

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[MD Docket No. 00–58; FCC 00–240]

### Assessment and Collection of Regulatory Fees For Fiscal Year 2000

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is revising its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress has required it to collect for Fiscal Year 2000. The Communications Act of 1934 (“Act”), as amended, provides for the annual assessment and collection of regulatory fees. For Fiscal Year 2000, changes to the Schedule of Regulatory Fees will be made per section 9(b)(2) of the Act. These revisions will further the National Performance Review goals of reinventing Government by requiring beneficiaries of Commission services to pay for such services.

**DATES:** Effective September 10, 2000.

**FOR FURTHER INFORMATION CONTACT:** Terry Johnson, Office of Managing Director at (202) 418–0445, or Roland Helvajian, Office of Managing Director at (202) 418–0444.

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#### I. Introduction

1. By this *Report and Order*, the Commission concludes a proceeding to revise its Schedule of Regulatory Fees in order to collect the amount of regulatory fees that Congress, pursuant to section 9(a) of the Communications Act, as amended, has required it to collect for Fiscal Year (FY) 2000.<sup>1</sup>

2. Congress has required that we collect \$185,754,000 through regulatory fees in order to recover the costs of our enforcement, policy and rulemaking, international and user information activities for FY 2000.<sup>2</sup> This amount is \$13,231,000 or approximately 7.67% more than the amount that Congress designated for recovery through regulatory fees for FY 1999.<sup>3</sup> Thus, we are revising our fees to collect the increased amount that Congress has specified. Additionally, we are amending the Schedule in order to simplify and streamline it.

3. In revising our fees, we adjusted the payment units and revenue requirement for each service subject to a fee, consistent with section 9(b)(2). The current Schedule of Regulatory Fees is set forth in §§ 1.1152 through 1.1156 of the Commission’s rules.<sup>4</sup>

4. We also note that Congress has before it for consideration a Supplemental Appropriation Act “[u]nder the heading ‘Federal Communications Commission, salaries and Expenses’ in title V of H.R. 3421 of

the 106th Congress, as enacted by section 1000(a)(1) of Public Law 106–113,” which proposes to increase the amount we must collect in FY 2000 regulatory fees by \$5.8 million to an aggregate total of \$191,554,000. This would be an increase of approximately 3.12 percent over the \$185,754,000 the Congress originally requested. If this additional increase or (any other increase) is enacted by the Congress, we will adjust the Schedule of Regulatory Fees adopted in this Report and Order by first applying the increase percentage to the expected revenues contained in this decision. Then, we will divide the new expected revenues by the estimated number of payment units detailed in this decision and adjust for rounding as required by section 9(b)(2). 47 U.S.C. 159(b)(2). We delegate to the Managing Director authority to issue a subsequent order amending the Schedule of Regulatory Fees for FY2000 to reflect the change in the law, should it be enacted.

#### II. Background

5. Section 9(a) of the Communications Act of 1934, as amended, authorizes the Commission to assess and collect annual regulatory fees to recover the costs, as determined annually by Congress, that it incurs in carrying out enforcement, policy and rulemaking, international, and user information activities.<sup>5</sup> See Attachment G for a description of these activities. In our *FY 1994 Fee Order*,<sup>6</sup> we adopted the Schedule of Regulatory Fees that Congress established, and we prescribed rules to govern payment of the fees, as required by Congress.<sup>7</sup> Subsequently, we modified the fee Schedule to increase the fees in accordance with the amounts Congress required us to collect in each succeeding fiscal year. We also amended the rules governing our regulatory fee program based upon our prior experience administering the program.<sup>8</sup>

6. As noted, for FY 1994 we adopted the Schedule of Regulatory Fees established in section 9(g) of the Act. For fiscal years after FY 1994, however, sections 9(b)(2) and (3), respectively, provide for “Mandatory Adjustments” and “Permitted Amendments” to the Schedule of Regulatory Fees.<sup>9</sup> Section 9(b)(2), entitled “Mandatory Adjustments,” requires that we revise the Schedule of Regulatory Fees to reflect the amount that Congress

<sup>1</sup> 47 U.S.C. 159 (a) and *Assessment and Collection of Regulatory Fees for Fiscal Year 2000*, FCC 00–117, Notice of Proposed Rulemaking (NPRM) released April 3, 2000, 65 FR 19580 (Apr. 11, 2000).

<sup>2</sup> Public Law 106–113 and 47 U.S.C. 159(a)(2).

<sup>3</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 1999*, FCC 98–200, released June 18, 1999, 64 FR 35831 (Jul. 1, 1999).

<sup>4</sup> 47 CFR 1.1152 through 1.1156.

<sup>5</sup> 47 U.S.C. 159(a).

<sup>6</sup> 59 FR 30984 (Jun. 16, 1994).

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

<sup>8</sup> 47 CFR 1.1151 *et seq.*

<sup>9</sup> 47 U.S.C. 159(b)(2), (b)(3).

requires us to recover through regulatory fees.<sup>10</sup>

7. Section 9(b)(3), entitled "Permitted Amendments," requires that we determine annually whether additional adjustments to the fees are warranted, taking into account factors that are in the public interest, as well as issues that are reasonably related to the payer of the fee. These amendments permit us to "add, delete, or reclassify services in the Schedule to reflect additions, deletions or changes in the nature of its services."<sup>11</sup>

8. Section 9(i) requires that we develop accounting systems necessary to adjust our fees pursuant to changes in the costs of regulation of various services that are subject to a fee, and for other purposes.<sup>12</sup> For FY 1997, we relied for the first time on cost accounting data to identify our regulatory costs and to develop our FY 1997 fees based upon these costs. Also, for FY 1997, we limited the increase in the amount of the fee for any service in order to phase in our reliance on cost-based fees for those services whose revenue requirement would be more than 25 percent above the revenue requirement which would have resulted from the "mandatory adjustments" to the FY 1997 fees without incorporation of costs. This methodology, which we continued to use for FY 1998, enabled us to develop regulatory fees which we believed would be more reflective of our costs of regulation, and allowed us to make revisions to our fees based on the fullest extent possible, while still consistent with the public interest, on the actual costs of regulating those services that are subject to a fee. However, we found that developing a regulatory fee structure based on cost information did not produce the desired results. We were anticipating that our regulatory costs would level off or, perhaps, decline causing these adjustments to decrease from the 25 percent towards zero. Since our regulatory costs have continued to rise, this methodology was discontinued. Therefore, we chose to base the FY 1999 fees only on the basis of "Mandatory Adjustments". Finally, section 9(b)(4)(B) requires us to notify Congress of any permitted amendments 90 days before those amendments go into effect.<sup>13</sup>

### III. Discussion

#### A. Summary of FY 2000 Fee Methodology

9. As noted, Congress has required that the Commission recover \$185,754,000 for FY 2000 through the collection of regulatory fees, representing the costs applicable to our enforcement, policy and rulemaking, international, and user information activities.<sup>14</sup>

10. In developing our FY 2000 fee schedule, we first determined that we should continue to use the same general methodology for "Mandatory Adjustments" to the Fee Schedule that we used in developing the FY 1999 fee schedule. Our regulatory costs continue to rise, and using cost information produced by our current cost accounting system to determine a regulatory fee schedule does not produce the desired result of collecting the amount required by Congress. Therefore, we estimated the number of payment units<sup>15</sup> for FY 2000 in order to determine the aggregate amount of revenue we would collect without any revision to our FY 1999 fees. Then we compared this revenue amount to the \$185,754,000 that Congress has required us to collect in FY 2000 and pro-rated the difference among all the existing fee categories.

11. Once we established our tentative FY 2000 fees, we evaluated proposals made by Commission staff concerning changes to the Fee Schedule and our collection procedures. These proposals are discussed in paragraphs 15–19 and are factored into our FY 2000 Schedule of Regulatory Fees, set forth in Attachment D.

12. Finally, we have incorporated, as Attachment F, a section entitled "Guidance" that contains detailed descriptions of each fee category, information on the individual or entity responsible for paying a particular fee and other critical information designed to assist potential fee payers in determining the extent of their fee liability, if any, for FY 2000.<sup>16</sup> In the following paragraphs, we describe in greater detail our methodology for establishing our FY 2000 regulatory fees.

<sup>14</sup> 47 U.S.C. 159(a).

<sup>15</sup> Payment units are the number of subscribers, mobile units, pagers, cellular telephones, licenses, call signs, adjusted gross revenue dollars, etc. which represent the base volumes against which fee amounts are calculated.

<sup>16</sup> Attachment F contains updated information concerning any changes made to the proposed fees adopted by this *Report and Order*.

#### B. Development of FY 2000 Fees

##### i. Adjustment of Payment Units

13. In calculating FY 2000 regulatory fees for each service, we adjusted the estimated payment units for each service because payment units for many services have changed substantially since we adopted our FY 1999 fees. We obtained our estimated payment units through a variety of means, including our licensee data bases, actual prior year payment records, and industry and trade group projections. Whenever possible, we verified these estimates from multiple sources to ensure the accuracy of these estimates. Attachment B provides a summary of how revised payment units were determined for each fee category.<sup>17</sup>

##### ii. Calculation of Revenue Requirements

14. We next multiplied the revised payment units for each service by the FY 1999 fees for each category to determine how much revenue we would collect without any change to the FY 1999 Schedule of Regulatory Fees. The amount of revenue which we would collect without changes to the Fee Schedule is approximately \$191.6 million. This amount is approximately \$5.9 million more than the amount the Commission is required to collect in FY 2000. We then adjusted the revenue requirements for each category on a proportional basis, consistent with section 9(b)(2) of the Act, to obtain an estimate of the revenue requirements for each fee category so that the Commission could collect \$185,754,000 as required by Congress. Attachment C provides detailed calculations showing how we determined the revised revenue amounts to be raised for each service.

##### iii. Recalculation of Fees

15. Once we determined the revenue requirement for each service and class of licensee, we divided the revenue requirement by the number of estimated payment units (and by the license term, if applicable, for "small" fees) to obtain actual fee amounts for each fee category. These calculated fee amounts were then rounded in accordance with section 9(b)(2) of the Act. *See* Attachment C.

<sup>17</sup> It is important to also note that Congress' required revenue increase in total regulatory fee payments of approximately 7.67 percent in FY 2000 will not fall equally on all payers because payment units have changed in several services. When the number of payment units in a service increase from one year to another, fees do not have to rise as much as they would if payment units had decreased or remained stable. Declining payment units have the opposite effect on fees. Further, distribution of various overhead costs and rounding of fees will also affect the final percentage increase or decrease.

<sup>10</sup> 47 U.S.C. 159(b)(2).

<sup>11</sup> 47 U.S.C. 159(b)(3).

<sup>12</sup> 47 U.S.C. 159(i).

<sup>13</sup> 47 U.S.C. 159(b)(4)(B).

iv. Discussion of Issues and Changes to Fee Schedule

16. We examined the results of our calculations to determine if further adjustments of the fees and/or changes to payment procedures were warranted based upon the public interest and other criteria established in 47 U.S.C. 159(b)(3).<sup>18</sup> Further, we have reviewed the comments received in this proceeding. As a result of this review, we are making the following "Mandatory Adjustments" and adjustments to our Fee Schedule and Guidance:

a. INTELSAT Satellites

17. In our NPRM, we reversed the approach taken in our prior fee orders<sup>19</sup> of treating Comsat as exempt from section 9 geostationary space station fees. We proposed that: "it is clear, that, for FY 2000, Comsat as the United States Signatory to INTELSAT is subject to regulatory fees." *Assessment and Collection of Fees for Fiscal Year 2000*, FCC 00-117 (Apr. 3, 2000) at paragraph 17. We cited the decision of the United States Court of Appeals for the District of Columbia Circuit in *Panamsat Corp. v. FCC*, 198 F.3d 890 (D.C. Cir. 1999), which set aside and remanded our 1998 fee order, which did not assess a fee against Comsat. We also cited Congress' enactment on March 17, 2000 of the Open Market Reorganization for the Betterment of International Telecommunications Act (ORBIT). Act of March 17, 2000, Pub. L. 106-180, 114 Stat. 48 (2000). That legislation provides that:

(c) Parity of Treatment—Notwithstanding any other law or executive agreement, the Commission shall have the authority to impose similar regulatory fees on the United States signatory [i.e., Comsat] which it imposes on other entities providing similar services.

18. Comsat contends in its comments that no justification exists for assessing a regulatory fee against it. According to Comsat, the geostationary space station fee contained in the rules since 1993 does not apply to INTELSAT space stations because: (1) they are not licensed by the Commission; (2) they are

not regulated under 47 C.F.R. Part 25; and (3) they are non-U.S. facilities outside of United States jurisdiction.<sup>20</sup> Moreover, Comsat asserts that neither *Panamsat* nor ORBIT establishes any new fee uniquely applicable to Comsat, and that Comsat already pays the fees applicable to similarly situated parties. Finally, Comsat urges that any fee imposed on it should be discounted to reflect that: (1) Comsat utilizes only 17.01 percent of INTELSAT'S transponder capacity, and (2) ORBIT was not enacted until March 17, 2000, 2½ months after the October 1, 1999 cut-off for determining liability for FY 2000 regulatory fees. *Panamsat Corporation and GE American Communications, Inc.* support the analysis set forth in the NPRM. They assert that they will unfairly bear the costs associated with Comsat's participation in INTELSAT unless Comsat assumes its proportionate share of the space station fees.

19. We disagree with Comsat and agree in substance with the views of *Panamsat* and GE Americom.<sup>21</sup> Our analysis of Comsat's arguments is guided by the mandate of the court of appeals in *Panamsat*, as well as by the will of Congress as embodied in ORBIT. *Panamsat* holds that:

\* \* \* the statute [i.e., section 9] does not require—and may not permit—Comsat's exemption from space station regulatory fees. Nor would the legislative history [see note 2, *supra*] change the result, assuming the statute to be ambiguous enough to allow its consideration.

*Panamsat*, 198 F.3d at 895. Further, *Panamsat* rejects the view, now argued by Comsat, that Comsat's operation of INTELSAT space stations is not licensed or within Commission jurisdiction, as arguably required to make Comsat subject to the space station fee. As the court of appeals noted (198 F.3d at 896), Comsat must seek Commission authorization under Title III for its participation in the operation of INTELSAT satellites. See also *Communications Satellite Corp.*, 46 FCC 2d 338 (1974) (establishing procedures

for Comsat to obtain Commission authorization to participate in the construction and operation of INTELSAT facilities, pursuant to Title III and section 214 of the Communications Act, and section 201(c) of the Communications Satellite Act).<sup>22</sup> Comsat has received such authorizations whether or not the satellite in question served North America. The court concludes:

\* \* \* it seems perfectly reasonable to say under these circumstances that the Commission "licenses" Comsat's operation of Intelsat satellites. Thus, the legislative history's embrace of fees for satellites "directly licensed by the Commission under Title III" seems reasonably to encompass Comsat.

*Panamsat*, 198 F.3d at 896. The court further noted that Comsat pays Title III space station application fees under section 8 in connection with its satellite authorizations. *Panamsat*, 198 F.3d at 895. In view of the foregoing, Comsat cannot be heard to argue—based on the same language considered by the court of appeals—that its INTELSAT operations are not licensed or that they are "foreign" within the relevant meaning of those terms.<sup>23</sup>

20. In this regard, we see no merit to Comsat's suggestion that the Commission may not impose regulatory fees on Comsat unless it imposes the same fees on the users of foreign-licensed satellites and on direct access users of INTELSAT's system. We do not grant Title III authorizations to direct access users, who are merely customers of INTELSAT. Comsat is the U.S. Signatory to INTELSAT. As such, it is the largest and the sole U.S. investor in the system receiving a return on its investment. It also is the U.S. entity that participates in INTELSAT commercial decisions involving procurement and operation of satellites and development and pricing of services provided by INTELSAT. Comsat, therefore, is the U.S. entity responsible for operation of the INTELSAT satellites. This unique status, established by the Communications Satellite Act, makes Comsat subject to obtaining Title III authorization. Neither the investors in foreign-licensed systems nor direct access users of INTELSAT's system (now codified by ORBIT) have similar status.

<sup>22</sup> The Communications Satellite Act expressly designates Comsat as a common carrier fully subject to the provisions of Title II and Title III of the Communications Act. 47 U.S.C. section 741.

<sup>23</sup> We recognize that this analysis departs from our treatment of this issue in past fee orders. *Panamsat*, however, establishes the applicable law, and we are bound by its teachings.

<sup>18</sup> In FY 1997 and FY 1998 we limited increases to 25%. For FY 1999 and FY 2000, none of the proposed fee increases exceed 25%.

<sup>19</sup> See *Assessment and Collection of Fees for Fiscal Year 1994*, 9 FCC Rcd 5333 (1994); *Assessment and Collection of Fees for Fiscal Year 1995*, 10 FCC Rcd 13512 (1995); *Assessment and Collection of Fees for Fiscal Year 1996*, 11 FCC Rcd 18774 (1996); *Assessment and Collection of Fees for Fiscal Year 1997*, 12 FCC Rcd 17161 (1997); *Assessment and Collection of Fees for Fiscal Year 1998*, 13 FCC Rcd 19820 (1998); *Assessment and Collection of Fees for Fiscal Year 1999*, 14 FCC Rcd 9868 (1999).

<sup>20</sup> Comsat relies on the following language contained in H.R. Rep. No. 207, 102nd Cong., 1st Sess. 1991, incorporated by reference in H.R. Rep. No. 213, 103rd Cong., 1st Sess. 1993:

The Committee intends that fees in this category [space stations] be assessed on operators of U.S. facilities, consistent with FCC jurisdiction. Therefore, these fees will apply only to space stations directly licensed by the Commission under Title III of the Communications Act. Fees will not be applied to space stations operated by international organizations subject to the International Organizations Immunities Act, 22 U.S.C. Section 288 *et seq.* [e.g., INTELSAT].

