

## EPA—APPROVED VERMONT SOURCE SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State effective date	EPA Approval date	Explanations
Okemo Limited Liability Company Operating Permit RACT provisions.	AOP-04-029	2/26/2006	7/19/2011 [Insert <b>Federal Register</b> page number where the document begins].	Only these sections were submitted by VT and approved into the SIP: Construction and Equipment Specifications (2), Operational Limitations (5) through (7) and (9) through (11), Emission Limitations (14) through (16), Compliance Testing and Monitoring (23) and (24), and Recordkeeping and Reporting (25), (26), (31), and (32).
H.B.H Prestain, Inc. Operating Permit RACT provisions.	AOP-03-009	2/06/2008	7/19/2011 [Insert <b>Federal Register</b> page number where the document begins].	Only these sections were submitted by VT and conditionally approved into the SIP: Emission Limitations (4) through (8) and (13), and Recordkeeping and Reporting (16) through (18).

(e) Nonregulatory

## VERMONT NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA Approved date	Explanations
* Reasonably Available Control Technology State Implementation Plan (SIP)/certification for the 1997 8-hour Ozone National Ambient Air Quality Standard.	* Statewide .....	* Submitted 11/14/2008.	* 7/19/2011 [Insert <b>Federal Register</b> page number where the document begins].	*
SIP narrative associated with 5-253.16 wood furniture manufacturing regulation.	Statewide .....	Submitted 11/22/2006.	7/19/2011 [Insert <b>Federal Register</b> page number where the document begins].	

[FR Doc. 2011-17875 Filed 7-18-11; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 43 and 63**

[IB Docket No. 04-112; FCC 11-76]

**Reporting Requirements for U.S. Providers of International Telecommunications Services****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) concludes that it should eliminate outdated and unnecessary reporting requirements related to international telecommunications traffic for which the burdens on U.S. international service providers outweigh the benefits. Specifically, the Commission finds four information collections are no longer necessary and

removes them from its rules: The division of telegraph tolls report; the quarterly large carrier traffic report; the quarterly foreign-affiliated switched resale carrier report; and the circuit-addition report. The Commission also finds that the annual traffic and revenue reports and annual circuit status reports can be simplified by removing the requirement to separately report for off-shore U.S. points.

**DATES:** Effective July 19, 2011.

**FOR FURTHER INFORMATION CONTACT:** John Copes or David Krech, Policy Division, International Bureau, FCC, (202) 418-1460 or via the Internet at [John.Copes@fcc.gov](mailto:John.Copes@fcc.gov) and [David.Krech@fcc.gov](mailto:David.Krech@fcc.gov)

**SUPPLEMENTARY INFORMATION:** This is a summary of the First Report and Order portion of the Commission's First Report and Order and Further Notice of Proposed Rulemaking, IB Docket No. 04-112, FCC 11-76, adopted May 12, 2011, and released May 13, 2011. The full text of the First Report and Order and Further Notice of Proposed Rulemaking is available for inspection

and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The document also is available for download over the Internet at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2011/db0513/FCC-11-76A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db0513/FCC-11-76A1.pdf). The complete text also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), located in Room CY-B402, 445 12th Street, SW., Washington, DC 20554. Customers may contact BCPI at its Web site: <http://www.bcpweb.com> or call 1-800-378-3160.

**Summary of First Report and Order**

1. In the First Report and Order and Further Notice of Proposed Rulemaking, the Federal Communications Commission (Commission) continues its comprehensive review of the international reporting requirements for U.S. providers of international telecommunications services. In the First Report and Order portion of the document, the Commission finds that there are several reporting requirements that it can eliminate at this time. The

Commission concludes that it no longer needs quarterly traffic and revenue filings or quarterly circuit addition reports. The Commission also finds carriers no longer need to file separately for off-shore U.S. points. In addition, the Commission finds that the toll division reports are out-dated and no longer need to be filed. The Commission concludes, however, that carriers should continue to file annual international traffic and revenue data and international circuit data in order to protect the interests of U.S. consumers and U.S. international service providers, and to facilitate the transition to competition in international markets. This includes certain route-specific data from facilities-based carriers, because the Commission needs route-by-route traffic and revenue information to implement and enforce pro-competitive international policies. The Commission also needs international resale traffic and revenue data on a world-wide basis since most international calls are initiated with a resale carrier. In the Further Notice of Proposed Rulemaking (FNPRM), which is published elsewhere in this issue, the Commission proposes a number of ways to modernize the information that it collects and to make the reporting requirements more tailored to the Commission's needs.

