

Dated: June 5, 2013.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[MD Docket Nos. 12-201, 13-140, 08-65;  
FCC 13-74]

### Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Procedures for Assessment and Collection of Regulatory Fees; and Assessment and Collection of Regulatory Fees for Fiscal Year 2008

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) will revise its Schedule of Regulatory Fees in order to recover an amount of \$339,844,000 that Congress has required the Commission to collect for fiscal year 2013. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees, respectively, for annual “Mandatory Adjustments” and “Permitted Amendments” to the Schedule of Regulatory Fees.

**DATES:** Submit comments on or before June 19, 2013, and reply comments on or before June 26, 2013.

**ADDRESSES:** You may submit comments, identified by MD Docket No. 13-140, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs>. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

- *Email:* [ecfs@fcc.gov](mailto:ecfs@fcc.gov). Include MD Docket No. 13-140 in the subject line of the message.

- *Mail:* Commercial overnight mail (other than U.S. Postal Service Express Mail, and Priority Mail, must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service

first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 13-74, MD Docket No. 13-140, adopted on May 22, 2013 and released May 23, 2013. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Room CY-A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, <http://www.bcpi.com>, or call 1-800-378-3160. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

### I. Procedural Matters

#### A. Ex Parte Rules Permit-But-Disclose Proceeding

1. The *Notice of Proposed Rulemaking (FY 2013 NPRM)* and *Further Notice of Proposed Rulemaking (FNPRM)* shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in

his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

#### B. Comment Filing Procedures

2. *Comments and Replies.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand

deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

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

3. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY-A257, Washington, DC 20554. These documents will also be available free online, via ECFS. Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.

4. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format ("PDF") at: <http://www.fcc.gov>.

### C. Paperwork Reduction Act

5. This *NPRM* and *FNPRM* document solicits possible proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the possible proposed information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

### D. Initial Regulatory Flexibility Analysis

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

### II. Introduction and Executive Summary

7. In the *FY 2013 NPRM* and *FNPRM*, two interrelated proceedings, we seek comment on the collection of regulatory fees in Fiscal Year (FY) 2013 and on proposals to more generally reform the Commission's policies and procedures for assessing and collecting regulatory fees. Specifically, in the *FY 2013 NPRM*, we seek comment on our annual process of assessing regulatory fees to offset the Commission's FY 2013 appropriation, as directed by Congress. We propose several reforms to the process for calculating and collecting the FY 2013 fees. The regulatory fees calculated in response to the *FY 2013 NPRM* will be collected later this year. We also seek comment on more long-range proposals to reform and revise our regulatory fee schedule after FY 2013 (for FY 2014 and beyond) to take into account changes in the communications industry and in the Commission's regulatory processes and staffing in recent years.

8. The *FY 2013 NPRM* seeks comment concerning adoption and implementation of proposals to reallocate regulatory fees to more accurately reflect the subject areas worked on by current Commission full time employees (FTEs)<sup>1</sup> for FY 2013. We seek comment on, among other things, reallocating for purposes of regulatory fee calculations: Direct FTEs working on Interstate Telecommunications Service Providers (ITSPs) and other fee categories to reflect current workloads devoted to these subject areas and FTEs in the International Bureau to more accurately reflect the Commission's regulation and oversight of the International Bureau regulatees. We also seek comment on whether, if these proposals are adopted, we should limit any increase in regulatory fee assessments to industry

<sup>1</sup> One FTE, typically called a "Full Time Equivalent," is a unit of measure equal to the work performed annually by a full time person (working a 40 hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget. Any reference to FTE or "Full Time Employee" used herein refers to such Full Time Equivalent.

segments resulting from such reallocation. In addition, we seek comment generally on whether direct and indirect FTEs should be allocated differently as described below. Further, we seek comment on whether to delay our proposal to reallocate FTEs for regulatory fee purposes and, in the interim, maintain the same allocation percentages from last year for FY 2013.

9. In addition, we seek comment concerning adoption and implementation of proposals for FY 2014 and beyond, which include: (1) Combining ITSPs with wireless telecommunications services into one regulatory fee category and using revenues as the basis for calculating the resulting regulatory fees; (2) using revenues to calculate regulatory fees for other industries that now use subscribers as the basis for regulatory fee calculations, such as the cable industry; (3) consolidating UHF and VHF television stations into one regulatory fee category; (4) proposing a regulatory fee for Internet Protocol TV (IPTV) at the rate of cable fees; (5) alleviating large fluctuations in the fee rate of Multiyear Wireless Services; and (6) determining whether the Commission should modify the methodology in collecting regulatory fees for regulatees in declining industries (*e.g.*, CMRS Messaging). We also clarify that licensees of Digital Low Power, Class A, and TV Translators/Boosters should pay only one regulatory fee on their analog or digital station, but not on both. As required by Treasury and Office of Management and Budget (OMB) initiatives, we also announce and seek comment on our proposal to require that all regulatory fee payments be made electronically beginning in FY 2014. Finally, we state that beginning in FY 2014 the Commission will no longer mail out initial regulatory fee assessments to CMRS licensees, and we propose to transfer unpaid regulatory fees for collection by the Department of the Treasury at the end of the payment period (instead of waiting 180 days) beginning in FY 2014.

10. The attached *FNPRM* seeks comment on the treatment of non-U.S.-Licensed Space Stations; Direct Broadcast Satellites; and other services, such as broadband, in our regulatory fee process. We invite comment on these topics to better inform the Commission on whether and/or how these services should be assessed under our regulatory fee methodology in future years.

11. We propose to collect \$339,844,000 in regulatory fees for Fiscal Year (FY) 2013, pursuant to Section 9 of the Communications Act of 1934, as amended (the Act or

Communications Act) and the FY 2013 Continuing Appropriations Resolution. Section 9 regulatory fees are mandated by Congress and collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities.<sup>2</sup> Further, as provided by section 9(a)(2), the amount of regulatory fees to be collected is established each year by Congress,<sup>3</sup> which directs the Commission to use the fees to offset its entire appropriation. For FY 2013, the sequester effectuated by the Budget Control Act of 2011<sup>4</sup> reduces the agency's permitted FY 2013 salary and expenses expenditures by \$17M to \$322,844,000. However, that Act does not alter the congressional directive set out in the FY 2012 appropriation<sup>5</sup> (and continued in effect in FY 2013 by virtue of the Further Continuing Appropriations Act, 2013) to collect \$339,844,000 in regulatory fees.<sup>6</sup>

### III. Background

12. We began this regulatory fee reform analysis in the *Fiscal Year (FY) 2008 Further Notice of Proposed Rulemaking*.<sup>7</sup> In 2012, a report on the Commission's regulatory fee program issued by the Government Accountability Office (GAO Report) provided further support for a more fundamental reevaluation of how to align regulatory fees more closely with regulatory costs.<sup>8</sup> In our *FY 2012 NPRM* proposing basic changes to the current fee assessment process, we incorporated the GAO Report into the record and sought comment on it.<sup>9</sup> To encourage a

more robust discussion of the record in this docket, the Commission invited all the parties who filed comments to the *FY 2012 NPRM* to further discuss their comments and any other regulatory fee reform issues they wished to raise with Commission staff. Staff has met with commenters representing the wireline, wireless, broadcast, cable, satellite, and submarine cable industries. Their additional comments have been summarized in ex parte filings and placed in the record of the proceeding in compliance with the Commission's rules.<sup>10</sup> To facilitate a more robust record to better inform the Commission as it contemplates further reform of our regulatory fee policies and procedures for FY 2013 and beyond, we seek comment not only on the issues raised herein, but also on the concerns and comments raised by the GAO Report, the issues presented and comments filed in response to the *FY 2012 NPRM* and any issues raised in ex parte filings by industry representatives. We anticipate that in the Report and Order we will adopt certain proposals discussed herein for FY 2013 and other proposals for implementation in FY 2014 and beyond.

### IV. Notice of Proposed Rulemaking

#### A. Regulatory Fee Allocation Process and Need for Reform.

13. Each year the Commission derives the fees that Congress requires it to collect "by determining the full-time equivalent number of employees performing" these activities "adjusted to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission's activities . . . ." <sup>11</sup> To calculate regulatory fees, the Commission allocates the total amount to be collected, among the various regulatory fee categories. Each regulatee within a fee category must pay its proportionate share based on an objective measure, e.g., revenues, subscribers, or licenses. The first step, allocating fees to fee categories, is based on the Commission's calculation of the number of FTEs devoted to each regulatory fee category. FTEs are categorized as either "direct" or "indirect." An FTE is considered "direct" if the employee is in one of the

core bureaus, i.e., the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, or International Bureau.<sup>12</sup> If an employee is not assigned to one of those four bureaus, that employee is considered an "indirect" FTE.<sup>13</sup> Thus, the total FTEs for each fee category includes the direct FTEs associated with that category (i.e., the FTEs in the bureau associated with that category), plus a proportional allocation of the indirect FTEs. This preliminary allocation has been based on the concept that the FTEs in each of those four bureaus perform activities related to the service providers regulated by those bureaus.

14. The current allocations of direct and indirect FTEs are taken from FTE data compiled in FY 1998.<sup>14</sup> A comparison of current FTE numbers in the various bureaus to their respective share of the overall regulatory fee burden illustrates the need to reexamine the FTE data used. For example, the International Bureau currently employs 22 percent of the Commission's direct FTEs, yet International Bureau regulatees contribute 6.3 percent of the total regulatory fee collection.<sup>15</sup> On the other hand, ITSPs, regulated by the Wireline Competition Bureau, pay 47 percent of the total annual regulatory fee collection, while the Wireline Competition Bureau employs only 29.2 percent of the Commission's direct FTEs. The proposals herein seek not only to address this issue, but also to make the allocation of regulatory fee burden more transparent.<sup>16</sup> Although we seek to better align regulatory fees with the level of current regulation, it is important to note that there is no statutory requirement that regulatory

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

<sup>3</sup> In FY 2013, the Consolidated and Further Continuing Appropriations Act, Public Law 113-6 (2013) at Division F authorizes the Commission to collect offsetting regulatory fees at the level provided to the Commission's FY 2012 appropriation of \$339,844,000. See Financial Services and General Government Appropriations Act, 2012, Division C of Public Law 112-74, 125 Stat. 108-9 (2011).

<sup>4</sup> Budget Control Act of 2011, Public Law 112-15, 101, 125 Stat. 241 (2011) (amending 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, 99 Stat. 1037 (2005)).

<sup>5</sup> See Financial Services and General Government Appropriations Act, 2012, Division C of Public Law 112-74, 125 Stat. 108-9 (2011);

<sup>6</sup> Further Continuing Appropriations Act, 2013, Public Law 113-6, xxx Stat. xxx (2013) at Division F, 1101(c).

<sup>7</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008) (*FY 2008 NPRM*).

<sup>8</sup> See GAO, "Federal Communications Commission Regulatory Fee Process Needs to be Updated," Aug. 2012, GAO-12-686.

<sup>9</sup> *Assessment and Collection of Regulatory Fees*, Notice of Proposed Rulemaking, 27 FCC Rcd 8458 (2012) (*FY 2012 NPRM*). We cite some of the comments filed in response to the *FY 2012 NPRM* in the discussion herein.

<sup>10</sup> See, e.g., American Cable Association, Notice of Ex Parte Presentation (Feb. 22, 2013); North American Submarine Cable Association, MD Docket Nos. 12-201 and 08-65, Notice of Ex Parte Presentation (Feb. 15, 2013); Enterprise Wireless Alliance, MD 12-201 Ex Parte Presentation (Feb. 15, 2013); North American Submarine Cable Association, MD Docket Nos. 12-201 and 08-65, Notice of Ex Parte Presentation (Mar. 27, 2013).

<sup>11</sup> 47 U.S.C. 159(b)(1)(A).

<sup>12</sup> The current numbers of direct FTEs are as follows: International Bureau, [119]; Media Bureau, [171]; Wireline Competition Bureau, [160]; and Wireless Telecommunications Bureau, [98]. FTEs involved in Section 309 auctions, [194 FTEs], are not included in this analysis because auctions activities are funded separately.

<sup>13</sup> The "indirect" FTEs are the employees from the following bureaus and offices: Enforcement Bureau, Consumer and Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, Chairman and Commissioners' offices, Office of Managing Director, Office of General Counsel, Office of the Inspector General, Office of Communications Business Opportunities, Office of Engineering and Technology, Office of Legislative Affairs, Office of Strategic Planning and Policy Analysis, Office of Workplace Diversity, Office of Media Relations, and Office of Administrative Law Judges, totaling [967] FTEs.

<sup>14</sup> *FY 2012 NPRM*, 27 FCC Rcd at 8461, para. 8.

<sup>15</sup> See *FY 2012 NPRM*, 27 FCC Rcd at 8467, paras. 24-25.

<sup>16</sup> The GAO noted the lack of transparency of the regulatory fee process, and was particularly concerned with the regulatory fee allocations for the International Bureau and the Wireline Competition Bureau, see GAO Report at p. 23.

fees offset only the actual costs of regulating each service. In fact, the FY 2013 Further Continuing Resolution requires that the Commission collect an amount of regulatory fees sufficient to offset its entire appropriation. Thus the total benefit received by any particular regulatee from Commission actions will not necessarily correlate directly with the quantity of Commission resources used for that regulatee's benefit.<sup>17</sup> For example, regulatory fees also cover the costs the Commission incurs in regulating entities that are statutorily exempt from paying regulatory fees,<sup>18</sup> entities whose regulatory fees are waived,<sup>19</sup> and entities that provide nonregulated services, as well other Commission activities, such as consumer-related services.

