

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD).
Approximately 280 feet upstream of State Route 132 <i>Ompompanoosuc River:</i> At downstream corporate limits	*705 *412
At upstream corporate limits .. <i>West Branch Ompompanoosuc River:</i> Approximately 100 feet upstream of Gove Hill Road ..	*684 *576
At confluence with Abbott Brook	*692
<i>Lake Fairlee:</i> At Lake Fairlee Dam	*681
Approximately 700 feet upstream of corporate limits ..	*681
Maps available for inspection at the Thetford Town Office, Route 113, Thetford Center, Vermont.	
WISCONSIN	
Grant County (Unincorporated Areas) (FEMA Docket No. 7283) <i>Wisconsin River:</i> Approximately 1.4 miles upstream of Burlington Northern Railroad	*628
At upstream county boundary <i>Crooked Creek:</i> Confluence with the Wisconsin River	*680 *654
At a point approximately 600 feet upstream of the confluence with the Wisconsin River	*655
Maps available for inspection at the Grant County Zoning Office, 125 South Monroe, Lancaster, Wisconsin.	
Ozaukee County (Unincorporated Areas) (FEMA Docket No. 7283) <i>Lake Michigan:</i> Approximately 2,200 feet east of the intersection of Sandy Beach Road and Sunny Ridge Road	*587
Approximately 1,900 feet east of the intersection of Silver Beach Road and Sauk Trail Road	*588
Maps available for inspection at the Ozaukee County Department of Environmental Health, 121 West Main Street, Room 223, Port Washington, Wisconsin.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: July 19, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99-19570 Filed 7-29-99; 8:45 am]

BILLING CODE 6718-04-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 52, 54, and 64

[FCC 99-175]

1998 Biennial Regulatory Review—Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission combined four reporting requirements so that carriers need only file one worksheet to satisfy the contributor reporting requirements associated with: the universal service support mechanisms; telecommunications relay services; cost recovery mechanism for numbering administration; and cost recovery mechanism for shared costs of long-term local number portability. The Commission also made other modifications designed to rationalize requirements, including changing the revenue measure for assessing contributions to the TRS Fund and numbering administration cost recovery so that contributions will be based on end-user telecommunications revenues.

DATES: Effective August 30, 1999.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order released July 14, 1999 (FCC 99-175). The full text of the Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857-3800, 1231 20th St., NW, Washington, D.C. 20036.

I. Summary of the Report and Order

1. In the Report and Order summarized here, the Commission acted to simplify its filing requirements for communications service providers by replacing several different—but largely duplicative—forms with one consolidated form, the

Telecommunications Reporting Worksheet. At present, telecommunications carriers and certain telecommunications service providers must comply with separate reporting requirements for their contributions to finance interstate Telecommunications Relay Services Fund, federal universal service support mechanisms, administration of the North American Numbering Plan (NANP), and the shared costs of long-term local number portability.¹ We act here to harmonize these multiple contributor reporting requirements and to minimize the administrative burdens for carriers and service providers. Thus, in lieu of making four separate filings in the spring of 2000, reporting carriers will simply file one copy of the new worksheet on April 1, 2000.² We emphasize that we are not imposing new reporting requirements in this proceeding; rather, our goal is to simplify the requirements to the greatest extent possible while continuing to ensure the efficient administration of the support and cost recovery mechanisms.

II. Background

2. In a series of separate proceedings, the Commission has established procedures to finance interstate telecommunications relay services,³ universal service support mechanisms,⁴ administration of the North American Numbering Plan,⁵ and shared costs of local number portability.⁶ To

¹ See 47 U.S.C. 151, 225, 251, 254. The Communications Act of 1934, as amended, (the Communications Act or the Act) is codified at 47 U.S.C. 151 *et seq.*

² The Common Carrier Bureau will release, by Public Notice, the worksheet and instructions to be used for the September 1999 universal service filing. See, *infra*, paragraph 32.

³ See Public Law 101-336, § 401, 104 Stat. 327, 366-69 (adding section 225 to the Communications Act of 1934, as amended, 47 U.S.C. 225). See also *Telecommunications Relay Services and the Americans With Disabilities Act of 1990*, Third Report and Order, FCC 93-357, CC Docket No. 90-571, 8 FCC Rcd 5300, 58 FR 39671 (July 26, 1993) (*TRS Third Report and Order*) ("recovering interstate relay costs from all common carriers who provide interstate service on the basis of their interstate revenues will accomplish this goal").

⁴ See 47 U.S.C. 254. See also *Federal-State Joint Board on Universal Service*, Report and Order, FCC 97-157, CC Docket No. 96-45, 12 FCC Rcd 8776, 62 FR 32862 (June 17, 1997) (*Universal Service Order*).

⁵ See 47 U.S.C. 251(e)(2). *Administration of the North American Numbering Plan, Toll Free Service Access Codes*, Third Report and Order and Third Report and Order, FCC 97-372, CC Docket No. 92-237, 95-155, 12 FCC Rcd 23040, 62 FR 55179 (October 23, 1997).

⁶ See 47 U.S.C. 251(e)(2). See also *Telephone Number Portability*, Third Report and Order, FCC 98-82, CC Docket 95-116, 63 FR 35150 (June 29, 1998) (*LNP Cost Recovery Order*). This Report and Order is limited to the cost recovery mechanism for

accomplish each of these goals, contributions are collected from telecommunications carriers and certain other providers of telecommunications services. As currently structured, our rules require telecommunications carriers having interstate revenues to file, at different times throughout the year, a number of contributor reporting worksheets that reflect often duplicative reporting requirements. Such carriers must file four forms (Form 431, TRS Fund Worksheet;⁷ Form 457, Universal Service Worksheet;⁸ Form 496, NANPA Funding Worksheet;⁹ and Form 487, LNP Worksheet¹⁰) containing revenue and other data on which contributions to support or cost recovery mechanisms are based. For each of these forms, with the exception of the Universal Service Worksheet, carriers seeking confidential treatment of the data submitted in these forms must also file separate requests for nondisclosure with the Commission.¹¹ In addition to these contributor reporting requirements, all carriers must also file data concerning contact information for an agent for service of process located in the District of Columbia.¹²

3. On September 25, 1998, the Commission released a Notice of Proposed Rulemaking and Notice of Inquiry, 63 FR 54090 (October 8, 1998), to initiate this proceeding.¹³ Twenty-eight parties filed comments and ten parties filed reply comments to the Notice.

the shared costs of long-term local number portability.

⁷ See 47 CFR 64.604(c)(4)(iii)(B). See also *Telecommunications Relay Services and the Americans With Disabilities Act of 1990*, Order, DA 98-2481, CC Docket No. 90-571 (rel. Dec. 2, 1998) (1999 TRS Fund Worksheet Order).

⁸ See 47 CFR 54.711. *Common Carrier Bureau Announces Release of Revised Universal Service Worksheet (FCC Form 457) To Reflect Change in Reporting of Revenues From Inside Wiring Maintenance*, Public Notice, DA 99-432, CC Docket No. 96-45 (rel. Mar. 5, 1999) (1999 Universal Service Worksheet Notice).

⁹ See 47 CFR 52.16. See also *Common Carrier Bureau Announces Release of 1999 North American Numbering Plan Funding Worksheet*, FCC Form 496, Public Notice, 13 FCC Rcd 17888, DA 98-1865 (rel. Sept. 15, 1998) (1999 NANP Funding Worksheet Notice).

¹⁰ See 47 CFR 52.32. See also *All Telecommunications Carriers Must Begin Contributing To the Regional Database Costs for Long-Term Number Portability in 1999*, Public Notice, DA 99-544, CC Docket No. 95-116 (rel. Mar. 15, 1999) (1999 LNP Worksheet Notice).