2. *Elimination of the Quarterly Large-Carrier Reports (47 CFR 43.61(b))*. The Commission's rules currently require facilities-based and facilities-resale carriers to file a quarterly traffic and revenue report for any quarter in which such carrier's traffic exceeds one of four thresholds specified in 47 CFR 43.61(b). The Commission adopted this reporting requirement as a way to detect "one-way bypass" that might result from international simple resale arrangements. In the Notice of Proposed Rulemaking (NPRM), 69 FR 29676, May 25, 2004, the Commission sought comment on whether the application of the Quarterly Large-Carrier Reports continues to be necessary. All those filing comments in response to the NPRM support elimination of the reports. The Commission agrees that the Quarterly Large-Carrier Reports are no longer needed to detect market distortions. The Commission notes that in practice, sudden changes in international traffic flows are not necessarily related to one-way bypass or other anti-competitive causes. Moreover, the Commission found that the quarterly traffic information filed by the carriers has often been subject to substantial revision and thus has been unreliable as an indicator of changes in traffic ratios. The Commission therefore

concludes that requiring carriers to continue to file quarterly traffic reports will serve no useful purpose. Instead, the Commission finds that it will be sufficient to rely on annual traffic and revenue data regarding settlement payments and minutes, as well as on complaints by U.S. carriers, to detect and remedy anti-competitive activity by foreign carriers, including one-way bypass.

3. *Elimination of the Quarterly Foreign-Affiliated Switched Resale Carrier Reports (47 CFR 43.61(c))*. U.S.-authorized providers of international message telephone service (IMTS) resale that are affiliated with a foreign carrier are required to file quarterly traffic and revenue reports on their affiliated routes if they: (1) Have sufficient market power at the foreign end of an international route to affect competition adversely in the U.S. market, and (2) collect settlement payments from U.S. carriers for traffic affiliated in its home market. 47 CFR 43.61(c). The quarterly traffic and revenue report arose out of carrier concerns that overseas incumbent or monopoly telecommunications providers might use their market power to favor their affiliates that operate as carriers in the U.S. market. The report was intended to provide the Commission an early warning of attempts by incumbent carriers to engage in "price squeeze" behavior. In the NPRM, the Commission sought comment whether the continued application of the Quarterly Foreign-Affiliated Switched Resale Carrier Reports is necessary at this time. The commenters disagreed on the continued need for this reporting requirement. The Commission, however, has not received any complaints from U.S. carriers alleging such predatory behavior; nor have the reports revealed any such behavior. Furthermore, the 47 CFR 43.61(c) quarterly report is not the only way the Commission can address concerns that the settlement rates on a particular route remain above cost. The Commission finds that annual traffic and revenue filings provide sufficient information and thus the filing of the Quarterly Foreign-Affiliated Switched Resale Carrier Reports is no longer necessary.

4. *Elimination of the Circuit-Addition Report (47 CFR 63.23(e))*. Carriers that have been certified as resellers of private lines are required to report, by March 31 of the following year, the number of circuits they added during the year and to identify the services for which the circuits were used. 47 CFR 63.23(e). In the NPRM, the Commission proposed to eliminate the circuit-addition report. The only commenter to

address this issue supports elimination of the report. Because the facilities-based carriers from which private line resellers purchase international circuits report those circuits on their circuit-status report, the Commission has a record that the circuits are being used. As a result, the Commission finds that the information from the annual circuit-addition reports does not justify the continuing burden of the reporting requirement.