15. As discussed in the *FY 2012 NPRM*, the FY 1998 FTE data may no longer fairly and accurately reflect the time that Commission employees devote to these activities.<sup>20</sup> Using updated<sup>21</sup> FTE data (without other significant changes in our methodology) would reduce the percentage of regulatory fees allocated to Wireline Competition Bureau regulatees from 47 percent to 29.2 percent and increase the percentage of fees allocated to International Bureau regulatees from 6.3 percent to 22 percent.<sup>22</sup> Therefore, substituting current FTE data for FY 1998 FTE data would subject some international service providers to significant fee increases.<sup>23</sup> In determining how to update the FTE data to more accurately reflect the current composition of the Commission, we recognize that not only can the regulatory fees not be calculated to reflect the exact costs of each regulated industry, but such direct relationship of costs to each industry is not consistent with the statutory mandate to allocate based on the FTEs performing the enumerated functions in each named bureau. Nevertheless, we find that it is consistent with section 9 of the Act to better align, to the extent feasible, these regulatory fees with the current costs of Commission oversight and regulation of each industry group. Specifically, a more accurate alignment of FTE work to subject matter promotes the requirement in section 9 to ensure

the benefits provided to the payor of the fee are consistent with the Commission's activities.<sup>24</sup>

16. The GAO Report concluded that, due to changes in the communications industry and in the Commission during the past 15 years, the Commission should perform an updated FTE analysis, determine whether the fee categories should be revised, and increase the transparency of the regulatory fee process.<sup>25</sup> For this purpose, we examine whether these functions and activities performed by FTEs in the International Bureau, often to the benefit of multiple categories of regulatees, warrant considering only a portion of the International Bureau as a "core bureau." We also examine whether wireline and wireless telecommunications services should be combined into a single new category.

#### B. Discussion

##### 1. Changes to the Interstate Telecommunications Service Providers (ITSPs) Fee Category

17. One of the primary issues discussed in the *FY 2012 NPRM* is how to fairly allocate the FTEs for ITSPs, which are the Wireline Competition Bureau fee payors.<sup>26</sup> ITSPs—interexchange carriers (IXCs), incumbent local exchange carriers (LECs), toll resellers, and other IXC service providers—use end-user revenues to calculate regulatory fee assessments based on the reported revenue in the FCC Form 499–A, filed April 1 of each year with the prior year's interstate and international revenue.<sup>27</sup> As stated previously, in FY 2012, ITSPs paid 47 percent of the total regulatory fees collection, even though the Wireline Competition Bureau employees comprised 29.2 percent of the Commission's direct FTEs. In addition, since ITSPs pay regulatory fees based on revenues, the regulatory fee assessment rates for ITSPs generally have increased over time due to a declining revenue base in that industry segment.<sup>28</sup> At the same time, wireless

revenues have increased significantly, in part due to substitution of wireless services for wireline services. Nevertheless, as wireless revenues have increased, the proportion of all regulatory fees paid by wireless providers has not significantly increased. Thus, our regulatory fee methodology has not kept pace with the changes in both the communications industry and within the Commission. We seek comment on reallocating the direct FTEs for ITSP for FY 2013, based on current FTEs in the core bureaus, which would significantly decrease the regulatory fee allocation for ITSPs. We propose this reallocation in conjunction with a reallocation of International Bureau FTEs, as explained in more detail below. We also seek comment on revising our methodology to account for changes in the wireless and wireline industries by making additional changes to the ITSP fee category for FY 2014, such as combining wireless and wireline into a new ITSP category, as discussed below.

18. Currently wireless and wireline telecommunications services are in separate regulatory fee categories. The Independent Telephone and Telecommunications Alliance (ITTA) proposes that the Commission assess all voice service providers on the basis of revenues to ensure that like services are treated in a similar manner.<sup>29</sup> We agree with ITTA that wireless services are comparable to wireline services in many ways and therefore both encompass similar regulatory policies and programs, such as universal service and number portability.<sup>30</sup> As wireless services are increasingly displacing wireline services, we seek comment on whether it would be fair to combine both services into one category by including all wireless and wireline FTEs in the same allocation to arrive at one uniform regulatory fee rate for ITSP and wireless providers, assessed based on revenues.

19. Under section 9 of the Communications Act, the Commission must make certain changes to the regulatory fee schedule if it "determines that the Schedule requires amendment to comply with the requirements" of section 9(b)(1)(A).<sup>31</sup> The Commission must add, delete, or reclassify services in the fee schedule to reflect additions,

that "Consumer wireline revenues grew by 3.2 percent for the year—the best in a decade—fueled by double-digit growth in FiOS." Verizon 2012 Annual Report at p. 3.

<sup>29</sup> ITTA Comments at 3.

<sup>30</sup> The GAO Report discussed using revenues for assessing wireless providers' regulatory fees, as proposed by ITTA. See GAO Report at 19–20.

<sup>31</sup> 47 U.S.C. 159(b)(3).

<sup>24</sup> 47 U.S.C. 159.

<sup>25</sup> GAO Report at 36.

<sup>26</sup> See *FY 2012 NPRM*, 27 FCC Rcd at 8467, para. 25.

<sup>27</sup> The Commission has separated revenues listed on Form 499–A into two fee categories: ITSP providers and non-ITSP providers. Providers that derive a predominant amount of their revenues from Lines 412(e), 420(d), and 420(e) on FCC Form 499–A are ITSP providers and subject to ITSP regulatory fees. Those providers that do not derive their revenues predominantly from Lines 412(e), 420(d), and 420(e) on FCC Form 499–A, non-ITSP providers, paid a regulatory fee calculated differently, such as by number of subscribers.

<sup>28</sup> Wireline revenues have not decreased for all carriers. Verizon, for example, reported for 2012

<sup>17</sup> *FY 2004 Report and Order*, 19 FCC Rcd at 11667, para. 11.

<sup>18</sup> *Id.* For example, governmental and nonprofit entities are exempt from regulatory fees under section 9(h) of the Act. 47 U.S.C. 159(h); 47 CFR 1.1162.

<sup>19</sup> 47 CFR 1.1166.

<sup>20</sup> *FY 2012 NPRM*, 27 FCC Rcd at 8464, para. 12.

<sup>21</sup> The FTEs used herein are determined as of Sept. 30, 2012.

<sup>22</sup> *FY 2012 NPRM*, 27 FCC Rcd at 8467, para. 25.

<sup>23</sup> *Id.*

deletions, or changes in the nature of its services “as a consequence of Commission rulemaking proceedings or changes in law.”<sup>32</sup> These “permitted amendments” require Congressional notification<sup>33</sup> and resulting changes in fees are not subject to judicial review.<sup>34</sup> Combining wireless and wireline FTEs in the same allocation, for a new ITSP category, would be such a “permitted amendment” requiring Congressional notification. Therefore, if adopted, this allocation change would not take effect until FY 2014.

20. We recognize, however, that carriers whose regulatory fees are calculated on the basis of revenues, instead of subscribers, may have an incentive to allocate more of their revenues to data services in order to reduce their regulatory fees.<sup>35</sup> Therefore, we invite commenters to also discuss whether there are alternate ways to assess regulatory fees for wireless and wireline telecommunications services to achieve fair, sustainable, and

predictable results, such as moving both industry groups to another common objective measure as the basis for calculating regulatory fees, and what such common measure should be.

2. Reallocation of FTEs

21. The GAO Report recommended that the Commission reexamine the activities performed by FTEs in the various bureaus.<sup>36</sup> This Notice of Proposed Rulemaking is responsive to the GAO’s recommendation. Adjusting the allocation fee category percentages and rates to reflect current FTEs, without further examining precisely what regulatory functions these FTEs are performing would result in an incomplete reexamination of the issues involved in updating our FTE allocations. Moreover, using updated FTE calculations without other significant changes in our methodology would subject some classes of regulatees to significant fee increases.

22. While we are required by section 9 of the Act to calculate regulatory fees

based on an allocation of FTEs, we are not required to use the same methodology year after year. We tentatively conclude that our methodology of using the direct and indirect FTEs based on the four core bureaus and supporting bureaus and offices should be revised to more accurately reflect the direct and indirect costs for those regulatees. Such revisions should take into account the impact on all regulatees, because any change in the allocation of the total regulatory fee amount for one category of fee payors necessarily affects the fees paid by payors in all the other fee categories. The GAO Report noted the disparity in the allocation for the International Bureau, the Wireline Competition Bureau, and the Wireless Telecommunications Bureau.<sup>37</sup> The current FTE allocations, as of September 30, 2012, and the FTE allocations what would result from our reallocation proposals are shown in the table below.

TABLE 1—DIRECT AND INDIRECT FTE ALLOCATIONS/CURRENT AND PROPOSED

Bureaus (all FTE amounts shown exclude auctions-funded employees)	Current allocations based on 1998 direct FTE analysis (percent)	Effective FY 2013 allocation resulting from the reallocation proposal in this NPRM, applying proposed cap of 7.5% on fee rate increases <sup>38</sup> (percent)
International Bureau .....	6.3	5.99
Media Bureau .....	30.2	33.33
Wireline Competition Bureau .....	46.7	<sup>39</sup> 41.26
Wireless Telecommunications Bureau .....	16.8	19.42

23. We propose to update our FTE analysis using data from September 30, 2012. The International Bureau, which employs 22 percent of the Commission’s direct FTEs, currently pays, as illustrated in the table above, 6.3 percent of the total regulatory fees.<sup>40</sup> Conversely, ITSPs, based on the current allocation, would pay almost 47 percent of the total regulatory fees while the Wireline Competition Bureau employs roughly 30 percent of the Commission’s direct FTEs. We seek comment on how to revise the apportionment of direct and indirect FTEs to reach a fair and equitable regulatory fee allocation, under proposals including, but not limited to, those described herein. Our

proposed reallocation, without further reforms or adjustments (such as the caps discussed herein at paragraphs 30 and 31) would result in allocation of 5.92 percent to the International Bureau, 37.50 percent to the Media Bureau, 35.09 percent to the Wireline Competition Bureau, and 21.49 percent to the Wireless Telecommunications Bureau. When these figures are adjusted to reflect the proposed 7.5 percent cap on rate increases for FY 2013, the resulting effective allocations for FY 2013 are as set forth in the far right column in the table above.

24. We had previously sought comment on revising the regulatory fee schedule, which would thereby increase the amount paid by the International

Bureau’s regulatees to 22 percent of the total.<sup>41</sup> Although our proposals in this proceeding are based, in part, on such a reallocation, we believe that, as discussed below, fairness warrants an allocation that more closely reflects the appropriate proportion of direct costs required for regulation and oversight of International Bureau regulatees. Under such an analysis, the regulatory fee allocation of these regulatees, should be decreased, rather than significantly increased, for the reasons stated herein. When section 9 was adopted, the total FTEs were to be calculated based on the number of FTEs in the Private Radio

what it would have been in FY 2012 but for the off-setting rate freeze for ITSP’s applied in our FY 2012 Order.

<sup>40</sup> See FY 2012 NPRM, 27 FCC Rcd at 8467, paras. 24–25.

<sup>41</sup> FY 2012 NPRM, 27 FCC Rcd at 8467, paras. 24–25.

<sup>32</sup> 47 U.S.C. 159(b)(3).

<sup>33</sup> 47 U.S.C. 159(b)(4)(B).

<sup>34</sup> 47 U.S.C. 159(b)(3).

<sup>35</sup> We do not currently assess regulatory fees on broadband revenues.

<sup>36</sup> GAO Report at 36.

<sup>37</sup> See GAO Report at 14–15.

<sup>38</sup> The percentages shown are the estimated allocations for FY 2013 when the fee rate increases are capped at 7.5%. The actual fees to be paid for FY 2013 may be affected by additional factors, such as number of subscribers, revenues, or other units to which the capped fee rate will be applied.

<sup>39</sup> This result reflects an approximately ten percent (10%) reduction in the ITSP fee rate from

Bureau,<sup>42</sup> Mass Media Bureau,<sup>43</sup> and Common Carrier Bureau.<sup>44</sup> Satellites and submarine cable were regulated through the Common Carrier Bureau before the International Bureau was created. As discussed below, the services offered by regulatees in the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Media Bureau have evolved and converged over time and, therefore their regulation involves many similar issues and generates common Commission costs. To cite but one example, wireline, wireless, and cable companies compete with each other for customers.<sup>45</sup>

25. During this technological convergence among wireline, wireless, and cable services, the International Bureau's work has expanded beyond its regulation of international licensees. It also has unique duties to assist bureaus and their regulatees throughout the Commission, and represent the Commission on a variety of international issues affecting those regulatees. In discharging these duties, the International Bureau works on matters including but not limited to spectrum use, cross-border coordination, broadband deployment, and foreign ownership. At the same time, International Bureau licensees have required less Commission oversight and regulation. Thus, the International Bureau now serves the entire Commission's international needs, not just the specific requirements of the International Bureau regulatees. For these reasons, we propose that the International Bureau should no longer be entirely classified as a "core bureau" in the way that the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Media Bureau are classified today. Below, we seek comment on proposals to reallocate the International Bureau FTEs for regulatory fee purposes.

a. Strategic Analysis and Negotiations Division, International Bureau

26. Consistent with section 9(b) of the Act, any reallocation methodology we adopt must be reasonably related to the benefits provided to the payor of the fee by the Commission's activities. A reallocation that reflects benefits provided to the fee payor will also meet

<sup>42</sup> The predecessor to the Wireless Telecommunications Bureau.

<sup>43</sup> Now the Media Bureau.

<sup>44</sup> The predecessor to the Wireline Competition Bureau.

<sup>45</sup> Apart from DBS video services, for the most part the International Bureau regulatees do not offer the same services as the wireline, wireless, and cable companies, although wireline and wireless companies use the services, e.g. submarine cables that International Bureau regulatees provide.

our objectives of being fair and sustainable. Revising the percentage of the total regulatory fees paid by international service providers to reflect the full percentage of direct FTEs in the International Bureau would promote fairness if we determined that the increase in International Bureau FTEs is due to a corresponding increase in FTEs working on regulation and oversight of international service providers. If, instead, the increase is attributable to the increasing number of International Bureau FTEs performing duties that are related to the Commission as a whole or benefit service providers regulated by other Bureaus, the fee increase should not be imposed solely on international service providers. Rather, it should also be allocated to the other regulatory fee categories whose fee payors benefit from that work.

