Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange

<sup>93</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>94</sup> See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (September 2010) (*Trends in Telephone Service*).

<sup>95</sup> *Id.*

<sup>96</sup> 13 CFR 121.201, NAICS code 517110.

<sup>97</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>98</sup> See *Trends in Telephone Service*, at Table 5.3.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

40. *Interexchange Carriers (IXCs)*. Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.<sup>103</sup> U.S. Census data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.<sup>104</sup> According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.<sup>105</sup> Of this total, an estimated 317 have 1,500 or fewer employees.<sup>106</sup> Consequently, the Commission estimates that most interexchange service providers are small entities that may be affected by the rules adopted.

41. *Prepaid Calling Card Providers*. Neither the Commission nor the SBA has developed a small business definition specifically for prepaid calling card providers. The most appropriate NAICS code-based category for defining prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are included in this industry.<sup>107</sup> Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.<sup>108</sup> 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

<sup>103</sup> 13 CFR 121.201, NAICS code 517110.

<sup>104</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>105</sup> See *Trends in Telephone Service*, at Table 5.3.

<sup>106</sup> *Id.*

<sup>107</sup> <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

<sup>108</sup> 13 CFR 121.201, NAICS code 517911.

employees.<sup>109</sup> Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.<sup>110</sup> All 193 carriers have 1,500 or fewer employees.<sup>111</sup> Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by the rules adopted.

42. *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.<sup>112</sup> 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.<sup>113</sup> 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.<sup>114</sup> Of this total, an estimated 211 have 1,500 or fewer employees.<sup>115</sup> Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the rules adopted.

43. *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.<sup>116</sup> Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>117</sup> 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.<sup>118</sup> 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.<sup>119</sup> Of this total, an estimated 857 have 1,500 or fewer employees.<sup>120</sup> Consequently, the Commission estimates that the majority of toll resellers are small entities.

44. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS code category is for Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.<sup>121</sup> 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.<sup>122</sup> Thus, under this category and the associated small business size standard, most Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.<sup>123</sup> Of these, an estimated 279 have 1,500 or fewer employees.<sup>124</sup> Consequently, the Commission estimates that most Other Toll Carriers are small entities.

45. *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.<sup>125</sup> The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2012 show that there

were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.<sup>126</sup> Of this total, an estimated 261 have 1,500 or fewer employees.<sup>127</sup> Thus, using available data, we estimate that the majority of wireless firms can be considered small.

46. *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.”<sup>128</sup> These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for Television Broadcasting firms: those having \$38.5 million or less in annual receipts.<sup>129</sup> 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 most firms that operate television stations are small. The Commission has estimated the number of licensed commercial television stations to be 1,383.<sup>130</sup> 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.<sup>131</sup> We therefore estimate that the

<sup>109</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>110</sup> See *Trends in Telephone Service*, at Table 5.3.

<sup>111</sup> *Id.*

<sup>112</sup> 13 CFR 121.201, NAICS code 517911.

<sup>113</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>114</sup> See *Trends in Telephone Service*, at Table 5.3.

<sup>115</sup> *Id.*

<sup>116</sup> 13 CFR 121.201, NAICS code 517911.

<sup>117</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>118</sup> *Id.*

<sup>119</sup> *Trends in Telephone Service* at Table 5.3.

<sup>120</sup> *Id.*

<sup>121</sup> 13 CFR 121.201, NAICS code 517110.

<sup>122</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>123</sup> *Trends in Telephone Service* at Table 5.3.

<sup>124</sup> *Id.*

<sup>125</sup> NAICS code 517210. See <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

<sup>126</sup> *Trends in Telephone Service* at Table 5.3.

<sup>127</sup> *Id.*

<sup>128</sup> U.S. Census Bureau, 2012 NAICS code Economic Census Definitions, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>129</sup> 13 CFR 121.201, NAICS code 515120.