<sup>21</sup> Because our analysis largely overlaps those of *Panamsat* and GE Americom, we will not summarize their arguments at length.

21. Comsat also makes a related argument, noting that the pertinent fee is described as follows: "Space Station (per operational station in geosynchronous orbit) (47 CFR Part 25)." 47 U.S.C. section 159(g). Comsat maintains that the parenthetical reference to Part 25 indicates that the fee only applies to space stations that are licensed subject to the technical and other regulations contained in Part 25. INTELSAT's facilities are not subject to the licensing provisions of Part 25. In this regard, the court in *Panamsat* left open the question of whether " \* \* \* there is some ambiguity in the coverage of the 'space station' category in section 9, such that the Commission might 'permissibly' read the statute as allowing a Comsat exemption." *Panamsat*, 198 F.3d at 896.<sup>24</sup>

22. We find that adopting the interpretation of section 9 proposed by Comsat would be contrary to the intent of Congress. Section 9's primary mandate is for the Commission to recover the costs of its regulatory activities, including international activities, through the collection of fees assessed against those who benefit from the Commission's activities. 47 U.S.C. section 159(a)(1), (b)(1)(A). In enacting section 9, Congress established an initial schedule of fees, which the Commission may modify under appropriate circumstances. It would unreasonably frustrate the intent of Congress to suppose that it framed the fee schedule in a way that made a category of costs either unrecoverable or not chargeable against the party most directly related to them, without creating an express exemption. This leads us to conclude that section 9's reference to part 25 is essentially clerical, *i.e.*, that it simply calls attention to the section of the rules most relevant to the fee, but does not reflect a substantive limitation. To hold otherwise would elevate form over substance. It is reasonable to infer that Congress intended to relate the fee to the costs of effectuating all of our statutory satellite responsibilities and not simply those that happen to have been codified as part 25. For example, we have held that the section 9 regulatory fee applies to DBS satellites although they are regulated under part 100 rather than part 25. *See Assessment and Collection of Regulatory Fees for Fiscal Year 1996*, 11 FCC Rcd 18774, 1811 (1996); *Direct Broadcast Satellites*, 90 FCC 2d 676 (1982) (establishing

interim rules for DBS).<sup>25</sup> Moreover, Part 25 is, in part, a manifestation of some of the statutory responsibilities set forth in the Communications Satellite Act. *See* 47 U.S.C. section 721(c)(11); 47 CFR section 25.101(a). Thus, for example, when we place Comsat's applications on public notice, we apply the pleading requirements of 47 CFR section 25.154, although Comsat's applications are not, strictly speaking, "Part 25 applications." *See, e.g., Applications Accepted for Filing*, Rep. No. SPB-109 (Oct. 28, 1997).

23. We further find that the foregoing analysis is consistent with and reinforced by the "Parity of Treatment" provision of ORBIT. Indeed, we agree with Comsat that in pertinent respects a degree of "redundancy" exists between ORBIT and *Panamsat*. Comments of Comsat Corporation at 18 n.9. As Comsat points out, the Parity of Treatment provision is a carryover from a previous satellite privatization bill (H.R. 1872, 105th Cong., 2nd Sess.). In 1998, when the provision was first introduced, the United States Court of Appeals for the District of Columbia Circuit had recently decided *Comsat Corp. v. FCC*, 114 F.3d 223 (D.C. Cir. 1997), which had struck down a Commission attempt to impose a novel "signatory fee" against Comsat.<sup>26</sup> In our view, the provision codifies the proposition, also reflected in *Panamsat*, that the invalidity of the signatory fee does not mean that Comsat is exempt from the space station fee. The House Report accompanying H.R. 1872 states:

The Committee believes that the Commission currently has the statutory authority to impose such fees [*i.e.*, fees similar to the regulatory fees imposed on other entities providing similar services] but wishes to make explicit here that the Commission does indeed have such authority. This subsection should not be interpreted to imply that the Commission

does not currently have the authority to enact such regulatory fees.

H.R. Rep. No. 494, 105th Cong., 2nd Sess. 1998. We reject Comsat's attempt to avoid the implications of this provision. ORBIT, like *Panamsat*, makes clear that Comsat is not exempt from the space station fee as regards INTELSAT facilities. To accept Comsat's interpretation, that it is not subject to the space station fee despite ORBIT, would give the relevant provision of ORBIT no effect at all. Thus, we reject Comsat's argument that ORBIT's reference to "similar services" as opposed to "similar facilities" applies only to Comsat's international bearer circuits, as to which there has been no dispute over Comsat's liability.<sup>27</sup> We also reject Comsat's baseless suggestion that ORBIT establishes a requirement that the space station fee would be applicable to Comsat only if its satellites were "similarly situated" to other satellites. Each of these arguments, if accepted, would nullify the parity provision of ORBIT.

24. In sum, we conclude that Comsat should pay a proportionate share of the fees applicable to holders of Title III authorizations to launch and operate geosynchronous space stations. As we concluded in years past, the costs attributable to space station oversight include costs directly related to INTELSAT signatory activities. *See Assessment and Collection of Regulatory Fees for Fiscal Year 1996*, 11 FCC Rcd 18774, 18790 paragraphs 45-46 (1996). These costs are distinct from those recovered by other fees that Comsat pays, such as application fees, fees applicable to international bearer circuits, fees covering Comsat's non-Intelsat satellites, and earth station fees. If Comsat does not pay its share, these costs will be borne by other holders of Title III authorizations.

25. We disagree with Comsat's suggestion that imposing a fee pursuant to ORBIT would have an improper retroactive effect. We see no significance to the fact that ORBIT was not enacted until March 17, 2000, after the October 1, 1999 cut-off established pursuant to our rules for authorizations that will be subject to annual regulatory fees for fiscal year 2000. *See Assessment and Collection of Fees for Fiscal Year 2000*, FCC 00-117 (Apr. 3, 2000) at paragraph 27. As discussed above, we find that ORBIT merely reaffirms Comsat's

<sup>24</sup> Elsewhere, however, the Court states: "The plain terms of section 9 \* \* \* clearly do not require an exemption for Comsat, and there is no obvious hook in the language on which to hang an exemption." *Panamsat*, 198 F.3d at 895.

<sup>25</sup> Since its establishment in 1982, the Part 100 DBS service has referred to satellite systems operating on the Ku-band at frequencies and orbital positions different from satellites authorized under Part 25. *See Policies and Rules for the Direct Broadcast Satellite Service*, 13 FCC Rcd 6907, 6909 paragraph 2 (1998) (proposing to make Part 25 applicable to DBS); *Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992*, 8 FCC Rcd 1589, 1589-90 paragraphs 3-4 (1993). *See also Satellite Communications Services*, 56 Fed. Reg. 24014, 24016 (May 28, 1991) (amending the rules to add: "§ 25.109 Cross-reference. The space radiocommunications stations in the following services are not licensed under this part: \* \* \* Direct Broadcasting Satellite Service, see 47 CFR part 100 \* \* \*").

<sup>26</sup> The court held that the signatory fee, which was not among those initially specified by Congress in section 9, could not be added consistent with the section's requirement that new fees must reflect additions, deletions, or changes in the nature of service.

<sup>27</sup> Additionally, we note that Comsat's own literature indicates that it provides "satellite capacity services" as "the U.S. owner of the INTELSAT satellite system \* \* \*." *COMSAT Corporation: Satellite Capacity Services*, available at <[http://www.comsat.com/sat\\_cap/](http://www.comsat.com/sat_cap/)> (visited May 10, 2000).

liability for fees under section 9 and does not create any new liability. Thus, the date of its enactment has no significance with respect to the fees chargeable to Comsat. In any event, we do not in this proceeding contemplate retroactively imposing, pursuant to ORBIT, any fees due prior to ORBIT's enactment.<sup>28</sup> The fees at issue here are due prospectively in September 2000. We note further that irrespective of the date of ORBIT's enactment, Comsat held the authorizations relevant to the fee as of October 1, 1999. Thus, while the cut-off would normally bar applying fees to authorizations issued or acquired after October 1, 1999, no such action is contemplated here.

26. We also find no basis to discount the fees based on the level of Comsat's usage of INTELSAT's system. We have previously rejected proposals to base the space station fee on the number of transponders used rather than the number of space segments. See *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, 10 FCC Rcd 13512, 13550–51 paragraph 111 (1995). Comsat has furnished no justification for us to adopt a utilization-based approach generally. In this regard, our decision in *Columbia Communications Corp.*, 14 FCC Rcd 1122 (1999), should not be read as endorsing a utilization-based approach to the space station fee. In that case, we granted Columbia a partial waiver of the fee based on the unique circumstances present. Specifically, Columbia leased transponder capacity on two NASA Tracking Data and Relay Satellites (TDRSS). Under the terms of the lease, NASA could preempt Columbia's usage on minimal notice. Moreover, Columbia already paid 70 percent of its revenues to the United States Government under the lease. Because the usefulness of Columbia's license had been impaired by another governmental body, and because Columbia already paid the government for the use of the satellites, we found that a partial waiver was appropriate.

27. We note that Comsat has also requested a reduction in any fees that may be assessed. We express no view in this rulemaking proceeding whether such a reduction in fees should be granted. Waivers and reductions in fees are granted on a case-by-case basis under section 1.1166 of our rules. Comsat is free to submit such a request in accordance with the requirements of that section.

<sup>28</sup> We will consider elsewhere to what extent the court's decision in *Panamsat* may require the adjustment of past fees.

#### b. Interstate Telephone Service Providers

28. The Commission is required under the Communications Act of 1934, as amended,<sup>29</sup> to establish procedures that will finance interstate telecommunications relay services (TRS), universal service support mechanisms, administration of the North American Numbering Plan (NANPA), and shared costs of the local number portability (LNP) program. In a series of separate proceedings, the Commission has already established procedures that permits the administrators of these programs to collect contributions from all providers of telecommunications services in support of the above mandates.<sup>30</sup> In 1999, as part of its paperwork streamlining efforts, the Commission amended its rules and required contributors to file only a single form FCC Form 499–A, Telecommunications Reporting Worksheet, and eliminated FCC Form 431, TRS Fund Worksheet.<sup>31</sup> Previously, Form 431, TRS Fund Worksheet, was used to obtain base revenue data from which telephone services regulatory fees were calculated. Because of this form change, it is no longer feasible to obtain base telephone services revenue data using adjusted gross interstate revenues as derived from data previously provided on FCC Form 431, TRS Fund Worksheet. Therefore, beginning in FY 2000, we are requiring that the interstate telephone services regulatory fee be derived from interstate and international end-user revenues data submitted on FCC Form 499–A, Telecommunications Reporting Worksheet, rather than from data provided on Form 431, TRS Fund Worksheet. A copy of the form and instructions can be downloaded at: <http://www.fcc.gov/formpage.html>.

29. All providers of telecommunications services within the United States, with very limited exceptions, must file a FCC Form 499–A, Telecommunications Reporting Worksheet. For this filing, the United States is defined as the contiguous United States, Alaska, Hawaii, American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston

<sup>29</sup> 47 U.S.C. 151, 225, 251, 254.

<sup>30</sup> These contributions are separate and apart from regulatory fees collected to fund the Commission's operations.

<sup>31</sup> 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, Report and Order, FCC 99–175, CC Docket No. 98–171 (rel. July 14, 1999), 64 FR 41320 (July 30, 1999) (*Contributor Reporting Requirements Order*).

Atoll, Kingman Reef, Midway Island, Navassa Island, the Northern Mariana Islands, Palmyra, Puerto Rico, the U.S. Virgin Islands, and Wake Island. Each legal entity that provides interstate telecommunications service for a fee, including each affiliate or subsidiary of an entity, must complete and file separately a copy of the Telecommunications Reporting Worksheet.

30. In determining who must file Form 499–A, the term “telecommunications” means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. For the purpose of filing the Telecommunication Reporting Worksheet, the term “interstate telecommunications” includes, but is not limited to, the following types of services: wireless telephony including cellular and personal communications services (PCS); paging and messaging services; dispatch services; mobile radio services; operator services; access to interexchange service; special access; wide area telecommunications services (WATS); subscriber toll-free services; 900 services; message telephone services (MTS); private line; telex; telegraph; video services; satellite services; and resale services. For example, all local exchange carriers provide access services and, therefore, provide interstate telecommunications. Included are entities that offer interstate telecommunications services to the public for a fee, even if only a narrow or limited class of users could use the services. Also included are entities that provide interstate telecommunications services to entities other than themselves for a fee on a private, contractual basis. In addition, owners of pay telephones, sometimes referred to as “pay telephone aggregators,” must file the worksheet. Most telecommunications carriers must file the worksheet even if they qualify for the *de minimis* exemption under the commission's rules for universal service.<sup>32</sup>

31. With the introduction of a new form, FCC Form 499–A, it is no longer feasible to base the interstate telephone services regulatory fee on the adjusted gross interstate revenues because this data was derived from a previously used form (FCC 431) to contribute to the Telecommunication Relay Services Fund. Therefore, beginning in FY 2000, we are requiring that the interstate and international telephone services regulatory fee be derived from interstate

<sup>32</sup> 47 CFR 54.708.

and international end-user revenues as submitted by providers on FCC Form 499-A, Telecommunications Reporting Worksheet, as part of the telecommunications provider reporting requirements. The following providers are exempt from paying the interstate telephone service provider regulatory fees: interstate service providers that have mobile service or satellite service revenue, but no local or non-satellite toll service;<sup>33</sup> government entities within the meaning of the term 47 CFR 1.1162; and carriers whose payment obligation would be less than \$10.<sup>34</sup> Note, the interstate telephone service provider fee is based on interstate and international end-user revenues for local and most toll services only. Filers are not allowed to deduct any expenses from subject interstate and international end-user revenues.

32. There have been no comments received regarding the proposal to rely on the FCC Form 499-A data as the basis for computing the interstate telephone service provider regulatory fee. Therefore, we are adopting the proposal. We are, however, making a minor adjustment in our revenue estimate as a result of more current data from the April 2000 filing. The most current estimate is \$74,124,558,460; however, the fee factor remains unchanged at 0.00117 per revenue dollar.

#### c. Commercial Radio and Television

33. The National Association of Broadcasters ("NAB") commented on several aspects of how the radio and television station fees were developed and collected. NAB suggests that the fees should be based on the cost of regulating a particular class of License. The Commission's Cost Accounting System does not provide cost detail at that level. NAB recommends that the number of payment units within a class and population should determine the amount of fees paid by each category group. In fact, that is exactly what is done for AM and FM radio fees. NAB argues that costs of regulating the new non-commercial low power FM operations should be separated from the costs for regulating full-power radio stations and applied as overhead to all feeable services. Our cost accounting system is not capable of adequately performing this recommendation. A new cost accounting system is being planned for future development, and this concept will be discussed and considered at the appropriate time.

<sup>33</sup> However, these service providers may be subject to payment of regulatory fees under other categories, e.g. space stations.

<sup>34</sup> See 47 U.S.C. 159(h); see also paragraph 29, *infra*.

Finally, NAB criticizes the accuracy of posting of fee payments and the level of research performed before taking collections actions against suspected non-payers. The Commission is dedicated to improving its processes and will carefully consider recommendations from the NAB or other interested parties of additional sources of reliable information about radio and television payees.

34. Sunbelt Communications Company and Ruby Mountain Broadcasting Company (collectively, "Sunbelt") argue that small television stations located near large designated market areas (DMA) are assessed disproportionately high fees because the A.C. Nielsen ratings include them in the DMA but they do not serve households in the DMA. Fees for television stations are based on market size as determined by Nielsen. This is the only consistent source the Commission has for determining which market a station serves. Sunbelt asserts that it is not in the public interest to force small, local television stations out of the market. Sunbelt further suggests that a provision should be made for small television stations to pay a reduced fee comparable to the satellite television fee, or alternatively a fee based on the number of households (rather than DMA). It is certainly not the Commission's intent to force anyone out of the market. As Sunbelt acknowledges in its comments, the Commission has an established procedure for a case-by-case determination of requests for waiver or reduction of a regulatory fee. See 47 CFR 1. The Commission has previously addressed the issues raised by Sunbelt and set standards for determining, on a case-by-case basis, whether fees for a small station may be reduced below the fees assessed for an assigned DMA and whether fees may be reduced because their payment will create financial hardship. See *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12761-63 (1995). Finally, the Commission is unaware of the existence of any reliable published source that can identify which television stations are serving small markets at the fringe of larger DMA's. We would encourage interested parties to submit a copy of or reference to such a publication that may enable us to predetermine small market television stations for the FY 2001 regulatory fee cycle.

#### d. Non-Geostationary Orbit Space Station Systems

35. Space Imaging LLC ("Space Imaging") is constructing a non-geostationary orbit (NGSO) space station

system that is not currently subject to regulatory fees because it is not operational. However, Space Imaging revives an issue, which we have previously addressed asking that we create a small constellation fee for systems of less than five satellites. As we have stated before, our regulatory costs are constant without respect to the number of satellites in a constellation. We believe that endless controversy will ensue in determining the appropriate number of satellites for determining the cut-off point. Finally, there simply are not enough systems in operation, and subject to a fee, to warrant creation of multiple categories for FY 2000. In fact, one feeable system has ceased operation leaving only two operational systems.

36. As referenced in the preceding paragraph, Iridium LLC has ceased providing services to its customers and is in bankruptcy. Space Systems License, Inc., Motorola Pacific Communications, Inc., and Motorola Satellite Communications, Inc. (collectively, "Motorola") argue that "it would not be equitable, consistent with prior Commission policy, or otherwise in the public interest to require Motorola to pay the fiscal year 2000 regulatory fees associated with the satellite and Earth station authorizations for the Iridium system."<sup>35</sup> Procedures for requesting a waiver or reduction of regulatory fees are specified in section 1.1166 of the Commission's Rules.<sup>36</sup> Therefore, no waiver or reduction decision will be made in this *Report and Order*.