27. For example, the largest division in the International Bureau is the Strategic Analysis and Negotiations Division (SAND), which is not significantly involved in regulation or oversight of International Bureau regulatees. Instead, SAND is responsible for intergovernmental and regional leadership, negotiating, and planning—processes that benefit offices and bureaus throughout the Commission. SAND oversees the Commission's global participation in international forums such as the International Telecommunication Union (ITU), including World Radio-communication Conferences; various regional organizations, such as the Asia-Pacific Economic Cooperation, the Inter-American Telecommunications Conference, and the Organization for Economic Cooperation and Development; and cross-border negotiations with Canada and Mexico. These activities cover telecommunications services outside of the bureau's direct oversight and regulatory activities, e.g., coordination of wireless services with Canada and Mexico.<sup>46</sup> SAND also performs oversight to enable the International Bureau to integrate international and bilateral meetings with visits to the Commission by foreign regulators and other government officials. SAND is responsible for performing economic and policy analyses for the International Bureau concerning trends in the international communications markets and services. Finally, SAND conducts research and studies concerning international regulatory trends, as well as their implications on U.S. policy. For these reasons we propose excluding the

<sup>46</sup> See *FY 2012 NPRM*, 27 FCC Rcd at 8467–68, para. 26.

SAND FTEs from the International Bureau for regulatory fee purposes and instead allocating them as indirect FTEs.<sup>47</sup> We seek comment on this proposal.

b. Satellite Division, International Bureau

28. In contrast to SAND, the International Bureau's Satellite Division is responsible for the regulation and oversight of satellite system licensees, specifically operators of space stations and earth stations, by authorizing satellite systems to facilitate deployment of satellite services and fostering efficient use of the radio frequency spectrum and orbital resources. In addition to the application and licensing process, the Satellite Division provides expertise about the commercial satellite industry in the domestic spectrum management process and advocates U.S. satellite radiocommunication interests in international coordinations and negotiations. The Satellite Division is also responsible for the process of placing non-U.S.-licensed space stations on a "Permitted List,"<sup>48</sup> a process that is similar to the application process and allows access to the U.S. market for certain non-U.S. licensed satellites.<sup>49</sup> The Satellite Division also reviews market access requests that are not eligible for inclusion on a Permitted List.

29. We propose that of all the International Bureau's Satellite Division employees whose work involves regulation of International Bureau regulatees, we use 25 direct FTEs<sup>50</sup> to determine the regulatory fees for both

<sup>47</sup> See *id.*, 27 FCC Rcd at 8467–68, paras. 26–27; North American Submarine Cable Association Comments at 28.

<sup>48</sup> See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, IB Docket No. 96–111, First Order on Reconsideration, 15 FCC Rcd 7207 (1999) (*DISCO II First Reconsideration Order*) (adopting the original procedure for making changes to the Permitted List). See also *2006 Biennial Regulatory Review—Revision of Part 25, Establishment of a Permitted List Procedure for Ka-band Space Stations*, IB Docket 06–154, Declaratory Order, 25 FCC Rcd 1542 (2010).

<sup>49</sup> This is the process used by certain non-U.S.-licensed satellite operators to serve customers in the United States. These satellite operators may file a petition for a Declaratory Ruling seeking approval to provide service in the United States. These operators do not pay application fees or regulatory fees to the Commission, yet their petitions, together with the information required by an application, are analyzed by Satellite Division staff and these operators benefit from International Bureau regulatory activities.

<sup>50</sup> Indirect FTEs would be allocated to these entities as they are for all regulatory fee payors.

satellite space stations and earth stations.<sup>51</sup> We seek comment on this proposal.

c. Policy Division, International Bureau

30. The work of the third division in the International Bureau, the Policy Division, is multifaceted. The Policy Division work involves development of policies in connection with regulation and licensing of international facilities and services (including submarine cable systems, which provide bearer circuits). The Policy Division conducts international spectrum rulemakings, handles applications for transfer and assignment of international service providers and implements Commission policies designed to protect competition in international telecommunications, and promotes lower international calling rates for U.S. consumers. It coordinates and provides guidance to and shares its expertise with the Commission and other agencies. For example, the Policy Division oversees Commission policies involving foreign ownership of U.S. telecommunications providers, and in this connection, coordinates major mergers and other license applications with U.S. agencies on matters relating to national security, law enforcement, foreign policy, and trade policy. Many of these functions involve wireless and wireline issues and therefore benefit regulatees in other Bureaus.<sup>52</sup> Commenters to the *FY 2012 NPRM* argued that the Policy Division's limited regulation and oversight of submarine cable systems does not support the current allocation of 36.08 percent of all the International Bureau regulatory fees or 2.28 percent of all regulatory fees to the submarine cable industry.<sup>53</sup>

31. Sixty submarine cable systems are licensed by the Commission, including 43 international submarine cable systems.<sup>54</sup> Submarine cable systems transport most of the U.S. international traffic,<sup>55</sup> including Internet broadband, video, other high bandwidth applications, voice services (public

switched and interconnected VoIP), and non-public, private traffic for various international carriers, content and Internet providers, corporations, wholesale operators, and governments. Large corporate customers include financial and news companies and other content providers. Cable capacity is generally sold on an indefeasible right of use (IRU) basis for 10–15 year terms and also on a long-term lease basis;<sup>56</sup> therefore, a large increase in regulatory fees is likely difficult to recover from customers as a “pass-through” charge.<sup>57</sup> Commenters responding to the *FY 2012 NPRM* noted that regulatory fee charges in the U.S. are much higher than those charged by other countries.<sup>58</sup> Therefore, substantially increasing the regulatory fees paid by submarine cable service providers would serve as a disincentive for carriers to land new cables in the U.S. and an incentive to land new cables in Mexico and Canada instead. Over time, this would result in increased costs to American consumers as well as potential national security issues.<sup>59</sup> These commenters contend that if the newer submarine cable systems choose to land in Canada or Mexico to avoid our high regulatory fees, eventually almost all international traffic will leave from (or arrive into) Canada or Mexico instead of the U.S.<sup>60</sup>

32. We recognize that submarine cable systems have been subject to significant

<sup>56</sup> See North American Submarine Cable Association Comments at 4.

<sup>57</sup> See *id.* at 18–19; Telstra Incorporated and Australia-Japan Cable (Guam) Limited Comments at 4.

<sup>58</sup> The annual regulatory fees charged to submarine cable systems are much higher in the U.S. than in other countries. See Joint Comments of International Carrier Coalition at 13. Canada charges \$100 (Canadian) per year. *Id.* at 14. Several other countries charge fees on telecommunications companies that would include submarine cable operators, although there is no special category or assessment for submarine cable systems; e.g., the United Kingdom (.0609% of UK revenues); Spain (less than .2% of revenues in Spain); the Netherlands (.077% of revenues in the Netherlands); Argentina (.5% of revenues in Argentina); and Australia (\$1,000 (Australian) plus .00118% Australian revenues. *Id.* Many other countries, such as Japan, Germany, and Mexico, do not charge regulatory fees at all. *Id.* See also North American Submarine Cable Association, MD Docket Nos. 12–201 and 08–65, Notice of Ex Parte Presentation (Mar. 27, 2013) at 3 (“Asia, Hong Kong, Singapore, and Malaysia compete fiercely for submarine cable landings to maintain and improve their connectivity and support their services industries.”).

<sup>59</sup> See, e.g., Joint Comments of International Carrier Coalition at 17 (additionally, “[l]andings outside of the US are also outside the reach of US law enforcement authorities and cannot be monitored for evidence of criminal or terrorist activity.”).

<sup>60</sup> *Id.*

regulatory fee reform recently.<sup>61</sup> In the *Submarine Cable Order*, the Commission adopted a new submarine cable bearer circuit methodology to assess regulatory fees on a cable landing license basis, based on the proposal (the “Consensus Proposal”) of a large group of submarine cable operators representing both common carriers and non-common carriers with both large and small submarine cable systems.<sup>62</sup> This methodology allocates international bearer circuit (IBC) costs among service providers without distinguishing between common carriers and non-common carriers, by assessing a flat per cable landing license fee for all submarine cable systems, with higher fees for larger submarine cable systems and lower fees for smaller systems. The *Submarine Cable Order* did not assess a particular regulatory fee for the submarine cable systems but instead it adopted a new methodology that was considered fairer and easier to administer than the previous method of assessing regulatory fees. This recent in-depth review and revision of the regulatory fee methodology for submarine cable serves as another important factor to consider in determining the appropriate allocation of regulatory fees in this proceeding.

33. The 2.28 percent of all regulatory fees submarine cable service providers now pay is the sixth highest regulatory fee percentage among all fee categories,<sup>63</sup> notwithstanding the fact that the provision of international submarine cable service involves little regulation and oversight from the Commission after the initial licensing process. Under Part 43 of the Commission's rules, common carriers must file Traffic and Revenue Reports regarding international services and, for U.S. facilities-based international common carriers, Circuit Status Reports for information concerning leased or owned circuits.<sup>64</sup> Within the Policy Division, submarine cable licensing,

<sup>61</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order, 24 FCC Rcd 4208 (2009) (*Submarine Cable Order*).

<sup>62</sup> The 15 parties to the Consensus Proposal represented 35 of the 42 international submarine cable systems in operation as well as three planned systems. *Submarine Cable Order*, 24 FCC Rcd at 4213, para. 11.

<sup>63</sup> Geostationary Space Stations are higher, at 3.23%, as are ITSP (46.66%), CMRS Mobile (14.33%), Cable TV (16.55%), and FM Classes B, C, C0, C1, & C2 (2.62%). Of all the International Bureau regulatees, (presently, 6.32% of all regulatory fees) the Submarine Cable systems pay 36.08%.

<sup>64</sup> The Commission recently made changes to the international reporting requirements, which have yet to go into effect. See *Reporting Requirements for U.S. Providers of International Telecommunications Services*, IB Docket No. 04–112, Second Report and Order, 28 FCC Rcd 575 (2013).

<sup>51</sup> See Satellite Industry Association Comments at 13.

<sup>52</sup> See Satellite Industry Association Comments at 14.

<sup>53</sup> See Joint Reply Comments of International Carrier Coalition at 3. See also Telstra Incorporated and Australia-Japan Cable (Guam) Limited Comments at 3 (“the Commission's primary regulatory activity is the granting of the cable landing license.”).

<sup>54</sup> There are 42 international submarine cable systems in operation subject to regulatory fees and one more licensed system that will become subject to regulatory fees when it becomes operational.

<sup>55</sup> Submarine cables transport approximately 95 percent of U.S. international traffic. See North American Submarine Cable Association Comments at 15.

regulation, and oversight is handled by a small number of FTEs during each fiscal year.<sup>65</sup> The Policy Division employees whose work involves the regulation of submarine cable systems and bearer circuits, equates to only two FTEs. The remaining Policy Division FTEs handle other matters involving international issues and, like the SAND FTEs, should more accurately be considered indirect FTEs, together with the remaining bureau level employees.

34. To summarize, we propose to reclassify SAND's FTEs as indirect FTEs and reallocate them among the remaining core bureaus. In light of the number of employees in the Satellite Division who work on satellite and earth station issues, the number of employees in the Policy Division who work on bearer circuits and submarine cable issues, and the amount of time Satellite Division and Policy Division employees spend on other issues that are not specific to the International Bureau regulatees, we estimate that the appropriate number of FTEs to allocate as direct for regulatory fee purposes is 27. This calculation factors in 25 FTEs from the Satellite Division and 2 from the Policy Division. We recognize in reaching this estimate that most of the International Bureau FTEs should be considered indirect because their activities benefit the Commission as a whole and are not specifically focused on International Bureau regulatees. Therefore, we also propose that only a total of 27 of the FTEs in the Satellite Division and the Policy Division involved in regulation and oversight of International Bureau regulatees, *i.e.*, satellites, earth stations, submarine cable, and bearer circuits, be considered in the direct International Bureau FTE allocation for regulatory fee purposes. All remaining International Bureau FTEs would be indirect because their activities benefit the Commission as a whole and are not focused on International Bureau regulatees. This

proposal, if adopted, would be implemented in FY 2013. We ask commenters to address the substance and timing of this proposal.

d. Reallocation of Other FTEs

35. Many Commission functions are not directly attributable to only one specific regulated industry; the regulatory fee allocation, therefore, has a large number of FTEs that we currently consider indirect. As explained in the *FY 2012 NPRM*, our current approach is to distribute these indirect FTEs proportionally across the core bureaus according to these bureaus' respective percentages of the Commission's total direct FTE costs. As we also noted, this approach is based on the view that "the work of the FTEs in the support bureaus and offices is not primarily focused on any one bureau or regulatory fee category, but instead services the needs of all four core bureaus." Further analysis indicates, however, that work of the FTEs in a support bureau may tend to focus disproportionately more on some of the core bureaus than others and that this focus may shift over time. It might be difficult to allocate these indirect FTEs on a task-by-task basis. We seek comment on whether the work of indirect FTEs is focused disproportionately on one or more core bureaus and if we should allocate indirect FTEs among the core bureaus on this basis. For example, if a particular support bureau or office routinely does a disproportionate amount of work on matters affecting the regulatees of a particular core bureau or bureaus, should the allocation of its indirect FTEs be adjusted to reflect such focus in its work? We seek comment on whether there are any divisions in non-core bureaus that should be assigned as indirect FTEs in a different manner or assigned as direct FTEs for a particular group of regulatees. We also seek comment on whether there are other

divisions within the core bureaus that should be treated as indirect FTEs instead of as direct FTEs and reassigned proportionally among the bureaus.