5. *Elimination of the Division of Telegraph Tolls Report (47 CFR 43.53)*. Telegraph carriers are required file copies of all their agreements with foreign carriers governing the division of tolls for international telegraph traffic. 47 CFR 43.53. In the NPRM, the Commission proposed to eliminate this filing requirement. The Commission agrees with the commenters that the decline in the telegraph industry has made these reports unnecessary. The volume of telegraph traffic has declined sharply over the years as telegraph service has largely been replaced by other means of communication, and this reporting requirement no longer serves a useful purpose.

6. *Annual Traffic and Revenue Reports*. The Commission shall continue to require carriers to file the annual traffic and revenue reports, albeit on a streamlined basis. The Commission finds that route-specific traffic and revenue data from the annual reports provides it with information that it needs to develop and implement policies to facilitate the continuing transition to competition in international markets, to monitor compliance with rules and policies, to gauge the effect of its decisions on competition in the international market, and for policy discussions in bilateral meetings and multilateral forums and for Commission participation in international organizations. The collection of aggregate world-total data would not be an adequate substitute for route-specific data, as it will not provide the specific data that the Commission needs to perform its functions. The Commission also finds that it cannot fully understand the IMTS market without information about IMTS resale. The Commission concludes that it needs to obtain international traffic and revenue data information directly from the international service providers because there are no other reliable sources of information on international traffic and revenue that will give it the full range of information that the Commission needs. Therefore the Commission shall retain the annual international traffic and revenue reporting requirements. Facilities-based

providers of IMTS and private line services will continue to file traffic and revenue data for each international route on which they provide service. Carriers providing IMTS resale services will continue to file traffic and revenue data on a world total basis. The Commission, however, has sought comment on proposals to streamline these filing requirements in the FNPRM portion of the document, which is discussed in a separate **Federal Register** summary.

7. *Annual Circuit-Status Reports.* The Commission shall continue to require carriers to file the annual circuit-status reports, albeit on a streamlined basis. The Commission finds that information on international circuits continues to be essential for it to fulfill its mission and that there is no other source for this information. The Commission uses this data to monitor the continuing transition of international routes to competition, to monitor compliance with Commission rules and policies, to gauge the effect of Commission decisions on competition in the international market and to develop policy positions for bilateral and multilateral negotiations and for Commission participation in international organizations. The Commission also uses circuit-status information to ensure that carriers with market power do not use their access to circuit capacity to engage in any anti-competitive behavior, to analyze merger applications, to determine whether a proposed merger might result in an anti-competitive concentration of market power in the international transport market, and to help monitor compliance with the international bearer circuit regulatory fees established in section 9 of the Communications Act, 47 U.S.C. 159. Therefore, the Commission retains the requirement for facilities-based carriers to file international circuit data for each international route on which they provide service. The Commission, however, has sought comment on proposals to streamline these filing requirements in the FNPRM portion of the document, published elsewhere in this issue.

8. *Elimination of the Requirement to Report Separately Traffic for Off-Shore U.S. Points.* The Commission eliminates the requirement to report separately for off-shore U.S. points for the annual traffic and revenue reports and circuit-status reports. In the NPRM, the Commission proposed to eliminate the requirement that carriers file data for traffic or circuits between a U.S. domestic point and an off-shore U.S. point or between off-shore U.S. points. Several commenters support the

proposal, and two commenters argue that the Commission should go further and eliminate disaggregate reports by U.S. points entirely. Because the Commission has not found disaggregate reporting by U.S. points to be of substantial benefit, it cannot justify the additional burden that disaggregate reporting requirements impose on filing carriers. It therefore eliminates all distinctions between domestic and off-shore U.S. points and requires carriers to file a single traffic and revenue report aggregating traffic and revenue data for all U.S. points and a single circuit-status report aggregating circuit data for all for U.S. points. The Commission will therefore no longer require separate reporting for off-shore U.S. points. Carriers should combine the traffic and revenue data and circuit data for the off-shore U.S. points with the data for domestic U.S. points when filing. Carriers thus will only report traffic and revenue data and circuits status for calls and circuits between the “United States” and foreign points. The “United States” shall be defined as the “several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone”—the definition in the Communications Act, 47 U.S.C. 153(58).