#### e. Commercial Mobile Radio Services (CMRS)

37. The Cellular Telecommunications Industry Association (CTIA) questions our methodology and calculations used to determine the FY 2000 regulatory fees. CTIA argues that the CMRS industry is being levied a 42 percent increase versus the 7.67 percent increase imposed by the Congress. The 7.67 percent figure represents the increase in the aggregate amount that we must collect rather than the increases for specific industries or services within them. In the *NPRM* it is clearly stated that the percentage will not fall equally on all payers due to a variety of factors.<sup>37</sup> CTIA further argues that fees should be based on the number of units and the costs associated with a particular sector, rather than across all telecommunications sectors. We agree, however, in its current state, our cost accounting system contains certain

<sup>35</sup> Motorola comments at page 4.

<sup>36</sup> 47 CFR 1.1166

<sup>37</sup> 37 *NPRM* at footnote 18.

anomalies that require us to make adjustments in the public interest. Specifically, our cost data indicates that the CMRS Mobile Services sector has incurred costs in excess of \$30 million, which has been reduced by our methodology to approximately \$25 million. Further, this adjustment resulted in a reduction in the fee from \$0.32 in FY 1999 to our *NPRM* estimate of \$0.31 per unit for FY 2000. However, figures released by CTIA in April 2000 indicate that wireless subscribers reached 86 million by the end of 1999. Using such publicly available documents as news releases, cellular industry surveys including surveys conducted by CTIA, and filings with the Securities and Exchange Commission, we adjusted our estimate to 86 million payment units which reduced the CMRS Mobile Services fee to \$0.30 per unit.

38. Several parties which include: BellSouth Corporation ("BellSouth"), Council of Independent Communications Suppliers ("CICS") and the USMSS, Inc. ("USMSS"), and the American Mobile Telecommunications Association ("AMTA") have expressed concern that we may have reversed our decision from FY 1999 that small specialized mobile radio (SMR) systems be treated as CMRS Messaging Service for purposes of assessing regulatory fees. This is not true. Specific language stating that small SMR systems possessing less than 10 MHz of bandwidth are to be considered in the CMRS Messaging Services fee category was inadvertently omitted from the text of the Guidelines in Attachment F of the *NPRM*. That oversight has been corrected in this *Report and Order*.

#### C. Procedures for Payment of Regulatory Fees

39. Generally, we are retaining the procedures that we have previously established for the payment of regulatory fees. Section 9(f) requires that we permit "payment by installments in the case of fees in large amounts, and in the case of small amounts, shall require the payment of the fee in advance for a number of years not to exceed the term of the license held by the payer." See 47 U.S.C. 159(f)(2). Consistent with section 9(f), we are again establishing three categories of fee payments, based upon the category of service for which the fee payment is due and the amount of the fee to be paid. The fee categories are (1) "standard" fees, (2) "large" fees, and (3) "small" fees.

#### i. Annual Payments of Standard Fees

40. As we have in the past, we are treating regulatory fee payments by certain licensees as "standard fees"

which are those regulatory fees that are payable in full on an annual basis. Payers of standard fees are not required to make advance payments for their full license term and are not eligible for installment payments. All standard fees are payable in full on the date we establish for payment of fees in their regulatory fee category. The payment dates for each regulatory fee category will be announced either in this *Report and Order* terminating this proceeding or by public notice in the **Federal Register** pursuant to authority delegated to the Managing Director.

#### ii. Installment Payments for Large Fees

41. As we noted in the *NPRM*, time constraints will preclude an opportunity for installment payments. Due to statutory constraints concerning notification to Congress prior to actual collection of the fees, there will not be sufficient time for installment payments, and regulatees eligible to make installment payments will be required to pay these fees on the last date that fee payments may be submitted. The dates for a single payment will be announced either in this *Report and Order* terminating this proceeding or by public notice published in the **Federal Register** pursuant to authority delegated to the Managing Director.

#### iii. Advance Payments of Small Fees

42. As we have in the past, we are treating regulatory fee payments by certain licensees as "small" fees subject to advance payment consistent with the requirements of section 9(f)(2). Advance payments will be required from licensees of those services that we decided would be subject to advance payments in our FY 1994 *Report and Order*, and to those additional payers set forth herein.<sup>38</sup> Payers of advance fees will submit the entire fee due for the full term of their licenses when filing their initial, renewal, or reinstatement application. Regulatees subject to a payment of small fees shall pay the amount due for the current fiscal year multiplied by the number of years in the term of their requested license. In the event that the required fee is adjusted following their payment of the fee, the payer would not be subject to the payment of a new fee until filing an

<sup>38</sup> Applicants for new, renewal and reinstatement licenses in the following services will be required to pay their regulatory fees in advance: Land Mobile Services, Microwave Services, Marine (Ship) Service, Marine (Coast) Service, Private Land Mobile (Other) Services, Aviation (Aircraft) Service, Aviation (Ground) Service, General Mobile Radio Service (GMRS), 218–219 MHz Service (if any applications should be filed), Rural Radio Service, and Amateur Vanity Call Signs.

application for renewal or reinstatement of the license. Thus, payment for the full license term would be made based upon the regulatory fee applicable at the time the application is filed. The effective date for payment of small fees established in this proceeding will be announced in this *Report and Order* terminating this proceeding or by public notice published in the **Federal Register** pursuant to authority delegated to the Managing Director.

#### iv. Minimum Fee Payment Liability

43. As we have in the past, we are establishing that regulatees whose total regulatory fee liability, including all categories of fees for which payment is due by an entity, amounts to less than \$10 will be exempted from fee payment in FY 2000.

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

44. As noted, the time for payment of standard fees and any installment payments will be announced in this *Report and Order* terminating this proceeding or will be published in the **Federal Register** pursuant to authority delegated to the Managing Director. For licensees, permittees and holders of other authorizations in the Common Carrier, Mass Media, and Cable Services whose fees are not based on a subscriber, unit, or circuit count, fees must be paid for any authorization issued on or before *October 1, 1999*. Regulatory fees are due and payable by the holder of record of the license or permit of the service as of October 1, 1999. A pending change in the status of a license or permit that is not granted as of that date is not effective, and the fee is based on the classification that existed on that date. Where a license or authorization is transferred or assigned after October 1, 1999, the licensee or holder of the authorization on the date that payment is due must pay the fee.

45. In the case of regulatees whose fees are based upon a subscriber, unit or circuit count, the number of a regulatee's subscribers, units or circuits on *December 31, 1999*, will be used to calculate the fee payment.<sup>39</sup> Regulatory fees are due and payable by the holder of record of the license or permit of the

<sup>39</sup> Cable system operators are to compute their subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Cable system operators may base their count on "a typical day in the last full week" of December 1999, rather than on a count as of December 31, 1999.



service as of December 31, 1999. A pending change in the status of a license or permit that is not granted as of that date is not effective, and the fee is based on the classification that existed on that date. Where a license or authorization is transferred or assigned after December 31, 1999, the licensee or holder of the authorization on the date that payment is due must pay the fee.

#### vi. Improved Fee Collection Systems

46. The Commission is taking several steps to improve its fee collection program. Development of a new fee collection system has begun by which it is expected will provide a single improved internal source of information for all of the Commission's financial transactions. In addition, we are implementing procedures that will require assignment of a unique identifier (FCC Registration Number) to each entity doing business with the FCC to enable it to track payments and other transactions made by the entity, even when its name or ownership changes. These enhancements will assist the FCC in identifying all feeable entities and ensuring that proper payments are received and recorded accurately.

#### vii. Late or Insufficient Regulatory Fee Payment

47. As a reminder, in accordance with section 1.1164 of the Commission's Rules, regulatees will be subject to a 25 percent penalty for late or insufficient regulatory fee payment. All payments not received by the due date shall be assessed the penalty.

#### D. Schedule of Regulatory Fees

48. The Commission's Schedule of Regulatory Fees for FY 2000 is contained in Attachment D of this *Report and Order*.

### IV. Procedural Matters

#### A. Ordering Clause

49. It is ordered that the rule changes specified herein be adopted. It is further ordered that the rule changes made herein will become effective September 10, 2000, which is no less than 60 days from the date of publication in the **Federal Register**. A Final Regulatory Flexibility Analysis (FRFA) has been performed and is found in Attachment A, and it is ordered that the Federal Communications Commission's Consumer Information Bureau, Reference Information Center, send this to Small Business Administration (SBA). Finally, it is ordered that this proceeding is *Terminated*.

#### B. Authority and Further Information

50. This action is taken pursuant to sections 4(i) and (j), 9, and 303 (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j), 159, and 303(r).

51. Further information about this proceeding may be obtained by contacting the Fees Hotline at (888) 225-5322.

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

Administrative practice and procedure, communications common carriers, radio, telecommunications, television.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

**Note:** The attachments will not appear in the Code of Federal Regulations.

#### Attachment A—Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),<sup>40-41</sup> an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities was incorporated in the *Notice of Proposed Rulemaking, In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2000*, 65 FR 19580 (Apr. 11, 2000). The Commission sought written public comments on the proposals in its FY 2000 regulatory fees *NPRM*, including on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended.

#### I. Need for, and Objectives of, the Proposed Rules

2. This rulemaking proceeding was initiated in order to collect regulatory fees in the amount of \$185,754,000, the amount that Congress has required the Commission to recover. The Commission seeks to collect the necessary amount through its revised fees, as contained in the attached Schedule of Regulatory Fees, in the most efficient manner possible and without undue burden on the public.

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

3. None.

#### III. Description and Estimate of the Number of Small Entities to which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, herein adopted.<sup>42</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business,"

<sup>40-41</sup> 5 U.S.C. 603. The RFA, 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).

<sup>42</sup> 5 U.S.C. 603(b)(3).

"small organization," and "small governmental jurisdiction."<sup>43</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>44</sup> A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>45</sup> A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."<sup>46</sup> Nationwide, as of 1992, there were approximately 275,801 small organizations.<sup>47</sup> "Small governmental jurisdiction"<sup>48</sup> generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."<sup>49</sup> As of 1992, there were approximately 85,006 such jurisdictions in the United States.<sup>50</sup> This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.<sup>51</sup> The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96 percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, herein adopted.

#### Cable Services or Systems

5. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating \$11 million or less in revenue annually.<sup>52</sup> This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than \$11 million in revenue.<sup>53</sup>

<sup>43</sup> *Id.* 601(6).

<sup>44</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3).

<sup>45</sup> Small Business Act, 15 U.S.C. 632 (1996).

<sup>46</sup> 5 U.S.C. 601(4).

<sup>47</sup> 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

<sup>48</sup> 47 CFR 1.1162.

<sup>49</sup> 5 U.S.C. 601(5).

<sup>50</sup> U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

<sup>51</sup> *Id.*

<sup>52</sup> 13 CFR 121.201, SIC code 4841.

<sup>53</sup> 1992 *Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4841 (U.S.



6. The Commission has developed its own definition of a small cable system operator for purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.<sup>54</sup> Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.<sup>55</sup> Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

7. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."<sup>56</sup> The Commission has determined that there are 66,690,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 666,900 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate.<sup>57</sup> Based on available data, we find that the number of cable operators serving 666,900 subscribers or less totals 1,450.<sup>58</sup> We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000,<sup>59</sup> and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

8. *Other Pay Services.* Other pay television services are also classified under Standard Industrial Classification (SIC) 4841, which includes cable systems operators, closed circuit television services, direct broadcast satellite services (DBS),<sup>60</sup> multipoint

distribution systems (MDS),<sup>61</sup> satellite master antenna systems (SMATV), and subscription television services.

#### *Common Carrier Services and Related Entities*

9. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report.<sup>62</sup> However, in a recent news release, the Commission indicated that there are 4,144 interstate carriers.<sup>63</sup> 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 service, providers of telephone exchange service, and resellers.

10. The SBA has defined establishments engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees.<sup>64</sup> Below, we discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

11. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."<sup>65</sup> The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.<sup>66</sup> We

have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

12. *Total Number of Telephone Companies Affected.* The U.S. Bureau of the Census ("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.<sup>67</sup> 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, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated."<sup>68</sup> 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 is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the proposed rules, herein adopted.

13. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) 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.<sup>69</sup> According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.<sup>70</sup> 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 ILECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus 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 the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by the proposed rules, herein adopted.

14. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is

Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

<sup>54</sup> 47 CFR 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of \$100 million or less. *Implementation of Sections of the 1992 Cable Act: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393 (1995), 60 FR 10534 (Feb. 27, 1995).

<sup>55</sup> Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

<sup>56</sup> 47 U.S.C. 543(m)(2).

<sup>57</sup> 47 CFR 76.1403(b).

<sup>58</sup> Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

<sup>59</sup> We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.1403(b) of the Commission's rules. See 47 CFR 76.1403(d).

<sup>60</sup> Direct Broadcast Services (DBS) are discussed with the international services, *infra*.

<sup>61</sup> Multipoint Distribution Services (MDS) are discussed with the mass media services, *infra*.

<sup>62</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

<sup>63</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

<sup>64</sup> 13 CFR 121.201, Standard Industrial Classification (SIC) codes 4812 and 4813. See also Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987).

<sup>65</sup> 5 U.S.C. 601(3).

<sup>66</sup> Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. See, e.g., *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket, 96-98, First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476 (Aug. 29, 1996).

<sup>67</sup> U.S. 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).

<sup>68</sup> See generally 15 U.S.C. 632(a)(1).

<sup>69</sup> 1992 Census, *supra*, at Firm Size 1-123.

<sup>70</sup> 13 CFR 121.201, SIC code 4813.

for telephone communications companies other than radiotelephone (wireless) companies.<sup>71</sup> According to the most recent *Telecommunications Industry Revenue* data, 1,348 incumbent carriers reported that they were engaged in the provision of local exchange services.<sup>72</sup> We do not have data specifying the number of these carriers that are either dominant in their field of operations, 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 LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,348 providers of local exchange service are small entities or small ILECs that may be affected by the proposed rules, herein adopted.

15. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.<sup>73</sup> According to the most recent *Trends in Telephone Service* data, 171 carriers reported that they were engaged in the provision of interexchange services.<sup>74</sup> 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 IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 171 small entity IXCs that may be affected by the proposed rules, herein adopted.

16. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than except radiotelephone (wireless) companies.<sup>75</sup> According to the most recent *Trends in Telephone Service* data, 212 CAP/CLECs carriers and 10 other LECs reported that they were engaged in the provision of competitive local exchange services.<sup>76</sup> 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 CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less

than 212 small entity CAPs and 10 other LECs that may be affected by the proposed rules, herein adopted.

17. *Operator Service Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.<sup>77</sup> According to the most recent *Trends in Telephone Service* data, 24 carriers reported that they were engaged in the provision of operator services.<sup>78</sup> 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 operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 24 small entity operator service providers that may be affected by the proposed rules, herein adopted.

18. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.<sup>79</sup> According to the most recent *Trends in Telephone Service* data, 615 carriers reported that they were engaged in the provision of pay telephone services.<sup>80</sup> 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 pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 615 small entity pay telephone operators that may be affected by the proposed rules, herein adopted.

19. *Resellers (including debit card providers).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.<sup>81</sup> According to the most recent *Trends in Telephone Service* data, 388 toll and 54 local entities reported that they were engaged in the resale of telephone service.<sup>82</sup> 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 resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 388 small toll entity resellers and 54 small local entity resellers that may be affected by the proposed rules, herein adopted.

20. *Toll-Free 800 and 800-Like Service Subscribers.*<sup>83</sup> Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to 800 and 800-like service ("toll free") subscribers. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use.<sup>84</sup> According to our most recent data, at the end of January 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers that had been assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. We do not have data specifying the number of these subscribers 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 toll free subscribers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 7,692,955 small entity 800 subscribers, less than 7,706,393 small entity 888 subscribers, and fewer than 1,946,538 small entity 877 subscribers may be affected by the proposed rules, herein adopted.

#### International Services

21. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC).<sup>85</sup> This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.<sup>86</sup> According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than \$9.999 million.<sup>87</sup> The Census report does not provide more precise data.

22. *International High Frequency Broadcast Stations.* Commission records show that there are 18 international high frequency broadcast station authorizations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of international high frequency broadcast stations that would constitute a small business under the SBA definition.

<sup>83</sup> We include all toll-free number subscribers in this category, including 888 numbers.

<sup>84</sup> FCC, CCB Industry Analysis Division, FCC Releases, Study on Telephone Trends, Tbls. 21.2, 21.3 and 21.4 (February 19, 1999).

<sup>85</sup> An exception is the Direct Broadcast Satellite (DBS) Service, *infra*.

<sup>86</sup> 13 CFR 120.121, SIC code 4899.

<sup>87</sup> 1992 *Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

<sup>71</sup> 71 Id.

<sup>72</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

<sup>73</sup> 13 CFR 121.201, SIC code 4813.

<sup>74</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

<sup>75</sup> 13 CFR 121.201, SIC code 4813.

<sup>76</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

<sup>77</sup> 13 CFR 121.201, SIC code 4813.

<sup>78</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

<sup>79</sup> 13 CFR 121.201, SIC code 4813.

<sup>80</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

<sup>81</sup> 13 CFR 121.201, SIC code 4813.

<sup>82</sup> FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

However, the Commission estimates that only six international high frequency broadcast stations are subject to regulatory fee payments.

23. *International Public Fixed Radio (Public and Control Stations)*. There are 3 licensees in this service subject to payment of regulatory fees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of international broadcast licensees that would constitute a small business under the SBA definition.