<sup>130</sup> See *FCC News Release*, “Broadcast Station Totals as of March 31, 2017,” April 11, 2017; [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-344256A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf).

<sup>131</sup> We recognize that BIA’s estimate differs slightly from the FCC total.

majority of commercial television broadcasters are small entities.

47. In assessing whether a business concern qualifies as small under the above definition, business (control) affiliations<sup>132</sup> 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.

48. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 394.<sup>133</sup> These stations are non-profit, and therefore considered to be small entities.<sup>134</sup> There are also 2,382 low power television stations, including Class A stations.<sup>135</sup> 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.

49. *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.”<sup>136</sup> 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.<sup>137</sup> Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than \$25

million per year.<sup>138</sup> According to Commission staff review of BIA Advisory Services, LLC’s Media Access Pro Radio Database, on March 28, 2012, about 10,759 (97 percent) of 11,102 commercial radio stations had revenues of \$38.5 million or less. Therefore, most such entities are small entities.

50. In assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included.<sup>139</sup> In addition, to be determined to be a “small business,” the entity may not be dominant in its field of operation.<sup>140</sup> We note that it is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

51. *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.<sup>141</sup> The SBA has established a size standard for this industry of \$38.5 million or less. Census data for 2012 shows that there were 367 firms that operated that year. Of this total, 319 operated with annual receipts of less than \$25 million.<sup>142</sup> Thus under this size standard, most firms offering cable and other program distribution services can be considered small and may be affected by rules adopted.

52. *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.<sup>143</sup> The Commission’s industry data indicate that there are currently 4,160 active cable systems in the United States.<sup>144</sup> Of this total, all but ten cable operators nationwide are small under the 400,000-subscriber size standard.<sup>145</sup> In addition, under the Commission’s rate regulation rules, a “small system” is a cable system serving 15,000 or fewer subscribers.<sup>146</sup> Current Commission records show 4,160 cable systems nationwide.<sup>147</sup> Thus, under this standard as well, we estimate that most cable systems are small entities.

53. *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.”<sup>148</sup> There are approximately 53 million cable video subscribers in the United States today.<sup>149</sup> 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.<sup>150</sup> Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.<sup>151</sup> We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.<sup>152</sup> Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues

<sup>143</sup> 47 CFR 76.901(e).

<sup>144</sup> As of July 5, 2018, there were 4,160 active cable systems in the Commission’s Cable Operations and Licensing Systems (COALS) database.

<sup>145</sup> See <https://www.sn1.com/web/client?auth=inherit#industry/topCableMSOs> (last visited July 18, 2017).

<sup>146</sup> 47 CFR 76.901(c)

<sup>147</sup> See footnote 2, *supra*.

<sup>148</sup> 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

<sup>149</sup> See NCTA Industry Data, Cable’s Customer Base, available at <https://www.ncta.com/industry-data> (last visited July 6, 2017).

<sup>150</sup> 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

<sup>151</sup> See <https://www.sn1.com/web/client?auth=inherit#industry/topCableMSOs> (last visited July 18, 2018).

<sup>152</sup> 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 § 76.901(f) of the Commission’s rules. See 47 CFR 76.901(f).

<sup>132</sup> “[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).

<sup>133</sup> See FCC News Release, “Broadcast Station Totals as of March 31, 2017,” April 11, 2017; [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-344256A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf).

<sup>134</sup> See generally 5 U.S.C. 601(4), (6).

<sup>135</sup> See FCC News Release, “Broadcast Station Totals as of March 31, 2017,” April 11, 2017; [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-344256A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf).

<sup>136</sup> <https://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>137</sup> 13 CFR 121.201, NAICS code 515112.

<sup>138</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSZ5&prodType=table).

<sup>139</sup> “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).

<sup>140</sup> 13 CFR 121.102(b) (an SBA regulation).