3. Limitation on Increases of Regulatory Fees

36. The proposals set forth above will likely reduce the regulatory fee assessment for some regulatory fee categories, such as ITSPs and regulatees of the International Bureau, significantly, while increasing the assessment for many other fee categories. In order to provide a reasonable transition to our new allocations and because there are unresolved regulatory fee reform issues that may be adopted in FY 2014 that could further impact these allocations, we propose limiting any rate increases resulting from our reallocations for this fiscal year. Such a limitation of, for example, 7.5 percent, would prevent "unexpected, substantial increases which could severely impact the economic wellbeing of these licensees [regulatees]."<sup>66</sup> We propose implementing such a limitation on the increase in regulatory fee rates, before any rounding to the nearest applicable dollar unit as set forth in our rules, above FY 2012 fee rates.<sup>67</sup> This limitation, if adopted, would be effective in FY 2013. Below are tables illustrating the impact of limiting the increase to 7.5 percent on regulatory fee collection and its associated Schedule of Fees. This will allow us to begin the transition toward better alignment of regulatory fees with Commission work performed, permitting necessary downward adjustment of regulatory fees in some sectors without imposing undue economic hardship on regulatees in other sectors. Limiting increases will, necessarily, limit the decrease in fees for other regulatory fee categories, since the overall fee collection amount does not change.

TABLE 2—MAINTAIN THE SAME PERCENTAGE ALLOCATIONS AS IN PRIOR YEARS CALCULATION OF FY 2013 REVENUE REQUIREMENTS AND PRO-RATA FEES

Fee category	FY 2013 Payment units	Years	FY 2012 Revenue estimate	Pro-rated FY 2013 revenue requirement	Computed new FY 2013 regulatory fee	Rounded new FY 2013 regulatory fee	Expected FY 2013 revenue
PLMRS (Exclusive Use) .....	1,400	10	490,000	507,072	36	35	490,000
PLMRS (Shared use) .....	15,000	10	2,250,000	2,426,700	16	15	2,250,000
Microwave .....	13,200	10	2,640,000	2,390,480	18	20	2,640,000
218–219 MHz (Formerly IVDS) .....	5	10	3,500	3,622	72	70	3,500
Marine (Ship) .....	6,550	10	655,000	796,827	12	10	655,000
GMRS .....	7,900	5	192,500	289,755	7	5	197,500
Aviation (Aircraft) .....	2,900	10	290,000	362,194	12	10	290,000

<sup>65</sup> The Commission, through the International Bureau Policy Division, seeks to ensure that the applicant controls one of the necessary inputs of the submarine cable system (the wet link, cable landing station, or back haul facilities).

<sup>66</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 1997*, Report and Order, 12 FCC 17161, 17176, para. 37 (1997).

<sup>67</sup> The cap would not limit changes in regulatory fees paid by a particular payor resulting from other factors, such as increased or decreased revenues, changes in subscriber numbers, number of licenses, etc.

TABLE 2—MAINTAIN THE SAME PERCENTAGE ALLOCATIONS AS IN PRIOR YEARS CALCULATION OF FY 2013 REVENUE REQUIREMENTS AND PRO-RATA FEES—Continued

Fee category	FY 2013 Payment units	Years	FY 2012 Revenue estimate	Pro-rated FY 2013 revenue requirement	Computed new FY 2013 regulatory fee	Rounded new FY 2013 regulatory fee	Expected FY 2013 revenue
Marine (Coast)	285	10	142,500	144,878	51	50	142,500
Aviation (Ground)	900	10	135,000	144,878	16	15	135,000
Amateur Vanity Call Signs	14,300	10	214,500	217,316	1.52	1.52	217,360
AM Class A <sup>4</sup>	68	1	250,100	253,978	3,735	3,725	253,300
AM Class B <sup>4</sup>	1,454	1	3,125,875	3,161,850	2,175	2,175	3,162,450
AM Class C <sup>4</sup>	837	1	1,107,975	1,129,223	1,349	1,350	1,129,950
AM Class D <sup>4</sup>	1,406	1	3,698,400	3,742,299	2,662	2,650	3,725,900
FM Classes A, B1 & C3 <sup>4</sup>	2,935	1	7,764,750	7,836,522	2,670	2,675	7,851,125
FM Classes B, C, C0, C1 & C2 <sup>4</sup>	3,110	1	9,513,000	9,611,273	3,090	3,100	9,641,000
AM Construction Permits	51	1	35,750	28,658	562	560	28,560
FM Construction Permits <sup>1</sup>	170	1	84,000	118,614	698	700	119,000
Satellite TV	129	1	178,125	181,097	1,404	1,400	180,600
Satellite TV Construction Permit	3	1	3,580	3,622	1,207	1,200	3,600
VHF Markets 1–10	22	1	1,761,650	1,804,524	82,024	82,025	1,804,550
VHF Markets 11–25	23	1	1,836,875	1,880,596	81,765	81,775	1,880,825
VHF Markets 26–50	39	1	1,512,400	1,549,293	39,725	39,725	1,549,275
VHF Markets 51–100	61	1	1,255,500	1,290,409	21,154	21,150	1,290,150
VHF Remaining Markets	140	1	798,025	814,033	5,815	5,825	815,500
VHF Remaining Markets	140	1	798,025	814,033	5,815	5,825	815,500
VHF Construction Permits <sup>1</sup>	1	1	11,650	5,825	5,825	5,825	5,825
UHF Markets 1–10	109	1	3,853,150	3,880,922	35,605	35,600	3,880,400
UHF Markets 11–25	106	1	3,458,250	3,478,876	32,820	32,825	3,479,450
UHF Markets 26–50	135	1	2,959,875	2,977,132	22,053	22,050	2,976,750
UHF Markets 51–100	225	1	2,868,750	2,884,066	12,818	12,825	2,885,625
UHF Remaining Markets	247	1	845,975	852,059	3,450	3,450	852,150
UHF Construction Permits <sup>1</sup>	7	1	23,975	24,150	3,450	3,450	24,150
Broadcast Auxiliaries	25,400	1	248,000	254,000	10	10	254,000
LPTV/Translators/Boosters/Class A TV	3,725	1	1,436,820	1,448,776	389	390	1,452,750
CARS Stations	325	1	178,125	181,097	557	555	180,375
Cable TV Systems	60,000,000	1	59,090,000	59,943,108	.99905	1.00	60,000,000
Interstate Telecommunication Service Providers	\$39,000,000,000	1	148,875,000	146,250,000	0.003750	0.00375	146,250,000
CMRS Mobile Services (Cellular/Public Mobile)	321,000,000	1	53,210,000	52,821,422	0.1646	0.17	54,570,000
CMRS Messag. Services	3,000,000	1	272,000	240,000	0.0800	0.080	240,000
BRS <sup>2</sup>	920	1	451,250	588,800	640	640	588,800
LMDS	170	1	225,625	108,800	640	640	108,800
Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common)	4,220,000	1	1,157,602	1,167,825	.277	.28	1,181,600
Submarine Cable Providers (see chart in Table 3) <sup>3</sup>	38.313	1	8,150,984	8,249,219	215,314	215,325	8,249,639
Earth Stations	3,400	1	893,750	905,485	266	265	901,000
Space Stations (Geostationary)	87	1	11,560,125	11,698,866	134,470	134,475	11,699,325
Space Stations (Non-Geostationary)	6	1	858,900	869,266	144,878	144,875	869,250
***** Total Estimated Revenue to be Collected			340,568,811	339,521,495			341,106,534
***** Total Revenue Requirement			339,844,000	339,844,000			339,844,000
Difference			724,811	-322,505			1,262,534

<sup>1</sup> The FM Construction Permit revenues and the VHF and UHF Construction Permit revenues were adjusted to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. The reductions in the FM Construction Permit revenues are offset by increases in the revenue totals for FM radio stations. Similarly, reductions in the VHF and UHF Construction Permit revenues are offset by increases in the revenue totals for VHF and UHF television stations, respectively.

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

<sup>3</sup> The chart at the end of Table 3 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the following proceedings: *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order (MD Docket No. 08–65, RM–11312), released March 24, 2009; and *Assessment and Collection of Regulatory Fees for Fiscal Year 2009 and Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Notice of Proposed Rulemaking and Order (MD Docket No. 09–65, MD Docket No. 08–65), released on May 14, 2009.

<sup>4</sup> The fee amounts listed in the column entitled "Rounded New FY 2013 Regulatory Fee" constitute a weighted average media regulatory fee by class of service. The actual FY 2013 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table 3.

TABLE 3—MAINTAIN THE SAME PERCENTAGE ALLOCATIONS AS IN PRIOR YEARS [FY 2013 schedule of regulatory fees]

Fee category	Annual regulatory fee (U.S. \$'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	35
Microwave (per license) (47 CFR part 101)	20
218–219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	70
Marine (Ship) (per station) (47 CFR part 80)	10
Marine (Coast) (per license) (47 CFR part 80)	50
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	15

TABLE 3—MAINTAIN THE SAME PERCENTAGE ALLOCATIONS AS IN PRIOR YEARS—Continued  
[FY 2013 schedule of regulatory fees]

Fee category	Annual regulatory fee (U.S. \$'s)
PLMRS (Shared Use) (per license) (47 CFR part 90)	15
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	15
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.52
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.17
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	640
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	640
AM Radio Construction Permits	560
FM Radio Construction Permits	700
TV (47 CFR part 73) VHF Commercial:	
Markets 1–10	82,025
Markets 11–25	81,775
Markets 26–50	39,725
Markets 51–100	21,150
Remaining Markets	5,825
Construction Permits	5,825
TV (47 CFR part 73) UHF Commercial:	
Markets 1–10	35,600
Markets 11–25	32,825
Markets 26–50	22,050
Markets 51–100	12,825
Remaining Markets	3,450
Construction Permits	3,450
Satellite Television Stations (All Markets)	1,400
Construction Permits—Satellite Television Stations	1,200
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	390
Broadcast Auxiliaries (47 CFR part 74)	10
CARS (47 CFR part 78)	555
Cable Television Systems (per subscriber) (47 CFR part 76)	1.00
Interstate Telecommunication Service Providers (per revenue dollar)	.00375
Earth Stations (47 CFR part 25)	265
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	134,475
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	144,875
International Bearer Circuits—Terrestrial/Satellites (per 64KB circuit)	.28
International Bearer Circuits—Submarine Cable	See Table Below

TABLE 3 (CONTINUED)—FY 2013 SCHEDULE OF REGULATORY FEES: MAINTAIN ALLOCATION

FY 2013 Radio station regulatory fees						
Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C0, C1 & C2
<=25,000	\$750	\$625	\$575	\$650	\$700	\$875
25,001–75,000	1,500	1,250	875	975	1,400	1,525
75,001–150,000	2,250	1,575	1,150	1,625	1,925	2,850
150,001–500,000	3,375	2,650	1,725	1,950	2,975	3,725
500,001–1,200,000	4,875	4,075	2,875	3,250	4,725	5,475
1,200,001–3,000,00	7,500	6,250	4,325	5,200	7,700	8,750
>3,000,000	9,000	7,500	5,475	6,500	9,800	11,375

FY 2013 SCHEDULE OF REGULATORY FEES

[International bearer circuits—submarine cable]

Submarine cable systems (capacity as of December 31, 2012)	Fee amount	Address
<2.5 Gbps	\$13,450	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
2.5 Gbps or greater, but less than 5 Gbps	26,925	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
5 Gbps or greater, but less than 10 Gbps	53,825	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
10 Gbps or greater, but less than 20 Gbps	107,675	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.

FY 2013 SCHEDULE OF REGULATORY FEES—Continued

[International bearer circuits—submarine cable]

Submarine cable systems (capacity as of December 31, 2012)	Fee amount	Address
20 Gbps or greater .....	215,325	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000.

37. We seek comment on the reasonableness of this proposed limitation for FY 2013. We also invite comment on higher or lower percentages, and whether, rather than a uniform limitation for increases to all regulatory fee categories resulting solely from the reallocations proposed herein, we should consider different limitations for certain industry groups in light of other reform proposals and the likely impact on the regulatory fees of such groups. For example, as we seek to combine regulatory fees for ITSP and wireless services into one category, should we consider a limitation that brings the allocation of FTEs for these two groups closer to equal in this fiscal year? Without such limitation, would increases for certain regulatory fee categories still be fair, taking into account the work of the Commission

benefiting such payors? Commenters suggesting a different percentage for regulatory fee increases applicable to any or all fee categories should explain how their proposals would prevent a severe impact on the economic wellbeing of regulatees, be consistent with the goals of more accurately aligning FTEs with their areas of work, promoting fairness, and allowing the Commission to recover its regulatory costs as Congress has directed. As we continue with regulatory fee reform in the future, we will consider the need for similar limits if significant increases in regulatory fee rates occur in any one year as a result of our adoption of further reform measures. We, therefore, seek comment on the appropriate timeline for fully implementing the reallocation proposed herein and whether similar limits to increases in

regulatory fee rates resulting from such reallocation should be used in FY 2014 and beyond.