24. *Fixed Satellite Transmit/Receive Earth Stations*. There are approximately 2,679 earth station authorizations, a portion of which are Fixed Satellite Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of the earth stations that would constitute a small business under the SBA definition.

25. *Fixed Satellite Small Transmit/Receive Earth Stations*. There are approximately 2,679 earth station authorizations, a portion of which are Fixed Satellite Small Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of fixed satellite transmit/receive earth stations that would constitute a small business under the SBA definition.

26. *Fixed Satellite Very Small Aperture Terminal (VSAT) Systems*. These stations operate on a primary basis, and frequency coordination with terrestrial microwave systems is not required. Thus, a single "blanket" application may be filed for a specified number of small antennas and one or more hub stations. There are 304 current VSAT System authorizations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of VSAT systems that would constitute a small business under the SBA definition.

27. *Mobile Satellite Earth Stations*. There are 11 licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of mobile satellite earth stations that would constitute a small business under the SBA definition.

28. *Radio Determination Satellite Earth Stations*. There are four licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of radio determination satellite earth stations that would constitute a small business under the SBA definition.

29. *Space Stations (Geostationary)*. There are 64 current Geostationary Space Station authorizations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of geostationary space stations that would constitute a small business under the SBA definition.

30. *Space Stations (Non-Geostationary)*. There are 12 current Non-Geostationary Space Station authorizations, of which only three systems are operational. We do not request nor collect annual revenue information, and thus are unable to estimate the number of non-geostationary space stations that would constitute a small business under the SBA definition.

31. *Direct Broadcast Satellites*. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of "Cable and Other Pay Television Services."<sup>88</sup> This definition provides that a small entity is one with \$11.0 million or less in annual receipts.<sup>89</sup> Currently, there are nine DBS authorizations, though there are only two DBS companies in operation at this time. We do not request nor collect annual revenue information for DBS service, and thus are unable to determine the number of DBS operators that would constitute a small business under the SBA definition.

#### Mass Media Services

32. *Commercial Radio and Television Services*. These rules and policies will apply to television broadcasting licensees and radio broadcasting licensees.<sup>90</sup> The SBA defines a television broadcasting station that has \$10.5 million or less in annual receipts as a small business.<sup>91</sup> Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.<sup>92</sup> Included in this industry are commercial, religious, educational, and other television stations.<sup>93</sup> Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.<sup>94</sup> Separate establishments primarily engaged in producing taped television program materials are classified

<sup>88</sup> 13 CFR 120.121, SIC code 4841.

<sup>89</sup> 13 CFR 121.201, SIC code 4841.

<sup>90</sup> While we tentatively believe that the SBA's definition of "small business" greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this *Notice* we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply. We reserve the right to adopt, in the future, a more suitable definition of "small business" as applied to radio and television broadcast stations or other entities subject to the proposed rules in this *Notice*, and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities. See *Report and Order in MM Docket No. 93-48 (Children's Television Programming)*, 11 FCC Rcd 10660, 10737-38 (1996), 61 FR 43981 (Aug. 27, 1996), citing 5 U.S.C. 601(3).

<sup>91</sup> 13 CFR 121.201, SIC code 4833.

<sup>92</sup> Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92-S-1, Appendix A-9* (1995) (*1992 Census, Series UC92-S-1*).

<sup>93</sup> *Id.*; see Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987), at 283, which describes "Television Broadcasting Stations" (SIC code 4833) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

<sup>94</sup> *1992 Census, Series UC92-S-1*, at Appendix A-9.

under another SIC number.<sup>95</sup> There were 1,509 television stations operating in the nation in 1992.<sup>96</sup> That number has remained fairly constant as indicated by the approximately 1,616 operating television broadcasting stations in the nation as of September 30, 1999.<sup>97</sup> For 1992,<sup>98</sup> the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments.<sup>99</sup> Only commercial stations are subject to regulatory fees.

33. Additionally, the Small Business Administration defines a radio broadcasting station that has \$5 million or less in annual receipts as a small business.<sup>100</sup> A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.<sup>101</sup> Included in this industry are commercial, religious, educational, and other radio stations.<sup>102</sup> Radio broadcasting stations, which primarily are engaged in, radio broadcasting and which produce radio program materials are similarly included.<sup>103</sup> However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.<sup>104</sup> The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than \$5 million in revenue in 1992.<sup>105</sup> Official Commission records indicate that 11,334 individual radio stations were operating in 1992.<sup>106</sup> As of September 30, 1999, Commission records indicate that 12,615 radio stations were operating, of which 7,832 were FM stations.<sup>107</sup> Only commercial stations are subject to regulatory fees.

34. Thus, the rules may affect approximately 1,616 full power television stations, approximately 1,200 of which are considered small businesses.<sup>108</sup>

<sup>95</sup> *Id.*, SIC code 7812 (Motion Picture and Video Tape Production); SIC code 7922 (Theatrical Producers and Miscellaneous Theatrical Services) (producers of live radio and television programs).

<sup>96</sup> FCC News Release No. 31327 (Jan. 13, 1993); *1992 Census, Series UC92-S-1*, at Appendix A-9.

<sup>97</sup> FCC News Release, "Broadcast Station Totals as of September 30, 1999."

<sup>98</sup> A census to determine the estimated number of Communications establishments is performed every five years, in years ending with a "2" or "7." See *1992 Census, Series UC92-S-1*, at III.

<sup>99</sup> The amount of \$10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at \$9,999,999 and began at \$10,000,000. No category for \$10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

<sup>100</sup> 13 CFR 121.201, SIC code 4832.

<sup>101</sup> *1992 Census, Series UC92-S-1*, at Appendix A-9.

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

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

<sup>106</sup> FCC News Release, No. 31327 (Jan. 13, 1993).

<sup>107</sup> FCC News Release, "Broadcast Station Totals as of September 30, 1999."

<sup>108</sup> We use the 77 percent figure of TV stations operating at less than \$10 million for 1992 and apply it to the 1997 total of 1558 TV stations to

Additionally, these rules will affect some 12,615 full power radio stations, approximately 11,670 of which are small businesses.<sup>109</sup> These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 2,194 low power television stations (LPTV).<sup>110</sup> Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

#### Alternative Classification of Small Stations

35. An alternative way to classify small radio and television stations is by number of employees. The Commission currently applies a standard based on the number of employees in administering its Equal Employment Opportunity Rule (EEO) for broadcasting.<sup>111</sup> Thus, radio or television stations with fewer than five full-time employees are exempted from certain EEO reporting and record keeping requirements.<sup>112</sup> We estimate that the total number of broadcast stations with 4 or fewer employees is approximately 5,186, of which 340 are television stations.<sup>113</sup>

#### Auxiliary, Special Broadcast and Other Program Distribution Services

36. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definitions of small entities are

arrive at 1,200 stations categorized as small businesses.

<sup>109</sup> We use the 96% figure of radio station establishments with less than \$5 million revenue from the Census data and apply it to the 12,088 individual station count to arrive at 11,605 individual stations as small businesses.

<sup>110</sup> FCC News Release, No. 7033 (Mar. 6, 1997).

<sup>111</sup> The Commission's definition of a small broadcast station for purposes of applying its EEO rules was adopted prior to the requirement of approval by the SBA pursuant to section 3(a) of the Small Business Act, 15 U.S.C. 632(a), as amended by section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992, Public Law 102-366, 222(b)(1), 106 Stat. 999 (1992), as further amended by the Small Business Administration Reauthorization and Amendments Act of 1994, Public Law 103-403, 301, 108 Stat. 4187 (1994). However, this definition was adopted after public notice and the opportunity for comment. See *Report and Order* in Docket No. 18244, 23 FCC 2d 430 (1970), 35 FR 8925 (Jun. 6, 1970).

<sup>112</sup> See, e.g., 47 CFR 73.3612 (Requirement to file annual employment reports on Form 395 applies to licensees with five or more full-time employees). See also, *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding*, FCC 00-20, released February 2, 2000 ("Review of EEO Rules").

<sup>113</sup> See Review of EEO Rules, Appendix B, Sec. C [from compilation of 1997 Broadcast Station Annual Employment Reports (FCC Form 395-B), Equal Employment Opportunity Staff, Mass Media Bureau, FCC].

those, noted previously, under the SBA rules applicable to radio broadcasting stations and television broadcasting stations.<sup>114</sup>

37. There are currently 3,237 FM translators and boosters, and 2,964 TV translators.<sup>115</sup> The FCC does not collect financial information on any broadcast facility, and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most commercial translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either \$5 million for a radio station or \$10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a "small business concern" because they are not independently owned and operated.<sup>116</sup>

38. *Multipoint Distribution Service (MDS)*. This service involves a variety of transmitters, which are used to relay programming to the home or office, similar to that provided by cable television systems.<sup>117</sup> In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of \$40 million.<sup>118</sup> This definition of a small entity in the context of MDS auctions has been approved by the SBA.<sup>119</sup> These stations were licensed prior to implementation of Section 309(j) of the Communications Act of 1934, as amended.<sup>120</sup> Licenses for new MDS facilities are now awarded to auction winners in Basic Trading Areas (BTAs) and BTA-like areas.<sup>121</sup> The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 meet the definition of a small business. There are 2,050 MDS stations currently licensed. Thus, we conclude that there are 1,634 MDS providers that are small businesses as deemed by the SBA and the Commission's auction rules. It is estimated, however, that only 1,650 MDS licensees are subject to

<sup>114</sup> 13 CFR 121.201, SIC code 4832.

<sup>115</sup> FCC News Release, *Broadcast Station Totals as of September 30, 1999*, No. 71831 (Jan. 21, 1997).

<sup>116</sup> 15 U.S.C. 632.

<sup>117</sup> For purposes of this item, MDS includes both the single channel Multipoint Distribution Service (MDS) and the Multichannel Multipoint Distribution Service (MMDS).

<sup>118</sup> 47 CFR 1.2110 (a)(1).

<sup>119</sup> *Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of section 309(j) of the Communications Act—Competitive Bidding*, 10 FCC Rcd 9589 (1995), 60 FR 36524 (Jul. 17, 1995).

<sup>120</sup> 47 U.S.C. 309(j).

<sup>121</sup> *Id.* A Basic Trading Area (BTA) is the geographic area by which the Multipoint Distribution Service is licensed. See Rand McNally *1992 Commercial Atlas and Marketing Guide*, 123rd Edition, pages 36-39.

regulatory fees, and the number which are small businesses is unknown.

#### Wireless and Commercial Mobile Services

39. *Cellular Licensees*. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.<sup>122</sup> According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.<sup>123</sup> Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent *Telecommunications Industry Revenue* data, 808 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data.<sup>124</sup> 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 cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 808 small cellular service carriers that may be affected by the proposed rules, herein adopted.

40. *220 MHz Radio Service—Phase I Licensees*. The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. 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. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.<sup>125</sup> 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.<sup>126</sup> Therefore, if this general ratio

<sup>122</sup> 13 CFR 121.201, SIC code 4812.

<sup>123</sup> 1992 Census, Series UC92-S-1, at Table 5, SIC code 4812.

<sup>124</sup> *Trends in Telephone Service*, Table 19.3 (March 2000).

<sup>125</sup> 13 CFR 121.201, Standard Industrial Classification (SIC) code 4812.

<sup>126</sup> 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,

continues in 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.

41. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz *Third Report and Order*, we 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.<sup>127</sup> 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.<sup>128</sup> The SBA has approved these definitions.<sup>129</sup> An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.<sup>130</sup> Nine hundred and eight (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.<sup>131</sup>

42. *Private and Common Carrier Paging.* The Commission has adopted a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. 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.<sup>132</sup> At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses.

Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

<sup>127</sup> 220 MHz Third Report and Order, 12 FCC Rcd 10943, 11068–70, at paragraphs 291–295 (1997).

<sup>128</sup> 220 MHz Third Report and Order, 12 FCC Rcd at 11068–69, paragraph 291.

<sup>129</sup> See Letter from A. Alvarez, Administrator, SBA, to D. Phythyon, Chief, Wireless Telecommunications Bureau, FCC (Jan. 6, 1998).

<sup>130</sup> See generally Public Notice, “220 MHz Service Auction Closes,” Report No. WT 98–36 (Wireless Telecom. Bur. Oct. 23, 1998).

<sup>131</sup> Public Notice, “FCC Announces It is Prepared to Grant 654 Phase II 220 MHz Licenses After Final Payment is Made,” Report No. AUC–18-H, DA No. 99–229 (Wireless Telecom. Bur. Jan. 22, 1999).

<sup>132</sup> 13 CFR 121.201, SIC code 4812.

According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or “other mobile” services, which are placed together in the data.<sup>133</sup> 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 172 small paging carriers that may be affected by the proposed rules, herein adopted. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

43. *Mobile Service Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. As noted above in the section concerning paging service carriers, the closest applicable definition under the SBA rules is that for radiotelephone (wireless) companies.<sup>134</sup> and the most recent *Telecommunications Industry Revenue* data shows that 172 carriers reported that they were engaged in the provision of either paging or “other mobile” services.<sup>135</sup> Consequently, we estimate that there are fewer than 172 small mobile service carriers that may be affected by the proposed rules, herein adopted.

44. *Broadband Personal Communications Service (PCS).* 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.<sup>136</sup> For Block F, an additional classification for “very small business” was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.<sup>137</sup> These regulations defining “small entity” in the context of broadband PCS auctions have been approved by the SBA.<sup>138</sup> No small businesses within the SBA-

<sup>133</sup> *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

<sup>134</sup> 13 CFR 121.201, SIC code 4812.

<sup>135</sup> *Trends in Telephone Service*. No. 7,744 (released Jan. 14, 1997.)

<sup>136</sup> 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, paragraphs 57–60 (released Jun. 24, 1996), 61 FR 33859 (Jul. 1, 1996); see also 47 CFR 24.720(b).

<sup>137</sup> 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, paragraph 60 (1996), 61 FR 33859 (Jul. 1, 1996).

<sup>138</sup> See, *e.g.*, 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 (1994).

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 and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F.<sup>139</sup> Based on this information, we conclude that the number of small broadband PCS licensees 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 entity PCS providers as defined by the SBA and the Commission's auction rules.

45. *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 IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

46. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.<sup>140</sup> A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).<sup>141</sup> We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.<sup>142</sup> 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.

47. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.<sup>143</sup> Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.<sup>144</sup> There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

48. *Specialized Mobile Radio (SMR).* The Commission awards bidding credits in auctions for geographic area 800 MHz and

<sup>139</sup> FCC News, *Broadband PCS, D, E and F Block Auction Closes*, No. 71744 (released Jan. 14, 1997).

<sup>140</sup> The service is defined in § 22.99 of the Commission's Rules, 47 CFR 22.99.

<sup>141</sup> BETRS is defined in §§ 22.757 and 22.759 of the Commission's Rules, 47 CFR 22.757 and 22.759.

<sup>142</sup> 13 CFR 121.201, SIC code 4812.

<sup>143</sup> The service is defined in § 22.99 of the Commission's Rules, 47 CFR 22.99.

<sup>144</sup> 13 CFR 121.201, SIC code 4812.

900 MHz SMR licenses to firms that had revenues of no more than \$15 million in each of the three previous calendar years.<sup>145</sup> In the context of 900 MHz SMR, this regulation defining "small entity" has been approved by the SBA; approval concerning 800 MHz SMR is being sought.

49. These fees 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 no more than \$15 million. One firm has over \$15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

50. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMR's, 38 are small or very small entities.

51. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. 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.

52. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMRs<sup>146</sup> 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 rules in this context could potentially impact every small business in the United States.

53. *Amateur Radio Service.* We estimate that 8,000 applicants will apply for vanity call signs in FY 2000. All are presumed to be individuals. All other amateur licensees are exempt from payment of regulatory fees.

54. *Aviation and Marine Radio Service.* Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules for radiotelephone communications.<sup>147</sup>

55. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of our evaluations and conclusions in this IRFA, we estimate that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA. We estimate, however, that only 16,800 will be subject to FY 2000 regulatory fees.

56. *Fixed Microwave Services.* Microwave services include common carrier,<sup>148</sup> private-operational fixed,<sup>149</sup> and broadcast auxiliary radio services.<sup>150</sup> At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with no more than 1,500 persons.<sup>151</sup> 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.

57. *Public Safety Radio Services.* Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.<sup>152</sup> There are a total of

<sup>148</sup> 47 CFR 101 *et seq.* (formerly, part 21 of the Commission's Rules).

<sup>149</sup> 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.

<sup>150</sup> 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.

<sup>151</sup> 13 CFR 121.201, SIC 4812.

<sup>152</sup> With the exception of the special emergency service, these services are governed by Subpart B of part 90 of the Commission's Rules, 47 CFR 90.15 through 90.27. The police service includes 26,608 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of 40,512 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout

approximately 127,540 licensees within these services. Governmental entities<sup>153</sup> as well as private businesses comprise the licensees for these services. As indicated *supra* in paragraph four of this IRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.<sup>154</sup> All licensees in this category are exempt from the payment of regulatory fees.

58. *Personal Radio Services.* Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The services include the citizen's band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).<sup>155</sup> Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of other licensees that would qualify as small under the SBA's definition; however, only GMRS licensees are subject to regulatory fees.

59. *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.<sup>156</sup> 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 under the SBA's definition for radiotelephone communications.

60. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation 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

towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 CFR 90.15 through 90.27. The 19,478 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 CFR 90.33 through 90.55.

<sup>153</sup> 47 CFR 1.1162.

<sup>154</sup> 5 U.S.C. 601(5).

<sup>155</sup> Licensees in the Citizens Band (CB) Radio Service, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service and Family Radio Service (FRS) are governed by Subpart D, Subpart A, Subpart C, and Subpart B, respectively, of part 95 of the Commission's Rules. 47 CFR 95.401 through 95.428; 95.1 through 95.181; 95.201 through 95.225; 47 CFR 95.191 through 95.194.