<sup>141</sup> <https://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>142</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US-51SSZ5&prodType=Table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US-51SSZ5&prodType=Table).

exceed \$250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

54. *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.<sup>153</sup> The SBA determines that a wireline business is small if it has fewer than 1500 employees.<sup>154</sup> 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.<sup>155</sup> Based on that data, we conclude that most wireline firms are small under the applicable standard. However, currently only two entities provide DBS service, AT&T and DISH Network. AT&T and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we conclude that DBS service is provided only by large firms.

55. *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.<sup>156</sup> 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.<sup>157</sup> 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.<sup>158</sup> Thus, most "All Other Telecommunications" firms potentially affected by the rules adopted can be considered small.

56. *RespOrgs.* RespOrgs, *i.e.*, Responsible Organizations, are entities chosen by toll-free subscribers to manage and administer the appropriate records in the toll-free Service Management System for the toll-free subscriber.<sup>159</sup> 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.

57. *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<sup>160</sup> and Wireless Telecommunications Carriers (except satellite).<sup>161</sup>

58. 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.<sup>162</sup> 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.<sup>163</sup> 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.<sup>164</sup> Based on that data, we conclude that most Carrier RespOrgs that operated with wireline-based technology are small.

59. 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.<sup>165</sup> The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.<sup>166</sup> 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.<sup>167</sup> Based on that data, we conclude that most Carrier RespOrgs that operated with wireless-based technology are small.

60. *Non-Carrier RespOrgs.* Neither the Commission, the Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Non-Carrier RespOrgs are "Other Services Related To Advertising"<sup>168</sup> and "Other Management Consulting Services."<sup>169</sup>

<sup>162</sup> <http://www.census.gov/cgi-bin/sssd/naics.naicsrch>.

<sup>163</sup> 13 CFR 120.201, NAICS code 517110.

<sup>164</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSZ4&prodType=table).

<sup>165</sup> <http://www.census.gov/cgi-bin/sssd/naics.naicsrch>.

<sup>166</sup> 13 CFR 120.201, NAICS code 517120.

<sup>167</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSZ4&prodType=table).

<sup>168</sup> 13 CFR 120.201, NAICS code 541890.

<sup>169</sup> 13 CFR 120.201, NAICS code 541618.

<sup>153</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>154</sup> NAICS code 517110; 13 CFR 121.201.

<sup>155</sup> [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP\\_2017\\_PEPANNRES&src=pt](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2017_PEPANNRES&src=pt).

<sup>156</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>157</sup> 13 CFR 121.201; NAICS code 517919.

<sup>158</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSZ4&prodType=table).

<sup>159</sup> See 47 CFR 52.101(b).

<sup>160</sup> 13 CFR 121.201, NAICS code 517110

<sup>161</sup> 13 CFR 121.201, NAICS code 517210.



61. 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).<sup>170</sup> The SBA has established a size standard for this industry as annual receipts of \$15 million dollars or less.<sup>171</sup> 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.<sup>172</sup> Based on that data we conclude that most Non-Carrier RespOrgs who provide TFN-related advertising services are small.

62. 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.<sup>173</sup> The SBA has established a size standard for this industry of \$15 million dollars or less.<sup>174</sup> Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than \$10 million in annual receipts.<sup>175</sup> Based on this data, we conclude that most non-carrier RespOrgs who provide TFN-related management consulting services are small.<sup>176</sup>

63. In addition to the data contained in the four (see above) U.S. Census NAICS code categories that provide

<sup>170</sup> <http://www.census.gov/cgi-bin/sssd/naics.naicsrch>.

<sup>171</sup> 13 CFR 120.201, NAICS code 541890.

<sup>172</sup> [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).

<sup>173</sup> <http://www.census.gov/cgi-bin/sssd/naics.naicsrch>.

<sup>174</sup> 13 CFR 120.201, NAICS code 514618.

<sup>175</sup> [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).

<sup>176</sup> The four NAICS code-based categories selected above to provide definitions for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs. Therefore, all RespOrgs, including those not identified specifically or individually, must comply with the rules adopted in the Regulatory Fees Report and Order associated with this Final Regulatory Flexibility Analysis.