4. Interim Measures for FY 2013

38. We seek comment on whether, in lieu of using updated FTE data and implementing the FTE reallocations proposed above in FY 2013, we should maintain the allocation percentages we now use for all fee categories in FY 2013 and maintain the ITSP fee rate for FY 2013 at .00375 per revenue dollar for the third consecutive year. The tables below illustrate the impact of this proposal on regulatory fee collection, and its associated Schedule of Fees. If we maintained the allocation percentages we now use, but did not maintain the ITSP fee rate for FY 2013 at .00375, the FY 2013 ITSP fee rate would increase to .00409.<sup>68</sup>

TABLE 4—REVISED FTE (AS OF 9/30/12) ALLOCATIONS,<sup>5</sup> FEE RATE INCREASES CAPPED AT 7.5%, PRIOR TO ROUNDING<sup>6</sup>  
[Calculation of FY 2013 Revenue Requirements and Pro-Rata Fees]

Fee category	FY 2013 Payment units	Years	FY 2012 Revenue estimate	Pro-rated FY 2013 revenue requirement	Uncapped FY 2013 regulatory fee	Rounded & capped FY 2013 regulatory fee	Expected FY 2013 revenue
PLMRS (Exclusive Use) .....	1,400	10	490,000	606,762	43	40	560,000
PLMRS (Shared use) .....	15,000	10	2,250,000	2,903,790	19	15	2,250,000
Microwave .....	13,200	10	2,640,000	2,860,449	22	20	2,640,000
218–219 MHz (Formerly IVDS) .....	5	10	3,500	4,334	87	75	3,750
Marine (Ship) .....	6,550	10	655,000	953,483	15	10	655,000
GMRS .....	7,700	5	192,500	346,721	4	5	395,000
Aviation (Aircraft) .....	2,900	10	290,000	433,401	15	10	290,000
Marine (Coast) .....	285	10	142,500	173,361	61	55	156,750
Aviation (Ground) .....	900	10	135,000	173,361	19	15	135,000
Amateur Vanity Call Signs .....	14,300	10	214,500	260,041	1.82	1.61	230,230
AM Class A <sup>4</sup> .....	68	1	250,100	295,438	4,345	4,350	295,800
AM Class B <sup>4</sup> .....	1,454	1	3,125,875	3,671,874	2,525	2,275	3,307,850
AM Class C <sup>4</sup> .....	837	1	1,107,975	1,308,369	1,563	1,375	1,150,875
AM Class D <sup>4</sup> .....	1,406	1	3,698,400	4,347,161	3,092	2,575	3,620,450
FM Classes A, B1 & C3 <sup>4</sup> .....	2,935	1	7,764,750	8,989,760	3,063	2,750	8,071,250
FM Classes B, C, C0, C1 & C2 <sup>4</sup> .....	3,110	1	9,513,000	11,057,826	3,556	3,375	10,496,250
AM Construction Permits .....	51	1	35,750	42,205	828	590	30,090
FM Construction Permits <sup>1</sup> .....	170	1	84,000	422,054	2,483	750	127,500
Satellite TV .....	129	1	178,125	211,027	1,636	1,525	196,725
Satellite TV Construction Permit .....	3	1	3,580	4,221	1,407	960	2,880
VHF Markets 1–10 .....	22	1	1,761,650	2,364,840	107,493	86,075	1,893,650
VHF Markets 11–25 .....	23	1	1,836,875	2,452,884	106,647	78,975	1,816,425
VHF Markets 26–50 .....	39	1	1,512,400	2,031,796	52,097	42,775	1,668,225
VHF Markets 51–100 .....	61	1	1,255,500	1,757,986	28,819	22,500	1,372,500
VHF Remaining Markets .....	140	1	798,025	1,023,545	7,311	6,250	875,000
VHF Construction Permits <sup>1</sup> .....	1	1	11,650	42,205	42,205	6,250	6,250
UHF Markets 1–10 .....	109	1	3,853,150	4,177,004	38,321	38,000	4,142,000
UHF Markets 11–25 .....	106	1	3,458,250	3,709,111	34,992	35,000	3,710,000
UHF Markets 26–50 .....	135	1	2,959,875	3,159,479	23,404	23,400	3,159,000
UHF Markets 51–100 .....	225	1	2,868,750	3,053,435	13,571	13,575	3,054,375
UHF Remaining Markets .....	247	1	845,975	917,906	3,716	3,675	907,725
UHF Construction Permits <sup>1</sup> .....	7	1	23,975	295,438	42,205	3,675	25,725
Broadcast Auxiliaries .....	25,400	1	248,000	337,644	13	10	254,000
LPTV/Translators/Boosters/Class A TV .....	3,725	1	1,436,820	1,688,218	453	415	1,545,875

<sup>68</sup>The fee rate of .00409 is based on the current allocation percent of 46.67 of our target goal of

\$339,844,000 with a projected ITSP revenue base (calendar year 2012) of \$39 billion.

TABLE 4—REVISED FTE (AS OF 9/30/12) ALLOCATIONS,<sup>5</sup> FEE RATE INCREASES CAPPED AT 7.5%, PRIOR TO ROUNDING<sup>6</sup>—Continued

[Calculation of FY 2013 Revenue Requirements and Pro-Rata Fees]

Fee category	FY 2013 Payment units	Years	FY 2012 Revenue estimate	Pro-rated FY 2013 revenue requirement	Uncapped FY 2013 regulatory fee	Rounded & capped FY 2013 regulatory fee	Expected FY 2013 revenue
CARS Stations .....	325	1	178,125	211,085	649	510	165,750
Cable TV Systems .....	60,000,000	1	59,090,000	69,868,996	1.164	1.02	61,200,000
Interstate Telecommunication Service Providers	\$39,000,000,000	1	148,875,000	119,251,260	0.0030577	0.00359	140,010,000
CMRS Mobile Services (Cellular/Public Mobile)	321,000,000	1	53,210,000	63,253,310	0.1899	0.18	57,780,000
CMRS Messag. Services .....	3,000,000	1	272,000	240,000	0.0800	0.080	240,000
BRS <sup>2</sup> .....	920	1	451,250	693,442	754	510	469,200
LMDS .....	170	1	225,625	130,020	765	510	86,700
Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common) .....	4,220,000	1	1,157,602	1,030,004	.244	.23	970,600
Submarine Cable Providers (see chart in Table 5) <sup>3</sup> .....	38.313	1	8,150,984	7,246,703	189,145	191,475	7,335,886
Earth Stations .....	3,400	1	893,750	795,837	234	250	850,000
Space Stations (Geostationary) .....	87	1	11,560,125	10,282,217	118,186	119,600	10,405,200
Space Stations (Non-Geostationary) .....	6	1	858,900	764,004	127,334	128,825	772,950
Total Estimated Revenue to be Collected ...			340,568,811	339,844,006			339,332,436
Total Revenue Requirement .....			339,844,000	339,844,000			339,844,000
Difference .....			724,811	6			(511,564)

<sup>1</sup> The FM Construction Permit revenues and the VHF and UHF Construction Permit revenues were adjusted to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. The reductions in the FM Construction Permit revenues are offset by increases in the revenue totals for FM radio stations. Similarly, reductions in the VHF and UHF Construction Permit revenues are offset by increases in the revenue totals for VHF and UHF television stations, respectively.

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

<sup>3</sup> The chart at the end of Table 5 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the following proceedings: *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order (MD Docket No. 08–65, RM–11312), released March 24, 2009; and *Assessment and Collection of Regulatory Fees for Fiscal Year 2009 and Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Notice of Proposed Rulemaking and Order (MD Docket No. 09–65, MD Docket No. 08–65), released on May 14, 2009.

<sup>4</sup> The fee amounts listed in the column entitled "Rounded New FY 2012 Regulatory Fee" constitute a weighted average media regulatory fee by class of service. The actual FY 2013 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table 5.

<sup>5</sup> The allocation percentages represent FTE data as of September 30, 2012, and include the proposal to use 27 Direct FTEs (rather than 119 FTEs) for the International Bureau.

<sup>6</sup> The ITSP and international services fee categories received a fee rate reduction.

TABLE 5—REVISED FTE (AS OF 9/30/12) ALLOCATIONS,<sup>5</sup> FEE RATE INCREASES CAPPED AT 7.5%, PRIOR TO ROUNDING<sup>6</sup> [FY 2013 Schedule of regulatory fees]

Fee category	Annual regulatory fee (U.S. \$'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90) .....	40
Microwave (per license) (47 CFR part 101) .....	20
218–219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95) .....	75
Marine (Ship) (per station) (47 CFR part 80) .....	10
Marine (Coast) (per license) (47 CFR part 80) .....	55
General Mobile Radio Service (per license) (47 CFR part 95) .....	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category) .....	15
PLMRS (Shared Use) (per license) (47 CFR part 90) .....	15
Aviation (Aircraft) (per station) (47 CFR part 87) .....	10
Aviation (Ground) (per license) (47 CFR part 87) .....	15
Amateur Vanity Call Signs (per call sign) (47 CFR part 97) .....	1.61
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) .....	.18
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90) .....	.08
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27) .....	510
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101) .....	510
AM Radio Construction Permits .....	590
FM Radio Construction Permits .....	750
TV (47 CFR part 73) VHF Commercial:	
Markets 1–10 .....	86,075
Markets 11–25 .....	78,975
Markets 26–50 .....	42,775
Markets 51–100 .....	22,500
Remaining Markets .....	6,250
Construction Permits .....	6,250
TV (47 CFR part 73) UHF Commercial:	
Markets 1–10 .....	38,000
Markets 11–25 .....	35,000
Markets 26–50 .....	23,400

TABLE 5—REVISED FTE (AS OF 9/30/12) ALLOCATIONS,<sup>5</sup> FEE RATE INCREASES CAPPED AT 7.5%, PRIOR TO ROUNDING<sup>6</sup>—Continued  
[FY 2013 Schedule of regulatory fees]

Fee category	Annual regulatory fee (U.S. \$'s)
Markets 51–100 .....	13,575
Remaining Markets .....	3,675
Construction Permits .....	3,675
Satellite Television Stations (All Markets) .....	1,525
Construction Permits—Satellite Television Stations .....	960
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74) .....	415
Broadcast Auxiliaries (47 CFR part 74) .....	10
CARS (47 CFR part 78) .....	510
Cable Television Systems (per subscriber) (47 CFR part 76) .....	1.02
Interstate Telecommunication Service Providers (per revenue dollar) .....	.00359
Earth Stations (47 CFR part 25) .....	250
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100) .....	119,600
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) .....	128,825
International Bearer Circuits—Terrestrial/Satellites (per 64KB circuit) .....	.23
International Bearer Circuits—Submarine Cable .....	See Table Below

TABLE 5 (CONTINUED)—FY 2013 SCHEDULE OF REGULATORY FEES: FEE RATE INCREASES  
[Capped at 7.5%, prior to rounding<sup>6</sup>]

FY 2013 Radio station regulatory fees						
Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C0, C1 & C2
≤25,000 .....	\$775	\$650	\$600	\$675	\$750	\$950
25,001–75,000 .....	1,575	1,325	925	1,025	1,525	1,675
75,001–150,000 .....	2,375	1,650	1,200	1,725	2,100	3,100
150,001–500,000 .....	3,550	2,800	1,800	2,050	3,250	4,025
500,001–1,200,000 .....	5,125	4,275	3,000	3,425	5,150	5,950
1,200,001–3,000,000 .....	7,900	6,550	4,525	5,450	8,375	9,525
>3,000,000 .....	9,475	7,875	5,725	6,825	10,700	12,375

FY 2013 SCHEDULE OF REGULATORY FEES: FEE RATE INCREASES  
[Capped at 7.5%, Prior to Rounding<sup>6</sup>]

International bearer circuits—submarine cable submarine cable systems (capacity as of December 31, 2012)	Fee amount	Address
< 2.5 Gbps .....	\$11,975	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
2.5 Gbps or greater, but less than 5 Gbps .....	23,925	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
5 Gbps or greater, but less than 10 Gbps .....	47,875	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
10 Gbps or greater, but less than 20 Gbps .....	95,750	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
20 Gbps or greater .....	191,475	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.

5. Revenue Based Regulatory Fee Assessments

39. In addition to using revenues to calculate regulatory fees for the wireless industry, discussed above, we invite comment on whether revenues would be a more appropriate measure for other industries in FY 2014 or future years. For example, should the Commission use revenues instead of number of

subscribers in determining the regulatory fee for the cable industry? Would revenues be a more appropriate measure for calculating regulatory fees for the satellite industry? If so, how should the Commission account for satellite revenue from foreign sources? Commenters should address whether foreign revenues would be relevant if we assessed fees in that manner.

Commenters also should discuss how we would determine the revenues for companies that do not file a FCC Form 499–A, what information should be provided to the Commission, and whether such information would require confidential treatment. Conversely, we seek comment on whether it would be fairer and more sustainable to assess more fee categories

on some other basis, such as subscribers.

C. Other Telecommunications Regulatory Fee Issues

1. Regulatory Fee Obligations for Digital Low Power, Class A, and TV Translators/Boosters

40. The digital transition to full-service television stations was completed on June 12, 2009, but the digital transition for Low Power, Class A, and TV Translators/Boosters still remains voluntary with a transition date of September 1, 2015. Historically, we have considered the digital transition only in the context of regulatory fees applicable to full-service television stations, and not to Low Power, Class A, and TV Translators/Boosters. Because the digital transition in the Low Power, Class A, and TV Translator/Booster facilities is still voluntary, some of these facilities may transition from analog to digital service more rapidly than others. During this period of transition, licensees of Low Power, Class A, and TV Translator/Booster facilities may be operating in analog mode, in digital mode, or in an analog and digital

simulcast mode. Therefore, for regulatory fee purposes, we clarify that we are assessing a fee for each facility operating either in an analog or digital mode. In instances in which a licensee is simulcasting in both analog and digital modes, a single regulatory fee will be assessed for the analog facility and its corresponding digital component. As greater numbers of facilities convert to digital mode, the Commission will provide revised instructions on how regulatory fees will be assessed.

2. Combining UHF/VHF Television Media Regulatory Fees

41. Regulatory fees for full-service television stations are calculated based on two, five-tiered market segments for Ultra High Frequency (UHF) and Very High Frequency (VHF) television stations, respectively. There is also a construction permit fee category for UHF and VHF. After the transition to digital television on June 12, 2009, we received comment on this issue, suggesting that the Commission combine the UHF and VHF regulatory fee categories.<sup>69</sup> Combining UHF and

VHF full-service television stations into a single five-tiered fee category (by market size) would in effect eliminate any distinctions between UHF and VHF services.

42. Historically, analog VHF channels (channels 1–13) have been coveted for their greater prestige and larger audience, and thus the regulatory fees assessed on VHF stations have been higher than the regulatory fees assessed for UHF (channels 14 and above) stations in the same market area. Conversely, digital VHF channels are less desirable than digital UHF channels, and thus there may no longer be a basis on which to assess higher regulatory fees for VHF channels. Combining VHF and UHF into one fee category would eliminate the current fee disparity between UHF and VHF television stations. We propose that the UHF and VHF full service television station categories be combined into one fee category, divided into tiers based on market size, with one resulting rate. This proposal, if adopted, will be implemented in FY 2014. We seek comment on this proposal.