#### **Paperwork Reduction Act of 1995 Analysis**

9. This First Report and Order adopts new or revised information collection requirements, subject to the Paperwork Reduction Act of 1995 (PRA). These information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. The Commission will publish a separate document in the **Federal Register** inviting comment on the new or revised information collection requirements adopted in this document. The requirements will not go into effect until OMB has approved them and the Commission has published a notice announcing the effective date of the information collection requirements. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

#### **Final Regulatory Flexibility Analysis**

10. As required by the Regulatory Flexibility Act, as amended (RFA), the Federal Communications Commission (Commission) included an Initial

Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM) in this proceeding. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) addresses the policies and rules that the Commission adopted in the First Report and Order portion of the decision in this proceeding. This First Report and Order retains the annual traffic and revenue report and the annual circuit-status report. The First Report and Order adopts some measures, as described below, to simplify compliance with the reporting requirements but generally does not alter either report. The Commission will consider a number of proposals to streamline the reports and to improve the information that carriers will provide in the Further Notice of Proposed Rulemaking portion of this proceeding. This FRFA conforms to the RFA.

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

11. The Commission initiated this comprehensive review of the reporting requirements imposed on U.S. carriers providing international telecommunications services under 47 CFR 43.51, 43.61, 43.82, and 63.23(e) of the Commission’s rules, to modernize and simplify those requirements. The Commission believes that the policies and rules adopted in the First Report and Order will improve the data filing entities report while making it easier for carriers, both small and large, to provide the information required by the rules.

12. In the First Report and Order, the Commission concluded that it continues to need the traffic and revenue information the carriers now file under 47 CFR 43.61(a) of the rules and the circuit information the carriers file under 47 CFR 43.82. The Commission further concluded in the First Report and Order that it no longer needs the information provided by the large carrier quarterly reports required by 47 CFR 43.61(b), the foreign carrier affiliate quarterly report required by 47 CFR 43.61(c), the circuit-addition report required in 47 CFR 63.23(e), or the telegraph division-of-tolls report required by 47 CFR 43.53.

13. Currently, 47 CFR 43.61 requires that all international telecommunications carriers file an annual report of their traffic and revenues. Under 47 CFR 43.82, facilities-based common carriers

providing international telecommunications services must file an annual report on the status of their circuits. The information derived from the international revenue and traffic report and circuit-status report is critical in understanding the international telecommunications market. These reports are the only source of publicly available information of this nature.

14. The information obtained from the traffic and revenue and circuit-status reports is used extensively by the Commission, the industry, other government agencies, and the public. The Commission uses the information to evaluate applications for international facilities, track market developments and the competitiveness of each service and geographical market to formulate rules and policies consistent with the public interest, monitor compliance with those rules and policies, and guard the competitive effect of its decisions on the market. Carriers use the information to track the balance of payments in international communications services and for market analysis purposes. Carriers and potential entrants use the information for, among other things, assessment of market opportunities and to monitor competition in markets. The Commission, along with other government agencies such as the Department of Justice and the United States Trade Representative, use the information in merger analyses and negotiations with foreign countries, respectively. In addition, the information contained in the circuit-status report allows the Commission to comply with the statutory requirements of the Omnibus Budget Reconciliation Act of 1993.

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

15. No comments specifically addressed the IRFA.

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

16. 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 rules adopted herein.<sup>1</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>2</sup> In addition, the term “small business” has the same meaning as the term “small business concern”

under the Small Business Act.<sup>3</sup> A small business concern is one that: (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>4</sup>

17. The policies adopted in the FR&O apply to entities providing international common carrier services pursuant to section 214 of the Communications Act; entities providing international wireless common carrier services under section 309 of the Act; entities providing common carrier satellite services under section 309 of the Act; and entities licensed to construct and operate submarine cables under the Cable Landing License Act. The Commission has not developed a small business size standard directed specifically toward these entities. As described below, such entities fit within larger categories for which the SBA has developed size standards.