<sup>156</sup> This service is governed by subpart I of part 22 of the Commission's Rules. See 47 CFR 22.1001 through 22.1037.

<sup>145</sup> 47 CFR 90.814(b)(1).

<sup>146</sup> Federal Communications Commission, 60th Annual Report, Fiscal Year 1994, at page 116.

<sup>147</sup> 13 CFR 121.201, SIC code 4812.



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 affected includes these eight entities.

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

61. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. Most licensees will be required to count the number of licenses or call signs authorized, complete and submit an FCC Form 159 ("FCC Remittance Advice"), and pay a regulatory fee based on the number of licenses or call signs.<sup>157</sup> Interstate telephone service providers must compute their annual regulatory fee based on their interstate and international end-user revenue using information they already supply to the Commission in compliance with the Form 499-A, Telecommunications Reporting Worksheet, and they must complete and submit the FCC Form 159. Compliance with the fee schedule will require some licensees to tabulate the number of units (e.g., cellular telephones, pagers, cable TV subscribers) they have in service, and complete and submit an FCC Form 159. Licensees ordinarily will keep a list of the number of units they have in service as part of their normal business practices. No additional outside professional skills are required to complete the FCC Form 159, and it can be completed by the employees responsible for an entity's business records.

62. Each licensee must submit the FCC Form 159 to the Commission's lockbox bank after computing the number of units subject to the fee. As an option, licensees are permitted to file electronically or on computer diskette to minimize the burden of submitting multiple copies of the FCC Form 159. This latter, optional procedure may require additional technical skills. Applicants who pay small fees in advance may supply fee information as part of their application and may not need to use FCC Form 159.

63. Licensees and regulatees are advised that failure to submit the required regulatory fee in a timely manner will subject the licensee or regulatee to a late payment fee of 25 percent in addition to the required fee.<sup>158</sup> Until payment is received, no new or pending applications will be processed, and existing authorizations may be subject to rescission.<sup>159</sup> Further, in accordance with the Debt Collection Improvement Act of 1996,

federal agencies may bar a person or entity from obtaining a federal loan or loan insurance guarantee if that person or entity fails to pay a delinquent debt owed to any federal agency.<sup>160</sup> Nonpayment of regulatory fees is a debt owed the United States pursuant to 31 U.S.C. 3711 *et seq.*, and the *Debt Collection Improvement Act of 1996*, Public Law 104-134. Appropriate enforcement measures, e.g., interest as well as administrative and judicial remedies, may be exercised by the Commission. Thus, debts owed to the Commission may result in a person or entity being denied a federal loan or loan guarantee pending before another federal agency until such obligations are paid.<sup>161</sup>

64. The Commission's rules currently provide for relief in exceptional circumstances. Persons or entities that believe they have been placed in the wrong regulatory fee category or are experiencing extraordinary and compelling financial hardship, upon a showing that such circumstances override the public interest in reimbursing the Commission for its regulatory costs, may request a waiver, reduction or deferment of payment of the regulatory fee.<sup>162</sup> However, timely submission of the required regulatory fee must accompany requests for waivers or reductions. This will avoid any late payment penalty if the request is denied. The fee will be refunded if the request is granted. In exceptional and compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in reduction of service to a community or other financial hardship to the licensee), the Commission will accept a petition to defer payment along with a waiver or reduction request.

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

65. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. As described in Section IV of this IRFA, *supra*, we have created procedures in which all fee-filing licensees

and regulatees use a single form, FCC Form 159, and have described in plain language the general filing requirements. We have also created Attachment F, *infra*, which gives "Detailed Guidance on Who Must Pay Regulatory Fees." Because the collection of fees is statutory, our efforts at proposing alternatives are constrained and, throughout these annual fee proceedings, have been largely directed toward simplifying the instructions and necessary procedures for all filers. We have sought comment on other alternatives that might simplify our fee procedures or otherwise benefit small entities, while remaining consistent with our statutory responsibilities in this proceeding.

66. *The Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999*, Public Law 105-277 requires the Commission to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to section 9(a) of the Communications Act, as amended, has required the Commission to collect for Fiscal Year (FY) 2000.<sup>163</sup> As noted, we have sought comment on the proposed methodology for implementing these statutory requirements and any other potential impact of these proposals on small entities.

67. With the use of actual cost accounting data for computation of regulatory fees, we found that some fees which were very small in previous years would have increased dramatically. The methodology we are adopting in this *Report and Order* minimizes this impact by limiting the amount of increase and shifting costs to other services, which, for the most part, are larger entities.

68. Several categories of licensees and regulatees are exempt from payment of regulatory fees. See, e.g., footnote 149, *supra*, and Attachment F of the *Report and Order*, *infra*.

*Report to Small Business Administration:* The Commission will send a copy of this *Report and Order*, including a copy of the final certification, to the Chief Counsel for Advocacy of the Small Business Administration. The certification will also be published in the **Federal Register** pursuant to 5 U.S.C. 605(b).

*Report to Congress:* The Commission shall include a copy of this Final Regulatory Flexibility Analysis, along with this *Report and Order*, including a copy of the final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA (or summary thereof) will also be published in the **Federal Register**, along with this *Report and Order*.

from payment of regulatory fees. A regulatee will be relieved of its fee payment requirement if its total fee due, including all categories of fees for which payment is due by the entity, amounts to less than \$10.

<sup>157</sup> 47 CFR 1.1164(a).

<sup>159</sup> 159 47 CFR 1.1164(c).

<sup>160</sup> Public Law 104-134, 110 Stat. 1321 (1996).

<sup>161</sup> 31 U.S.C. 7701(c)(2)(B).

<sup>162</sup> 47 CFR 1.1166.

<sup>163</sup> 47 U.S.C. 159(a).

<sup>157</sup> The following categories are exempt from the Commission's Schedule of Regulatory Fees: Amateur radio licensees (except applicants for vanity call signs) and operators in other non-licensed services (e.g., Personal Radio, part 15, ship and aircraft). Governments and non-profit (exempt under section 501(c) of the Internal Revenue Code) entities are exempt from payment of regulatory fees and need not submit payment. Non-commercial educational broadcast licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast

auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency Alert System licenses for auxiliary service facilities are also exempt as are instructional television fixed service licensees. Regulatory fees are automatically waived for the licensee of any translator station that: (1) Is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support. Receive only earth station permittees are exempt



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**SOURCES OF PAYMENT UNIT ESTIMATES FOR FY 2000**

In order to calculate individual service fees for FY 2000, we adjusted FY 1999 payment units for each service to more accurately reflect expected FY 2000 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. We tried to obtain verification for these estimates from multiple sources and, in all cases, we compared FY 2000 estimates with actual FY 1999 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 2000 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical or other reasons. Therefore, when we note, for example, that our estimated FY 2000 payment units are based on FY 1999 actual payment units, it does not necessarily mean that our FY 2000 projection is *exactly* the same number as FY 1999. It means that we have either rounded the FY 2000 number or adjusted it slightly to account for these variables.

## Attachment B

FEE CATEGORY	SOURCES OF PAYMENT UNIT ESTIMATES
Land Mobile (All), Microwave, 218-219 MHz <sup>164</sup> , Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Mobile Services	Based on industry estimates of growth between FY 1999 and FY 2000 and Wireless Telecommunications Bureau projections of new applications and average number of mobile units associated with each application.
CMRS Messaging Services	Based on industry estimates of the number of units in operation.
AM/FM Radio Stations	Based on actual FY 1999 payment units.
UHF/VHF Television Stations	Based on actual FY 1999 payment units.
AM/FM/TV Construction Permits	Based on actual FY 1999 payment units.
LPTV, Translators and Boosters	Based on actual FY 1999 payment units.
Auxiliaries	Based on Wireless Telecommunications Bureau (WTB) projections.
MDS/MMDS	Based on actual FY 1999 payment units.
Cable Antenna Relay Service (CARS)	Based on actual FY 1999 payment units.
Cable Television System Subscribers	Based on Cable Services Bureau and industry estimates of subscribership.
Interstate Telephone Service Providers	Based on actual FY 1999 interstate revenues associated with the Telecommunications Reporting Worksheet, adjusted to take into consideration FY 2000 revenue growth in this industry as estimated by the Common Carrier Bureau.
Earth Stations	Based on actual FY 1999 payment units.
Space Stations (GSOs & NGSOs)	Based on International Bureau licensee data bases.
International Bearer Circuits	Based on actual FY 1999 payment units.
International HF Broadcast Stations, International Public Fixed Radio Service	Based on actual FY 1999 payment units.

<sup>164</sup> The Wireless Telecommunications Bureau's staff advises that they do not anticipate receiving any applications for 218-219 MHz (formerly IVDS) in FY 2000.

## Attachment C

## CALCULATION OF REVENUE REQUIREMENTS AND PRO-RATA FEES

Fee Category	FY 2000 Payment Units	(times) FY 1999 Fee	(times) Payment Years	(equals) Computed FY 2000 Revenue Requirement	Pro-Rated Revenue Requirement**	Rounded New FY 2000 Regulatory Fee	Expected FY 2000 Revenue
PLMRS (Exclusive Use)	3,800	13	5	247,000	239,408	13	239,408
Microwave	6,250	13	10	812,500	787,525	13	787,525
218-219 MHz (Formerly IVDS)	0	13	10	0	0	0	0
Manne (Ship)	6,300	7	10	441,000	427,444	7	427,444
GMRS/PLMRS (Shared Use)	59,000	7	5	2,065,000	2,001,526	7	2,001,526
Aviation (Aircraft)	3,300	7	10	231,000	223,889	7	223,889
Marine (Coast)	1,500	7	5	52,500	50,886	7	50,886
Aviation (Ground)	1,750	7	5	61,250	59,367	7	59,367
Amateur Vanity Call Signs	8,000	1.4	10	112,000	108,557	1.4	112,000
AM Class A	72	1,942	1	139,824	135,526	1,875	135,000
AM Class B	1,155	1,491	1	1,722,105	1,669,171	1,450	1,674,750
AM Class C	806	738	1	594,828	576,544	715	576,290
AM Class D	2,001	970	1	1,940,970	1,881,308	940	1,880,940
FM Classes A, B1 & C3	2,656	1,491	1	3,960,096	3,838,370	1,445	3,851,200
FM Classes B, C, C1 & C2	2,555	1,942	1	4,961,810	4,809,293	1,875	4,790,625
AM Construction Permits	60	260	1	15,600	15,120	250	15,000
FM Construction Permits	341	780	1	265,980	257,804	755	257,455
Satellite TV	70	1,300	1	91,000	88,203	1,250	87,500
Satellite TV Construction Permit	4	460	1	1,840	1,783	445	1,780
VHF Markets 1-10	44	41,225	1	1,813,900	1,758,144	39,950	1,757,800
VHF Markets 11-25	54	34,325	1	1,853,550	1,796,575	33,275	1,796,850
VHF Markets 26-50	67	23,475	1	1,572,825	1,524,479	22,750	1,524,250
VHF Markets 51-100	115	13,150	1	1,512,250	1,465,766	12,750	1,466,250
VHF Remaining Markets	195	3,400	1	663,000	642,621	3,300	643,500
VHF Construction Permits	19	2,775	1	52,725	51,104	2,700	51,300
UHF Markets 1-10	70	15,550	1	1,088,500	1,055,041	15,075	1,055,250
UHF Markets 11-25	75	11,775	1	883,125	855,979	11,425	856,875
UHF Markets 26-50	102	7,300	1	744,600	721,712	7,075	721,650
UHF Markets 51-100	148	4,350	1	643,800	624,011	4,225	625,300
UHF Remaining Markets	163	1,175	1	191,525	185,638	1,150	187,450
UHF Construction Permits	93	2,900	1	269,700	261,410	2,800	260,400
Auxiliaries	22,500	12	1	270,000	261,701	12	261,701

Fee Category	FY 2000 Payment Units	(times) FY 1999 Fee	(times) Payment Years	(equals) Computed FY 2000 Revenue Requirement	Pro-Rated Revenue Requirement**	Rounded New FY 2000 Regulatory Fee	Expected FY 2000 Revenue
International HF Broadcast	5	520	1	2,600	2,520	505	2,525
LPTV/Translators/Boosters	2,710	290	1	785,900	761,743	280	758,800
CARS	1,687	55	1	92,785	89,933	53	89,933
Cable Systems	66,690,000	0.48	1	32,011,200	31,027,233	0.47	31,027,233
Interstate Telephone Service Providers	74,124,558,460	0.00121	1	89,419,000	86,670,419	0.00117	86,670,419
CMRS Mobile Services (Cellular/Public Mobile)	86,000,000	0.32	1	26,240,000	25,433,429	0.30	25,433,429
CMRS Messaging Services	38,900,000	0.04	1	1,556,000	1,508,171	0.04	1,508,171
MDS/MMDS/LMDS	3,036	285	1	865,260	838,663	275	834,900
International Bearer Circuits	595,614	7	1	4,169,298	4,041,141	7	4,041,141
International Public Fixed	3	410	1	1,230	1,192	395	1,185
Earth Stations	2,679	180	1	482,220	467,397	175	468,825
Space Stations (Geostationary)	63.5	130,550	1	6,201,125	6,010,513	94,650	6,010,275
Space Stations (Non-geostationary)	3	180,800	1	542,400	525,728	175,250	525,750
***** Total Estimated Revenue Collected				191,644,821	185,754,000		185,753,420
***** Total Revenue Requirement				185,754,000	185,754,000		185,754,000
Difference				5,890,821	0		(243)

\*\* 0.969261778 factor applied

**FY 2000 SCHEDULE OF REGULATORY FEES**

<b>Fee Category</b>	<b>Annual Regulatory Fee ( U.S. \$'s)</b>
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	13
Microwave (per license) (47 CFR part 101)	13
218-219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	13
Marine (Ship) (per station) (47 CFR part 80)	7
Marine (Coast) (per license) (47 CFR part 80)	7
General Mobile Radio Service (per license) (47 CFR part 95)	7
PLMRS (Shared Use) (per license) (47 CFR part 90)	7
Aviation (Aircraft) (per station) (47 CFR part 87)	7
Aviation (Ground) (per license) (47 CFR part 87)	7
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.40
CMRS Mobile Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.30
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.04
Multipoint Distribution Services (Includes MMDS & LMDS)(per call sign) (47 CFR parts 21	275

<b>Fee Category</b>	<b>Annual Regulatory Fee  ( U.S. \$'s)</b>
and 101)	
AM Radio Construction Permits	250
FM Radio Construction Permits	755
TV (47 CFR part 73) VHF Commercial	
Markets 1-10	39,950
Markets 11-25	33,275
Markets 26-50	22,750
Markets 51-100	12,750
Remaining Markets	3,300
Construction Permits	2,700
TV (47 CFR part 73) UHF Commercial	
Markets 1-10	15,075
Markets 11-25	11,425

<b>Fee Category</b>	<b>Annual Regulatory Fee  ( U.S. \$'s)</b>
Markets 26-50	7,075
Markets 51-100	4,225
Remaining Markets	1,150
Construction Permits	2,800
Satellite Television Stations (All Markets)	1,250
Construction Permits - Satellite Television Stations	445
Low Power TV, TV/FM Translators & Boosters (47 CFR part 74)	280
Broadcast Auxiliary (47 CFR part 74)	12
CARS (47 CFR part 78)	53
Cable Television Systems (per subscriber) (47 CFR part 76)	.47
Interstate Telephone Service Providers (per revenue dollar)	.00117
Earth Stations (47 CFR part 25)	175
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also	



<b>Fee Category</b>	<b>Annual Regulatory Fee  ( U.S. \$'s)</b>
includes Direct Broadcast Satellite Service (per operational station) (47 CFR part 100)	94,650
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	175,250
International Bearer Circuits (per active 64KB circuit)	7
International Public Fixed (per call sign) (47 CFR part 23)	395
International (HF) Broadcast (47 CFR part 73)	505

RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
<=20,000	400	300	200	250	300	400
20,001 - 50,000	800	625	300	425	625	800
50,001 - 125,000	1,325	850	425	650	850	1,325
125,001 - 400,000	1,950	1,350	625	775	1,350	1,950
400,001 - 1,000,000	2,725	2,200	1,200	1,450	2,200	2,725
>1,000,000	4,375	3,575	1,725	2,225	3,575	4,375

**COMPARISON BETWEEN FY 1999 & FY 2000****PROPOSED & FINAL REGULATORY FEES**

<b>Fee Category</b>	<b>Annual Regulatory Fee FY 1999</b>	<b>NPRM Proposed Fee FY 2000</b>	<b>Annual Regulatory Fee FY 2000</b>
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	13	13	13
Microwave (per license) (47 CFR part 101)	13	13	13
218-219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	13	13	13
Marine (Ship) (per station) (47 CFR part 80)	7	7	7
Marine (Coast) (per license) (47 CFR part 80)	7	7	7
General Mobile Radio Service (per license) (47 CFR part 95)	7	7	7
PLMRS (Shared Use) (47 CFR part 90)	7	7	7
Aviation (Aircraft) (per station) (47 CFR part 87)	7	7	7
Aviation (Ground) (per license) (47 CFR part 87)	7	7	7
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.40	1.40	1.40