¹¹ See 47 CFR 0.459.

¹² See 47 U.S.C. 413; 47 CFR 1.47(h).

¹³ *Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 63 FR 54090 (October 8, 1998).

III. Streamlining Contributor Reporting Requirements

A. Use of a Consolidated Worksheet

4. We adopt a new Telecommunications Reporting Worksheet to replace the four existing worksheets used to collect contributor data. The new worksheet will also be used by carriers to identify agents for service of process, as required by section 413 of the Act. We note that carriers and administrators were nearly unanimous in their support of this proposal, indicating that it would result in tangible administrative savings. We also conclude that adopting one worksheet to satisfy these obligations will reduce confusion for carriers and should increase compliance, particularly by smaller carriers. Finally, we believe that adopting a consolidated worksheet and granting administrators the ability to share revenue data will reduce the costs for administrators and, thereby, further effect savings overall.

5. To consolidate the worksheets, we amend the corresponding sections of the Commission's rules for universal service, TRS, local number portability, and numbering administration, so that those rule sections now refer to the Telecommunications Reporting Worksheet.¹⁴ To the same end, we also amend our rules concerning agents for service of process in section 1.47 to provide for the use of the worksheet.¹⁵ Attached, as Appendix D to the Report and Order, is the initial Telecommunications Reporting Worksheet (including both the April and the streamlined September versions) that will be used for the September 1, 1999 filing.¹⁶ The new Telecommunications Reporting Worksheet will provide the necessary information while reducing to the lowest possible level the burden for carriers and service providers.

6. We do not adopt, however, the Commission's proposal to use the Telecommunications Reporting Worksheet to collect revenue and plant data required under section 43.21(c) of the Commission's rules.¹⁷

B. Timing Issues

1. Uniform Filing Date

7. Consolidating the multiple existing filings into the Telecommunications

¹⁴ See Attachment to this Summary (Rules Changes).

¹⁵ See Attachment to this Summary (Rules Changes).

¹⁶ See Section III. B. of this Summary (concerning Timing Issues).

¹⁷ See *Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19309, 63 FR 54090 (October 8, 1998); 47 CFR 43.21(c).

Reporting Worksheet will reduce the number of times that carriers will need to assemble data and report it. We direct the Bureau to utilize a single filing date for the Telecommunications Reporting Worksheet for the purposes of universal service, TRS, NANP, and local number portability.¹⁸ Our decision to adopt a single filing date is bolstered by all of the commenters to address this proposal. Since we adopt the first iteration of the Telecommunications Reporting Worksheet in this order, we direct that, for the first year's filing, the Telecommunications Reporting Worksheet should be filed on April 1st.

8. We clarify that the new Telecommunications Reporting Worksheet will become effective upon approval by the Office of Management and Budget (OMB), but not less than thirty days from publication in the **Federal Register**. It is our intention that contributors to the universal service support mechanisms should use the streamlined Form 499-S version (FCC Form 499S) to satisfy the September 1, 1999 universal service filing. However, because we are required to seek approval from the Office of Management and Budget for this revised information collection, it is possible that the new form may not be available for use for the September 1999 filing. We direct the Bureau to announce by Public Notice whether contributors should file the new September version or whether contributors should file, for a final time, the existing Universal Service Worksheet. For the purposes of TRS, NANP, LNP, universal service, the Form 499-A version of the worksheet will be used to satisfy the April 1, 2000 filing. In addition, the worksheet will be available to be used by carriers to satisfy their section 413 obligations concerning agents for service of process,¹⁹ as soon as it is approved by OMB, but not less than thirty days after publication in the **Federal Register**. This timeframe should give administrators sufficient time to prepare their systems for the new worksheet and should give filers sufficient time to become familiar with the new worksheet.

2. September 1st Filing Date for Universal Service Support Mechanisms

9. We conclude that a more streamlined form is acceptable for the September 1st filing. Accordingly, we adopt a "short form" for purposes of the

¹⁸ Agent for service of process data required pursuant to section 413 of the Act is not necessarily filed at one time of the year, but at the time the carrier changes its agent for service of process in the District of Columbia. This requirement will remain unchanged. See 47 CFR 1.47(h).

¹⁹ See Section III. B. of the Order.

September 1st filing that will omit data that is not essential for the mid-year calculation of universal service contributions.

E. Filing Location(s)

10. We conclude that subject carriers and service providers need only file one copy of their completed Telecommunications Reporting Worksheet, rather than separate copies with each administrator. We facilitate a single filing location by instructing the administrators to develop procedures for collecting, validating, and distributing the contributor data provided in the new Telecommunications Reporting Worksheet.²⁰

F. Procedures for Future Changes to the Telecommunications Reporting Worksheet

11. We adopt our proposal and delegate authority to make future changes to the Telecommunications Reporting Worksheet to the Chief of the Common Carrier Bureau.²¹ The Bureau already has broad authority to waive, reduce, or eliminate the contributor reporting requirements for universal service, and the Bureau has latitude with respect to the administration of the NANP, LNP, and TRS contributor reporting requirements. These delegations extend to administrative aspects of the requirements, e.g., where and when worksheets are filed, incorporating edits to reflect Commission changes to the substance of the mechanisms, and other similar details.

12. So that these delegations are consistent, we amend the Commission's rules to grant the Common Carrier Bureau delegated authority, in keeping with the current delegation for universal service purposes, to waive, reduce, modify, or eliminate the contributor reporting requirements for the TRS, LNP, and NANP mechanisms, as necessary to preserve the sound and efficient administration of these support and cost recovery mechanisms.²² We specify that the Bureau has the authority to "modify" these reporting requirements as a matter of clarification, because we believe that this authority is implied within the existing grant. We reaffirm that this delegation extends

only to making changes to the administrative aspects of the reporting requirements, not to the substance of the underlying programs.

G. Information Sharing and Delegation of Data Entry Functions Between Administrators

13. We amend our rules to allow the administrators to share confidential contributor information with one another for the purposes of comparing individual contributors' revenue, contact, and payment history information. Based on our experience with the limited sharing provisions currently allowed under our rules and on the record in this proceeding, we conclude that the ability to share contributor data will assist the administrators in monitoring compliance with the contribution requirements by revealing inconsistencies between revenue data reported to the different administrators. This sharing of information will also enhance the administrators' performance of their collection functions and thereby better ensure the integrity and efficient administration of the support and cost recovery mechanisms. Moreover, we amend our rules to ensure that such information cannot be used for purposes unrelated to the administration of the mechanisms; thus, ensuring proper treatment of confidential contributor information.²³

14. Starting with the April 2000 filing of the consolidated worksheet, the administrators will have a practical need to share carrier-provided information because we direct in this order that filers need only submit one copy of their completed worksheets.²⁴ Rather than mandate particular data sharing procedures, we order the administrators to develop efficient and effective procedures for collecting, validating, and distributing the centrally-filed contributor data amongst themselves. We expect, for example, that it might be more cost effective to have one administrator perform the data entry and preliminary verification functions for more than one of the support and cost recovery mechanisms. Whatever their decision, we direct the administrators to file with the Bureau, within 90 days after release of this order, a summary of their proposed

procedures for distributing the data from the worksheet.

15. We conclude that the costs of collecting, validating, and distributing the carrier-provided information—and, any savings derived from consolidating redundant administrative tasks—should be allocated equitably among the administrators. Accordingly, we order the administrators to include in their filed summary a description of how related costs will be equitably apportioned. We delegate to the Bureau the authority to review the administrators' summary, including the proposed cost allocation plan.

16. To preserve the integrity of the support and cost recovery mechanisms, it is important to ensure that all contributor data is collected. We thus expect that the summarized procedures should reflect the administrators' commitment to ensuring that all required data is collected and validated.