#### *1. Traffic and Revenue Report*

18. The First Report and Order retains the annual traffic and revenue report, which common carriers providing international telecommunications services are now required to file. Such entities include entities providing international common carrier services pursuant to section 214 of the Communications Act and entities providing domestic or international wireless common carrier services under section 309 of the Act. The carriers that the First Report and Order will require to continue to file the traffic and revenue report are a mixture of both large and small entities. The Commission has not developed a small business size standard directed specifically toward these entities. However, as described below, these entities fit into larger categories for which the SBA has developed size standards that provide these facilities or services.

#### *19. Facilities-based Carriers.*

Facilities-based providers of international telecommunications services would fall into the larger category of interexchange carriers. Neither the Commission nor the SBA has developed a small business size

standard specifically for providers of interexchange services. Under SBA rules, providers of interexchange services fall within the size standard category for Wired Telecommunications Carriers. Under that size standard, a Wired Telecommunications Carrier is considered a small entity if it has 1,500 or fewer employees.<sup>5</sup> Census Bureau data for 2007 show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these interexchange carriers can be considered small entities.<sup>6</sup> Similarly, according to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.<sup>7</sup> Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.<sup>8</sup> Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the First Report and Order.

20. In the 2009 annual traffic and revenue report, 38 facilities-based and facilities-resale carriers reported approximately \$5.8 billion in revenues from international message telephone service (IMTS). Of these, three reported IMTS revenues of more than \$1 billion, eight reported IMTS revenues of more than \$100 million, 10 reported IMTS revenues of more than \$50 million, 20 reported IMTS revenues of more than \$10 million, 25 reported IMTS revenues of more than \$5 million, and 30 reported IMTS revenues of more than \$1 million. Based solely on their IMTS revenues, the majority of these carriers would be considered non-small entities under the SBA definition.<sup>9</sup>

21. The 2009 traffic and revenue report also shows that 45 facilities-based and facilities-resale carriers (including 14 who also reported IMTS revenues) reported \$683 million for international

<sup>5</sup> 13 CFR 121.201, NAICS code 517110.

<sup>6</sup> U.S. Census Bureau, *American FactFinder*, 2007 Economic Census, <http://factfinder.census.gov>, (find “Economic Census” and choose “get data.” Then, under “Economic Census data sets by sector \* \* \*,” choose “Information.” Under “Subject Series,” choose “EC0751SSSZ5: Employment Size of Firms for the US: 2007.” Click “Next” and find data related to NAICS code 517110 in the left column for “Wired telecommunications carriers”) (last visited March 2, 2011).

<sup>7</sup> See Trends in Telephone Service at Table 5.3.

<sup>8</sup> See id.

<sup>9</sup> See 13 CFR 121.201, NAICS Code at Subsector 517—Telecommunications.

<sup>1</sup> 5 U.S.C. 603(b)(3).

<sup>2</sup> 5 U.S.C. 601(6).

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

<sup>4</sup> 15 U.S.C. 632.

private line services. Of these, four reported private line revenues of more than \$50 million, 12 reported private line revenues of more than \$10 million, 30 reported revenues of more than \$1 million, 34 reported private line revenues of more than \$500,000, 41 reported revenues of more than \$100,000, while 2 reported revenues of less than \$10,000.

22. The 2009 traffic and revenue report also shows that seven carriers (including one that reported both IMTS and private line revenues, one that reported IMTS revenues and three that reported private line revenues) reported \$51 million for international miscellaneous services, of which two reported miscellaneous services revenues of more than \$1 million, one reported revenues of more than \$500,000, two reported revenues of more than \$200,000, one reported revenues of more than \$50,000, while one reported revenues of less than \$20,000. Based on its miscellaneous services revenue, only the carrier with revenues of less than \$20,000 would be considered a small business under the SBA definition. Based on their private line revenues, most of these entities would be considered non-small entities under the SBA definition.

23. *IMTS Resale Carriers.* Providers of IMTS resale services are common carriers that purchase IMTS from other carriers and resell it to their own customers. The SBA has developed a small business size standard for the category of "Telecommunications Resellers." Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>10</sup> Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees and one operated with more than 1,000.<sup>11</sup> Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. Similarly, in the 2009 traffic and revenue report, 1,232 carriers reported that they provided IMTS on a pure resale basis.<sup>12</sup> Based on their IMTS

resale revenues, Commission data reveals that IMTS resale service is primarily provided by carriers that would be considered small businesses under the SBA definition. For example, of the 1,232 IMTS resale carriers, 644 carriers reported revenues of less than \$10,000; 1,025 had revenues less than \$500,000; and 1,068 had revenues less than \$1 million.<sup>13</sup> Consequently, the Commission estimates that the majority of IMTS resellers are small entities that may be affected by our action.