<b>Fee Category</b>	<b>Annual Regulatory Fee FY 1999</b>	<b>NPRM Proposed Fee FY 2000</b>	<b>Annual Regulatory Fee FY 2000</b>
<b>CMRS Mobile Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)</b>	<b>.32</b>	<b>.31</b>	<b>.30</b>
<b>CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)</b>	<b>.04</b>	<b>.04</b>	<b>.04</b>
<b>Multipoint Distribution Services (Includes MMDS and LMDS)(per call sign) (47 CFR part 21 and 101)</b>	<b>285</b>	<b>275</b>	<b>275</b>
<b>AM Construction Permits</b>	<b>260</b>	<b>250</b>	<b>250</b>
<b>FM Construction Permits</b>	<b>780</b>	<b>755</b>	<b>755</b>
<b>TV (47 CFR part 73) VHF Commercial</b>			
<b>Markets 1-10</b>	<b>41,225</b>	<b>39,950</b>	<b>39,950</b>
<b>Markets 11-25</b>	<b>34,325</b>	<b>33,275</b>	<b>33,275</b>
<b>Markets 26-50</b>	<b>23,475</b>	<b>22,750</b>	<b>22,750</b>
<b>Markets 51-100</b>	<b>13,150</b>	<b>12,750</b>	<b>12,750</b>
<b>Remaining Markets</b>	<b>3,400</b>	<b>3,300</b>	<b>3,300</b>
<b>Construction Permits</b>	<b>2,775</b>	<b>2,700</b>	<b>2,700</b>
<b>TV (47 CFR part 73) UHF Commercial</b>			

<b>Fee Category</b>	<b>Annual Regulatory Fee FY 1999</b>	<b>NPRM Proposed Fee FY 2000</b>	<b>Annual Regulatory Fee FY 2000</b>
<b>Markets 1-10</b>	<b>15,550</b>	<b>15,075</b>	<b>15,075</b>
<b>Markets 11-25</b>	<b>11,775</b>	<b>11,425</b>	<b>11,425</b>
<b>Markets 26-50</b>	<b>7,300</b>	<b>7,075</b>	<b>7,075</b>
<b>Markets 51-100</b>	<b>4,350</b>	<b>4,225</b>	<b>4,225</b>
<b>Remaining Markets</b>	<b>1,175</b>	<b>1,150</b>	<b>1,150</b>
<b>Construction Permits</b>	<b>2,900</b>	<b>2,800</b>	<b>2,800</b>
<b>Satellite Television Stations (All Markets)</b>	<b>1,300</b>	<b>1,250</b>	<b>1,250</b>
<b>Construction Permits – Satellite Television Stations</b>	<b>460</b>	<b>445</b>	<b>445</b>
<b>Low Power TV, TV/FM Translators &amp; Boosters (47 CFR part 74)</b>	<b>290</b>	<b>280</b>	<b>280</b>
<b>Broadcast Auxiliary (47 CFR part 74)</b>	<b>12</b>	<b>12</b>	<b>12</b>
<b>CARS (47 CFR part 78)</b>	<b>55</b>	<b>53</b>	<b>53</b>
<b>Earth Stations (47 CFR part 25)</b>	<b>180</b>	<b>175</b>	<b>175</b>
<b>Cable Television Systems (per subscriber) (47 CFR part 76)</b>	<b>.48</b>	<b>.47</b>	<b>.47</b>
<b>Interstate Telephone Service Providers (per revenue dollar)</b>	<b>.00121</b>	<b>.00117</b>	<b>.00117</b>
<b>Space Stations (per operational station in geostationary orbit)</b>			

<b>Fee Category</b>	<b>Annual Regulatory Fee FY 1999</b>	<b>NPRM Proposed Fee FY 2000</b>	<b>Annual Regulatory Fee FY 2000</b>
<b>(47 CFR part 25) also includes Direct Broadcast Satellite Service (per operational station) ( 47 CFR part 100)</b>	<b>130,550</b>	<b>94,650</b>	<b>94,650</b>
<b>Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)</b>	<b>180,800</b>	<b>175,250</b>	<b>175,250</b>
<b>International Bearer Circuits (per active 64KB circuit)</b>	<b>7</b>	<b>7</b>	<b>7</b>
<b>International Public Fixed (per call sign) (47 CFR part 23)</b>	<b>410</b>	<b>395</b>	<b>395</b>
<b>International (HF) Broadcast (47 CFR part 73)</b>	<b>520</b>	<b>505</b>	<b>505</b>

<b>FY 1999 RADIO STATION REGULATORY FEES</b>						
<b>Population Served</b>	<b>AM Class A</b>	<b>AM Class B</b>	<b>AM Class C</b>	<b>AM Class D</b>	<b>FM Classes A, B1 &amp; C3</b>	<b>FM Classes B, C, C1 &amp; C2</b>
<b>&lt;=20,000</b>	<b>430</b>	<b>325</b>	<b>225</b>	<b>275</b>	<b>325</b>	<b>430</b>
<b>20,001 - 50,000</b>	<b>825</b>	<b>650</b>	<b>325</b>	<b>450</b>	<b>650</b>	<b>825</b>
<b>50,001 - 125,000</b>	<b>1,350</b>	<b>875</b>	<b>450</b>	<b>675</b>	<b>875</b>	<b>1,350</b>
<b>125,001 - 400,000</b>	<b>2,000</b>	<b>1,400</b>	<b>675</b>	<b>825</b>	<b>1,400</b>	<b>2,000</b>
<b>400,001 - 1,000,000</b>	<b>2,750</b>	<b>2,250</b>	<b>1,250</b>	<b>1,500</b>	<b>2,250</b>	<b>2,750</b>
<b>&gt;1,000,000</b>	<b>4,400</b>	<b>3,600</b>	<b>1,750</b>	<b>2,250</b>	<b>3,600</b>	<b>4,400</b>

FY 2000 RADIO STATION REGULATORY FEES						
(Proposed and Final)						
Population	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes	FM Classes
Served					A, B1 & C3	B, C, C1 & C2
<=20,000	400	300	200	250	300	400
20,001 - 50,000	800	625	300	425	625	800
50,001 - 125,000	1,325	850	425	650	850	1,325
125,001 - 400,000	1,950	1,350	625	775	1,350	1,950
400,001 - 1,000,000	2,725	2,200	1,200	1,450	2,200	2,725
>1,000,000	4,375	3,575	1,725	2,225	3,575	4,375

#### Attachment F—Detailed Guidance on Who Must Pay Regulatory Fees

1. The guidelines below provide an explanation of regulatory fee categories established by the Schedule of Regulatory Fees in section 9 (g) of the Communications Act,<sup>165</sup> as modified in the instant *Report and Order*. Where regulatory fee categories need interpretation or clarification, we have relied on the legislative history of section 9, our own experience in establishing and regulating the Schedule of Regulatory Fees for Fiscal Years (FY) 1994, 1995, 1996, 1997, 1998 and 1999 and the services subject to the fee schedule. The categories and amounts set out in the schedule have been modified to reflect changes in the number of payment units, additions and changes in the services subject to the fee requirement and the benefits derived from the Commission's regulatory activities, and to simplify the structure of the schedule. The schedule may be similarly modified or adjusted in future years to reflect changes in the Commission's budget and in the services regulated by the Commission.<sup>166</sup>

2. *Exemptions.* Governments and nonprofit entities are exempt from paying regulatory fees and should not submit payment. A nonprofit entity is required to have on file with the Commission an IRS Determination Letter documenting that it is exempt from taxes under section 501 of the Internal Revenue Code or the certification of a governmental authority attesting to its nonprofit status. In instances where the IRS Determination Letter or the letter of certification from a governmental authority attesting to its nonprofit status is not sufficiently current, the nonprofit entity may be asked to submit more current documentation. The governmental exemption applies even where the government-owned or community-owned facility is in competition with a commercial operation. Other specific

exemptions are discussed below in the descriptions of other particular service categories.

#### 1. Private Wireless Radio Services

3. Two levels of statutory fees were established for the Private Wireless Radio Services—exclusive use services and shared use services. Thus, licensees who generally receive a higher quality communication channel due to exclusive or lightly shared frequency assignments will pay a higher fee than those who share marginal quality assignments. This dichotomy is consistent with the directive of section 9, that the regulatory fees reflect the benefits provided to the licensees.<sup>167</sup> In addition, because of the generally small amount of the fees assessed against Private Wireless Radio Service licensees, applicants for new licenses and reinstatements and for renewal of existing licenses are required to pay a regulatory fee covering the entire license term, with only a percentage of all licensees paying a regulatory fee in any one year. Applications for modification or assignment of existing authorizations do not require the payment of regulatory fees. The expiration date of those authorizations will reflect only the unexpired term of the underlying license rather than a new license term.

#### a. Exclusive Use Services

4. *Private Land Mobile Radio Services (PLMRS) (Exclusive Use):* Regulatees in this category include those authorized under part 90 of the Commission's Rules to provide limited access Wireless Radio service that allows high quality voice or digital communications between vehicles or to fixed stations to further the business activities of the licensee. These services, using the 220–222 MHz band and frequencies at 470 MHz and above, may be offered on a private carrier basis in the Specialized Mobile Radio

Services (SMRS).<sup>168</sup> For FY 2000, PMRS licensees will pay a \$13 annual regulatory fee per license, payable for an entire five or ten year license term at the time of application for a new, renewal, or reinstatement license.<sup>169</sup> The total regulatory fee due is either \$65 for a license with a five-year term or \$130 for a license with a 10-year term.

5. *Microwave Services:* These services include private and commercial microwave systems and private and commercial carrier systems authorized under part 101 of the Commission's Rules to provide telecommunications services between fixed points on a high quality channel of communications. Microwave systems are often used to relay data and to control railroad, pipeline, and utility equipment. Commercial systems typically are used for video or data transmission or distribution. For FY 2000, Microwave licensees will pay a \$13 annual regulatory fee per license, payable for an entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$130 for the ten-year license term.

6. *218–219 MHz (Formerly Interactive Video Data Service (IVDS)):* The 218–219 MHz service is a two-way, point-to-multi-point radio service allocated high quality channels of communications and authorized under part 95 of the Commission's Rules. The 218–219 MHz service provides information, products, and services, and also the capability to obtain responses from subscribers in a specific service area. The 218–219 MHz service is offered on a private

<sup>168</sup> This category only applies to licensees of shared-use private 220–222 MHz and 470 MHz and above in the Specialized Mobile Radio (SMR) service who have elected not to change to the Commercial Mobile Radio Service (CMRS). Those who have elected to change to the CMRS are referred to paragraph 14 of this Attachment.

<sup>169</sup> Although this fee category includes licenses with ten-year terms, the estimated volume of ten-year license applications in FY 2000 is less than one-tenth of one percent and, therefore, is statistically insignificant.

<sup>165</sup> 47 U.S.C. 159(g).

<sup>166</sup> 47 U.S.C. 159(b)(2), (3).

<sup>167</sup> 47 U.S.C. 159(b)(1)(A).



carrier basis. The Commission does not anticipate receiving any applications in the 218–219 MHz service during FY 2000. However, for FY 2000, the annual regulatory fee for 218–219 MHz licensees is set at \$13 should there be any applications submitted. The total regulatory fee due would be \$130 for the ten-year license term.

#### b. Shared Use Services

7. *Marine (Ship) Service*: This service is a shipboard radio service authorized under part 80 of the Commission's Rules to provide telecommunications between watercraft or between watercraft and shore-based stations. Radio installations are required by domestic and international law for large passenger or cargo vessels. Radio equipment may be voluntarily installed on smaller vessels, such as recreational boats. The Telecommunications Act of 1996 gave the Commission the authority to license certain ship stations by rule rather than by individual license. The Commission exercises that authority. Thus, private boat operators sailing entirely within domestic U.S. waters and who are not otherwise required by treaty or agreement to carry a radio, are no longer required to hold a marine license, and they will not be required to pay a regulatory fee. For FY 2000, parties required to be licensed and those choosing to be licensed for Marine (Ship) Stations will pay a \$7 annual regulatory fee per station, payable for an entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$70 for the ten-year license term.

8. *Marine (Coast) Service*: This service includes land-based stations in the maritime services, authorized under part 80 of the Commission's Rules, to provide communications services to ships and other watercraft in coastal and inland waterways. For FY 2000, licensees of Marine (Coast) Stations will pay a \$7 annual regulatory fee per call sign, payable for the entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$35 per call sign for the five-year license term.

9. *Private Land Mobile Radio Services (PLMRS)(Shared Use)*: These services include Land Mobile Radio Services operating under parts 90 and 95 of the Commission's Rules. Services in this category provide one- or two-way communications between vehicles, persons or fixed stations on a shared basis and include radiolocation services, industrial radio services, and land transportation radio services. For FY 2000, licensees of services in this category will pay a \$7 annual regulatory fee per call sign, payable for an entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$35 for the five-year license term.

10. *Aviation (Aircraft) Service*: These services include stations authorized to provide communications between aircraft and between aircraft and ground stations and include frequencies used to communicate with air traffic control facilities pursuant to part 87 of the Commission's Rules. The Telecommunications Act of 1996 gave the Commission the authority to license certain aircraft radio stations by rule rather than by

individual license. The commission exercises that authority. Thus, private aircraft operators flying entirely within domestic U.S. airspace and who are not otherwise required by treaty or agreement to carry a radio are no longer required to hold an aircraft license, and they will not be required to pay a regulatory fee. For FY 2000, parties required to be licensed and those choosing to be licensed for Aviation (Aircraft) Stations will pay a \$7 annual regulatory fee per station, payable for the entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$70 per station for the ten-year license term.

11. *Aviation (Ground) Service*: This service includes stations authorized to provide ground-based communications to aircraft for weather or landing information, or for logistical support pursuant to part 87 of the Commission's Rules. Certain ground-based stations which only serve itinerant traffic, *i.e.*, possess no actual units on which to assess a fee, are exempt from payment of regulatory fees. For FY 2000, licensees of Aviation (Ground) Stations will pay a \$7 annual regulatory fee per license, payable for the entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee is \$35 per call sign for the five-year license term.

12. *General Mobile Radio Service (GMRS)*: These services include Land Mobile Radio licensees providing personal and limited business communications between vehicles or to fixed stations for short-range, two-way communications pursuant to part 95 of the Commission's Rules. For FY 2000, GMRS licensees will pay a \$7 annual regulatory fee per license, payable for an entire five-year license term at the time of application for a new, renewal or reinstatement license. The total regulatory fee due is \$35 per license for the five-year license term.

#### c. Amateur Radio Vanity Call Signs

13. *Amateur Vanity Call Signs*: This category covers voluntary requests for specific call signs in the Amateur Radio Service authorized under part 97 of the Commission's Rules. Applicants for Amateur Vanity Call-Signs will continue to pay a \$1.40 annual regulatory fee per call sign, as prescribed in the FY 1999 fee schedule, payable for an entire ten-year license term at the time of application for a vanity call sign until the FY 2000 fee schedule becomes effective. The total regulatory fee due would be \$14 per license for the ten-year license term.<sup>170</sup> For FY 2000, Amateur Vanity Call Sign applicants will again pay a \$1.40 annual regulatory fee per call sign, payable for an entire ten-year term at the time of application for a new, renewal or reinstatement license. The total regulatory fee due is \$14 per call sign for the ten-year license term.

<sup>170</sup> Section 9(h) exempts "amateur radio operator licenses under part 97 of the Commission's rules (47 CFR part 97)" from the requirement. However, section 9(g)'s fee schedule explicitly includes "Amateur vanity call signs" as a category subject to the payment of a regulatory fee.

#### d. Commercial Wireless Radio Services

14. *Commercial Mobile Radio Services (CMRS) Mobile Services*: The Commercial Mobile Radio Service (CMRS) is an "umbrella" descriptive term attributed to various existing broadband services authorized to provide interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Mobile Services include certain licensees which formerly were licensed as part of the Private Radio Services (*e.g.*, Specialized Mobile Radio Services) and others formerly licensed as part of the Common Carrier Radio Services (*e.g.*, Public Mobile Services and Cellular Radio Service). While specific rules pertaining to each covered service remain in separate parts 22, 24, 27, 80 and 90, general rules for CMRS are contained in part 20. CMRS Mobile Services will include: Specialized Mobile Radio Services (part 90);<sup>171</sup> Broadband Personal Communications Services (part 24), Public Coast Stations (part 80); Public Mobile Radio (Cellular, 800 MHz Air-Ground Radiotelephone, and Offshore Radio Services) (part 22); and Wireless Communications Service (part 27). Each licensee in this group will pay an annual regulatory fee for each mobile or cellular unit (mobile or telephone number), assigned to its customers, including resellers of its services. For FY 2000, the regulatory fee is \$.30 per unit.

15. *Commercial Mobile Radio Services (CMRS) Messaging Services*: The Commercial Mobile Radio Service (CMRS) is an "umbrella" descriptive term attributed to various existing narrowband services authorized to provide interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Messaging Services include certain licensees which formerly were licensed as part of the Private Radio Services (*e.g.*, Private Paging and Radiotelephone Service), licensees formerly licensed as part of the Common Carrier Radio Services (*e.g.*, Public Mobile One-Way Paging), licensees of Narrowband Personal Communications Service (PCS) (*e.g.*, one-way and two-way paging), and 220–222 MHz Band and Interconnected Business Radio Service. In addition, this category includes small SMR systems authorized for use of less than 10 MHz of bandwidth. While specific rules pertaining to each covered service remain in separate parts 22, 24 and 90, general rules for CMRS are contained in part 20. Each licensee in the CMRS Messaging Services will pay an annual regulatory fee for each unit (pager, telephone number, or mobile) assigned to its customers, including resellers of its services. For FY 2000, the regulatory fee is \$.04 per unit.