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.<sup>177</sup>

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

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

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

65. 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.<sup>178</sup>

66. This *Report and Order* adopts the proposals in the *Notice of Proposed Rulemaking* to collect \$322,035,000 in regulatory fees for FY 2018, as detailed in the fee schedules in Table 4, including an increase in the DBS fee rate to 48 cents per subscriber so that the DBS fee would approach the cable television/IPTV fee, based on the Media Bureau FTEs devoted to issues that include DBS. The two DBS providers are not small entities. The regulatory fees adopted do not include any new fee categories, except for the addition of non-common carrier terrestrial international bearer circuits to the regulatory fee category of international bearer circuits, that previously did not pay regulatory fees. To the extent such providers are small entities, the rates for smaller numbers of circuits would be lower than the rates for larger quantity of circuits and, in addition, the de minimis of \$1,000 would likely exempt the smaller entities from paying annual regulatory fees.

<sup>177</sup> Email from Jennifer Blanchard, Somos, July 1, 2016.

<sup>178</sup> 5 U.S.C. 603(c)(1)-(c)(4).

67. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. For example, the Commission has increased the de minimis threshold to \$1,000, which will impact many small entities that pay regulatory fees. This increase in the de minimis threshold to \$1,000 will relieve regulatees both financially and administratively. Regulatees may also seek waivers or other relief on the basis of financial hardship. See 47 CFR 1.1166.

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

68. None.

### **IX. Ordering Clauses**

69. Accordingly, *it is ordered* that, pursuant to Section 9 (a), (b), (e), (f), and (g) of the Communications Act of 1934, as amended, 47 U.S.C. 159(a), (b), (e), (f), and (g), *this Report and Order is hereby adopted*.

70. *It is further ordered* that, pursuant to Division P—RAY BAUM's Act of 2018, Title I, 101–103, Consolidated Appropriations Act, 2018, Public Law Number 115–141, 132 Stat. 1084, (2018), the Order in Section V *is hereby adopted*.

71. *It is further ordered* that the Report and Order in Section IV *shall be effective* upon publication in the **Federal Register**.

72. *It is further ordered* that the Order in Section V *shall be effective* on October 1, 2018.

73. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis in this *Report and Order*, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

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

Administrative practice and procedure.

Federal Communications Commission.

**Marlene Dortch**,  
Secretary.

### **Final Rules**

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

**PART 1—PRACTICE AND PROCEDURE**

**Authority:** 47 U.S.C. 151, 154(i), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455; Sec. 102(c), Div. P, Public Law 115–141, 132 Stat. 1084, unless otherwise noted.