H. Additional Confidentiality Issues

17. We adopt our proposal to permit carriers filing the Telecommunications Reporting Worksheet to certify that the revenue data contained in their submissions are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity filing the worksheet.²⁵ As proposed, we amend our rules so that filers will be able to make this certification on their Telecommunications Reporting Worksheet and request Commission nondisclosure of information contained in the worksheet simply by checking a box on the worksheet, in lieu of submitting a separate request pursuant to section 0.459 of the Commission's rules.

18. We make clear, however, that simply requesting confidential treatment by means of this check-box does not necessarily entitle the filer to nondisclosure. Indeed, if the Commission is to receive a request for disclosure of the information on the worksheets, or if the Commission proposes to disclose the information, the filer would be required to make the full showing required under our rules.²⁶

²⁵ See Appendix D, Telecommunications Reporting Worksheet. We note that Blooston requests that the Commission grant confidential treatment for other information on the worksheet, such as the facsimile numbers and e-mail addresses of the contact persons. Any such request for confidential treatment would have to be separately pleaded pursuant to section 0.459. 47 CFR 0.459. We note, however, that the Commission does not plan to routinely release this information.

²⁶ See 47 CFR 0.459. See also *Examination of Current Policy Concerning the Treatment of*

²⁰ See Section III. G. (discussing data entry of the Telecommunications Reporting Worksheet) of the Order. The Bureau will announce by Public Notice the location for filing the April 2000 Telecommunications Reporting Worksheet.

²¹ See *Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19319–20, 63 FR 54090 (October 8, 1998).

²² See Appendix B, Rules Amended.

²³ See Section III.H. (concerning Confidentiality Issues) of the Order.

²⁴ See Section III.E. (discussing the filing location for the consolidated worksheet) of the Order. The Bureau will announce by Public Notice the location for filing the April 2000 Telecommunications Reporting Worksheet.

For example, we expect that the Commission would be disinclined to withhold information related to the size of an individual carrier's contribution (information which third parties could potentially use to estimate that carrier's revenues) in an enforcement action against a carrier for failure to make a required contribution to one of the support or cost recovery mechanisms.

19. In light of our decision to allow administrators to share contributor revenue data, we take additional measures to ensure the nondisclosure of confidential submissions. We accordingly modify our rules to extend each administrator's confidentiality obligations to the data obtained from other funds. Moreover, we amend our rules to ensure that the administrators shall only use contributor data—whether obtained directly from contributors or from administrators—for the purpose administering the support and cost recovery mechanisms.²⁷

I. Electronic Filing

20. We conclude, based on our experience in other proceedings, that making available an electronic filing system for the Telecommunications Reporting Worksheet may allow filers and administrators to reduce costs and improve accuracy. Accordingly, we take initial steps in this proceeding to develop and move to an electronic filing system. We expect, however, that the costs and benefits of an electronic filing system can vary significantly depending on the design of the system. Indeed, in light of the complexities raised in the record by both carriers and administrators, we conclude that it is imperative for the development of and the transition to an eventual electronic filing system to be conducted with great involvement from the administrators and carriers.²⁸

21. As an initial step, we direct the administrators to assess and report to the Bureau, within 180 days of the release of this order, on the feasibility of implementing electronic filing. We expect the administrators to address the potential start-up and on-going

operating costs to the administrators and carriers of an electronic system. The administrators should also address measures and costs associated with ensuring the accuracy and security of filed contributor data. We agree with those commenters that state that any proposal for electronic filing should not require expensive start-up costs for filers.²⁹ Moreover, we conclude that any electronic filing proposal must satisfy a cost-benefit analysis and instruct the administrators to conduct such an analysis. Finally, we restate our commitment to making electronic filing and other electronic applications accessible to persons with disabilities to the fullest extent possible.³⁰ Therefore, the administrators' report should address their ability—both now and on a continuing basis—to make electronic systems accessible to persons with disabilities.

IV. Contributions to TRS and NANPA Mechanisms

A. Overview

22. We adopt our proposals to alter the revenue bases for the TRS and NANP mechanisms so that end-user telecommunications revenues will be used to calculate contributions for all four mechanisms. In addition, we also alter the current practices for assessing minimum contributions to the TRS and NANP mechanisms to lessen regulatory burdens on small carriers and telecommunications service providers.

23. As a preliminary matter, we reject MCI's procedural argument that the Commission may not alter the revenue base or minimum contributions rules because it did not give adequate notice of these changes. Section 553(b) of the Administrative Procedures Act (APA) requires that an agency afford interested parties adequate notice of, and an opportunity to comment on, the provisions that appear in the agency's final regulations.³¹ Courts have interpreted this to require that an agency provide "sufficient factual detail and rationale for the rule to permit interested parties to comment meaningfully."³² The *Contributor Reporting Requirements Notice*, 63 FR 54090 (October 8, 1998), appeared in the **Federal Register**, and it contained

adequate, indeed explicit, notice of the provisions we adopt today. We also observe that the caption to this docket specifically references the four underlying mechanisms; a point which we believe is not essential to satisfy the requirements of the APA, but that further undercuts MCI's claim that it did not have adequate notice of these proposals. Moreover, MCI cannot claim any actual lack of notice, as it has participated fully in this proceeding, filing both initial and reply comments. Accordingly, we believe that no further notice is required to comply with the notice provisions of the APA.

B. Basis for Assessing Contributions

24. In light of the Commission's experience since adopting revenue bases for TRS and NANP and in light of our efforts to streamline contributor reporting requirements, we modify our rules for contributions to the TRS and NANP mechanisms so that contributions will be based on end-user telecommunications revenues. Basing contributions to these mechanisms on end-user telecommunications revenue will effectively carry out the statutory mandates in section 225 and 251 for financing of TRS and NANP.³³ In addition to fulfilling the statutory directives, moving to an end-user telecommunications revenue basis will reduce carriers' administrative expenses associated with these reporting requirements. Indeed, given our proposal to create a unified contributor collection worksheet, we believe that changing the funding basis to end-user telecommunications revenue will appreciably reduce administrative burdens overall for carriers.

25. Basing contributions on end-user telecommunications revenues is consistent with the statutory language of section 225 and its requirement that "costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service."³⁴ Recovering interstate relay costs from all common carriers that provide interstate service on the basis of their interstate revenues will accomplish this goal. End users are a reasonable proxy for subscribers, so collecting contributions from carriers based on revenue derived from end users satisfies section 225.

26. Similarly, collecting contributions to the NANP cost recovery on the basis of end-user telecommunications satisfies the requirements of section 251(e). Section 251(e) of the Act directs that "[t]he cost of establishing

Confidential Information Submitted to the Commission, FCC 98-184, GC Docket No. 96-55, 63 FR 44161 (August 18, 1998) (listing the showings required in a request that information be withheld and stating that the Commission may defer action on such requests until a formal request for public inspection has been made).

²⁷ We note that the TRS rules enable the TRS administrator to use data obtained from contributors to be used for calculating the regulatory fees of interstate common carriers, and aggregating such fee payments for submission to the Commission. We do not alter these provisions.

²⁸ See, e.g., MCI Comments at 5; GTE Comments at 4; Blooston Reply Comments at 7-9.

²⁹ See, e.g., Blooston Comments at 15-16; MCI Comments at 5.

³⁰ Electronic filing is subject to the program accessibility requirements of section 1.850 of our rules. 47 CFR 1.850. See also Workforce Investment Act of 1998, Public Law 105-220, 112 Stat. 936 (Aug. 7, 1998).

³¹ 5 U.S.C. 553.

³² *Florida Power & Light Co. v. United States*, 846 F.2d 765, 771 (D.C. Cir. 1988), cert. denied, 490 U.S. 1045 (1989).