16. Finally, we are reiterating our definition of CMRS payment units to make it

<sup>171</sup> This category does not include licensees of private shared-use 220 MHz and 470 MHz and above in the Specialized Mobile Radio (SMR) service who have elected to remain non-commercial. Those who have elected not to change to the Commercial Mobile Radio Service (CMRS) are referred to paragraph 4 of this Attachment.

clear that fees are assessable on each PCS or cellular telephone and each one-way or two-way pager capable of receiving or transmitting information, whether or not the unit is "active" on the "as-of" date for payment of these fees. The unit becomes "feeable" if the end user or assignee of the unit has possession of the unit and the unit is capable of transmitting or receiving voice or non-voice messages or data and the unit is either owned and operated by the licensee of the CMRS system or a reseller, or the end user of a unit has a contractual agreement for the provision of a CMRS service from a licensee of a CMRS system or a reseller of a CMRS service. The responsible payer of the regulatory fee is the CMRS licensee. For example, John Doe purchases a pager and contractually obtains paging services from

Paging Licensee X. Paging Licensee X is responsible for paying the applicable regulatory fee for this unit. Likewise, Cellular Licensee Y donates cellular phones to a high school and the high school either pays for or obtains free cellular service from Cellular Licensee Y. In this situation, Cellular Licensee Y is responsible for paying the applicable regulatory fees for these units.

## 2. Mass Media Services

17. The regulatory fees for the Mass Media fee category apply to broadcast licensees and permittees. Noncommercial Educational Broadcasters are exempt from regulatory fees.

### a. Commercial Radio

18. These categories include licensed Commercial AM (Classes A, B, C, and D) and

FM (Classes A, B, B1, C, C1, C2, and C3) Radio Stations operating under part 73 of the Commission's Rules.<sup>172</sup> We have combined class of station and city grade contour population data to formulate a schedule of radio fees which differentiate between stations based on class of station and population served. In general, higher class stations and stations in metropolitan areas will pay higher fees than lower class stations and stations located in rural areas. The specific fee that a station must pay is determined by where it ranks after weighting its fee requirement (determined by class of station) with its population. The regulatory fee classifications for Radio Stations for FY 2000 are as follows:

FY 2000 RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
<=20,000	400	300	200	250	300	400
20,001 - 50,000	800	625	300	425	625	800
50,001 - 125,000	1,325	850	425	650	850	1,325
125,001 - 400,000	1,950	1,350	625	775	1,350	1,950
400,001 - 1,000,000	2,725	2,200	1,200	1,450	2,200	2,725
>1,000,000	4,375	3,575	1,725	2,225	3,575	4,375

19. Licensees may determine the appropriate fee payment by referring to a list, which will be provided as an attachment to the final *Report and Order* in this proceeding. This same information will be available on the FCC's internet world wide web site (<http://www.fcc.gov>) by calling the FCC's National Call Center (1-888-225-5322), and may be included in the Public Notices mailed to each licensee for which we have a current address on file.

**Note:** Note: Non-receipt of a Public Notice does not relieve a licensee of its obligation to submit its regulatory fee payment.

### b. Construction Permits—Commercial AM Radio

20. This category includes holders of permits to construct new Commercial AM Stations. For FY 2000, permittees will pay a fee of \$250 for each permit held. Upon issuance of an operating license, this fee

would no longer be applicable and licensees would be required to pay the applicable fee for the designated group within which the station appears.

### c. Construction Permits—Commercial FM Radio

21. This category includes holders of permits to construct new Commercial FM Stations. For FY 2000, permittees will pay a fee of \$755 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a regulatory fee based upon the designated group within which the station appears.

### d. Commercial Television Stations

22. This category includes licensed Commercial VHF and UHF Television Stations covered under part 73 of the Commission's Rules, except commonly owned Television Satellite Stations,

addressed separately below. Markets are Nielsen Designated Market Areas (DMA) as listed in the *Television & Cable Factbook*, Stations Volume No. 68, 2000 Edition, Warren Publishing, Inc. The fees for each category of station are as follows:

VHF Markets 1-10 .....	\$39,950
VHF Markets 11-25 .....	33,275
VHF Markets 26-50 .....	22,750
VHF Markets 51-100 .....	12,750
VHF Remaining Markets .....	3,300
UHF Markets 1-10 .....	15,075
UHF Markets 11-25 .....	11,425
UHF Markets 26-50 .....	7,075
UHF Markets 51-100 .....	4,225
UHF Remaining Markets .....	1,150

### e. Commercial Television Satellite Stations

23. Commonly owned Television Satellite Stations in any market (authorized pursuant to Note 5 of § 73.3555 of the Commission's Rules) that retransmit programming of the

<sup>172</sup> The Commission acknowledges that certain stations operating in Puerto Rico and Guam have been assigned a higher level station class than

would be expected if the station were located on the mainland. Although this results in a higher regulatory fee, we believe that the increased

interference protection associated with the higher station class is necessary and justifies the fee.

primary station are assessed a fee of \$1,250 annually. Those stations designated as Television Satellite Stations in the 2000 Edition of the *Television and Cable Factbook* are subject to the fee applicable to Television Satellite Stations. All other television licensees are subject to the regulatory fee payment required for their class of station and market.

**f. Construction Permits—Commercial VHF Television Stations**

24. This category includes holders of permits to construct new Commercial VHF Television Stations. For FY 2000, VHF permittees will pay an annual regulatory fee of \$2,700. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station.

**g. Construction Permits—Commercial UHF Television Stations**

25. This category includes holders of permits to construct new UHF Television Stations. For FY 2000, UHF Television permittees will pay an annual regulatory fee of \$2,800. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station.

**h. Construction Permits—Satellite Television Stations**

26. The fee for UHF and VHF Television Satellite Station construction permits for FY 2000 is \$445. An individual regulatory fee payment is to be made for each Television Satellite Station construction permit held.

**i. Low Power Television, FM Translator and Booster Stations, TV Translator and Booster Stations**

27. This category includes Low Power UHF/VHF Television stations operating under part 74 of the Commission's Rules with a transmitter power output limited to 1 kW for a UHF facility and, generally, 0.01 kW for a VHF facility. Low Power Television (LPTV) stations may retransmit the programs and signals of a TV Broadcast Station, originate programming, and/or operate as a subscription service. This category also includes translators and boosters operating under part 74 which rebroadcast the signals of full service stations on a frequency different from the parent station (translators) or on the same frequency (boosters). The stations in this category are secondary to full service stations in terms of frequency priority. We have also received requests for waivers of the regulatory fees from operators of community based Translators. These Translators are generally not affiliated with commercial broadcasters, are nonprofit, non-profitable, or only marginally profitable, serve small rural communities, and are supported financially by the residents of the communities served. We are aware of the difficulties these Translators have in paying even minimal regulatory fees, and we have addressed those concerns in the ruling on reconsideration of the FY 1994 *Report and Order*. Community based Translators are exempt from regulatory fees. For FY 2000, licensees in low power television, FM

translator and booster, and TV translator and booster category will pay a regulatory fee of \$280 for each license held.

**j. Broadcast Auxiliary Stations**

28. This category includes licensees of remote pickup stations (either base or mobile) and associated accessory equipment authorized pursuant to a single license, Aural Broadcast Auxiliary Stations (Studio Transmitter Link and Inter-City Relay) and Television Broadcast Auxiliary Stations (TV Pickup, TV Studio Transmitter Link, TV Relay) authorized under part 74 of the Commission's Rules. Auxiliary Stations are generally associated with a particular television or radio broadcast station or cable television system. This category does not include translators and boosters (see paragraph 26 *infra*). For FY 2000, licensees of Commercial Auxiliary Stations will pay a \$12 annual regulatory fee on a per call sign basis.

**k. Multipoint Distribution Service**

29. This category includes Multipoint Distribution Service (MDS), Local Multipoint Distribution (LMDS), and Multichannel Multipoint Distribution Service (MMDS), authorized under parts 21 and 101 of the Commission's Rules to use microwave frequencies for video and data distribution within the United States. For FY 2000, MDS, LMDS, and MMDS stations will pay an annual regulatory fee of \$275 per call sign.

**3. Cable Services**

**a. Cable Television Systems**

30. This category includes operators of Cable Television Systems, providing or distributing programming or other services to subscribers under part 76 of the Commission's Rules. For FY 2000, Cable Systems will pay a regulatory fee of \$.47 per subscriber.<sup>173</sup> Payments for Cable Systems are to be made on a per subscriber basis as of December 31, 1999. Cable Systems should determine their subscriber numbers by calculating the number of single family dwellings, the number of individual households in multiple dwelling units, *e.g.*, apartments, condominiums, mobile home parks, etc., paying at the basic subscriber rate, the number of bulk rate customers and the number of courtesy or fee customers. In order to determine the number of bulk rate subscribers, a system should divide its bulk rate charge by the annual subscription rate for individual households. See FY 1994 *Report and Order*, Appendix B at paragraph 31.

**b. Cable Antenna Relay Service**

31. This category includes Cable Antenna Relay Service (CARS) stations used to transmit television and related audio signals, signals of AM and FM Broadcast Stations, and cablecasting from the point of reception to a terminal point from where the signals are distributed to the public by a Cable Television System. For FY 2000, licensees will pay an annual regulatory fee of \$53 per CARS license.

<sup>173</sup> Cable systems are to pay their regulatory fees on a per subscriber basis rather than per 1,000 subscribers as set forth in the statutory fee schedule. See FY 1994 *Report and Order* at paragraph 100.

**4. Common Carrier Services**

**a. Commercial Microwave (Domestic Public Fixed Radio Service)**

32. This category includes licensees in the Point-to-Point Microwave Radio Service, Local Television Transmission Radio Service, and Digital Electronic Message Service, authorized under part 101 of the Commission's Rules to use microwave frequencies for video and data distribution within the United States. These services are now included in the Microwave category (see paragraph 5 *infra*).

**b. Interstate Telephone Service Providers**

33. This category includes all providers of local and telephone services to end users. Covered services include the interstate and international portion of wireline and fixed wireless local exchange service, local and long distance private line services for both voice and data, dedicated and network packet and packet-like services, long distance message telephone services, and other local and toll services. Providers of such services are referred to herein as "interstate telephone service providers".

Interstate service providers include CAP/CLECs, incumbent local exchange carriers (local telephone operating companies), Interexchange carriers (long distance telephone companies), wireless telephone service carriers that provide fixed local or toll services (Cellular, Personal Communications Service, and Specialized Mobile Radio), local resellers, OSPs (operator service providers that enable customers to make away from home calls and to place calls with alternative billing arrangements), payphone service providers, pre-paid card, private service providers, satellite carriers that provide fixed local or message toll services, shared tenant service providers, toll resellers, and other local and other service providers.

In order to avoid imposing any double payment burden on resellers, we base the regulatory fee on end-user revenues. Accordingly, interstate telephone service providers, including resellers, must submit fee payments based upon their proportionate share of interstate and international end-user revenues for local and toll services. We use the terms end-user revenues, local service and toll service, based on the methodology used for calculating contributions to the Universal Service support mechanisms.<sup>174</sup> Interstate telephone service providers do not pay the Common Carrier regulatory fee on revenue from the provision of intrastate local and toll services, wireless monthly and local message services, satellite toll services, carrier's carrier telecommunications services, customer premises equipment, Internet service and non-telecommunications services. For FY 2000, carriers must multiply their interstate and international revenue

<sup>174</sup> See 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, Report and Order, FCC 99-175, CC Docket No. 98-171 (rel. July 14, 1999), 64 FR 41320 (Jul. 30, 1999) (*Contributor Reporting Requirements Order*).

from subject local and toll services by the  
factor 0.00117 to determine the appropriate  
fee for this category of service. Regulatees

may want to use the following worksheet to  
determine their fee payment:

Calendar 1999 revenue information (show amounts in whole dollars)		
1	Service provided by U.S. carriers that both originates and terminates in foreign points. Form 499-A Line 412 (e)	
2	Interstate end-user revenue from all telecommunications services. Form 499-A Line 420 (d)	
3	International end-user revenue from all telecommunications services exception international-to-international. Form 499-A Line 420 (e)	
4	Total interstate and international end-user revenues (Sum of Lines 1, 2 and 3)	
5	End user interstate mobile service monthly and activation charges. Form 499-A Line 409 (d)	
6	End user international mobile service monthly and activation charges. Form 499-A Line 409 (e)	
7	End user interstate mobile service message charges including roaming charges but excluding toll charges. Form 499-A Line 410 (d)	
8	End user international mobile service message charges including roaming charges but excluding toll charges. Form 499-A Line 410 (e)	
9	End user interstate satellite service. Form 499-A Line 416 (d)	
10	End user international satellite service. Form 499-A Line 416 (e)	
11	Total end user interstate and international mobile and satellite service revenue. (sum lines 5 through 10)	
12	Total end-user interstate and international revenues from local and subject toll services (Line 4 minus Line 11)	
13	Common carrier fee factor	.00117
14	2000 Regulatory Fee (Line 12 times Line 13) *	
* You are exempt from filing if the amount on line 14 is less than \$10.		

### 5. International Services

#### a. Earth Stations

34. Very Small Aperture Terminal (VSAT) Earth Stations, equivalent C-Band Earth Stations and antennas, and earth station systems comprised of very small aperture terminals operate in the 12 and 14 GHz bands and provide a variety of communications services to other stations in the network. VSAT systems consist of a network of technically-identical small Fixed-Satellite Earth Stations which often include a larger hub station. VSAT Earth Stations and C-Band Equivalent Earth Stations are authorized pursuant to part 25 of the Commission's Rules. *Mobile Satellite Earth Stations*, operating pursuant to part 25 of the Commission's Rules under blanket licenses for mobile antennas (transceivers), are smaller than one meter and provide voice or data communications, including position location information for mobile platforms such as cars, buses, or trucks.<sup>175</sup> *Fixed-Satellite Transmit/Receive and Transmit-Only Earth Station antennas*, authorized or registered under part 25 of the Commission's Rules, are operated by private and public carriers to provide telephone, television, data, and other forms of communications. Included in this category are telemetry, tracking and control (TT&C) Earth stations, and Earth station uplinks. For FY 2000, licensees of VSATs, Mobile Satellite Earth Stations, and Fixed-Satellite Transmit/Receive and Transmit-Only Earth Stations will pay a fee of \$175 per authorization or registration *as well as a separate fee of \$175 for each associated Hub Station*.

35. *Receive-only Earth stations*. For FY 2000, there is no regulatory fee for receive-only Earth stations.

#### b. Space Stations (Geostationary Orbit)

36. Geostationary Orbit (also referred to as Geosynchronous) Space Stations are domestic and international satellites positioned in orbit to remain approximately fixed relative to the Earth. Most are authorized under part 25 of the Commission's Rules to provide communications between satellites and Earth stations on a common carrier and/or private carrier basis. In addition, this category includes Direct Broadcast Satellite (DBS) Service which includes space stations authorized under part 100 of the Commission's rules to transmit or re-transmit signals for direct reception by the general public encompassing both individual and community reception. For FY 2000, entities authorized to operate geostationary space stations (including DBS satellites) will be assessed an annual regulatory fee of \$94,650 per operational station in orbit. Payment is required for any geostationary satellite that has been launched and tested and is authorized to provide service.

<sup>175</sup> Mobile Earth stations are hand-held or vehicle-based units capable of operation while the operator or vehicle is in motion. In contrast, transportable units are moved to a fixed location and operate in a stationary (fixed) mode. Both are assessed the same regulatory fee for FY 2000.

#### c. Space Stations (Non-Geostationary Orbit)

37. Non-Geostationary Orbit Systems (such as Low Earth Orbit (LEO) Systems) are space stations that orbit the Earth in non-geosynchronous orbit. They are authorized under part 25 of the Commission's rules to provide communications between satellites and Earth stations on a common carrier and/or private carrier basis. For FY 2000, entities authorized to operate Non-Geostationary Orbit Systems (NGSOs) will be assessed an annual regulatory fee of \$175,250 per operational system in orbit. Payment is required for any NGSO System that has one or more operational satellites operational. In our FY 1997 *Report and Order* at paragraph 75 we retained our requirement that licensees of LEOs pay the LEO regulatory fee upon their certification of operation of a single satellite pursuant to § 25.120(d). We require payment of this fee following commencement of operations of a system's first satellite to insure that we recover our regulatory costs related to LEO systems from licensees of these systems as early as possible so that other regulatees are not burdened with these costs any longer than necessary. Because § 25.120(d) has significant implications beyond regulatory fees (such as whether the entire planned cluster is operational in accordance with the terms and conditions of the license) we are clarifying our current definition of an operational LEO satellite to prevent misinterpretation of our intent as follows:

Licensees of Non-Geostationary Satellite Systems (such as LEOs) are assessed a regulatory fee upon the commencement of operation of a system's first satellite as reported annually pursuant to §§ 25.142(c), 25.143(e), 25.145(g), or upon certification of operation of a single satellite pursuant to § 25.120(d).

#### d. International Bearer Circuits

38. Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers (either domestic or international) activating the circuit in any transmission facility for the provision of service to an end user or resale carrier. Payment of the fee for bearer circuits by non-common carrier submarine cable operators is required for circuits sold on an indefeasible right of use (IRU) basis or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. *Compare* FY 1994 *Report and Order* at 5367. Payment of the international bearer circuit fee is also required by non-common carrier satellite operators for circuits sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. The fee is based upon active 64 kbps circuits, or equivalent circuits. Under this formulation, 64 kbps circuits or their equivalent will be assessed a fee. Equivalent circuits include the 64 kbps circuit equivalent of larger bit stream circuits. For example, the 64 kbps circuit equivalent of a 2.048 Mbps circuit is 30 64 kbps circuits.