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

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

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

Exclusive use services (per license)	Fee amount <sup>1</sup>
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR part 90):	
(a) New, Renew/Mod (FCC 601 & 159) .....	\$25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	25.00
(c) Renewal Only (FCC 601 & 159) .....	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159) .....	25.00
220 MHz Nationwide:	
(a) New, Renew/Mod (FCC 601 & 159) .....	25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	25.00
(c) Renewal Only (FCC 601 & 159) .....	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159) .....	25.00
2. Microwave (47 CFR Pt. 101) (Private):	
(a) New, Renew/Mod (FCC 601 & 159) .....	25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	25.00
(c) Renewal Only (FCC 601 & 159) .....	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159) .....	25.00
3. Shared Use Services Land Mobile (Frequencies Below 470 MHz—except 220 MHz):	
(a) New, Renew/Mod (FCC 601 & 159) .....	10.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	10.00
(c) Renewal Only (FCC 601 & 159) .....	10.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159) .....	10.00
Rural Radio (Part 22):	
(a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	10.00
(b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159) Marine Coast .....	10.00
Marine Coast (per license) (47 CFR part 80):	
(a) New Renewal/Mod (FCC 601 & 159) .....	40.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	40.00
(c) Renewal Only (FCC 601 & 159) .....	40.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159) .....	40.00
Aviation Ground:	
(a) New, Renew/Mod (FCC 601 & 159) .....	20.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	20.00
(c) Renewal Only (FCC 601 & 159) .....	20.00
(d) Renewal Only (Electronic Only) (FCC 601 & 159) .....	20.00
Marine Ship:	
(a) New, Renew/Mod (FCC 605 & 159) .....	15.00
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159) .....	15.00
(c) Renewal Only (FCC 605 & 159) .....	15.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159) .....	15.00
Aviation Aircraft:	
(a) New, Renew/Mod (FCC 605 & 159) .....	10.00
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159) .....	10.00
(c) Renewal Only (FCC 605 & 159) .....	10.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159) .....	10.00
4. CMRS Cellular/Mobile Services (per unit) (FCC 159) .....	<sup>2</sup> .20
5. CMRS Messaging Services (per unit) (FCC 159) .....	<sup>3</sup> .08
6. Broadband Radio Service (formerly MMDS and MDS) .....	600
7. Local Multipoint Distribution Service .....	600

<sup>1</sup> Note that “small fees” are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by the 10-year license term to arrive at the total amount of regulatory fees owed. Also, application fees may apply as detailed in § 1.1102.

<sup>2</sup> These are standard fees that are to be paid in accordance with § 1.1157(b).

<sup>3</sup> These are standard fees that are to be paid in accordance with § 1.1157(b).

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

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

	Fee amount
<b>Radio [AM and FM] (47 CFR part 73)</b>	
1. <i>AM Class A:</i>	
≤25,000 population .....	\$880
25,001–75,000 population .....	1,325
75,001–150,000 population .....	1,975
150,001–500,000 population .....	2,975

	Fee amount
500,001–1,200,000 population .....	4,450
1,200,001–3,000,000 population .....	6,700
3,000,001–6,000,000 population .....	10,025
>6,000,000 population .....	15,050
<b>2. AM Class B:</b>	
<=25,000 population .....	635
25,001–75,000 population .....	950
75,001–150,000 population .....	1,425
150,001–500,000 population .....	2,150
500,001–1,200,000 population .....	3,225
1,200,001–3,000,000 population .....	4,825
3,000,001–6,000,000 population .....	7,225
>6,000,000 population .....	10,850
<b>3. AM Class C:</b>	
<=25,000 population .....	550
25,001–75,000 population .....	825
75,001–150,000 population .....	1,250
150,001–500,000 population .....	1,850
500,001–1,200,000 population .....	2,775
1,200,001–3,000,000 population .....	4,175
3,000,001–6,000,000 population .....	6,275
>6,000,000 population .....	9,400
<b>4. AM Class D:</b>	
<=25,000 population .....	605
25,001–75,000 population .....	910
75,001–150,000 population .....	1,350
150,001–500,000 population .....	2,050
500,001–1,200,000 population .....	3,050
1,200,001–3,000,000 population .....	4,600
3,000,001–6,000,000 population .....	6,900
>6,000,000 population .....	10,325
<b>5. AM Construction Permit</b> .....	550
<b>6. FM Classes A, B1 and C3:</b>	
<=25,000 population .....	965
25,001–75,000 population .....	1,450
75,001–150,000 population .....	2,175
150,001–500,000 population .....	3,250
500,001–1,200,000 population .....	4,875
1,200,001–3,000,000 population .....	7,325
3,000,001–6,000,000 population .....	11,000
>6,000,000 population .....	16,500
<b>7. FM Classes B, C, C0, C1 and C2:</b>	
<=25,000 population .....	1,100
25,001–75,000 population .....	1,650
75,001–150,000 population .....	2,475
150,001–500,000 population .....	3,725
500,001–1,200,000 population .....	5,575
1,200,001–3,000,000 population .....	8,350
3,000,001–6,000,000 population .....	12,525
>6,000,000 population .....	18,800
<b>8. FM Construction Permits</b> .....	965