TABLE 6—PROPOSED COMBINED UHF/VHF DIGITAL TELEVISION FEE  
[Based on Figures from Table 2, Allocation % Same as in Prior Years]

Combined fee category	Units	Pro-rated rev. req.	Rounded FY12 fee	Expected revenue
Digital Television Markets 1–10 .....	131	\$5,685,446	\$43,400	\$5,685,400
Digital Television Markets 11–25 .....	129	5,359,471	41,550	5,359,950
Digital Television Markets 26–50 .....	174	4,526,425	26,025	4,528,350
Digital Television Markets 51–100 .....	286	4,174,475	14,600	4,175,600
Digital Television Remaining Markets .....	387	1,666,092	4,300	1,664,100
Digital Television Construction Permits .....	8	34,400	4,300	34,400

3. Internet Protocol TV (IPTV)

43. IPTV is digital television delivered through a high speed Internet connection, instead of through traditional formats such as cable or terrestrial broadcast. IPTV service generally is offered bundled with the customer's Internet and telephone or VoIP services. In the *FY 2008 Report and Order* we sought comment on whether this video service should be subject to regulatory fees, and if so, should the IPTV provider count this service for regulatory fee purposes in the same manner as cable services, which is on a per subscriber basis.<sup>70</sup> By assessing regulatory fees on cable

services but not on IPTV, we may place cable providers at a competitive disadvantage. Commenters should discuss whether IPTV is sufficiently similar to cable services to be included in the same regulatory fee category and to be assessed regulatory fees in the same manner. This proposal, if adopted, would be implemented in FY 2014.

4. Multi-Year Wireless Services

44. Multi-year wireless services is a fee category that encompasses various different wireless services (e.g., microwave, land mobile) whose regulatory fees are paid up front only at the time that the five-year or 10-year

license is renewed. Most of these multi-year wireless licenses are 10-year licenses. The number of licensees seeking renewal or filing new applications for licenses (the unit count) could fluctuate dramatically from one year to the next as companies go out of business, directly impacting the fee rate for that year. Further, because the time between license renewals is 10 years, the regulatory fee amount paid can also increase or decrease substantially from one renewal to the next because of unit fluctuations and changes in the annual appropriation from one year to the next. We seek comment on appropriate steps to take, if any, when the fee rate in this

<sup>69</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2010*, Report and Order, 25 FCC Rcd 9278, 9285–86, at paras. 18–20 (2010) (*FY 2010 Report and Order*) (Fireweed Communications argued that we should base the regulatory fee structure on three tiers; Sky Television, LLC, Spanish Broadcasting System, Inc., and Sarkes

Tarzian argued that instead of six separate categories for both VHF and UHF we should combine them into six categories based on market size and thus eliminate any distinction between VHF and UHF.). See also Notice of Ex Parte Presentation, filed by Sarkes Tarzian, Inc. and Sky Television, LLC (Feb. 15, 2013) (arguing that VHF

stations are less desirable than UHF stations and it was unfair to have higher fees for such stations; instead the fee category should be combined).  
<sup>70</sup> *FY 2008 FNPRM*, 24 FCC Rcd at 6406–07, paras. 48–49.

fee category fluctuates dramatically from one year to the next because of changes in the unit count. These proposals, if adopted, would be implemented in FY 2014.

#### 5. Commercial Mobile Radio Service (CMRS) Messaging

45. CMRS Messaging Service, which replaced the CMRS One-Way Paging fee category in 1997, includes all narrowband services.<sup>71</sup> Initially, as a measure to provide relief to the paging industry, the Commission froze the regulatory fee for this fee category at the FY 2002 level, setting an applicable rate at \$0.08 per subscriber beginning in FY 2003.<sup>72</sup> At that time we noted that CMRS Messaging units had significantly declined from 40.8 million in FY 1997 to 19.7 million in FY 2003—a decline of 51.7 percent.<sup>73</sup> Commenters argued this decline in subscribership was not just a temporary phenomenon, but a lasting one. Commenters further argued that, because the messaging industry is spectrum-limited, geographically localized, and very cost sensitive, it is difficult for this industry to pass on increases in costs to its subscribers.<sup>74</sup>

46. The decline in subscribership for this industry raises a more fundamental issue: Whether the Commission should modify the methodology in collecting regulatory fees from entities in declining industries. For industries such as paging, our methodology may be burdensome on the industry and of negligible value to the Commission, due to the administrative burden of assessing the fee on many very small companies. We seek comment on whether to modify the way in which we assess fees from providers in declining industries and how to define a declining industry. Commenters should discuss whether there are other similarly situated categories that need regulatory fee relief. Proposals, if adopted, would be implemented in FY 2014.

<sup>71</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 1997*, Report and Order, 12 FCC Rcd 17161, 17184–85, para. 60 (1997) (*FY 1997 Report and Order*).

<sup>72</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, Report and Order, 18 FCC Rcd 15985, 15992, para. 22 (2003) (*FY 2003 Report and Order*).

<sup>73</sup> *FY 2003 Report and Order*, 18 FCC Rcd 15992, para. 21. The subscriber base in the paging industry declined 92 percent from 40.8 million to 3.2 million between FY 1997 and FY 2012, according to FY 2012 collection data, as of Sept. 30, 2012. See *FY 2010 Report and Order* at note 8.

<sup>74</sup> *FY 2003 Report and Order*, 18 FCC Rcd 15992, para. 22.

#### D. Administrative Issues

##### 1. Electronic Filing and Payment System

47. In FY 2009, the Commission implemented several procedural changes that simplified the payment and reconciliation processes for FY 2009 regulatory fees. The Commission's current regulatory fee collection procedures can be found in the *Report and Order on Assessment and Collection of Regulatory Fees for FY 2012*.<sup>75</sup>

48. In FY 2013, the Commission will continue to promote greater use of technology (and less use of paper) in improving our regulatory fee notification and collection process. These changes, and the dates on which they will take place, are discussed in more detail below. Specifically, as of October 1, 2013, we will no longer accept paper and transfer electronic invoicing and receivables collection to the Treasury in FY 2014. Finally, in FY 2014, we will no longer mail out initial CMRS assessments, and will instead require licensees to log into the Commission's Web site to view and revise their subscriber counts.

##### 2. Discontinuation of Mail Outs of Initial CMRS Assessments

49. In FY 2014, as part of the Commission's effort to become more "paperless," the Commission will no longer mail out its initial CMRS assessments, but will require licensees to log into the Commission's Web site to view and revise their subscriber counts. A system currently exists for providers to revise their CMRS subscriber counts electronically, and it is possible that this system can be expanded to include letters that can be downloaded to serve as the initial CMRS assessment letter. The Commission will provide more details in future announcements as this system is developed.

##### 3. Discontinuation of Paper and Check Transactions Beginning October 1, 2013

50. Together with the U.S. Department of Treasury, the Commission is taking further steps to meet the OMB Open Government Directive.<sup>76</sup> A component part of the Treasury's current flagship initiative pursuant to this Directive is moving to a paperless Treasury, which includes

<sup>75</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2012*, Report and Order, 27 FCC Rcd 8390, 8395–97, paras. 17–20, 24–26 (2012) (*FY 2012 Report and Order*).

<sup>76</sup> Office of Management and Budget (OMB) Memorandum M–10–06, Open Government Directive, Dec. 8, 2009; see also <http://www.whitehouse.gov/the-press-office/2011/06/13/executive-order-13576-delivering-efficient-effective-and-accountable-gov>.

related activities in both disbursing and collecting select federal government payments and receipts.<sup>77</sup> Going paperless is expected to produce cost savings, reduce errors, and improve efficiencies across government. Accordingly, beginning on October 1, 2013, the Commission will no longer accept checks (including cashier's checks) and the accompanying hardcopy forms (e.g., Form 159's, Form 159–B's, Form 159–E's, Form 159–W's) for the payment of regulatory fees. This new paperless procedure will require that all payments be made by credit card, wire transfer, or ACH payment. Any other form of payment (e.g., checks) will be rejected and sent back to the payor. This change will affect all payments for regulatory fees made on or after that October 1, 2013.<sup>78</sup>

51. Currently, the Commission is working with Treasury to implement procedures that will reduce manual and subscale accounts receivables, reduce hidden costs associated with collections, and increase recoveries. We anticipate measurable enhancements in our program achieved by reducing our delinquency rate, increasing collections, and reducing costs. Under section 9 of the Act, Commission rules, and the debt collection laws, a licensee's regulatory fee is due on the first day of the fiscal year and payable at a date established by our annual regulatory fee Report and Order. The Commission will work with Treasury to facilitate end-to-end billing and collections capabilities for our receivables in the pre-delinquency stage and seeks to implement these changes in FY 2014. Under these revised procedures, the Commission will begin transferring appropriate receivables (unpaid regulatory fees) to Treasury at the end of the payment period instead of waiting for a period of 180 days from the date of delinquency to transfer a delinquent debt to Treasury for further collection action.<sup>79</sup> Accordingly, we anticipate that transfer to Treasury will occur much earlier than it now does. Regulatees, however, likely will not see substantial change in the current procedures of how they are required to pay the fee for FY 2013 and FY 2014. After the date on which the FY 2014 payment fee window closes; however, if a FY 2013 receivable is past due, we

<sup>77</sup> See U.S. Department of the Treasury, Open Government Plan 2.1, Sep. 2012.

<sup>78</sup> Payors should note that this change will mean that, to the extent certain entities have, to date, paid both regulatory fees and application fees at the same time via paper check, they will no longer be able to do so, as the regulatory fees payment via paper check will no longer be accepted.

<sup>79</sup> See 31 U.S.C. 3711(g); 31 CFR 285.12; 47 CFR 1.1917.

expect some changes in notification procedures and in the process by which to submit payments to Treasury or its designated financial agent. Consistent with those anticipated modifications and any future Treasury procedure, the Commission expects it will modify its informative guidance and amend its rules. We invite comments on this proposed change.

## V. Further Notice of Proposed Rulemaking

52. Above we seek comment concerning regulatory reforms we believe may potentially be adopted in FY 2013 or FY 2014.<sup>80</sup> The *FNPRM* below invites comment on proposals and issues that require additional time for consideration and implementation. Accordingly, we seek comment on the viability of these proposals and whether they should be implemented in future years.

### A. Non-U.S.-Licensed Space Stations Serving the United States

53. The Commission's goal in assessing satellite regulatory fees is to recover all of the costs associated with satellite regulatory activities and to distribute these costs fairly among fee payers. To recover the costs associated with policy and rulemaking activities associated with space stations, section 1.1156 of the Commission's rules includes "Space Station (Geostationary Orbit)" and "Space Stations (Non-Geostationary Orbit)" in the regulatory fee schedule.<sup>81</sup> These fees are assessed only for U.S.-licensed space stations. Regulatory fees are not assessed for non-U.S.-licensed space stations that provide service to customers in the United States.<sup>82</sup>

54. The Commission's policies, regulations, international, user information, and enforcement activities all benefit non-U.S. licensed satellite operators that access the U.S. market. Rulemaking proceedings establishing authorization procedures or service rules for satellite services apply both to U.S. licensed satellites and non-U.S. licensed satellites providing service in the United States.<sup>83</sup> A non-U.S. licensed

satellite operator may file a petition for a declaratory ruling seeking Commission approval to provide service in the United States. The International Bureau evaluates this petition for consistency with the Commission's legal and technical requirements in the same manner as the Bureau evaluates the application for an FCC space station license and, on the basis of this review, imposes any appropriate conditions for the grant of market access. Once the non-U.S. licensed space stations are granted access to earth stations in the United States, the grant is recorded together with any conditions of access, in the International Bureau Filing System. After a grant of market access, the operations of non-U.S. space stations with U.S. licensed earth stations are also monitored to ensure that their operators satisfy all conditions placed on their grant of U.S. market access, including space station implementation milestones and operational requirements, and are subject to enforcement action if the conditions are not met. Despite the regulatory benefits provided by the Commission to non-U.S. licensed satellite systems serving the United States they do not incur the regulatory fees (or application fees) paid by U.S.-licensed satellite systems. As a result, U.S.-licensed space station operators, which are assessed these fees by the Commission and compete with the non-U.S. licensed operators, may be at a competitive disadvantage.

55. We therefore seek comment on whether regulatory fees should be assessed on non-U.S. licensed space station operators providing service in the United States. Commenters should discuss whether the Commission should revisit the Commission's 1999 conclusion that the regulatory fee category for Space Stations (Geostationary Orbit) and Space Stations (Non-Geostationary Orbit) in section 1.1156(a) of the Commission's rules covers only Title III license holders.<sup>84</sup> Commenters that advocate assessing regulatory fees on non-U.S. licensed space stations providing service in the United States should propose how the fees should be calculated and applied, particularly in instances where the non-U.S. licensed space station operator

accesses the U.S. market solely through an application by a U.S.-licensed earth station operator to list the non-U.S. licensed space station as a point of communication. Commenters should also provide specific information as to whether other countries already assess regulatory fees in one form or another on U.S. licensed satellite systems accessing their markets. Would assessing regulatory fees on non-U.S. licensed space stations encourage foreign countries to assess such fees on U.S. licensed space stations? If so, would that place U.S. licensed space stations at a competitive disadvantage in the marketplace?

### B. Video Services—Direct Broadcast Satellite (DBS)

56. DBS programming is similar to cable services; it differs in that the programming is not transmitted terrestrially by cable but instead by satellites stationed in geosynchronous orbit. DBS operators are considered multichannel video programming distributors (MVPDs), pursuant to section 522(13) of the Act.<sup>85</sup> DBS operators are licensed as geostationary satellite operators and currently pay a per-geostationary orbit (GSO) satellite regulatory fee but do not pay a per-subscriber regulatory fee.<sup>86</sup> We seek comment on whether regulatory fees paid by DBS providers should be calculated on the same basis as cable television system operators and cable antenna relay system licensees, based on Media Bureau FTEs. In this regard, we note that there are regulatory similarities between these providers; for example, DBS providers may file program access complaints<sup>87</sup> and complaints seeking relief under the retransmission consent good faith rules;<sup>88</sup> and they must comply with the Commercial Advertisement Loudness Mitigation Act (CALM Act),<sup>89</sup> the Twenty-First Century Video Accessibility Act (CVAA),<sup>90</sup> and the closed captioning and video description rules.