24. *Wireless Carriers and Service Providers.* Included among the providers of IMTS resale are a number of wireless carriers that also provide wireless telephony services domestically. The Commission classifies these entities as providers of Commercial Mobile Radio Services (CMRS). At present, most, if not all, providers of CMRS that offer IMTS provide such service by purchasing IMTS from other carriers to resell it to their customers. The Commission has not developed a size standard specifically for CMRS providers that offer resale IMTS. Such entities would fall within the larger category of wireless carriers and service providers. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

25. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category.<sup>14</sup> Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless Telecommunications.<sup>15</sup> Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer

employees.<sup>16</sup> For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007 show that there were 1,383 firms that operated that year.<sup>17</sup> Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services.<sup>18</sup> Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.<sup>19</sup> Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

26. *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.<sup>20</sup> The SBA has approved these definitions.<sup>21</sup> The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities,

<sup>10</sup> 13 CFR 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 CFR citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

<sup>17</sup> U.S. Census Bureau, *American FactFinder, 2007 Economic Census*, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector \* \* \*" choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517210 in the left column for "Wireless Telecommunications Carriers (except Satellite)") (last visited March 2, 2011).

<sup>18</sup> See Trends in Telephone Service at Table 5.3.  
<sup>19</sup> See *id.*

<sup>20</sup> *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service*, GN Docket No. 96-228, Report and Order, 12 FCC Rcd 10785, 10879, para. 194 (1997).

<sup>21</sup> See Letter from Aida Alvarez, Administrator, SBA, to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC (filed Dec. 2, 1998).

<sup>10</sup> 13 CFR 121.201, NAICS code 517911.

<sup>11</sup> U.S. Census Bureau, *American FactFinder, 2007 Economic Census*, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector \* \* \*" choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517911 in the left column for "Telecommunications Resellers") (last visited March 2, 2011).

<sup>12</sup> See FCC, International Bureau, Strategic Analysis and Negotiations Division, "2009 International Telecommunications Data" at page 1-2, Statistical Findings, and Table D at page

22 (April 2011). FCC website location <http://www.fcc.gov/ib/sand/mniab/traffic/>.

<sup>13</sup> *Id.*

<sup>14</sup> U.S. Census Bureau, 2007 NAICS Definitions: Wireless Telecommunications Categories (except Satellite), <http://www.census.gov/naics/2007/def/ND517210.HTM> (last visited March 2, 2011).

<sup>15</sup> U.S. Census Bureau, 2002 NAICS Definitions: Paging, <http://www.census.gov/epcd/naics02/def/NDF517.HTM> (last visited March 2, 2011); U.S. Census Bureau, 2002 NAICS Definitions: Other Wireless Telecommunications, <http://www.census.gov/epcd/naics02/def/NDF517.HTM> (last visited March 2, 2011).

and one bidder won one license that qualified as a small business entity.

## 2. Circuit-Status Report

27. The First Report and Order continues to require common carriers that provide international telecommunications services on a facilities basis to file the annual circuit-status report. The Commission has not developed size standards specifically addressed to such carriers, but they fall within larger categories for which the SBA has developed size standards.

28. *Facilities-based Carriers.* Facilities-based providers of international telecommunications services fall into the larger category of interexchange carriers. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>22</sup> Census Bureau data for 2007 show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these interexchange carriers can be considered small entities.<sup>23</sup> According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.<sup>24</sup> Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.<sup>25</sup> Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted in the First Report and Order.