**TV (47 CFR part 73)**

<b>Digital TV (UHF and VHF Commercial Stations):</b>	
1. Markets 1 thru 10 .....	49,750
2. Markets 11 thru 25 .....	37,450
3. Markets 26 thru 50 .....	25,025
4. Markets 51 thru 100 .....	12,475
5. Remaining Markets .....	4,100
6. Construction Permits .....	4,100
<b>Satellite UHF/VHF Commercial:</b>	
1. All Markets .....	1,500
Low Power TV, Class A TV, TV/FMTranslator, & TV/FM Booster (47 CFR part 74) .....	380

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

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

Radio facilities	Fee amount
1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159) .....	\$25.00.

Radio facilities	Fee amount
Carriers:	
1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499-A).	\$ .00291.
2. Toll Free Number Fee .....	\$.10 per Toll Free Number.

■ 5. Section 1.1155 is revised to read as follows: **§ 1.1155 Schedule of regulatory fees for cable television services.**

1. Cable Television Relay Service .....	\$1,075.
2. Cable TV System, Including IPTV (per subscriber) .....	\$.77.
3. Direct Broadcast Satellite (DBS) .....	\$.48 per subscriber.

■ 6. Section 1.1156 is revised to read as follows: **§ 1.1156 Schedule of regulatory fees for international services.** *Stations.* The following schedule applies for the listed services:

(a) *Geostationary Orbit (GSO) and Non-Geostationary Orbit (NGSO) Space*

Fee category	Fee amount
Space Stations (Geostationary Orbit) .....	\$127,850
Space Stations (Non-Geostationary Orbit) .....	122,775
Earth Stations: Transmit/Receive & Transmit only (per authorization or registration) .....	325

(b) *International Terrestrial and Satellite.* (1) Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers and non-common carrier basis that have active (used or leased) international bearer circuits as of December 31 of the

prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. "Active circuits" for these purposes include backup and redundant circuits. In

addition, whether circuits are used specifically for voice or data is not relevant in determining that they are active circuits.

(2) The fee amount on a per active Gbps basis will be determined for each fiscal year.

International terrestrial and satellite (capacity as of December 31, 2017)	Fee amount
Terrestrial Common Carrier .....	\$176 per Gbps Circuit.
Terrestrial Non-Common Carrier.	
Satellite Common Carrier.	
Satellite Non-Common Carrier.	

(c) *Submarine cable.* Regulatory fees for submarine cable systems will be paid annually, per cable landing license,

for all submarine cable systems operating as of December 31 of the prior

year. The fee amount will be determined by the Commission for each fiscal year.

Submarine cable systems (capacity as of Dec. 31, 2017)	Fee amount
<50 Gbps .....	\$9,850
50 Gbps or greater, but less than 250 Gbps .....	19,725
250 Gbps or greater, but less than 1,000 Gbps .....	39,425
1,000 Gbps or greater, but less than 4,000 Gbps .....	78,875
4,000 Gbps or greater .....	157,750

■ 7. Section 1.1940(c) is revised to read as follows:

**§ 1.1940 Assessment.**

\* \* \* \* \*

(c) The Commission shall assess administrative costs incurred for processing and handling delinquent debts, unless otherwise prohibited by statute. The calculation of administrative costs may be based on actual costs incurred or upon estimated

costs as determined by the Commission. Commission administrative costs include the personnel and service costs (e.g., telephone, copier, and overhead) to notify and collect the debt, without regard to the success of such efforts by the Commission.

\* \* \* \* \*

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**DEPARTMENT OF VETERANS AFFAIRS**

**48 CFR Parts 844 and 845**

**RIN 2900-AQ05**

**VA Acquisition Regulation: Subcontracting Policies and Procedures; Government Property**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.