³³ See 47 U.S.C. 225, 251(e).

³⁴ 47 U.S.C. 225(d)(3)(B).

telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.”³⁵ The end-user telecommunications revenue basis satisfies the section 251 directive that contributions be assessed on a competitively neutral basis. In particular, the Commission found this basis to be competitively neutral because it does not give one service provider an appreciable, incremental cost advantage when competing for a subscriber. Further, basing contributions on end-user telecommunications revenues will prevent contributions to the NANP administration cost recovery from disparately affecting the ability of carriers to earn a normal return. We affirm this analysis and conclude that collecting contributions to the NANP administration cost recovery based on end-user telecommunications revenues will be competitively neutral.³⁶

27. In the case of NANP, we note that section 251(e)(2) requires that the “cost of establishing telecommunications numbering administration arrangements . . . shall be borne by all telecommunications carriers on a competitively neutral basis. . . .”³⁷ Given the statutory directive that contributions be collected from “all telecommunications carriers,” we require carriers that provided telecommunications service during the base year and that have no end-user telecommunications revenue to make a fixed contribution of twenty-five dollars (\$25) to the NANP cost recovery

mechanism.³⁸ We conclude that assessing this sum will satisfy the statutory language of section 251(e)(2) and at the same time will not be economically burdensome for these primarily-large wholesale carriers. Finally, we observe that although an end-user telecommunications revenue basis would otherwise relieve pure wholesalers, which have no end-user revenue, from directly bearing costs of number administration, the end-user method does not exclude wholesale revenues from the revenue base that determines carriers’ contributions. As the Commission explained in the *Universal Service Order*, 62 FR 32862 (June 17, 1997), wholesale charges are built into retail rates, and thus the revenue basis still reflects wholesale revenue.³⁹

28. To minimize confusion for contributors and the administrators, we wish to make the transition to contributions based on end-user telecommunications revenues as soon as possible. For purposes of TRS, we recognize that many contributors are still making monthly installment payments toward their funding year 1999 contribution (which covers the April 26, 1999 through March 26, 2000 period) and we make clear that those contributions to the TRS Fund for the current funding period will continue to be based on gross telecommunications revenues. Because the contributor data needed to calculate TRS contributions for the funding year 2000 will not be available until April 2000, we will extend the current TRS funding period, so that contributions to the TRS Fund will continue to be based on gross telecommunications revenues and the current fund factor through the end of June 2000.⁴⁰ As of July 1, 2000 contributions to the TRS Fund will be based on end-user telecommunications revenues. A new factor will be developed in time for contributions in July 2000 and we will shift the fiscal year for TRS, so that the funding period will run from July 1st of each year through June 30th of the following year.

³⁸ While the Commission proposed in the Notice a fixed contribution of \$100 for carriers with no end-user telecommunications revenues, we believe that the \$25 contribution will be easier to administer, since it is consistent with the \$25 minimum contribution rule that we adopt for contributors with end-user telecommunications revenues. See Section IV. C. of the Order.

³⁹ See *Universal Service Order*, 12 FCC Rcd 8776, 9207, 62 FR 32862 (June 17, 1997).

⁴⁰ See *Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, Order, DA 98-2481, CC Docket No. 90-571 (rel. Dec. 2, 1998) (determining contribution factor for the April 26, 1999 through March 26, 2000 period).

29. Indeed, we will shift the fiscal years for both TRS and NANP, so that the funding periods for these mechanisms will be more closely timed with the receipt of annual contributor data in the April filing of the new consolidated worksheet. We also make clear that contributions to the NANP cost recovery will continue to be based on net telecommunications revenues through the end of the current funding year, which covers fund administration from March 1999 through February 2000. The NANP Billing and Collection Agent will begin collecting contributions based on end-user telecommunications revenues for the funding year 2000. So that we may transition the NANP funding period to run from July 1st of each year through June 30th of the following year, we direct that the funding year 2000 will cover the sixteen month period from March 2000 through June 2001. We direct that, for purposes of the NANP funding year 2000, the Billing and Collection Agent will use contributor data filed in the September consolidated worksheet to develop the fund factor and should use the contributor data filed in the April consolidated worksheet to perform a “true-up” for the contributions in July 2000.⁴¹ Thereafter, the NANP funding period will return to the twelve month cycle from July to June with contributions based on the April filing of the worksheet.

C. Minimum and Fixed Annual Contributions to TRS and NANPA Mechanisms

30. We modify our proposals and amend our rules to reduce substantially the one hundred dollar minimum contributions to a twenty-five dollar minimum. Our experience with the TRS and NANP mechanisms persuades us that it is possible to lower the one hundred dollar minimum while protecting the administrative integrity and efficiency of the TRS and NANP mechanisms.

V. Procedural Matters

A. Final Paperwork Reduction Act Analysis

31. As required by the Paperwork Reduction Act of 1995, the *Contributor Reporting Requirements Notice*, 63 FR 54090 (October 8, 1998), invited the

⁴¹ A “true-up” will be necessary because the September worksheet reports only half year revenue data and because it may not collect data from all NANP contributors, e.g., some telecommunications carriers that are de minimis for universal service purposes will not file the September worksheet. We nevertheless expect that the revisions performed in the “true-up” will be minor in terms of contributors added and contributions adjusted.

³⁵ 47 U.S.C. 251(e)(2). Even though there is no explicit statutory requirement to do so in section 225, we conclude that the principle of competitive neutrality is consistent with section 225 and that basing contributions to the TRS Fund on a competitively neutral mechanism would advance the intent embodied in the Congressional goal of “a pro-competitive, de-regulatory national policy framework.” See Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 113 (1996).

³⁶ See, e.g., BellSouth Comments at 4-5; IDT Comments at 16; Star Comments at 2-4. We note that several Bell Operating Companies argued to the United States Court of Appeals for the 8th Circuit that the net telecommunications revenue methodology would not be competitively neutral if states do not permit carriers to flow through their numbering administration costs in the prices that they charge their competitors for telecommunications services and facilities. *California v. FCC*, 124 F.3d 934 (8th Cir., 1997). The Court of Appeals ruled that petitioners’ contentions were speculative and not ripe for review because no state had concluded that carriers could not include numbering administration charges in the prices for services or facilities sold to other telecommunications service providers. *Id.* at 944. Adoption of an end-user telecommunications revenue basis should moot this issue.

³⁷ 47 U.S.C. 251(e)(2).

general public and the Office of Management and Budget (OMB) to comment on the proposed information collection requirements contained in the Notice, in particular, the Telecommunications Reporting Worksheet. On December 9, 1998, OMB approved the proposed information collection, as submitted to OMB.⁴² In this Report and Order, we adopt the proposed Telecommunications Reporting Worksheet, but modify our proposal to reflect comments received from OMB and other commenters. The revised Telecommunications Reporting Worksheet is subject to approval by OMB. The worksheet that we adopt in this Order reflects our efforts to collect the information necessary to implement the congressional directives, while reducing to the lowest possible level the burden on carriers and service providers.⁴³

B. Final Regulatory Flexibility Act Analysis

32. As required by the Regulatory Flexibility Act (RFA),⁴⁴ the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of the policies and rules adopted in this Order. A copy of this FRFA is set forth as part of this summary. The Office of Public Affairs, Reference Operations Division, will send a copy of this Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Ordering Clauses

33. *Accordingly, it is ordered*, pursuant to sections 1, 4(i), 4(j), 11, 201–205, 210, 214, 218, 225, 251, 254, 303(r), 332, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 161, 201–205, 210, 214, 218, 225, 251, 254, 303(r), 332 and 403 that this Order is hereby Adopted.