29. According to the 2009 circuit-status report, 75 U.S. international facility-based carriers filed information pursuant to 47 CFR 43.82.<sup>26</sup> The report

does not report employee or revenue statistics, so it is impossible for us to determine how many carriers could be considered small entities. Each of the 75 carriers, however, reported a small amount of capacity. Although it is possible that a carrier could report a small amount of capacity and have significant revenues, we will consider those 75 carriers to be small entities at this time. In addition, of the 79 carriers that filed an annual circuit-status report for 2009, there were at least four carriers that reported no circuits owned or in use at the end of 2009.<sup>27</sup>

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

30. The First Report and Order retains the annual traffic and revenue report and the annual circuit-status report because the collection and public reporting of this information continues to be necessary and in the public interest. Because carriers currently are required to file the 47 CFR 43.61 annual traffic and revenue report and the 47 CFR 43.82 annual circuit-status report, the decision to retain those reports will not impose an additional significant economic burden on small carriers. Similarly, the decision to retain the reporting of IMTS and international private lines on a route-by-route basis continues the requirement found in 47 CFR 43.61, and therefore will not impose any significant additional burden on small carriers.

31. The decision in the First Report and Order to no longer require carriers to report separately their traffic and revenues for traffic between the conterminous 48 states and off-shore U.S. points will reduce the burden on carriers large and small. The First Report and Order recognizes that the Commission has integrated rates for off-shore U.S. points into the domestic rate structure. As a result, such traffic is no longer considered to be international and, thus, need not be reported in an international traffic and revenue report. Similarly, the First Report and Order no longer requires carriers to separately report their international traffic to or from such off-shore points from or to foreign points. Rather, the Commission concluded that such traffic should be combined with the carriers' traffic and revenues to and from the conterminous 48 states. As a result, this decision will also not impose any significant additional burden on small carriers.

International Carriers; Capacity Use Shows Modest Growth, rel. Dec. 21, 2010. The report is available on the FCC website at <http://www.fcc.gov/ib/pd/pf/csmannual.html>.

<sup>27</sup> *Id.*

32. The Commission's decision to eliminate the current Large-Carrier Quarterly Report in 47 CFR 43.61(b) will reduce the burden on those large carriers that are now required to file the report. Because the quarterly reporting requirement was limited to large, dominant facilities-based and facilities-resale international carriers, the elimination of the report has no impact on small carriers. Similarly, the decision in the FR&O to eliminate the Foreign-Affiliated Carrier Quarterly Report in 47 CFR 43.61(c) will reduce the burden on the mostly, if not exclusively, large, dominant U.S. carriers that are now required to file the report. The current reporting requirement applies to U.S.-authorized providers of IMTS resale that are affiliated with a foreign telecommunications provider that (1) has sufficient market power in its home market that it could distort competition in the U.S. market and (2) collects money from U.S. carriers for traffic between the United States and its home market.

33. The Commission's decision to eliminate the circuit-addition report under 47 CFR 63.23(e) and the telegraph division of tolls report under 47 CFR 43.51 will reduce the burden on large and small carriers. As such, it will not impose any significant additional burdens on small businesses.

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

34. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage or the rule, or any part thereof, for small entities."<sup>28</sup>

35. The First Report and Order retains the 47 CFR 43.61(a) traffic and revenue and the 47 CFR 43.82 annual circuit-status reports. That decision does not increase the burden of the reporting requirement on either small or large carriers. Further, the Commission's decision to eliminate the requirement that carriers report separately their traffic between the conterminous 48

<sup>22</sup> 13 CFR 121.201, NAICS code 517110.

<sup>23</sup> U.S. Census Bureau, *American FactFinder*, 2007 Economic Census, <http://factfinder.census.gov>, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector \* \* \*," choose "Information." Under "Subject Series," choose "EC0751SSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517110 in the left column for "Wired telecommunications carriers") (last visited March 2, 2011).

<sup>24</sup> See Trends in Telephone Service at Table 5.3.