57. There are also regulatory differences between cable operators and DBS operators, however. There are only

<sup>80</sup> As noted above, some of these proposals, if adopted, would be effective in FY 2013 and others in FY 2014.

<sup>81</sup> 47 CFR 1.1156.

<sup>82</sup> This issue was raised in the *FY 1999 Report and Order* where the Commission observed that the legislative history provides that only space stations licensed under Title III—which does not include non-U.S.-licensed satellite operators—may be subject to regulatory fees. *Assessment and Collection of Regulatory Fees for Fiscal Year 1999*, Report and Order, 14 FCC Rcd 9896, 9882, para. 39 (1999) (*FY 1999 Report and Order*).

<sup>83</sup> See, e.g., *Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the*

*17.3–17.8 GHz Frequency Band and at the 17.7–17.8 GHz Frequency Band Internationally, and at the 24.75–25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service for the Satellite Services Operating Bi-Directionally in the 17.3–17.8 GHz Frequency Band*, IB 06–123, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8842 (2007).

<sup>84</sup> *FY 1999 Report and Order*, 14 FCC Rcd at 9882, para. 39.

<sup>85</sup> 47 U.S.C. 522(13). An MVPD is a service provider delivering video programming services, such as cable television operators, DBS providers, and wireline video providers.

<sup>86</sup> Previously, the Commission declined to adopt the same per-subscriber fee for DBS. See *FY 2005 Report and Order*, 20 FCC Rcd at 12264, paras. 10–11.

<sup>87</sup> 47 U.S.C. 548; 47 CFR 76.1000–1004.

<sup>88</sup> 47 U.S.C. 325(b)(1), (3)(C)(ii); 47 CFR 76.65(b).

<sup>89</sup> See *Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act*, Report and Order, 26 FCC Rcd 17222 (2011).

<sup>90</sup> 47 U.S.C. 618(b).

two DBS operators in the Nation, while there are 1,141 cable operators and 6,635 cable systems. Each cable operator must keep certain records for each of its cable systems; e.g., Political,<sup>91</sup> Equal Employment Opportunity,<sup>92</sup> Commercial Records on Children's Programs,<sup>93</sup> Proof-of-Performance Test Data,<sup>94</sup> Signal Leakage Logs and Repair Records,<sup>95</sup> Aeronautical Notifications,<sup>96</sup> Leased Access,<sup>97</sup> Principal Headend Location,<sup>98</sup> Availability of Signals,<sup>99</sup> Operator Interests in Video Programming,<sup>100</sup> Emergency Alert System Tests and Activation,<sup>101</sup> Complaint Resolution,<sup>102</sup> Regulatory,<sup>103</sup> and the Sponsorship Identification.<sup>104</sup> (DBS operators also are required to keep Political, Equal Employment Opportunity, Commercial Records on Children's Programs files, and Emergency Alert System Tests and Activation files.)

58. For FY 2012, cable service providers paid approximately \$0.95 per subscriber in regulatory fees.<sup>105</sup> The two DBS providers, DirectTV and DISH Network, paid much lower regulatory fees on a per subscriber basis, and their regulatory fees were based on International Bureau FTEs, not Media Bureau FTEs. We seek comment on whether the DBS providers should instead pay regulatory fees that are comparable to the regulatory fees paid by cable service providers; *i.e.*, based on the Media Bureau FTEs. To that end, because DBS providers benefit directly from the work not only of the International Bureau, but also the Media Bureau, should a portion of Media Bureau FTEs be allocated to DBS providers? Or is there some alternative way to more fairly assess regulatory fees to DBS and cable providers?

Commenters should also discuss whether we should require both DBS and cable operators to pay regulatory fees based on revenues, and, if so, how we would collect revenue information from these entities.

**C. Other Services**

59. Should additional regulatory fee categories be added to the regulatory fee schedule set forth in section 9? If so, what categories should be added, and why?<sup>106</sup> To the extent that licensees offer services that are regulated by more than one core bureau, how would the addition of new fee categories affect the allocation of FTEs by core bureau?

**VI. Conclusion**

60. We are confident the *FY 2013 NPRM and FNPRM* propose a portfolio of options to achieve our goal for revising the regulatory fee schedule in order to fairly address the changing and converging communications industry, changes in the Commission's regulatory processes since established in 1994, and the recommendations in the GAO Report. We invite and encourage interested parties to submit comments in response to numerous proposals discussed above so that a robust record is created to better inform the Commission as it examines reforming the regulatory fee structure.

**VII. Additional Tables**

*TABLE 7—Sources of Payment Unit Estimates for FY 2013*

In order to calculate individual service fees for FY 2013, we adjusted FY 2012 payment units for each service to more accurately reflect expected FY 2013 payment liabilities. We obtained our updated estimates through a variety

of means. For example, we used Commission licensee databases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System ("ULS"), International Bureau Filing System ("IBFS"), Consolidated Database System ("CDBS") and Cable Operations and Licensing System ("COALS"), as well as reports generated within the Commission such as the Wireline Competition Bureau's *Trends in Telephone Service* and the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast*.

We sought verification for these estimates from multiple sources and, in all cases; we compared FY 2013 estimates with actual FY 2012 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2013 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2013 payment units are based on FY 2012 actual payment units, it does not necessarily mean that our FY 2013 projection is exactly the same number as in FY 2012. We have either rounded the FY 2013 number or adjusted it slightly to account for these variables.

**TABLE 8—FACTORS, MEASUREMENTS, AND CALCULATIONS THAT DETERMINES STATION SIGNAL CONTOURS AND ASSOCIATED POPULATION COVERAGES**

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, 218–219 MHz, 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 Cellular/Mobile Services .....	Based on WTB projection reports, and FY 12 payment data.
CMRS Messaging Services .....	Based on WTB reports, and FY 12 payment data.
AM/FM Radio Stations .....	Based on CDBS data, adjusted for exemptions, and actual FY 2012 payment units.
UHF/VHF Television Stations .....	Based on CDBS data, adjusted for exemptions, and actual FY 2012 payment units.
AM/FM/TV Construction Permits .....	Based on CDBS data, adjusted for exemptions, and actual FY 2012 payment units.

<sup>91</sup> 47 CFR 76.1701.  
<sup>92</sup> 47 CFR 76.1702.  
<sup>93</sup> 47 CFR 76.1703.  
<sup>94</sup> 47 CFR 76.1704.  
<sup>95</sup> 47 CFR 76.1706.  
<sup>96</sup> 47 CFR 76.1804.  
<sup>97</sup> 47 CFR 76.1707.  
<sup>98</sup> 47 CFR 76.1708.

<sup>99</sup> 47 CFR 76.1709.  
<sup>100</sup> 47 CFR 76.1710.  
<sup>101</sup> 47 CFR 76.1711.  
<sup>102</sup> 47 CFR 76.1713.  
<sup>103</sup> 47 CFR 76.1714.  
<sup>104</sup> 47 CFR 76.1715.  
<sup>105</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2012*, Report and Order, 27 FCC Rcd at Attachment C (2012) (*FY 2012 Order*).

<sup>106</sup> In our *FY 2012 NPRM*, for example, we sought comment on whether the Commission has authority, under section 9, to include broadband as a fee category, and asked how the costs of any such additional fee categories should be assessed. We continue to seek comment on this issue, specifically, and more generally: Are there other fee categories that should be added?

TABLE 8—FACTORS, MEASUREMENTS, AND CALCULATIONS THAT DETERMINES STATION SIGNAL CONTOURS AND ASSOCIATED POPULATION COVERAGES—Continued

Fee category	Sources of payment unit estimates
LPTV, Translators and Boosters, Class A Television.	Based on CDBS data, adjusted for exemptions, and actual FY 2012 payment units.
Broadcast Auxiliaries .....	Based on actual FY 2012 payment units.
BRS (formerly MDS/MMDS) .....	Based on WTB reports and actual FY 2012 payment units.
LMDS .....	Based on WTB reports and actual FY 2012 payment units.
Cable Television Relay Service (“CARS”) Stations.	Based on data from Media Bureau’s COALS database and actual FY 2012 payment units.
Cable Television System Subscribers .....	Based on publicly available data sources for estimated subscriber counts and actual FY 2011 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499–Q data for the four quarters of calendar year 2012, the Wireline Competition Bureau projected the amount of calendar year 2012 revenue that will be reported on 2013 FCC Form 499–A worksheets in April, 2013.
Earth Stations .....	Based on International Bureau (“IB”) licensing data and actual FY 2012 payment units.
Space Stations (GSOs & NGSOs) .....	Based on IB data reports and actual FY 2012 payment units.
International Bearer Circuits .....	Based on IB reports and submissions by licensees.
Submarine Cable Licenses .....	Based on IB license information.

AM Stations

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (“RMS”) figure (milliVolt per meter (mV/m) @ 1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in sections 73.150 and 73.152 of the Commission’s rules.<sup>1</sup> Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3.<sup>2</sup> Using the calculated horizontal radiation values, and the

retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

The greater of the horizontal or vertical effective radiated power (“ERP”) (kW) and respective height above average terrain (“HAAT”) (m) combination was used. Where the antenna height above mean sea level

(“HAMSL”) was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50–50) propagation curves specified in 47 CFR 73.313 of the Commission’s rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials.<sup>3</sup> The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

TABLE 9—REFERENCE TO FY 2012 SCHEDULE OF REGULATORY FEES

Fee category	Annual regulatory fee (U.S. \$’s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90) .....	35
Microwave (per license) (47 CFR part 101) .....	20
218–219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95) .....	70
Marine (Ship) (per station) (47 CFR part 80) .....	10
Marine (Coast) (per license) (47 CFR part 80) .....	50
General Mobile Radio Service (per license) (47 CFR part 95) .....	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category) .....	15
PLMRS (Shared Use) (per license) (47 CFR part 90) .....	15
Aviation (Aircraft) (per station) (47 CFR part 87) .....	10
Aviation (Ground) (per license) (47 CFR part 87) .....	15
Amateur Vanity Call Signs (per call sign) (47 CFR part 97) .....	1.50
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) .....	.17
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90) .....	.08
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27) .....	475
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101) .....	475
AM Radio Construction Permits .....	550
FM Radio Construction Permits .....	700

TABLE 9—REFERENCE TO FY 2012 SCHEDULE OF REGULATORY FEES—Continued

Fee category	Annual regulatory fee (U.S. \$'s)
TV (47 CFR part 73) VHF Commercial:	
Markets 1–10 .....	80,075
Markets 11–25 .....	73,475
Markets 26–50 .....	39,800
Markets 51–100 .....	20,925
Remaining Markets .....	5,825
Construction Permits .....	5,825
TV (47 CFR part 73) UHF Commercial:	
Markets 1–10 .....	35,350
Markets 11–25 .....	32,625
Markets 26–50 .....	21,925
Markets 51–100 .....	12,750
Remaining Markets .....	3,425
Construction Permits .....	3,425
Satellite Television Stations (All Markets) .....	1,425
Construction Permits—Satellite Television Stations .....	895
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74) .....	385
Broadcast Auxiliaries (47 CFR part 74) .....	10
CARS (47 CFR part 78) .....	475
Cable Television Systems (per subscriber) (47 CFR part 76) .....	.95
Interstate Telecommunication Service Providers (per revenue dollar) .....	.00375
Earth Stations (47 CFR part 25) .....	275
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100) .....	132,875
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) .....	143,150
International Bearer Circuits—Terrestrial/Satellites (per 64KB circuit) .....	.26
International Bearer Circuits—Submarine Cable .....	See Table Below

TABLE 9 (CONTINUED)—FY 2012 SCHEDULE OF REGULATORY FEES

FY 2012 Radio station regulatory fees						
Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C0, C1 & C2
≤25,000 .....	\$725	\$600	\$550	\$625	\$700	\$875
25,001—75,000 .....	1,475	1,225	850	950	1,425	1,550
75,001—150,000 .....	2,200	1,525	1,125	1,600	1,950	2,875
150,001—500,000 .....	3,300	2,600	1,675	1,900	3,025	3,750
500,001—1,200,000 .....	4,775	3,975	2,800	3,175	4,800	5,525
1,200,001—3,000,000 .....	7,350	6,100	4,200	5,075	7,800	8,850
>3,000,000 .....	8,825	7,325	5,325	6,350	9,950	11,500

FY 2012 SCHEDULE OF REGULATORY FEES  
[International Bearer Circuits—Submarine Cable]

Submarine cable systems (capacity as of December 31, 2011)	Fee amount	Address
< 2.5 Gbps .....	\$13,300	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
2.5 Gbps or greater, but less than 5 Gbps .....	\$26,600	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
5 Gbps or greater, but less than 10 Gbps .....	\$53,200	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
10 Gbps or greater, but less than 20 Gbps .....	\$106,375	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
20 Gbps or greater .....	\$212,750	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.

### VIII. Initial Regulatory Flexibility Analysis

61. As required by the Regulatory Flexibility Act (RFA),<sup>107</sup> the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (*FY 2013 NPRM*) and FNPRM of Proposed Rulemaking (*FNPRM*) (collectively, "Notice"). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this Notice. The Commission will send a copy of the Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>108</sup> In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.<sup>109</sup>

#### A. Need for, and Objectives of, the Notice

62. In the *FY 2013 NPRM* we seek comment on our annual process of assessing regulatory fees to cover the Commission's costs to offset the Commission's Fiscal Year (FY) 2013 appropriation, as directed by Congress. The regulatory fees calculated in response to the *FY 2013 NPRM* will be collected later this year. We also seek comment in the *FY 2013 NPRM* on reforming and revising our regulatory fee schedule for FY 2013 and beyond to take into account changes in the communications industry and changes in the Commission's regulatory processes and staffing in recent years.