34. *It is further ordered* that the rule changes set forth in Appendix B are hereby *adopted*, effective thirty (30) days from the date of publication in the **Federal Register**. The information

collection adopted herein is contingent upon approval by the Office of Management and Budget, but, in any event, will not become effective before thirty (30) days after publication in the **Federal Register**.

35. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, *shall* send a copy of this order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Final Regulatory Flexibility Act Analysis

36. In compliance with the Regulatory Flexibility Act (RFA),⁴⁵ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Contributor Reporting Requirements Notice*, 63 FR 54090 (October 8, 1998). The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. The comments received are discussed below. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.⁴⁶

I. Need for, and Objectives of, the Contributor Reporting Requirements Order:

37. The Commission undertakes this examination of its contributor reporting requirements⁴⁷ as a part of its 1998 biennial review of regulations as required by section 11 of the Communications Act, as amended.⁴⁸ This Order simplifies the Commission's filing requirements by consolidating several different forms currently filed under our existing rules associated with the Telecommunications Relay Services (TRS) Fund,⁴⁹ federal universal service support mechanisms,⁵⁰ the cost recovery mechanism for the North American Numbering Plan (NANP) administration,⁵¹ and the cost recovery mechanism for long-term local number portability (LNP) administration.⁵² This Order also establishes end-user telecommunications revenues as the basis for contributions to the NANP and TRS mechanisms—making consistent the revenue bases for all four support and cost recovery mechanisms. Our

objective is to reduce or eliminate unnecessary or duplicative regulatory requirements, consistent with section 11 of the Act,⁵³ and the Telecommunications Act of 1996.⁵⁴

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

38. Only one party filed comments addressing the Commission's compliance with the RFA,⁵⁵ but many parties commented on the Commission's proposals to streamline the Commission's reporting requirements. As noted above, the record provided by all of these commenting parties clearly supports the Commission's efforts to reduce the amount of paperwork required by the current contributor reporting requirements.⁵⁶ Consistent with those comments, this Order reduces significantly the amount of paperwork required of telecommunications carriers.

39. In comments to the Notice, GST argues that the proposed Telecommunications Reporting Worksheet is particularly burdensome for small carriers because it assumes that small carriers have developed sophisticated accounting infrastructure.⁵⁷ We disagree with GST's assessment and note that the worksheet provides flexibility for carriers that do not have sophisticated accounting systems. In contrast to GST's portrayal, the categories of revenue sought in the worksheet correspond to major categories of service, reflecting our expectation that most carriers track the relative magnitudes of their major product offerings for internal management reporting and cost accounting purposes. GST offers no evidence to the contrary. The worksheet collects the minimum amount of information necessary to ensure that individual carriers and segments of the industry are contributing on a fair and equitable basis. Further, the worksheet and its instructions incorporate alternative, less burdensome approaches where it has been determined that supplying certain information is particularly burdensome for certain carriers. Thus, for example, the worksheet permits carriers to use good

⁴² In its approval of the proposed worksheet, OMB requests that the Commission address several issues. See Section V.A. of the Order for a discussion of those issues.

⁴³ See Sections III.B. of the Order (discussing data requested in the worksheet); and V.A. of the Order (discussing comments on the proposed information collections).

⁴⁴ See 5 U.S.C. 604. The RFA, see 5 U.S.C. 601 et. seq., has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

⁴⁵ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 et. seq., has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

⁴⁶ See 5 U.S.C. 604.

⁴⁷ See 47 CFR 64.601 et seq.; 47 CFR 54.1 et seq.; 47 CFR 52.1 et seq.; 47 CFR 52.21 et seq.

⁴⁸ 47 U.S.C. 161.

⁴⁹ 47 CFR 64.601 et seq.

⁵⁰ 47 CFR 54.1 et seq., 69.1 et seq.

⁵¹ 47 CFR 52.1 et seq.

⁵² 47 CFR 52.21 et seq.

⁵³ 47 U.S.C. 161.

⁵⁴ Telecommunications Act of 1996, Public Law 104–104, 110 Stat. 56 (1996 Act), codified at 47 U.S.C. 151 et seq. See Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 113 (1996) (Joint Explanatory Statement).

⁵⁵ See GST Comments at 15.

⁵⁶ See Section III.B. (discussing use of a consolidated worksheet) of the Order.

⁵⁷ See GST Comments at 7, 9, 15.

faith estimates to determine interstate and international revenues where these figures cannot be directly determined from corporate books of account or subsidiary records. Similarly, we adopt a streamlined version of the worksheet to satisfy the September universal service filing and to reduce costs for carriers.

40. While not in direct response to the IRFA, both NECA and Blooston encourage the Commission not to implement an electronic filing system that would require costly investments by small carriers.⁵⁸ We agree that proposals for electronic filing of the Telecommunications Reporting Worksheet should not require expensive start-up costs for filers, so that all carriers, including small entities, should be able to utilize a more efficient system.⁵⁹

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

41. The Commission's contributor reporting requirements apply to a wide range of entities, including all telecommunications carriers and other providers of interstate telecommunications that offer telecommunications for a fee.⁶⁰ Thus, we expect that the rules adopted in this Order will have a positive economic impact on a substantial number of small entities. Based on the number of carriers that file the existing forms—and this Order does not increase the number of entities that must comply with these requirements—we predict that not more than 5,000 entities, total, will file the worksheet. Of those 5,000 potential filers, we do not know how many are small entities, but we offer below a detailed estimate of the number of small entities within each of several major carrier-type categories. We state, again, that the economic impact of these proposals is, of course, a positive and beneficial impact, in the form of reduced regulatory burdens and

recordkeeping requirements, for these entities.

42. To estimate the number of small entities that would benefit from this positive economic impact, we first consider the statutory definition of "small entity" under the RFA. The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction."⁶¹ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities.⁶² Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).⁶³ The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.⁶⁴ We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

43. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator* report, derived from filings made in connection with the Telecommunications Relay Service (TRS).⁶⁵ According to data in the most recent report, there are 3,604 interstate carriers.⁶⁶ These carriers include, inter

alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

44. Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term "small ILECs" to refer to any ILECs that arguably might be defined by the SBA as "small business concerns."⁶⁷

45. Total Number of Telephone Companies Affected. The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.⁶⁸ This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent ILECs because they are not "independently owned and operated."⁶⁹ For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems

⁶¹ 5 U.S.C. 601(6).

⁶² 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 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 in the Federal Register."

⁶³ 15 U.S.C. 632. See, e.g., *Brown Transport Truckload, Inc. v. Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).

⁶⁴ 13 CFR 121.201.

⁶⁵ FCC, *Carrier Locator: Interstate Service Providers*, Figure 1 (Jan. 1999) (*Carrier Locator*). See also 47 CFR 64.601 *et seq.*

⁶⁶ *Carrier Locator* at Fig. 1.

⁶⁷ See 13 CFR 121.201, Standard Industrial Classification (SIC) 4813. Since the time of the Commission's 1996 decision, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476 (August 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on such ILECs.

⁶⁸ United States Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1-123 (1995) ("1992 Census").

⁶⁹ 15 U.S.C. 632(a)(1).

⁵⁸ NECA Comments at 4; Blooston Reply Comments at 9.

⁵⁹ See Section III.I. (discussing electronic filing) of the Order.

⁶⁰ 47 CFR 52.17 (applying to all telecommunications carriers), 52.32 (applying to all telecommunications carriers), 54.703 (applying to every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and certain payphone providers), 64.604(c)(4)(iii)(A) (applying to every carrier providing interstate telecommunications services). We note that the Commission's rules for universal service exempt certain small contributors, i.e., contributors that have revenue below a stated threshold. 47 CFR 54.705.

reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rule changes adopted in this Order.

46. Wireline Carriers and Service Providers. SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992.⁷⁰ According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.⁷¹ All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rule changes adopted in this Order.

47. Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, and Resellers. Neither the Commission nor SBA has developed a definition of small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.⁷² The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS).⁷³ According to our most recent data, there are 1,410 LECs, 151 IXCs,

129 CAPs, 32 OSPs, and 351 resellers.⁷⁴ Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,410 small entity LECs or small incumbent LECs, 151 IXCs, 129 CAPs, 32 OSPs, and 351 resellers that may be affected by the decisions and rule changes adopted in this Order.

48. Wireless (Radiotelephone) Carriers. SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.⁷⁵ According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons.⁷⁶ The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rule changes adopted in this Order.

49. Cellular, PCS, SMR and Other Mobile Service Providers. In an effort to further refine our calculation of the number of radiotelephone companies that may be affected by the rules adopted herein, we consider the data that we collect annually in connection with the TRS for the subcategories Wireless Telephony (which includes Cellular, PCS, and SMR) and Other Mobile Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to these broad subcategories,

so we will utilize the closest applicable definition under SBA rules—which, for both categories, is for telephone companies other than radiotelephone (wireless) companies.⁷⁷ To the extent that the Commission has adopted definitions for small entities providing PCS and SMR services, we discuss those definitions below. According to our most recent TRS data, 732 companies reported that they are engaged in the provision of Wireless Telephony services and 23 companies reported that they are engaged in the provision of Other Mobile Services.⁷⁸ Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of Wireless Telephony Providers and Other Mobile Service Providers, except as described below, that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 732 small entity Wireless Telephony Providers and fewer than 23 small entity Other Mobile Service Providers that might be affected by the decisions and rule changes adopted in this Order.

50. Broadband PCS Licensees. The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.⁷⁹ For Block F, an additional classification for "very small business" was added, and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.⁸⁰ These regulations defining "small entity" in the context of broadband PCS auctions have been approved by SBA.⁸¹ No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small

⁷⁰ Id.

⁷¹ *Carrier Locator* at Fig. 1.

⁷² See *Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap*, Report and Order, FCC 96-278, WT Docket No. 96-59, ¶¶ 57-60 (June 24, 1996), 61 FR 33859 (July 1, 1996); see also 47 CFR 24.720(b).

⁷³ Id., at ¶ 60.

⁷⁴ *Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-84, 59 FR 63210 (December 7, 1994).

⁷⁵ *Carrier Locator* at Fig. 1. The total for resellers includes both toll resellers and local resellers.

⁷⁶ United States Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1-123 (1995) ("1992 Census").

⁷⁷ 13 CFR 121.201, SIC Code 4812.

⁷⁸ 1992 Census, supra, at Firm Size 1-123.

⁷⁹ 13 CFR 121.201, SIC Code 4813.

⁸⁰ 13 CFR 121.210, SIC Code 4813.

⁸¹ See 47 CFR 64.601 et seq.; *Carrier Locator* at Fig. 1.

and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we estimate that the number of small broadband PCS licenses will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by the SBA and the Commissioner's auction rules.

51. SMR Licensees. Pursuant to 47 CFR 90.814(b)(1), the Commission has defined "small entity" in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than \$15 million in the three previous calendar years. The definition of a "small entity" in the context of 800 MHz SMR has been approved by the SBA,⁸² and approval for the 900 MHz SMR definition has been sought. The rules proposed in this FRFA may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than \$15 million. We assume, for purposes of this FRFA, that all of the extended implementation authorizations may be held by small entities, that may be affected by the decisions and rule changes adopted in this Order.

52. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees that may be affected by the decisions and rule changes adopted in this Order includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses.

Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of this FRFA, that all of the licenses may be awarded to small entities who may be affected by the decisions and rule changes adopted in this Order.

53. 220 MHz Radio Service—Phase I Licensees. The 220 MHz service has both Phase I and Phase II licenses. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies.⁸³ According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.⁸⁴ Therefore, if this general ratio continues to 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

54. 220 MHz Radio Service—Phase II Licensees. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. The Commission has adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15

million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. 908 licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction.

55. Paging. The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services.⁸⁵ Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than \$3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than \$15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.⁸⁶ At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Carrier Locator* data, 137 carriers reported that they were engaged in the provision of either paging or messaging services, which are placed together in the data.⁸⁷ We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 137 small paging carriers that may be affected by the decisions

⁸² See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR Docket No. 89–583, Second Order on Reconsideration and Seventh Report and Order, 11 FCC Rcd 2639, 2693–702, 60 FR 48913 (September 21, 1995); Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93–144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463, 61 FR 06212 (February 16, 1996).

⁸³ 13 CFR 121.201, SIC Code 4812. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.

⁸⁴ U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

⁸⁵ See 47 CFR 20.9(a)(1) (noting that private paging services may be treated as common carriage services).

⁸⁶ 13 CFR 121.201, SIC Code 4812.

⁸⁷ *Carrier Locator* at Fig. 1.

and rule changes adopted in this Order. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

56. Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

57. Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.⁸⁸ A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).⁸⁹ We will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.⁹⁰ There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

58. Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.⁹¹ Accordingly, we will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.⁹² There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify

as small entities under the SBA definition.

59. Private Land Mobile Radio (PLMR). PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities.⁹³ These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

60. The Commission is unable at this time to estimate the number of, if any, small businesses which could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMRs⁹⁴ indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the proposed rules in this context could potentially impact every small business in the United States.

61. Fixed Microwave Services. Microwave services include common carrier,⁹⁵ private-operational fixed,⁹⁶ and broadcast auxiliary radio services.⁹⁷ At present, there are approximately 22,015 common carrier fixed licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this FRFA, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with no more

than 1,500 persons.⁹⁸ We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

62. Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.⁹⁹ At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small entities under the SBA's definition for radiotelephone communications.

63. Wireless Communications Services. This service can be used for fixed, mobile, radio location and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of \$15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees that may be affected by the decisions and rule changes adopted in this Order includes these eight entities.

IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements:

64. The decisions and rule changes adopted in this Order will reduce the reporting and recordkeeping requirements on telecommunications service providers regulated under the Communications Act. As currently structured, telecommunications carriers and other service providers having interstate revenues are required to file, at different times throughout the year, a number of contributor reporting worksheets that often reflect duplicative reporting requirements. In this Order, the Commission reduces these regulatory burdens by combining the multiple worksheets into one unified Telecommunications Reporting Worksheet. In addition, the Commission

⁸⁸ The service is defined in section 22.99 of the Commission's rules, 47 CFR 22.99.

⁸⁹ BETRS is defined in sections 22.757 and 22.759 of the Commission's rules, 47 CFR 22.757, 22.759.

⁹⁰ 13 CFR 121.201, SIC Code 4812.

⁹¹ The service is defined in section 22.99 of the Commission's rules, 47 CFR 22.99.

⁹² 13 CFR 121.201, SIC Code 4812.

⁹³ See 47 CFR 20.9(a)(2) (noting that certain Industrial/Business Pool service may be treated as common carriage service).

⁹⁴ Federal Communications Commission, 60th Annual Report, Fiscal Year 1994, at 116.

⁹⁵ 47 CFR 101 *et seq.* (formerly, Part 21 of the Commission's rules).

⁹⁶ Persons eligible under Parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. See 47 CFR Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

⁹⁷ Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. See 47 CFR 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

⁹⁸ 13 CFR 121.201, SIC Code 4812.

⁹⁹ This service is governed by Subpart I of Part 22 of the Commission's Rules. See 47 CFR 22.1001–22.1037.

further reduces carrier filing burdens by allowing carriers to use the proposed Telecommunications Reporting Worksheet to designate agents for service of process pursuant to section 413 of the Communications Act of 1934, as amended.¹⁰⁰ We expect that, by adopting these proposals, telecommunications service providers will experience an appreciable reduction in reporting, recordkeeping, and other compliance burdens.