<sup>25</sup> See *id.*

<sup>26</sup> See International Bureau Releases 2009 Year-End Circuit Status Report for U.S. Facilities-Based

<sup>28</sup> 5 U.S.C. 603(c)(1)-(c)(4).

states and U.S. off-shore points or report separately the traffic between U.S. off-shore points and foreign points will reduce the burden of the annual traffic and revenue report and the circuit-status reports for both large and small carriers. Further, the decision to eliminate the large-carrier report under 47 CFR 43.61(b), the foreign-affiliated-carrier quarterly reports under 47 CFR 43.61(c), the circuit-addition report under 47 CFR 63.23(e), and the telegraph division-of-tolls report under 47 CFR 43.51 will also reduce the burden of the international reporting requirements on both large and small carriers. As such, we believe that the policies adopted in the First Report and Order will not significantly increase any burdens on small carriers. Because this First Report and Order does not adopt additional regulations for service providers, the Commission does not need to consider any alternative approaches that would minimize the economic impact of the reporting requirements on small businesses.

#### Report to Congress

36. The Commission will send a copy of this First Report and Order and Further Notice of Proposed Rulemaking, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act.<sup>29</sup> In addition, the Commission will send a copy of the First Report and Order and Further Notice of Proposed Rulemaking, including a copy of this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the First Report and Order and Further Notice of Proposed Rulemaking and FRFA (or summaries thereof) will also be published in the **Federal Register**.<sup>30</sup>

#### Ordering Clauses

37. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i)–4(j), 11, 201–205, 211, 214, 219, 220, 303(r), 309 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–154(j), 161, 201–205, 211, 214, 219–220, 303(r), 309, 403, the policies, rules and requirements discussed in this Report and Order *are adopted* and Parts 43 and 63 of the Commission's rules, 47 CFR parts 43 and 63 *are amended* as set forth below.

38. *It is further ordered* that the Motion for Leave to File Reply Comments One Day Late filed by Kelley Drye & Warren LLP *is granted*.

39. *It is further ordered* that the Commission's Consumer and

Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

40. *It is further ordered* that the Commission *shall send* a copy of this First Report and Order in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 43 and 63

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

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

#### Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 43 and 63 as follows:

#### PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS, PROVIDERS OF INTERNATIONAL INTERCONNECTED VOICE OVER INTERNET PROTOCOL SERVICES AND CERTAIN AFFILIATES

■ 1. The authority citation for part 43 continues to read as follows:

**Authority:** 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104–104, sec. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

#### § 43.53 [Removed]

■ 2. Remove § 43.53.

■ 3. Section 43.61 is amended by revising paragraph (a) introductory text, removing and reserving paragraph (b), and removing paragraph (c).

The revision reads as follows:

#### § 43.61 Reports of international telecommunications traffic.

(a) Each common carrier engaged in providing international telecommunications service between the United States (as defined in the Communications Act, as amended, 47 U.S.C. 153) and any country or point outside that area shall file a report with the Commission not later than July 31 of each year for service actually provided in the preceding calendar year.

\* \* \* \* \*

■ 4. § 43.82 is amended by revising paragraph (a) to read as follows:

#### § 43.82 International circuit status reports.

(a) Each facilities-based common carrier engaged in providing international telecommunications service between the United States (as defined in the Communications Act, as amended, 47 U.S.C. 153) and any country or point outside that area shall file a circuit-status report with the Chief, International Bureau, not later than March 31 each year showing the status of its circuits used to provide international services as of December 31 of the preceding calendar year.

\* \* \* \* \*

#### PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 5. The authority citation for part 63 continues to read as follows:

**Authority:** Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

#### § 63.23 [Amended]

■ 6. Section 63.23 is amended by removing paragraph (e) and redesignating paragraph (f) as paragraph (e).

[FR Doc. 2011–18156 Filed 7–18–11; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[FCC 11–73; MM Docket No. 00–148; RM–9939, RM–10198]

#### Radio Broadcasting Services; Oklahoma and Texas

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; application for review.

**SUMMARY:** This document denies the Application for Review filed by Rawhide Radio, LLC, Capstar TX Limited Partnership, Clear Channel Broadcasting Licenses, Inc., and CCB Texas Licenses, L.P. (“Joint Petitioners”) of the dismissal of a second alternative proposal to their Counterproposal in this proceeding because it was technically defective.

<sup>29</sup> See 5 U.S.C. 801(a)(1)(A).

<sup>30</sup> See 5 U.S.C. 604(b).