Analog circuits such as 3 and 4 kHz circuits used for international service are also included as 64 kbps circuits. However, circuits derived from 64 kbps circuits by the use of digital circuit multiplication systems are not equivalent 64 kbps circuits. Such circuits are not subject to fees. Only the 64 kbps circuit from which they have been derived will be subject to payment of a fee. For FY 2000, the regulatory fee is \$7 for each active 64 kbps circuit or equivalent. For analog television channels we will assess fees as follows:

Analog television channel	No. of equivalent 64 kbps circuits
Size in MHz:	
36 .....	630
24 .....	288
18 .....	240

#### e. International Public Fixed

39. This fee category includes common carriers authorized under part 23 of the Commission's Rules to provide radio communications between the United States and a foreign point via microwave or HF troposcatter systems, other than satellites and satellite earth stations, but not including service between the United States and Mexico and the United States and Canada using frequencies above 72 MHz. For FY 2000, International Public Fixed Radio Service licensees will pay a \$395 annual regulatory fee per call sign.

#### f. International (HF) Broadcast

40. This category covers International Broadcast Stations licensed under part 73 of the Commission's Rules to operate on frequencies in the 5,950 kHz to 26,100 kHz range to provide service to the general public in foreign countries. For FY 2000, International HF Broadcast Stations will pay an annual regulatory fee of \$505 per station license.

### Attachment G—Description of FCC Activities

*Authorization of Service:* The authorization or licensing of radio stations, telecommunications equipment, and radio operators, as well as the authorization of common carrier and other services and facilities. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with authorization activities.<sup>176</sup>

*Policy and Rulemaking:* Formal inquiries, rulemaking proceedings to establish or amend the Commission's rules and regulations, action on petitions for rulemaking, and requests for rule interpretations or waivers; economic studies and analyses; spectrum planning, modeling, propagation-interference analyses, and allocation; and development of equipment standards. Includes policy direction, program development, legal services, and executive direction, as well as support services

<sup>176</sup> Although Authorization of Service is described in this exhibit, it is *not* one of the activities included as a feeable activity for regulatory fee purposes pursuant to section 9(a)(1) of the Act. 47 U.S.C. 159(a)(1).

associated with policy and rulemaking activities.

**Enforcement:** Enforcement of the Commission's rules, regulations and authorizations, including investigations, inspections, compliance monitoring, and sanctions of all types. Also includes the receipt and disposition of formal and informal complaints regarding common carrier rates and services, the review and acceptance/rejection of carrier tariffs, and the review, prescription and audit of carrier accounting practices. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with enforcement activities.

**Public Information Services:** The publication and dissemination of Commission decisions and actions, and related activities; public reference and library services; the duplication and dissemination of Commission records and databases; the receipt and disposition of public inquiries; consumer, small business, and public assistance; and public affairs and media relations. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with public information activities.

#### **Attachment H—Factors, Measurements and Calculations That Go Into Determining Station Signal Contours and Associated Population Coverages**

##### **AM Stations**

Specific information on each day tower, including field ratio, phasing, spacing and orientation was retrieved, as well as the theoretical pattern RMS figure (mV/m @ 1 km) for the antenna system. The standard, or modified standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in sections 73.150 and 73.152 of the Commission's rules.<sup>177</sup> Radiation values were calculated for each of 72 radials around the transmitter site (every 5 degrees of azimuth). Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure M3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the city grade (5 mV/m) contour was predicted for each of the 72 radials. The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

##### **FM Stations**

The maximum of the horizontal and vertical HAAT (m) and ERP (kW) was used. Where the antenna HAMS was available, it was used in lieu of the overall HAAT figure to calculate specific HAAT figures for each of 72 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used

in conjunction with the propagation curves specified in section 73.313 of the Commission's rules to predict the distance to the city grade (70 dBuV/m or 3.17 mV/m) contour for each of the 72 radials.<sup>178</sup> The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

#### **Attachment I—Parties Filing Comments on the Notice of Proposed Rule Making**

Space System License, Inc., Motorola Pacific Communications, Inc. and Motorola Satellite Communications, Inc. (collectively, "Motorola")  
Sunbelt Communications Company and Ruby Mountain Broadcasting Company (collectively, "Sunbelt")  
Space Imaging LLC ("Space Imaging") GE American Communications, Inc. ("GE Americom")  
PanAmSat Corporation ("PanAmSat") COMSAT Corporation ("COMSAT")  
National Association of Broadcasters ("NAB")  
The Cellular Telecommunications Industry Association ("CTIA")  
The Council of Independent Communications Suppliers ("CICS") and the USMSS, Inc. ("USMSS")  
American Mobile Telecommunications Association, Inc. ("AMTA")  
BellSouth Corporation ("BellSouth")

#### **Parties Filing Reply Comments on the Notice of Proposed Rule Making**

GE American Communications, Inc. ("GE Americom")  
PanAmSat Corporation ("PanAmSat")  
COMSAT Corporation ("COMSAT")

#### **Attachment J—AM and FM Radio Regulatory Fees**

The List of regulatory fees is available from the FCC Public Reference Room, CY-A257, 445 12th St. SW, Washington, DC 20554.

#### **SEPARATE STATEMENT OF COMMISSIONER HAROLD FURCHT-GOTT-ROTH, Approving in Part, Dissenting in Part**

*Re: Assessment and Collection of Regulatory Fees for Fiscal Year 2000, MD Docket No. 00-58 (rel. July 10, 2000).*

I generally support today's item. However, two aspects of the Order particularly concern me. First, I am troubled by yearly increases in fees that do not appear tied to any corresponding increase in the services provided to these licensees by the Commission. Congress requires that the Commission collect \$185,754,000 this year to cover the costs of regulation and services.<sup>179</sup> Implicitly, this amount is "reasonably related to the benefits provided to the payor of the fee by the Commission's activities."<sup>180</sup> Over the past 6 years, however, these regulatory

fees have increased over 200% and now cover 88.5% of the Commission's operating budget. It is hard to imagine that these increases reflect corresponding increases in Commission services.

These immense sums are not true "fees," but instead are more accurately described as taxes. Ordinarily, administrative fees are distinguishable from taxes in that the payor of fees receives a benefit in return. Conversely, taxes "confer[] no special benefit on the payee," rather, they are "intended to raise general revenue" or are "imposed for some public purpose."<sup>181</sup> At this point, our regulatory fees cover nearly 90% of the FCC's total operating budget. It is difficult to contend that the payors of these fees account for 90% of the FCC's costs. "Fees" should not be used as a back door to impose tax-like obligations on licensees.

My second concern is the assessment of fees upon Comsat for the Intelsat satellite system. This order purports to find Comsat liable for certain of these fees. The order contends that Comsat is liable under the fee category, "space station[s] (per operational station in geosynchronous orbit) (47 CFR Part 25)."<sup>182</sup> Comsat satellites are not, however, and never have been regulated or licensed under Part 25. The majority contends that the parenthetical reference to Part 25 following the fee is "essentially clerical" and "does not reflect a substantive limitation."<sup>183</sup> Needless to say, I am troubled by this characterization, particularly since the other parentheticals do not seem designed to merely "call attention to" certain "relevant" portions of our rules. In fact, other parentheticals regarding this fee category seem quite directive: "per operational station in geosynchronous orbit." I do not believe we possess the authority to interpret away that limitation to impose the fee based on some other calculus. I fear that imposition of the fee on non-part 25 systems leads us down that dangerous road.

The Commission does possess clear authority to amend the Schedule of Regulatory Fees.<sup>184</sup> Congress mandates that in "making such amendments, the Commission shall add, delete or reclassify services in the Schedule to reflect additions, deletions, or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law."<sup>185</sup> However, just as we failed to follow this obligation in the original Comsat "Signatory Fee" proceeding,<sup>186</sup> here too the Commission has not undertaken a proceeding

<sup>181</sup> *Thomas v. Network Solutions*, 2 F.Supp.2d. 22 (D.C. 1998).

<sup>182</sup> See 47 U.S.C. 159(g). Imposition of fees on Comsat has already endured a troubled history. See *Panamsat Corp. v. FCC*, 198 F.3d 890 (D.C. Cir. 1999); *Comsat Corp. v. FCC*, 114 F.3d 223 (D.C. Cir. 1997).

<sup>183</sup> Order at ¶ 22. Indeed, such an interpretation would render the parenthetical "mere surplusage"—contrary to established rules of statutory construction. See *Mail Order Ass'n of America v. USPS*, 986 F.2d 509 (D.C. Cir. 1993).

<sup>184</sup> See *id.* § 159(b)(3).

<sup>185</sup> *Id.*

<sup>186</sup> See *Comsat Corp. v. FCC*, 114 F.3d 223 (D.C. Cir. 1997) (holding that the Commission cannot make an amendment to the fee schedule unless pursuant to a rulemaking or change in the law).

<sup>178</sup> 47 CFR 73.313.

<sup>179</sup> See Public Law 105-277 and 47 U.S.C. 159(a)(2).

<sup>180</sup> 47 U.S.C. § 159(a)(1)(A).

<sup>177</sup> 47 CFR 73.150 and 73.152.



to formally amend the fee schedule based on a "rulemaking proceedings or changes in law."<sup>187</sup> I do not believe we should interpret away such limitations, rather the FCC is obligated to implement the statutory fee schedule as written or formally change it, not merely read purportedly inconvenient limitations out of the statute.<sup>188</sup>

For the foregoing reasons, I respectfully dissent.

#### Rule Changes

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

#### PART 1—PRACTICE AND PROCEDURE

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

2. Section 1.1152 is revised to read as follows:

#### § 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

Exclusive use services (per license)	Fee amount <sup>1</sup>	Address
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR, Part 90):		
(a) New, Renew/Mod (FCC 601 & 159) .....	\$13.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
(c) Renewal (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251-5245.
(d) Renewal (Electronic Filing) (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5245.
220 MHz Nationwide (a) New, Renew/Mod (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
(c) Renewal (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251-5245.
(d) Renewal (Electronic Filing) (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
2. Microwave (47 CFR Pt. 101) (Private):		
(a) New, Renew/Mod (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
(c) Renewal (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251-5245.
(d) Renewal (Electronic Filing) (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
3. 218-219 MHz Service:		
(a) New, Renew/Mod (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
(c) Renewal (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251-5245.
(d) Renewal (Electronic Filing) (FCC 601 & 159) .....	13.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
4. Shared Use Services, Land Mobile (Frequencies Below 470 MHz—except 220 MHz):		
(a) New, Renew/Mod (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
(c) Renewal (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251-5245.
(d) Renewal (Electronic Filing) (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
General Mobile Radio Service:		
(a) New, Renew/Mod (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
(c) Renewal (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251-5245.
(d) Renewal (Electronic Filing) (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
Rural Radio (Part 22):		
(a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
(b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
Marine Coast:		
(a) New Renewal (FCC 503 & 159) .....	7.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) Renewal (FCC 452R & 159) .....	7.00	FCC, P.O. Box 358270, Pittsburgh, PA, 15251-5270.
(c) Renewal (Electronic Filing) (FCC 900 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
Aviation Ground:		
(a) New, Renewal (FCC 406 & 159) .....	7.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) Renewal (FCC 452R & 159) .....	7.00	FCC, P.O. Box 358270, Pittsburgh, PA, 15251-5270.
(c) Renewal (Electronic Filing) (FCC 601 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
Marine Ship:		
(a) New, Renewal (Electronic Filing) (FCC 506 & 159) .....	7.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
Aviation Aircraft:		
(a) New, Renew/Mod (Electronic Filing) (FCC 605 & 159) .....	7.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
(c) Renewal (Electronic Filing) (FCC 605 & 159) .....	7.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251-5245.
(d) Renewal (Electronic Filing) (FCC 605 & 159) .....	7.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
5. Amateur Vanity Call Signs:		
(a) Initial or Renew (Electronic Filing) (FCC 605 & 159) ....	1.40	FCC, P.O. Box 358130, Pittsburgh, PA, 15251-5130.
(b) Initial or Renew (Electronic Filing) (FCC 605 & 159) ....	1.40	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
6. CMRS Mobile Services (per unit) (FCC 159) .....	.30	FCC, P.O. Box 358835, Pittsburgh, PA, 15251-5835.

<sup>187</sup> In light of the longstanding nature of the Comsat service and the existing fee category structure, it is not clear that there has been the

requisite "additions, deletions, or changes in the nature of its services." See 47 U.S.C. 159(b)(3)

<sup>188</sup> The Order's interpretation seems more like a rewrite. See *Indiana Michigan Power Co. v.*

*Department of Energy*, 88 F.3d 1272, 1276 (1996) (Stating that the Department's "treatment of this statute is not an interpretation but a rewrite.")

Exclusive use services (per license)	Fee amount <sup>1</sup>	Address
7. CMRS Messaging Services (per unit) (FCC 159) .....	.04	FCC, P.O. Box 358835, Pittsburgh, PA, 15251-5835.

<sup>1</sup> Note that "small fees" are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table must be multiplied by the 5- 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owed. It should be further noted that application fees may also as detailed in § 1.1102 of this chapter.

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

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

	Fee amount	Address
<b>Radio [AM and FM] (47 CFR, Part 73)</b>		
1. <i>AM Class A:</i>		
<=20,000 population .....	\$400	FCC, Radio.
20,001-50,000 population .....	800	P.O. Box 358835.
50,001-125,000 population .....	1,325	Pittsburgh, PA.
125,001-400,000 population .....	1,950	15251-5835.
400,001-1,000,000 population .....	2,725	
>1,000,000 population .....	4,375	
2. <i>AM Class B:</i>		
<=20,000 population .....	300	
20,001-50,000 population .....	625	
50,001-125,000 population .....	850	
125,001-400,000 population .....	1,350	
400,001-1,000,000 population .....	2,200	
>1,000,000 population .....	3,575	
3. <i>AM Class C:</i>		
<=20,000 population .....	200	
20,001-50,000 population .....	300	
50,001-125,000 population .....	425	
125,001-400,000 population .....	625	
400,001-1,000,000 population .....	1,200	
>1,000,000 population .....	1,725	
4. <i>AM Class D:</i>		
<=20,000 population .....	250	
20,001-50,000 population .....	425	
50,001-125,000 population .....	650	
125,001-400,000 population .....	775	
400,001-1,000,000 population .....	1,450	
>1,000,000 population .....	2,225	
5. AM Construction Permit .....	250	
6. <i>FM Classes A, B1 and C3:</i>		
<=20,000 population .....	300	
20,001-50,000 population .....	625	
50,001-125,000 population .....	850	
125,001-400,000 population .....	1,350	
400,001-1,000,000 population .....	2,200	
>1,000,000 population .....	3,575	
7. <i>FM Classes B, C, C1 and C2:</i>		
<=20,000 population .....	400	
20,001-50,000 population .....	800	
50,001-125,000 population .....	1,325	
125,001-400,000 population .....	1,950	
400,001-1,000,000 population .....	2,725	
>1,000,000 population .....	4,375	
8. FM Construction Permits .....	755	
<b>TV (47 CFR, Part 73) VHF Commercial</b>		
1. Markets 1 thru 10 .....	39,950	FCC, TV Branch.
2. Markets 11 thru 25 .....	33,275	P.O. Box 358835.
3. Markets 26 thru 50 .....	22,750	Pittsburgh, PA.
4. Markets 51 thru 100 .....	12,750	15251-5835.
5. Remaining Markets .....	3,300	
6. Construction Permits .....	2,700	
<b>UHF Commercial</b>		
1. Markets 1 thru 10 .....	15,075	FCC, UHF Commercial.
2. Markets 11 thru 25 .....	11,425	P.O. Box 358835.
3. Markets 26 thru 50 .....	7,075	Pittsburgh, PA.
4. Markets 51 thru 100 .....	4,225	15251-5835.
5. Remaining Markets .....	1,150	
6. Construction Permits .....	2,800	
<b>Satellite UHF/VHF Commercial</b>		
1. All Markets .....	1,250	FCC Satellite TV.
2. Construction Permits .....	445	P.O. Box 358835, Pittsburgh, PA, 15251-5835.
Low Power TV, TV/FM Translator, & TV/FM Booster (47 CFR Part 74).	280	FCC, Low Power, P.O. Box 358835, Pittsburgh, PA, 15251-5835.

	Fee amount	Address
Broadcast Auxiliary Markets .....	12	FCC, Auxiliary, P.O. Box 358835, Pittsburgh, PA, 15251-5835.
Multipoint Distribution .....	275	FCC, Multipoint, P.O. Box 358835, Pittsburgh, PA, 15251-5835.

4. Section 1.1154 is revised to read as follows:

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

	Fee amount	Address
Radio Facilities:		
1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159).	\$13	FCC, P.O. Box 358994, Pittsburgh, PA, 15251-5994.
Carriers:		
1. Interstate Telephone Service Providers (per dollar contributed to TRS Fund).	.00117	FCC, Carriers, P.O. Box 358835, Pittsburgh, PA, 15251-5835.

5. Section 1.1155 is revised to read as follows:

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

	Fee amount	Address
1. Cable Antenna Relay Service .....	\$53	FCC, Cable, P.O. Box 358835, Pittsburgh, PA, 15251-5835.
2. Cable TV System (per subscriber) .....	.47	

6. Section 1.1156 is revised to read as follows:

**§ 1.1156 Schedule of regulatory fees and filing locations for international services.**

	Fee amount	Address
Radio Facilities:		
1. International (HF) Broadcast .....	\$505	FCC, International, P.O. Box 358835, Pittsburgh, PA, 15251-5835.
2. International Public Fixed .....	395	FCC, International, P.O. Box 358835, Pittsburgh, PA, 15251-5835.
Space Stations:		
(Geostationary Orbit) .....	94,650	FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA, 15251-5835.
(Non-Geostationary Orbit) .....	175,250	FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA, 15251-5835.
Earth Stations:		
Transmit/Receive & Transmit Only (per authorization or registration).	175	FCC, Earth Station, P.O. Box 358835, Pittsburgh, PA, 15251-5835.
Carriers:		
1. International Bearer Circuits (per active 64KB circuit or equivalent).	7.00	FCC, International, P.O. Box 358835, Pittsburgh, PA, 15251-5835.

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