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

65. In the *Contributor Reporting Requirements Notice*, 63 FR 54090 (October 8, 1998), the Commission sought comment on ways to simplify its contributor reporting requirements and, in particular, whether a unified worksheet would reduce regulatory and administrative burden on reporting carriers.¹⁰¹ Commenters were nearly unanimous in their support of the Commission's proposals in the Notice. In response to numerous proposals to modify the data collected in the worksheet, the Commission developed the final Telecommunications Reporting Worksheet so that it will collect the minimum information necessary to ensure the equitable and efficient funding of the support and cost recovery mechanisms.¹⁰² Accordingly, we conclude that the impact of this proceeding should be beneficial to small businesses because the decisions and rule changes adopted in this Order will reduce the reporting or recordkeeping requirements on all communications common carriers.

Report to Congress: The Commission will send a copy of the *Contributor Reporting Requirements Order*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.¹⁰³ In addition, the Commission will send a copy of the Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.¹⁰⁴

List of Subjects

47 CFR Part 1

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 52

Communications common carriers, Numbering administration, Number portability, Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone, Universal service.

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone, Universal service.

47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telecommunications relay services, Telephone.

Federal Communications Commission.

Shirley S. Suggs,
Chief, Publications Branch.

Rule Changes

Parts 1, 52, 54, and 64 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r), 309.

2. Section 1.47(h) is revised to read as follows:

§ 1.47 Service of documents and proof of service.

* * * * *

(h) Every common carrier subject to the Communications Act of 1934, as amended, shall designate an agent in the District of Columbia, and may designate additional agents if it so chooses, upon whom service of all notices, process, orders, decisions, and requirements of the Commission may be made for and on behalf of said carrier in any proceeding before the Commission. Such designation shall include, for both the carrier and its designated agents, a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address. The carrier shall additionally

list any other names by which it is known or under which it does business, and, if the carrier is an affiliated company, the parent, holding, or management company. Within thirty (30) days of the commencement of provision of service, each carrier shall file such information with the Formal Complaints and Investigations Branch of the Common Carrier Bureau. Carriers may file a hard copy of the relevant portion of the Telecommunications Reporting Worksheet, as delineated by the Commission in the **Federal Register**, to satisfy this requirement. Each Telecommunications Reporting Worksheet filed annually by a common carrier must contain a name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address for its designated agents, regardless of whether such information has been revised since the previous filing. Carriers must notify the Commission within one week of any changes in their designation information by filing revised portions of the Telecommunications Reporting Worksheet with the Formal Complaints and Investigations Branch of the Common Carrier Bureau. A paper copy of this designation list shall be maintained in the Office of the Secretary of the Commission. Service of any notice, process, orders, decisions or requirements of the Commission may be made upon such carrier by leaving a copy thereof with such designated agent at his office or usual place of residence. If a carrier fails to designate such an agent, service of any notice or other process in any proceeding before the Commission, or of any order, decision, or requirement of the Commission, may be made by posting such notice, process, order, requirement, or decision in the Office of the Secretary of the Commission.

PART 52—NUMBERING

3. The authority citation for part 52 continues to read as follows:

Authority: Sec. 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–205, 207–209, 218, 225–7, 251–2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–205, 207–209, 218, 225–7, 251–2, 271 and 332 unless otherwise noted.

4. Section 52.16 is amended by revising paragraphs (b) and (c) to read as follows:

§ 52.16 Billing and Collection Agent.

* * * * *

¹⁰⁰ 47 U.S.C. 413.

¹⁰¹ See *Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19304, 63 FR 54090 (October 8, 1998).

¹⁰² See Sections III. B. of the Order (discussing the use of a consolidated worksheet), and III.D.2.b. of the Order (discussing the September universal service filing).

¹⁰³ See 5 U.S.C. 801(a)(1)(A).

¹⁰⁴ See 5 U.S.C. 604(b).

(b) Distribute to carriers the "Telecommunications Reporting Worksheet," described in § 52.17(b).

(c) Keep confidential all data obtained from carriers and not disclose such data in company-specific form unless authorized by the Commission. Subject to any restrictions imposed by the Chief of the Common Carrier Bureau, the B & C Agent may share data obtained from carriers with the administrators of the universal service support mechanism (See 47 CFR 54.701 of this chapter), the TRS Fund (See 47 CFR 64.604(c)(4)(iii)(H) of this chapter), and the local number portability cost recovery (See 47 CFR 52.32). The B & C Agent shall keep confidential all data obtained from other administrators. The B & C Agent shall use such data, from carriers or administrators, only for calculating, collecting and verifying payments. The Commission shall have access to all data reported to the Administrator. Contributors may make requests for Commission nondisclosure of company-specific revenue information under § 0.459 of this chapter by so indicating on the Telecommunications Reporting Worksheet at the time that the subject data are submitted. The Commission shall make all decisions regarding nondisclosure of company-specific information.

* * * * *

5. Section 52.17 is revised to read as follows:

§ 52.17 Costs of number administration.

All telecommunications carriers in the United States shall contribute on a competitively neutral basis to meet the costs of establishing numbering administration.

(a) Contributions to support numbering administration shall be the product of the contributors' end-user telecommunications revenues for the prior calendar year and a contribution factor determined annually by the Chief of the Common Carrier Bureau; such contributions to be no less than twenty-five dollars (\$25). The contribution factor shall be based on the ratio of expected number administration expenses to end-user telecommunications revenues. Carriers that have no end-user telecommunications revenues shall contribute twenty-five dollars (\$25). In the event that contributions exceed or are inadequate to cover administrative costs, the contribution factor for the following year shall be adjusted by an appropriate amount.

(b) All telecommunications carriers in the United States shall complete and submit a "Telecommunications

Reporting Worksheet" (as published by the Commission in the **Federal Register**), which sets forth the information needed to calculate contributions referred to in paragraph (a) of this section. The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the B & C Agent at the discretion of the Commission. The Chief of the Common Carrier Bureau may waive, reduce, modify, or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the number administration cost recovery.

6. Section 52.32 is amended by revising paragraphs (b) and (c) and by adding paragraph (d) to read as follows:

§ 52.32 Allocation of the shared costs of long-term number portability.

* * * * *

(b) All telecommunications carriers providing service in the United States shall complete and submit a "Telecommunications Reporting Worksheet" (as published by the Commission in the **Federal Register**), which sets forth the information needed to calculate contributions referred to in paragraph (a) of this section. The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the administrator at the discretion of the Commission. The Chief of the Common Carrier Bureau may waive, reduce, modify, or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of long-term number portability.

(c) Local number portability administrators shall keep all data obtained from contributors confidential and shall not disclose such data in company-specific form unless directed to do so by the Commission. Subject to any restrictions imposed by the Chief of the Common Carrier Bureau, the local number portability administrators may share data obtained from carriers with the administrators of the universal service support mechanism (See 47 CFR 54.701 of this chapter), the TRS Fund (See 47 CFR 64.604(c)(4)(iii)(H) of this chapter), and the North American Numbering Plan cost recovery (See 47 CFR 52.16). The local number portability administrators shall keep confidential all data obtained from other administrators. The administrators shall use such data, from carriers or

administrators, only for purposes of administering local number portability. The Commission shall have access to all data reported to the Administrator. Contributors may make requests for Commission nondisclosure of company-specific revenue information under § 0.459 of this chapter by so indicating on the Telecommunications Reporting Worksheet at the time that the subject data are submitted. The Commission shall make all decisions regarding nondisclosure of company-specific information.

(d) Once a telecommunications carrier has been allocated, pursuant to paragraph (a)(1) or (a)(2) of this section, its portion of the shared costs of long-term number portability attributable to a regional database, the carrier shall treat that portion as a carrier-specific cost directly related to providing number portability.