63. The *FY 2013 NPRM* seeks comment concerning adoption and implementation of proposals to reallocate regulatory fees to more accurately reflect the subject areas worked on by current Commission FTEs for FY 2013. As such, we seek comment on, among other things, reallocating: (1) direct FTEs currently allocated to the Interstate Telecommunications Service Providers (ITSPs) fee category and other fee categories to reflect current workloads devoted to these subject areas; and (2) FTEs in the International Bureau to more accurately reflect the Commission's regulation and oversight of the International Bureau regulatees. If these proposals are adopted, we also seek comment on limiting any increase in assessments to 10 percent or some

other amount to avoid fee shock to industry segments paying higher regulatory fees as a result of reallocation. We ask whether direct FTEs in other Bureaus should be reclassified as indirect and reallocated or, conversely, whether FTEs currently allocated as indirect should be reallocated differently or reclassified as direct and reallocated accordingly. Finally, we seek comment on whether to delay our proposal to reallocate FTEs and, in the interim, maintain the same allocation percentages from last year for FY 2013, including the current .00375 rate for ITSP regulatees.

64. The *FNPRM* seeks comment concerning adoption and implementation of proposals for FY 2014 and beyond, which include: (1) Combining Interstate Telecommunications Service Providers (ITSPs) with wireless telecommunications services, using revenues as the basis for calculating regulatory fees; (2) using revenues to calculate regulatory fees for industries that now use subscribers, such as the wireless and cable industries; (3) eliminating the regulatory fee component pertaining to General Mobile Radio Service; (4) clarifying that licensees of Digital Low Power, Class A, and TV Translators/Boosters should pay only one regulatory fee on their analog or digital station, but not both; (5) consolidating the UHF and VHF Television stations into one fee category; (6) proposing a fee for Internet Protocol TV (IPTV) at the rate of cable fees; (7) alleviating large fluctuations in the fee rate of Multiyear Wireless Services; and (8) providing fee relief for declining industries (e.g., CMRS Messaging). Finally, the *FNPRM* seeks comment on the treatment of non-U.S.-Licensed Space Stations; Direct Broadcast Satellites; and other services, such as broadband in our regulatory fee process. We invite comment on these topics to better inform the Commission concerning whether and/or how these services should be assessed under our regulatory fee methodology in future years. The *Notice* also makes two administrative changes to the regulatory fee collection process and propose a third. Specifically, as required by Treasury and OMB initiatives, we announce that effective in FY 2013 all regulatory fee payments must be made electronically. We also state that beginning in FY 2014 the Commission will no longer mail out initial regulatory fee assessments to CMRS licensees. Finally, we propose to refer to the Department of the Treasury end-to-end

billing and collection beginning in FY 2014.

#### B. Legal Basis

65. This action, including publication of proposed rules, is authorized under sections (4)(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended.<sup>110</sup>

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

66. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.<sup>111</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>112</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>113</sup> A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>114</sup>

67. Small Businesses. Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.<sup>115</sup>

68. Wired Telecommunications Carriers. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of those 31,996, 1,818 operated with more than 100 employees, and 30,178 operated with fewer than 100 employees.<sup>116</sup> Thus, under this size standard, the majority of firms can be considered small.

69. Local Exchange Carriers (LECs). Neither the Commission nor the SBA

<sup>110</sup> 47 U.S.C. 154(i) and (j), 159, and 303(r).

<sup>111</sup> 5 U.S.C. 603(b)(3).

<sup>112</sup> 5 U.S.C. 601(6).

<sup>113</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>114</sup> 15 U.S.C. 632.

<sup>115</sup> See SBA, Office of Advocacy, "Frequently Asked Questions," [http://www.sba.gov/sites/default/files/FAQ\\_Sept\\_2012.pdf](http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf).

<sup>116</sup> See *id.*

<sup>107</sup> 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996).

<sup>108</sup> 5 U.S.C. 603(a).

<sup>109</sup> *Id.*

has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>117</sup> According to Commission data, census data for 2007 shows that there were 31,996 establishments that operated that year. Of those 31,996, 1,818 operated with more than 100 employees, and 30,178 operated with fewer than 100 employees.<sup>118</sup> The Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the FNPRM.

70. Incumbent LECs. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable 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>119</sup> According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.<sup>120</sup> Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.<sup>121</sup> Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies proposed in the FNPRM.

71. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate 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>122</sup> According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local

exchange services or competitive access provider services.<sup>123</sup> Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees.<sup>124</sup> In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.<sup>125</sup> In addition, 72 carriers have reported that they are Other Local Service Providers.<sup>126</sup> Of the 72, seventy have 1,500 or fewer employees and two have more than 1,500 employees.<sup>127</sup> Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the proposals in this FNPRM.

72. Interexchange Carriers (IXCs). Neither the Commission nor the SBA has developed a small business size standard specifically applicable to interexchange services. The applicable size standard under SBA rules is for the Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>128</sup> According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.<sup>129</sup> Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.<sup>130</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 FNPRM.

73. Prepaid Calling Card Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>131</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 1000 employees and one operated with more than 1,000.<sup>132</sup> Thus under this

category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.<sup>133</sup> Of these, all 193 have 1,500 or fewer employees and none have more than 1,500 employees.<sup>134</sup> Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules adopted pursuant to the FNPRM.

74. Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>135</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 1000 employees and one operated with more than 1,000.<sup>136</sup> Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.<sup>137</sup> Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees.<sup>138</sup> Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the proposals in this FNPRM.

75. Toll Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>139</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>140</sup> Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.<sup>141</sup> Of these, an estimated 857 have 1,500 or fewer employees and 24

<sup>117</sup> 13 CFR 121.201, NAICS code 517110.

<sup>118</sup> See *id.*

<sup>119</sup> 13 CFR 121.201, NAICS code 517110.

<sup>120</sup> See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

<sup>121</sup> *Id.*

<sup>122</sup> 13 CFR 121.201, NAICS code 517110.

<sup>123</sup> See *Trends in Telephone Service*, at table. 5.3.

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

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

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

<sup>128</sup> 13 CFR 121.201, NAICS code 517110.

<sup>129</sup> See *Trends in Telephone Service*, at table 5.3.

<sup>130</sup> *Id.*

<sup>131</sup> 13 CFR 121.201, NAICS code 517911.

<sup>132</sup> *Id.*

<sup>133</sup> See *Trends in Telephone Service*, at table 5.3.

<sup>134</sup> *Id.*

<sup>135</sup> 13 CFR 121.201, NAICS code 517911.

<sup>136</sup> *Id.*

<sup>137</sup> See *Trends in Telephone Service*, at table 5.3.

<sup>138</sup> *Id.*

<sup>139</sup> 13 CFR 121.201, NAICS code 517911.

<sup>140</sup> *Id.*

<sup>141</sup> *Trends in Telephone Service*, at table 5.3.

have more than 1,500 employees.<sup>142</sup> Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our proposals in the FNPRM.

76. Other Toll Carriers. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>143</sup> Census data for 2007 shows that there were 31,996 establishments that operated that year. Of those 31,996, 1,818 operated with more than 100 employees, and 30,178 operated with fewer than 100 employees.<sup>144</sup> Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.<sup>145</sup> Of these, an estimated 279 have 1,500 or fewer employees and five have more than 1,500 employees.<sup>146</sup> Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules and policies adopted pursuant to the FNPRM.

77. Wireless Telecommunications Carriers (except Satellite). Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category.<sup>147</sup> Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless Telecommunications.<sup>148</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>149</sup> For this category, census data for 2007 show that there were 11,163 establishments that operated for the entire year.<sup>150</sup> Of this total, 10,791 establishments had employment of 999 or fewer employees and 372 had employment of 1000 employees or more.<sup>151</sup> Thus, under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities that may be affected by our proposed action.

78. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services.<sup>152</sup> Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.<sup>153</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.

79. Cable Television and other Program Distribution. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.”<sup>154</sup> The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer

employees.<sup>155</sup> Census data for 2007 shows that there were 31,996 establishments that operated that year. Of those 31,996, 1,818 had more than 100 employees, and 30,178 operated with fewer than 100 employees. Thus under this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules adopted pursuant to the FNPRM.

80. Cable Companies and Systems. The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers, nationwide.<sup>156</sup> Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard.<sup>157</sup> In addition, under the Commission’s rules, a “small system” is a cable system serving 15,000 or fewer subscribers.<sup>158</sup> Industry data indicate that, of 6,635 systems nationwide, 5,802 systems have under 10,000 subscribers, and an additional 302 systems have 10,000–19,999 subscribers.<sup>159</sup> Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the FNPRM.

81. All Other Telecommunications. The Census Bureau defines this industry as including “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from,

<sup>155</sup> 13 CFR 121.201, NAICS code 517110.

<sup>156</sup> See 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of \$100 million or less in annual revenues. See *Implementation of Sections of the 1992 Cable Television Consumer Protection and Competition Act: Rate Regulation*, MM Docket Nos. 92–266, 93–215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408, para. 28 (1995).

<sup>157</sup> These data are derived from R.R. BOWKER, BROADCASTING & CABLE YEARBOOK 2006, “Top 25 Cable/Satellite Operators,” pages A–8 & C–2 (data current as of June 30, 2005); WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, “Ownership of Cable Systems in the United States,” pages D–1805 to D–1857.

<sup>158</sup> See 47 CFR 76.901(c).

<sup>159</sup> WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, “U.S. Cable Systems by Subscriber Size,” page F–2 (data current as of Oct. 2007). The data do not include 851 systems for which classifying data were not available.

<sup>142</sup> *Id.*

<sup>143</sup> 13 CFR 121.201, NAICS code 517110.

<sup>144</sup> *Id.*

<sup>145</sup> *Trends in Telephone Service*, at table 5.3.

<sup>146</sup> *Id.*

<sup>147</sup> 13 CFR 121.201, NAICS code 517210.

<sup>148</sup> U.S. Census Bureau, 2002 NAICS Definitions, “517211 Paging,” available at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517211&search=2002%20NAICS%20Search>; U.S. Census Bureau, 2002 NAICS Definitions, “517212 Cellular and Other Wireless Telecommunications,” available at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517212&search=2002%20NAICS%20Search>.

<sup>149</sup> 13 CFR 121.201, NAICS code 517210. The now-superseded, pre-2007 CFR citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

<sup>150</sup> U.S. Census Bureau, Subject Series: Information, Table 5, “Establishment and Firm Size: Employment Size of Firms for the United States: 2007 NAICS Code 517210” (issued Nov. 2010).

<sup>151</sup> *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “100 employees or more.”

<sup>152</sup> *Trends in Telephone Service*, at table 5.3.

<sup>153</sup> *Id.*

<sup>154</sup> U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers” (partial definition), available at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517110&search=2007%20NAICS%20Search>.

satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.”<sup>160</sup> The SBA has developed a small business size standard for this category; that size standard is \$30.0 million or less in average annual receipts.<sup>161</sup> According to Census Bureau data for 2007, there were 2,623 firms in this category that operated for the entire year.<sup>162</sup> Of these, 2478 establishments had annual receipts of under \$10 million and 145 establishments had annual receipts of \$10 million or more.<sup>163</sup> Consequently, we estimate that the majority of these firms are small entities that may be affected by our action. In addition, some small businesses whose primary line of business does not involve provision of communications services hold FCC licenses or other authorizations for purposes incidental to their primary business. We estimate that there are many entities that hold private wireless licenses, but we do not have a reliable estimate of how many of these entities are small businesses.

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

82. This *Notice* seeks comment on changes to the Commission’s current regulatory fee methodology and schedule which may result in additional information collection, reporting, and recordkeeping requirements. Specifically, the *Notice* seeks comment on using revenues instead of subscribers in our regulatory fee procedures. If adopted, this would require entities that do not currently file a Form 499–A to provide the Commission with revenue

<sup>160</sup> U.S. Census Bureau, “2007 NAICS Definitions: 517919 All Other Telecommunications,” available at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517919&search=2007%20NAICS%20Search>.

<sup>161</sup> 13 CFR 121.201, NAICS code 517919.

<sup>162</sup> U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 4, “Establishment and Firm Size: Receipts Size of Firms for the United States: 2007 NAICS Code 517919” (issued Nov. 2010).

<sup>163</sup> *Id.*

information. The *Notice* also seeks comment on adding categories to our regulatory fee schedule by changing the treatment of non-U.S.-Licensed Space Stations; Direct Broadcast Satellites; IPTV; and other services, such as broadband in our regulatory fee process. If adopted, those entities that currently do not pay regulatory fees—non-U.S.-Licensed Space Stations, IPTV, and other service providers—would be required to pay regulatory fees to the Commission and DBS providers would pay regulatory fees in a different category.

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

83. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>164</sup>

84. With respect to reporting requirements, the Commission is aware that some of the proposals under consideration will impact small entities by imposing costs and administrative burdens if these entities will be required to calculate regulatory fees under a different methodology. For example, if the Commission were to adopt a revenue-based approach for calculating regulatory fees, certain entities that currently do not report revenues to the Commission—or that only report some revenues and not others— would have to report such information.

85. The *NPRM* seeks to reform the regulatory fee methodology. We do not propose increasing or imposing a regulatory fee burden on small entities, unless it would be specifically in

furtherance of the reform measures proposed. If our proposals in this *Notice* result in fee increases to small entities, above the annual fee increases that generally occur each year, we intend to mitigate any inequities that might result from such increases, by, for example, limiting the annual increase in regulatory fees. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. One option is to avoid significant fee increases, which is also proposed in the *NPRM*. Another option is to provide interim adjustments, by phasing in the new fees over a period of time. The Commission seeks comment on the abovementioned, and any other, means and methods that would minimize any significant economic impact of our proposed rules on small entities. In addition, the Commission’s rules provide a process by which regulatory fee payors may seek waivers or other relief on the basis of financial hardship. 47 CFR 0.1166

#### **IX. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules**

86. None.

#### **X. Ordering Clauses**

87. Accordingly, *it is ordered* that, 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), 154(j), 159, and 303(r), this *Notice of Proposed Rulemaking is hereby adopted*.

88. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

Federal Communications Commission.

**Gloria J Miles,**

*Federal Register Liaison.*

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**BILLING CODE 6712–01–P**

<sup>164</sup> 5 U.S.C. 603(c)(1)–(c)(4).