PART 54—UNIVERSAL SERVICE

7. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

8. Section 54.708 is revised to read as follows:

§ 54.708 De minimis exemption.

If a contributor's contribution to universal service in any given year is less than \$10,000 that contributor will not be required to submit a contribution or Telecommunications Reporting Worksheet for that year unless it is required to do so by our rules governing Telecommunications Relay Service (47 CFR 64.601 *et seq.* of this chapter), numbering administration (47 CFR 52.1 *et seq.* of this chapter), or shared costs of local number portability (47 CFR 52.21 *et seq.* of this chapter). If a contributor improperly claims exemption from the contribution requirement, it will subject to the criminal provisions of sections 220(d) and (e) of the Act regarding willful false submissions and will be required to pay the amounts withheld plus interest.

9. Section 54.709 is amended by revising paragraphs (a) introductory text, (a)(2), and (d) to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) Contributions to the universal service support mechanisms shall be based on contributors' end-user telecommunications revenues and contribution factors determined quarterly by the Commission.

* * * * *

(2) The quarterly universal service contribution factors shall be based on the ratio of total projected quarterly expenses of the universal service support programs to total end-user telecommunications revenues. The Commission shall determine two contribution factors, one of which shall be applied to interstate and international end-user telecommunications revenues and the other of which shall be applied to interstate, intrastate, and international end-user telecommunications revenues. The Commission shall approve the Administrator's quarterly projected costs of universal service support programs, taking into account demand for support and administrative expenses. The total subject revenues shall be compiled by the Administrator based on information contained in the Telecommunications Reporting Worksheets described in § 54.711(a).

* * * * *

(d) If a contributor fails to file a Telecommunications Reporting Worksheet by the date on which it is due, the Administrator shall bill that contributor based on whatever relevant data the Administrator has available, including, but not limited to, the number of lines presubscribed to the contributor and data from previous years, taking into consideration any estimated changes in such data.

10. Section 54.711 is revised to read as follows:

§ 54.711 Contributor reporting requirements.

(a) Contributions shall be calculated and filed in accordance with the Telecommunications Reporting Worksheet which shall be published in the **Federal Register**. The Telecommunications Reporting Worksheet sets forth information that the contributor must submit to the Administrator on a semi-annual basis. The Commission shall announce by Public Notice published in the **Federal Register** and on its website the manner of payment and dates by which payments must be made. An officer of the contributor must certify to the truth and accuracy of the Telecommunications Reporting Worksheet, and the Commission or the Administrator may verify any information contained in the Telecommunications Reporting Worksheet at the discretion of the Commission. Inaccurate or untruthful information contained in the Telecommunications Reporting Worksheet may lead to prosecution under the criminal provisions of Title 18 of the United States Code. The

Administrator shall advise the Commission of any enforcement issues that arise and provide any suggested response.

(b) The Commission shall have access to all data reported to the Administrator. Contributors may make requests for Commission nondisclosure of company-specific revenue information under § 0.459 of this chapter by so indicating on the Telecommunications Reporting Worksheet at the time that the subject data are submitted. The Commission shall make all decisions regarding nondisclosure of company-specific information. The Administrator shall keep confidential all data obtained from contributors, shall not use such data except for purposes of administering the universal service support programs, and shall not disclose such data in company-specific form unless directed to do so by the Commission. Subject to any restrictions imposed by the Chief of the Common Carrier Bureau, the Universal Service Administrator may share data obtained from contributors with the administrators of the North American Numbering Plan administration cost recovery (See 47 CFR 52.16 of this chapter), the local number portability cost recovery (See 47 CFR 52.32 of this chapter), and the TRS Fund (See 47 CFR 64.604(c)(4)(iii)(H) of this chapter). The Administrator shall keep confidential all data obtained from other administrators and shall not use such data except for purposes of administering the universal service support mechanisms.

(c) The Bureau may waive, reduce, modify, or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the universal service support mechanisms.

11. Section 54.713 is revised to read as follows:

§ 54.713 Contributors' failure to report or to contribute.

A contributor that fails to file a Telecommunications Reporting Worksheet and subsequently is billed by the Administrator shall pay the amount for which it is billed. The Administrator may bill a contributor a separate assessment for reasonable costs incurred because of that contributor's filing of an untruthful or inaccurate Telecommunications Reporting Worksheet, failure to file the Telecommunications Reporting Worksheet, or late payment of contributions. Failure to file the Telecommunications Reporting Worksheet or to submit required

quarterly contributions may subject the contributor to the enforcement provisions of the Act and any other applicable law. The Administrator shall advise the Commission of any enforcement issues that arise and provide any suggested response. Once a contributor complies with the Telecommunications Reporting Worksheet filing requirements, the Administrator may refund any overpayments made by the contributor, less any fees, interest, or costs.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

12. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 10, 201, 218, 226, 228, 332, unless otherwise noted.

13. Section 64.604 is amended by revising paragraphs (c)(4)(iii)(A), (B), and (I) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(c) * * *

(4) * * *

(iii) * * *

(A) *Contributions.* Every carrier providing interstate telecommunications services shall contribute to the TRS Fund on the basis of its relative share of interstate end-user telecommunications revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services.

(B) *Contribution computations.* Contributors' contribution to the TRS Fund shall be the product of their subject revenues for the prior calendar year and a contribution factor determined annually by the Commission. The contribution factor shall be based on the ratio between expected TRS Fund expenses to interstate end-user telecommunications revenues. In the event that contributions exceed TRS payments and administrative costs, the contribution factor for the following year will be adjusted by an appropriate amount, taking into consideration projected cost and usage changes. In the event that contributions are inadequate, the fund administrator may request authority from the Commission to borrow funds

commercially, with such debt secured by future years contributions. Each subject carrier must contribute at least \$25 per year. Carriers whose annual contributions total less than \$1,200 must pay the entire contribution at the beginning of the contribution period. Carriers whose contributions total \$1,200 or more may divide their contributions into equal monthly payments. Carriers shall complete and submit, and contributions shall be based on, a "Telecommunications Reporting Worksheet" (as published by the Commission in the **Federal Register**). The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the administrator at the discretion of the Commission. Contributors' statements in the worksheet shall be subject to the provisions of section 220 of the Communications Act of 1934, as amended. The fund administrator may bill contributors a separate assessment for reasonable administrative expenses and interest resulting from improper filing or overdue contributions. The

Chief of the Common Carrier Bureau may waive, reduce, modify, or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the TRS Fund.

* * * * *

(I) *Information filed with the administrator.* The administrator shall keep all data obtained from contributors and TRS providers confidential and shall not disclose such data in company-specific form unless directed to do so by the Commission. Subject to any restrictions imposed by the Chief of the Common Carrier Bureau, the TRS Fund administrator may share data obtained from carriers with the administrators of the universal service support mechanisms (See 47 CFR 54.701 of this chapter), the North American Numbering Plan administration cost recovery (See 47 CFR 52.16 of this chapter), and the long-term local number portability cost

recovery (See 47 CFR 52.32 of this chapter). The TRS Fund Administrator shall keep confidential all data obtained from other administrators. The administrator shall not use such data, from carriers or administrators, except for purposes of administering the TRS Fund, calculating the regulatory fees of interstate common carriers, and aggregating such fee payments for submission to the Commission. The Commission shall have access to all data reported to the administrator, and authority to audit TRS providers. Contributors may make requests for Commission nondisclosure of company-specific revenue information under § 0.459 of this chapter by so indicating on the Telecommunications Reporting Worksheet at the time that the subject data are submitted. The Commission shall make all decisions regarding nondisclosure of company-specific information.

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[FR Doc. 99-19686 Filed 7-29-99; 8:45 am]
BILLING CODE 6712-01-P